



June 9, 2021

Dear Tribal Leader,

This letter announces three Tribal Consultations series the National Indian Gaming Commission (NIGC) will host in calendar year 2021. In addition, this letter summarizes other key NIGC outreach efforts that will take place in the coming months. Our consultation and outreach efforts remain an important Agency responsibility. These efforts help ensure sound NIGC policy formation and strengthen the federal government's inter-governmental relationship with tribal nations.

The topics for each of the three consultation series represent different themes. Tribal Consultation Series A will begin on July 12, 2021, and will focus on efforts to ensure Agency requirements are clear, conform with NIGC practice, and align with IGRA requirements. Tribal Consultation Series B will begin on September 13, 2021, and will focus on opportunities to provide greater stability in NIGC operations, more flexibilities and assistance to the industry's response to the pandemic, and considerations around the Commission's roles in Self-Regulation certifications, appeals, and background investigations. Consultation Series C will begin on November 1, 2021, and will focus on NIGC tools to protect tribal assets and regulatory measures to address technology-based threats.

The NIGC's consultation and outreach efforts aim to remain respectful of your resources and time. The Commission will use virtual tools to facilitate your engagement in an efficient way over the coming months. We have included attachments to this letter in anticipation of questions you may have and to assist in your planning. You may also contact Ms. Rita Homa at Rita_Homa@nigc.gov for additional assistance.

MAILING ADDRESS: NIGC/DEPARTMENT OF THE INTERIOR 1849 C Street NW, Mail Stop #1621 Washington, DC 20040 Tel: 202.632.7003 Fax: 202.632.7066

REGIONAL OFFICES Portland, OR; Sacramento, CA; Phoenix, AZ; St. Paul, MN; Tulsa, OK; Oklahoma City, OK; Rapid City, SD

WWW.NIGC.GOV

Thank you for your dedicated leadership to your communities and we look forward to collaborating with you in the coming months.

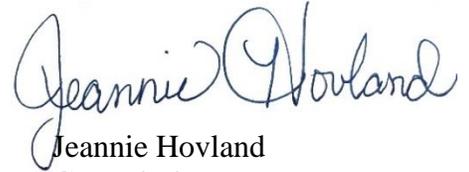
Sincerely,



E. Sequoyah Simermeyer
Chairman



Kathryn Isom-Clause
Vice Chair



Jeannie Hovland
Commissioner

Attachments:

NIGC 2021 Tribal Consultation Series
NIGC 2021 Outreach Efforts

NIGC 2021 TRIBAL CONSULTATION SERIES

Although the NIGC's three consultation series will address different sets of topics, all consultations will have common features. First, a video presentation will be made available in advance of each consultation series to provide background information. The video presentations will provide information in an efficient way and help facilitate tribal engagement. Second, future Dear Tribal Leader letters will announce video conferences and remind you of both the timeframe for the NIGC to receive written comments from tribes, and the scope of the discussions. Third, the Commission will hold multiple live video conference sessions with tribal government leaders and representatives in order to receive on the record statements. Fourth, all comments, transcripts, and the Commission's written summaries of next steps for each of the three consultation series will be available at www.NIGC.gov.

Consultation Series A to begin on July 12, 2021, and end on August 12, 2021

This series will center on topics the Commission views as requiring clarification in order to reflect the current practices or expectations of tribal governments, the Agency, and/or the tribal gaming industry. The Agency anticipates that this consultation may lead to regulatory updates through the public rule making process. Additional material to frame the consultation will be available no later than July 12, 2021. Between July 12, 2021 and August 12, 2021, tribes may submit written comments and the NIGC will host two nation-wide video conferences.

