

Uniform Tribal Gaming Regulation CGCC- 8

Minimum Internal Control Standards

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(a) PURPOSE.

(1) Sections 6.0, 7.0, and 8.0 of ~~the~~ Tribal-State Indian Gaming Compact (Compact) ~~empowers~~ authorizes the State, through its State Gaming Agency (SGA), to conduct compliance reviews of various aspects of each Tribe's Class III Gaming Operations and requires each Tribe to adopt and maintain written internal control standards that apply to the Tribe's Class III Gaming Operation. Specifically, Section 6.0 of the 1999 Compact, and comparable sections of new or amended Compacts, provide that each Tribe will conduct its Gaming Operation in compliance with a Gaming Ordinance adopted by the Tribe, and rules, regulations, procedures, specifications and standards adopted by the Tribal Gaming Agency (TGA). Section 7.1 of the 1999 Compact, and comparable sections of new or amended Compacts, requires the TGA to adopt and enforce regulations which ensure that the Gaming Operation "meets the highest standards of regulation and internal controls."

1 (2) Section 8.1 of the 1999 Compact, and comparable sections of new or amended
2 Compacts, charge the TGA with responsibility to promulgate ~~such~~ rules,
3 regulations and specifications and to ensure their enforcement. Compact
4 sections 8.1.1 through 8.1.14 outline the matters which, at a minimum, these
5 rules, regulations, and specifications must address. Compact sections 7.4
6 through 7.4.4 provide the State Gaming Agency the authority to inspect the
7 Gaming Facility, as defined in the Compact, as reasonably necessary to ensure
8 compliance with the Compact. The purpose of this regulation, pursuant to
9 Section 8.4, is to provide an effective uniform manner in which the SGA can
10 conduct compliance reviews of the adoption and enforcement of these rules,
11 regulations, and specifications by the TGA, and to protect the public as well as
12 each Tribe.

13
14 (3) As defined in Section 2.18 of the Compact, the State Gaming Agency includes
15 the California Gambling Control Commission (CGCC) and the Department of
16 Justice, Bureau of Gambling Control (Department).

17
18 (4) Nothing in this regulation shall modify or otherwise affect the rights and
19 obligations of the SGA under the Compact, including but not limited to, the
20 ~~SGA entities'~~ ability of the SGA entities to share documents provided
21 pursuant to this regulation, subject to the Compact's confidentiality
22 provisions.

23
24 (b) INTERNAL CONTROL STANDARDS. Each Tribal Gaming Agency (TGA) shall
25 maintain written internal control standards applying to ~~its~~ the operation ~~and~~
26 ~~support~~ of Class III gaming activities by the Tribe that equal or exceed the
27 Minimum Internal Control Standards (MICS) set forth at 25 CFR Part 542 (as in
28 effect on October 1, 2006, ~~as may be amended from time to time~~), and shall
29 provide a copy of these standards and amendments thereto when requested by the

1 SGA, in accordance with Section 7.4 of the 1999 Compact, or comparable
2 sections of new or amended Compacts to the CGCC staff within 30 days of the
3 effective date of this regulation. Copies of any amendments to these standards
4 shall be provided to CGCC staff within 30 days of adoption by the TGA.
5

6 (c) INTERNAL CONTROL SYSTEM. Each Tribe shall ensure that its Gaming Operation
7 implements and maintains an internal control system that, at a minimum, ensures
8 compliance with the tribal internal control standards that apply to its operation
9 and support of Class III gaming activities.

10
11 (d) NET WIN. The definition of “net win” contained in the applicable Tribal-State
12 Compact shall apply to matters covered by this regulation, rather than the
13 definition of "net win" provided at 25 CFR 542.19(d).

