



**San Manuel Band of Mission Indians
Tribal Gaming Commission
OFFICE OF THE COMMISSION**

27995 Highland Ave., Suite 301
Highland, CA 92346

(909) 863-2150
(909) 863-2156 Fax

September 2, 2022

Mr. E. Sequoyah Simermeyer, Chair
National Indian Gaming Commission
1849 C Street NW, Mailstop #1621
Washington, DC 20240
information@nigc.gov

Dear Chairman Simermeyer,

RE: Comments on the Proposed Definition of Key Employees §502.14

The San Manuel Tribal Gaming Commission (SMTGC) is submitting comments to the National Indian Gaming Commission (NIGC) proposed amendments to 25 CFR 502.14 definition of Key Employees as published in the Federal Register on August 10, 2022. The SMTGC believes active participation in the comment process positively influences the final regulations, which benefits all Tribes. The proposed regulation covers a standard for defining who will be licensed as Key Employees.

The SMTGC appreciates the opportunity to comment on these proposed regulations. In general, the changes reflect a positive revision for some much-needed updates to the definition of Key Employee. In particular, removing the \$50,000 total compensation threshold will benefit most tribal gaming agencies by allowing them to focus on functions and risk areas instead of solely on compensation. Therefore, the SMTGC sees this as a positive amendment to the regulations.

There are a few other comments the SMTGC would like to make about the Key Employee definition, mainly seeking clarity on the intention and hoping to establish some uniformity as appropriate for each Tribe's operational risks.

25 CFR §502.14(a)(9) & (a)(10) The term "custodian" in relationship to gaming and surveillance systems may create unnecessary confusion as it relates to information technology. The SMTGC suggests the regulation intends to have individuals with system administrator rights be designated as Key Employees. The traditional understanding of a custodian is one with physical access and records control, which may not always translate to a digital system. The NIGC may want to consider using an information technology term specific to maintenance and oversight of systems, such as system administrator, instead of custodian, if the intention is to more narrowly define the individuals designated as Key Employees.

25 CFR §502.14 (a)(10) The SMTGC is seeking clarity on whether the “surveillance systems or surveillance system records” is intended to be specific to the actual surveillance footage or is intended to also include the surveillance reports detailing the events observed on the footage. The SMTGC believes that both the footage and surveillance reports are crucial and the system administrator(s) for both systems should be designated as Key Employees.

25 CFR §202.14(b) The SMTGC suggests the definition for restricted areas should be more specific, targeting the protection of gaming integrity to clarify the expectation of the regulations further. For example:

“Any person authorized by the gaming operation for unescorted access to restricted gaming areas designated as restricted areas by the TGRA”

25 CFR §502.14(d) Provides Tribes the ability to designate Key Employees through their tribal ordinance, which is an excellent solution to managing the multiple organizational structures within tribal gaming. The SMTGC suggests that it may be helpful to specify the type of language that should be included in the tribal ordinance. Should the designation include the job title, related functions, or both? Additionally, the Key Employee designation language in the tribal ordinance will require a process whereby the FBI can evaluate the proposed language to ensure these Key Employees are eligible for fingerprinting and CHRI data. Otherwise, the revised regulations will not achieve NIGC’s intended results of restoring a tribe’s ability to designate Key Employees who perform functions for the Gaming Facility.

Again, we thank the NIGC for the opportunity to participate in this consultation and comment process. We hope these comments will be helpful, will receive due consideration, and become part of the public record. If you have questions please contact me or Michael Rust, Vice President of Compliance, regarding this matter.

Sincerely,



Adam N. Torres,
Chief Gaming Regulator