- **NIGC Consultation Policy:** In July of 2013, the NIGC adopted a robust consultation policy detailing how the Commission will engage with tribes on a government-to-government basis. The policy states that the "Commission shall review its existing [consultation] practices and revise them as needed." In addition, President Biden recently issued a Presidential Memorandum directing Agencies to review their consultation plans to ensure they meet the requirements of Executive Order 13175. Although that Presidential Memorandum and the underlying Executive Order do not apply to the NIGC because of our unique status, we nonetheless recognize the importance of tribal consultation and that our mission, and the complex and technical nature of the industry we regulate, places its own imperative on the NIGC to engage in government-to-government consultation. In furtherance of the NIGC's existing consultation policy and in the spirit of the Presidential Memorandum, the Commission seeks your input on NIGC's government-to-government consultation.
- **NIGC Strategic Plan:** Every four years, the National Indian Gaming Commission is required to update the Agency's strategic plan. The Commission will update tribal leaders, and seek meaningful input on its draft strategic plan, which provides a concrete basis for establishing goals, and the strategies by which the Agency will achieve those goals.
- **25 C.F.R §§ 502.14; 502.19 – Definitions of Key Employee and Primary Management Official:** The Commission seeks your input on a change to NIGC definitions of Key Employee and Primary Management Official that will allow the NIGC to process fingerprints for Tribal Gaming Commission Employees and other employees of the

gaming operation. The Commission also seeks input on changing 502.14(b) to increase the cash compensation that establishes an employee as a “key employee”.

- 25 C.F.R. § 559.2(b) – Facility License Notifications and Submissions: The Commission seeks your input on revising § 559.2(b) of the regulation to modify the requirement that facility license notice submissions include a name and address of the proposed gaming facility.
- 25 C.F.R. Part 552 – Submission of Gaming Ordinance or Resolution: The Commission seeks your input regarding changes to submission requirements for gaming ordinance reviews. Specifically, the Commission wishes to ensure more manageable requirements for initial ordinances by tribes that have not yet established regulatory bodies to promulgate regulations. In addition, it is considering clearer regulatory requirements for ordinance provisions related to license suspensions. The Commission seeks to modify requirements in order to make NIGC practices more consistent with IGRA and ease unnecessary burdens on tribal submissions.
- 25 C.F.R. § 514.4(c) – Fees – How does a gaming operation calculate the amount of the annual fee it owes: The Commission seeks your input on amending its regulation to specify that Free Play should be deducted from the calculation of assessable gross revenue.
- 25 C.F.R. § 537.1(a)(3) – The Commission seeks your input on amending the § 537 to reduce the number of background investigations the NIGC conducts for each management contract by requiring investigations for those individuals and entities who have 10% or greater interest in the contract, rather than 10 individuals and any entities with the greatest interest in the contract. This change will ensure that NIGC regulations are consistent with the explicit requirements of IGRA and reduce the burden and cost of a management contract review thereby encouraging industry compliance.

Consultation Series B to begin on September 13, 2021, and end on October 15, 2021

This series will center on topics the Commission views as responsive to the lessons learned from the pandemic’s impact. Specifically, the need for certainty in the NIGC’s operations and the opportunities for greater agency-flexibilities in its dealings with Tribal Gaming Regulatory Authorities. In addition, some of these topics seek to identify approaches the NIGC can explore to leverage its unique national role in both promoting industry integrity and establishing policies through the resolution of matters on appeal before the Commission. The Agency anticipates that this consultation could lead to the promulgation of new regulations as well as additional dialogue with tribes and industry stakeholders. Additional framing material will be available by September 13, 2021. Between September 13, 2021, and October 15, 2021, the Commission will receive written comments and will host three nation-wide video conferences.

- 25 C.F.R. § 571.12 – Audit standards: The Commission seeks your input on proposed amendments to Part 571 to relieve financial and temporal burdens imposed on small and charitable gaming operations by reconsidering the requirement that they conduct an annual independent audit of the financial statements.
- 25 C.F.R. § 571.12(b) and 571.13 - Audits: The Commission seeks input on whether disclaimed or adverse audited or reviewed financial statements satisfy the requirements

of 571.12(b), and whether the submission of disclaimed or adverse audits meet the requirements of 571.13.

- 25 C.F.R. Part 518 – Self Regulation of Class II Gaming: The Commission seeks your input on amendments to Part 518 to simplify procedures controlling self-regulation. The Commission seeks to reduce the time it takes to obtain a certificate of self-regulation and clarify the Office of Self-Regulation’s functions. The Commission also seeks to clarify the submission requirements for tribes with a certificate of self-regulation in order to ensure consistent NIGC practices, and explore the value of an annual Commission summit to promote and discuss best industry practices among self-regulated gaming operations
- 25 C.F.R. Part 514– Fees: The Commission seeks your input on NIGC fee regulation, including: exploring a mechanism to adjust the year against which the fee rate is assessed in order to respond to extreme and unexpected variations in the industry; mandating a process for reporting on the carry over status at fiscal year-end; requiring a budget commitment to maintain a two-quarter transition fund; and considering guidelines for the fee rate calculation for self-regulated tribes.
- 25 C.F.R. subchapter H – Appeal proceedings before the Commission: The Commission seeks your input on updates to the Agency’s appeal regulations designed to expedite the process, allow the Commission to decide appeals in less time, and clarify the authority and process for settlement agreements.
- 25 U.S.C. § 2706(b)(3) – Powers of the Commission: The Commission seeks your input on adopting a rule to implement the Commission’s authority pursuant to IGRA to conduct necessary background investigations.