14
15 (e) FINANCIAL STATEMENTS AUDIT. Section 8.1.8 of the 1999 Compact, and
16 comparable sections of new or amended compacts, provide that each Tribe shall
17 engage an independent Certified Public Accountant (CPA) to provide an annual
18 audit of the financial statements of each Gaming Operation. Such financial
19 statements shall be prepared in accordance with generally accepted accounting
20 principles and financial statements audits shall be conducted in accordance with
21 generally accepted auditing standards, as supplemented by the standards for audit
22 of casinos of the American Institute of Certified Public Accountants. Each Tribe
23 shall submit to the CGCC staff all audit report information, including
24 management letters and responses to management letters, pertaining to the
25 operation ~~and support~~ of Class III gaming activities, within 120 days after the
26 completion of the audit. The Tribe may elect to provide the entire audit report to
27 the CGCC staff for review and CGCC staff will only utilize or record those
28 aspects affecting the operations ~~and support~~ of Class III gaming activities.
29

1 (f) AGREED-UPON PROCEDURES AUDIT. Each Tribe shall engage an independent
2 CPA to perform an annual "Agreed-Upon Procedures" audit in accordance with
3 25 CFR 542.3(f) to verify that the gaming operation is in compliance with the
4 Tribe's written internal control standards. Either the firm or all independent
5 certified accountants engaged to perform an "Agreed-Upon-Procedures" audit
6 must be licensed by the California Board of Accountancy. The CPA shall prepare
7 a report of the findings for the Tribe. The Tribe shall submit a copy of the report
8 to the CGCC staff no later than 120 days after the completion of the audit.

9
10 (g) STATE GAMING AGENCY ACCESS TO RECORDS. Pursuant to Section 7.4 and
11 following of the 1999 Compact, or comparable sections of new or amended
12 Compacts, SGA staff shall be given prompt access to all gaming operation
13 facilities, equipment, personnel, and records reasonably necessary to ensure
14 compliance with the Compact. Tribal officials shall not unreasonably withhold or
15 deny access to records deemed necessary for compliance review by SGA staff.
16 Upon request and notice to the Tribe and the TGA, the SGA staff shall be granted
17 access during normal hours of the Gaming Facility's business office for
18 inspection and copying records of the operation ~~and support~~ of all Class III
19 gaming activities, including, but not limited to: internal control standards; work-
20 papers of the independent CPA generated in performing the Agreed-Upon-
21 Procedures audit; reports and work papers of the internal audit staff; observation
22 checklists; CPA MICS compliance checklists or other comparable testing
23 procedures; findings by the independent CPA or the internal audit staff; and
24 exceptions and gaming operation response to the exceptions. The TGA and the
25 Tribe shall permit the SGA staff to interview and consult with the independent
26 CPA before and after the performance of the Agreed-Upon-Procedures audit.

27
28 (h) CGCC REVIEW OF INDEPENDENT AUDITS. CGCC staff shall review both the
29 audit of the financial statements pertaining to the operation ~~and support~~ of Class

1 III gaming activities, the Agreed-Upon-Procedures report, and all information
2 supplied by the Tribe and the TGA and may choose to conduct on-site
3 compliance reviews of the operation ~~and support~~ of all Class III gaming activities.
4 ~~The compliance reviews authorized by this regulation~~ Nothing in this subsection
5 (h) shall not be construed to authorize the State to conduct a full financial audit as
6 is required of the Tribe by Section 8.1.8 of the 1999 Compact or authorized
7 pursuant to 25 CFR 571.12.

8
9 (i) CGCC REPORT ACCEPTANCE AND TRIBAL ACTION PLAN.

10 (1) If an on-site compliance review is conducted, CGCC staff shall provide a draft
11 Compliance Review Report (draft Report) to the Tribe and to the TGA,
12 including findings of non-compliance, if any. The Tribe shall have 60 days, or
13 such other time period as is mutually agreeable, to respond to the CGCC draft
14 Report. If the Tribe accepts the draft Report, CGCC staff shall finalize its
15 Report and, within 20 days of acceptance, submit the final Compliance
16 Review Report (final Report) to the Tribe and the TGA. If no response to the
17 draft Report is received from the Tribe by the 60th day or within such other
18 time period as may be mutually agreed upon, the draft Report shall be deemed
19 accepted. Within 20 days of the date on which the draft Report is deemed
20 accepted by the Tribe, CGCC staff shall submit the final Report to the Tribe
21 and the TGA.

