



February 1, 2013

Tony Sanchez, Jr.  
President  
Seminole Tribe of Florida, Inc.  
6300 Stirling Road  
Hollywood, FL 33024

Re: (b) (4)

Dear Mr. Sanchez:

This in response to your December 13, 2012 letter seeking a legal opinion from the National Indian Gaming Commission Office of General Counsel regarding (b) (4) game, (b) (4). Specifically, your letter asks if (b) (4) as described in the December 13, 2012 letter, raises any concerns regarding the application of the Indian Gaming Regulatory Act (IGRA)<sup>1</sup> or the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA).<sup>2</sup>

(b) (4) is briefly described in the December 13<sup>th</sup> letter as (b) (4) game that will be offered exclusively from Indian reservations,<sup>3</sup> "is akin to (b) (4) (b) (4) and "will be conducted only from those tribal jurisdictions permitting Class III gaming pursuant to applicable Tribal-State compacts."<sup>5</sup> As for the game-play itself (b) (4) is described as "a gaming system consisting of (b) (4) (b) (4), a central computer (b) (4) (b) (4). Further, the results of the (b) (4) will be communicated to a central computer system which will then communicate the results to the various (b) (4) terminals located on Indian lands throughout the United States.<sup>8</sup> The communication network between the central computer system and the (b) (4) terminals consists of (b) (4) (b) (4),<sup>9</sup>

The summary of (b) (4) furnished in the December 13 letter is not specific enough to address every issue that may arise under IGRA. For example (b) (4), Seminole Tribe of Florida, and participating tribes must ensure that IGRA's management and revenue

<sup>1</sup> 25 U.S.C. § 2701 *et seq.*

<sup>2</sup> 31 U.S.C. § 5361 *et seq.*

<sup>3</sup> Letter from Tony Sanchez, President, Seminole Tribe of Florida, Inc., to Tracie Stevens, NIGC Chairwoman, (December 13, 2012).

<sup>4</sup> *Id.* at 1.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

share requirements are met,<sup>10</sup> as well as address the various compact requirements of the states where (b) (4) terminals will be placed. That being said, the basic structure of the game itself, as described in the letter, does not raise any immediate concerns. So long as the game is conducted in licensed facilities<sup>11</sup> located on Indian lands as defined in IGRA,<sup>12</sup> and is operated pursuant to a tribal-state compact,<sup>13</sup> it is not prohibited by IGRA. Moreover, (b) (4) (b) (4) the UIGEA is inapplicable.

The NIGC addressed the question of the UIGEA's applicability to gaming systems that solely use closed, proprietary communication networks in its 2009 bulletin, *The Effect of the Unlawful Internet Gambling Enforcement Act of 2006 on Wide-Area Progressive Systems and Networked, Multi-Site Bingo Games*.<sup>14</sup> Although the bulletin is concerned primarily with wide area progressive systems and multi-site bingo games, the underlying principal is applicable here, as well. As described in the 2009 bulletin, in a multi-site bingo system, players play at "client machines" (b) (4). The client machines are located at licensed facilities on Indian lands and linked to a server -- the computer on which the bingo game software resides.<sup>16</sup> The server randomly draws the game numbers and transmits them to the participating client machines.<sup>17</sup> (b) (4)

(b) (4) The 2009 bulletin concluded that such multi-state games are permissible under IGRA provided that they meet IGRA's requirements for conduct of Class II or Class III gaming.<sup>19</sup>

The bulletin also found that the UIGEA does not apply to the multi-site bingo games because they utilize a closed, proprietary communications network rather than the internet.<sup>20</sup> The UIGEA defines *unlawful Internet gambling* as "to place, receive or otherwise knowingly transmit a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State or Tribal lands in which the bet or wager is initiated, received, or otherwise made."<sup>21</sup> Because closed, proprietary communications networks "do not, by definition 'involve the use of the Internet,' even in part, [they] do not fall within the definition of *unlawful Internet gaming*."<sup>22</sup>

(b) (4)

Again, although I do not see any immediate concerns with the overall concept of (b) (4) as presented in the December 13, 2012 letter, this opinion does not address the full spectrum of IGRA issues that could arise as the game is implemented across Indian country. Moreover, this

<sup>10</sup> See 25 U.S.C. §§ 2710(d)(1)(A)(ii); (b)(4) & 2711.

<sup>11</sup> 25 U.S.C. § 2710(b)(1).

<sup>12</sup> 25 U.S.C. §§ 2703(4); 2719.

<sup>13</sup> 25 U.S.C. § 2710(d)(1)(C).

<sup>14</sup> Bulletin 2009-3 (March 9, 2009).

<sup>15</sup> *Id.* at 3.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Letter from Tony Sanchez, to Tracie Stevens, NIGC Chairwoman, *supra* at 1.

<sup>19</sup> Bulletin 2009-3, *supra*.

<sup>20</sup> *Id.*


<sup>21</sup> 31 U.S.C. § 5362(10)(A).

<sup>22</sup> Bulletin 2009-3 at 3.

opinion only applies to the game as described in your December 13, 2012 letter. To the extent that facts represented in the December 13 letter change or if there are any aspects of the game that were not disclosed but have bearing on this analysis, this opinion does not apply. For purposes of this letter, though, IGRA does not prohibit, and the UIGEA does not apply to, (b) (4) so long as the other requirements of IGRA are met.

If you should have any further questions, please contact NIGC Senior Attorney Michael Hoenig at (202) 632-7003.

Sincerely,

  
Jo-Ann Shyloski  
Associate General Counsel