Consultation Series C to begin on November 1, 2021, and end on December 17, 2021

This series will focus on regulations with implications for technology and NIGC tools to protect tribal assets, including NIGC background investigations and the substantial violations list. The Commission views updates to elements in the NIGC regulations with an impact on technology-based threats to the security of gaming operations’ day-to-day activity as an important discussion to ensure its regulations remain responsive to industry trends. The Commission views the protection of tribal assets through tools such as its substantial violations list and background investigations for the Chairman’s suitability determinations associated with management contract reviews as necessary for modernizing Agency regulations, ensuring Agency practice reflects gaming industry trends in the regulatory community’s approach to background investigations, and supporting the Agency’s role as a federal regulatory body.

The Agency anticipates that this consultation could lead to the promulgation of new regulations after an additional round of consultation and dialogue with tribes and industry stakeholders during calendar year 2022. Additional framing material for these consultation topics will be available by November 1, 2021. Between November 1, 2021, and December 14, 2021, the Commission will receive written comments and will host four nation-wide video conferences.

- 25 C.F.R. Parts 543 and 547 – Minimum internal control standards and minimum technical standards: Gaming has changed significantly since the NIGC implemented its minimum internal control standards and its technical standards. The Commission is

seeking your input on matters related to technological enhancements and technology threats.

- 25 C.F.R. § 522.4(b)(7) – Approval requirements for class II ordinances; 25 C.F.R. § 573.4(a)12 – When may the Chair issue an order of temporary closure; The Commission seeks your input on whether the requirement that a tribe construct and operate its gaming operation in a manner that adequately protects the environment, public health, and safety extends to include issues related to cyber-security.
- 25 C.F.R § 573.4(a) – When may the Chair issue an order of temporary closure: The Commission is seeking your input on adding misuse of net gaming revenues to the list of substantial violations for which the NIGC Chair may issue a temporary closure order.
- 25 C.F.R. Part 537 – Background investigations for person or entities with a financial interest in, or having management responsibility for, a management contract: Since the NIGC first issued regulations related to contract review, the practices and procedures the agency uses in conducting those reviews has continued to evolve. The Commission seeks to engage in a discussion as to how the NIGC may modify its regulations to provide more transparency, accountability, and efficiency in its contract reviews.

NIGC 2021 OUTREACH EFFORTS

The following outreach efforts are scheduled to occur during calendar year 2021. In order to maximize resources and participation, the NIGC will host these events in a video conference format. These outreach efforts are in addition to the consultation series that will take place during 2021.

NIGC Region Summits

Week of July 26, 2021

The Agency is committed to implementing innovative approaches to emphasize its focus on accountability in its operations. As part of that focus, the Agency is establishing Annual Region Summits. Led by the NIGC Region Directors, these summits will invite tribes within each of the NIGC's administrative regions to identify priority issues and opportunities for tribal engagement in the NIGC's planning processes. The Annual Region Summits will be held by video conference.

NIGC Quarterly Operations Briefing

Week of July 21, 2021 and Week of October 20, 2021

The Agency has established quarterly operations briefings for tribal leadership officials. This is a recurring video conference briefing hosted by the Commission. This effort aims to increase tribes' awareness about how the NIGC's operations focus on priority issue areas. The briefings are also intended to facilitate tribal leadership's insights into the NIGC's planning processes.

NIGC Listening Session on Agency Budget

August 23 to September 3, 2021

The Commission hosts an annual listening session via video conference and receives written feedback from tribes regarding the Agency's budget development process. The date for the video conference will take place between August 23 and September 3 and will be announced later this year. This effort integrates tribal feedback into the NIGC planning processes and provides an opportunity for the Commission to highlight its progress toward meeting its objectives.