22
23 (2) Within 45 days of receipt of the final Report, the Tribe shall acknowledge the
24 final Report and, if findings require, provide a written action plan including a
25 proposed time line addressing the findings. If no response to the final Report
26 is received from the Tribe by the 60th day or within such other time period as
27 may be mutually agreed upon, the final Report shall be deemed accepted. In
28 the event that a final Report containing findings of non-compliance is deemed
29 accepted, CGCC staff and the Tribe shall, within 30 days of that date or such

1 other time period as is mutually agreeable, make good faith efforts to address
2 and resolve the findings of non-compliance. If differences remain after the
3 CGCC staff and the Tribe have made good faith efforts to resolve them, the
4 dispute may be resolved pursuant to the dispute resolution process outlined in
5 compact section 9.0.

6
7 (3) CGCC staff may review the impact or implementation of any action plan
8 undertaken by the Tribe pursuant to this regulation and may issue an Action
9 Plan Assessment to the Tribe.

10
11 (j) CGCC COMPLIANCE REVIEW REPORT DISPUTE.

12 (1) ~~If, after a 60 day review, the Tribe elects to contests the draft Report, CGCC~~
13 ~~staff and the Tribe shall make good faith efforts to resolve any differences~~
14 ~~within 30 days of receipt of the tribal response contesting the draft Report or~~
15 ~~such other time period as may be mutually agreed upon. Upon notice by the~~
16 ~~Tribe of a disagreement~~ If the dispute cannot be resolved within 30 days of
17 receipt of the tribal response contesting the draft Report or such other time
18 period as may be mutually agreed upon and failure to resolve differences, the
19 CGCC staff will finalize and deliver the Report.

20
21 (2) Within 30 days of receipt of the final Report, the Tribe shall provide a written
22 explanation of its reasons for disputing the findings. If the Tribe fails to
23 provide a written explanation within 30 days of receipt of the final Report, the
24 final Report shall be deemed accepted. In the event that a final Report
25 containing findings of non-compliance is deemed accepted, CGCC staff and
26 the Tribe shall, within 30 days of that date or such other time period as is
27 mutually agreeable, make good faith efforts to address and resolve the
28 findings of non-compliance. If differences remain after the CGCC staff and

1 the Tribe have made good faith efforts to resolve them, the dispute may be
2 resolved pursuant to the dispute resolution process outlined in compact section
3 9.0.

4
5 (3) In the event that the Tribe has timely disputed the final Report, The this
6 Report and the Tribe's explanation of the dispute shall may at the option of the
7 Tribe be referred for consideration by the full CGCC. In the event that the
8 Tribe opts to pursue review by the full CGCC, At the request of the Tribe, the
9 matter may further request that the matter be set for closed session
10 consideration at which time the Tribe may offer any evidence to support its
11 position and/or offer a compromise reconciliation. All information presented
12 shall be subject to the confidentiality provisions of the Compact. If, after
13 consideration and decision by the full CGCC, where applicable, a dispute
14 remains, it may be resolved pursuant to the dispute resolution process outlined
15 in Compact Section 9.0. If the Tribe does not opt for review by the full
16 CGCC, the dispute may be resolved pursuant to the dispute resolution process
17 outlined in Compact Section 9.0.

18
19 (k) CONFIDENTIALITY. Pursuant to Compact section 7.4.3(b), or comparable sections
20 of new or amended Compacts, the SGA shall exercise utmost care in the
21 preservation of the confidentiality of any and all information received from the
22 Tribe in compliance with this regulation, including but not limited to tribal
23 internal control standards, third-party audits, tribal audits, and state compliance
24 reviews, and shall apply the highest standards of confidentiality expected under
25 state law to preserve such documents from disclosure.

26
27 (l) VARIANCE TO INTERNAL CONTROL STANDARDS.

28 (1) A TGA may approve a variance from the control standards set out at 25 CFR
29 Part 542, ~~following the procedure outlined in 25 CFR 542.18(a).~~ ~~The other~~

1 ~~procedures found at 25 CFR 542.18(a) through (e) shall also apply to~~
2 ~~variances sought under this regulation, except that the review of the TGA~~
3 ~~approval shall be conducted by the Chairperson of the CGCC and the TGA~~
4 ~~shall be entitled to an appeal to the full CGCC in the event that the~~
5 ~~Chairperson files objections to a re-submission of a variance as provided in 25~~
6 ~~CFR 542.18(d).~~ provided that the TGA determines that the variance will
7 achieve a level of control sufficient to accomplish the purpose of the standard
8 it is to replace. The variance shall take effect on the date of approval by the
9 TGA or such later date as may be specified by the TGA.

10
11 (2) The TGA shall, within 30 days of approval, provide to the CGCC staff a copy
12 or a detailed description of the variance, the rationale for the variance, and
13 evidence of approval by the TGA. The CGCC staff shall review the variance
14 approval within 60 days of its receipt by the CGGC or such other time period
15 as is mutually agreeable. The CGCC staff shall bring any concerns to the
16 attention of the TGA within 30 days or such other time period as is mutually
17 agreeable. If differences remain after the CGCC staff and the TGA have made
18 good faith efforts to resolve them, the dispute may be resolved pursuant to the
19 dispute resolution process outlined in Compact Section 9.0.

20
21 (3) The TGA shall not be required to submit to the CGCC staff pursuant to this
22 subsection (l) any variance that was submitted to the National Indian Gaming
23 Commission prior to October 1, 2006, and considered “concurred with” under
24 the terms of 25 CFR 542.18.

25
26 (m) UPDATING INTERNAL CONTROLS AND THIS REGULATION.

27 (1) Nothing in this regulation shall be construed to preclude individual tribes and
28 the SGA from meeting, from time-to-time, to discuss MICS compliance
29 matters in light of changing technology or industry best practices.

1 (2) The Tribal-State Regulatory Association may meet from time-to time, but not
2 less often than once every two years, to discuss possible modifications of this
3 regulation in light of changing technology or industry best practices.
4

5 (n) DISPUTES. If a dispute not previously addressed by this regulation arises between
6 CGCC staff and a Tribe involving the application or interpretation of this
7 regulation, the parties shall make good faith efforts to resolve their differences.
8 ~~the following procedure shall be followed:~~

9 ~~(1) The parties shall make good faith efforts to resolve their differences.~~

10 ~~(2)~~ (1) If these good faith discussions do not resolve the matter, then the matter
11 ~~shall~~ may, at the option of the Tribe, be referred to the full CGCC for review and
12 decision.

13 (A) In the event that the Tribe opts to pursue review by the full CGCC, At
14 ~~the request of the Tribe,~~ may further request that the matter may be set for
15 closed session consideration.

16 ~~(3B)~~ If the Tribe has opted for such consideration, Aafter the full CGCC
17 reviews the matter and makes a decision, or if the full CGCC for any
18 reason does not make a decision, the Tribe shall be entitled to invoke the
19 dispute resolution process outlined in Compact section 9.0.

20 (C) If, having opted for such consideration, the Tribe declines to follow the
21 decision of the full CGCC, the State shall be entitled to invoke the dispute
22 resolution process outlined in Compact section 9.0.

23 ~~(4-2) If the Tribe declines to follow the decision of the full CGCC, the State In~~
24 the event that the Tribe does not opt for review before the full CGCC, either
25 party shall be entitled to invoke the dispute resolution process outlined in
26 Compact section 9.0.
27

1 (o) SEVERABILITY. The provisions of this regulation are severable. If any
2 provision of this regulation or its application is held invalid, that
3 invalidity shall not affect other provisions or applications that can
4 be given effect without the invalid provision or application.