



COVID-19 Commission Outreach, Guidance and Informational Series – Summary Report

National Indian Gaming Commission

NIGC Overview

The National Indian Gaming Commission (NIGC) was created in 1988 with the passage of the Indian Gaming Regulatory Act (IGRA), which was enacted to support and promote tribal economic development, self-sufficiency, and strong tribal governments through the operation of gaming on Indian lands. The Act provides a statutory basis for the federal regulation of Indian gaming. IGRA establishes the Commission to regulate and support tribal gaming as a means of generating revenue for tribal communities. See [25 U.S.C. § 2704](#).

NIGC serves 247 federally recognized tribes that consist of 502 Indian gaming operations in 29 States.

Executive Summary

The National Indian Gaming Commission (NIGC) recently completed its COVID-19 Commission Outreach, Guidance and Information series which took place during the months of May through August 2020. During these eight (8) sessions the NIGC invited Indian gaming associations and organizations to ask questions and provided an open venue for a discussion on the issues facing Indian gaming as a result of the COVID-19 pandemic. These sessions were open to tribal leadership, gaming regulators and operations personnel.

Over 1,000 participants, with representatives from 143 tribes, representing approximately 57% of the Indian gaming industry attended these sessions. This report memorializes the topics and answers discussed during these sessions and will be made available to any tribal, state or government agency. A number of major tribal gaming organizations participated and contributed to the success of these sessions (See Figure 1).

Figure 1: Commission Outreach Impact

Participating Organization	Attendance
National Indian Gaming Association (NIGA)	156
Oklahoma Indian Gaming Association Oklahoma Tribal Gaming Regulators Association (OIGA/OTGRA)	155
United Tribes Gaming Association Wisconsin Gaming Regulators Association (UGTA/WGRA)	107
New Mexico Association of Indian Gaming Commissions (NMAIGC)	76



8 Outreach Guidance Calls

1,076 Participants
143 Tribes represented
12 hours of Guidance



Multiple questions identified and answered.

All NIGC Regions represented

Continued efforts and guidance to come from the NIGC while the industry recovers, rebuilds, and reconnects.

National Tribal Gaming Commissioners & Regulators (<i>NTGCR</i>)	121
Washington Indian Gaming Association (<i>WIGA</i>)	163
California Nations Indian Gaming Association (<i>CNIGA</i>)	157
Arizona Indian Gaming Association (<i>AIGA</i>)	141
Total	1,076

Summary of Topics

During the course of these outreach sessions, organizations and associations were invited to submit a list of questions asked by their membership. The Commission then reviewed these questions and, if similar in nature, combined the questions to provide for a more consistent response. A summary of the questions and answers is below in Appendix A.

NIGC GUIDANCE ON COVID-19 & CJIS

The Commission and invited guests identified and answered five essential questions pertaining to resuming operations during the COVID-19 pandemic and complying with the FBI’s Criminal Justice Information Services (CJIS) requirements. These questions discussed the resources the NIGC created and implemented throughout the pandemic and explained the purpose of the guidance and resource tools. The NIGC shared regulatory deadline expectations in effect during this pandemic and explanations of audit processes, training, technical assistance and steps to ensure CJIS compliance.

EPHS REQUIREMENTS

With respect to Environmental, Public Health and Safety (EPHS), two questions centered on what guidance the NIGC would provide and what resources are currently available for tribes. EPHS Resources available to tribes include the NIGC’s model infectious disease plan; sample emergency preparedness plans and checklists; and best practices for mitigating the spread of COVID-



ALTERNATIVE REVENUE REPLACEMENT & PAYOUTS

Extensive education on
regulations relationship with
the TGRA.



Guidance Resource
documents available on the
NIGC.gov website.

19. Some of the best practices discussions included the use of face masks, the use of personal protective equipment (PPE) and associated requirements, social distancing protocols, disinfecting and cleaning, patron and employee temperature checks, contact tracing, training, and informational signage to inform patrons and employees. The need for proper training and contact tracing within the facilities was a constant theme throughout the discussions of each call. Each outreach session also included the recommendation to engage with local public health officials and to review tribal emergency declaration orders, local government emergency orders, and federal guidelines.

DECLINATION LETTERS, ALTERNATIVE REVENUE REPLACEMENT & PAYOUTS

Four questions centered on the declination letter process as well as alternative payout processes. Over the series of sessions, the NIGC discussed its role in reviewing different types of gaming and provided guidance for acquiring new gaming such as sports betting. The discussion of declination letters focused on the process for submission to the NIGC, including a reminder that the NIGC Office of General Counsel will only review and provide a declination letter for unexecuted contracts. Since many gaming operations have experienced reduced staffing, the NIGC provided guidance on staffing necessary to fulfill regulatory requirements. The NIGC also provided guidance on operation staffing and the need to properly license employees to process payouts and other operational functions. Additional information on these topics can be found in Appendix A.

EXTENSIVE EDUCATION ON REGULATIONS

Another important topic discussed was the desire to educate the public on the strength of the tribal gaming industry's integrity and the controls that apply to Indian gaming in comparison to non-tribal gaming. As part of additional outreach and training, the Commission discussed its plans for virtual training and announced a forthcoming national virtual training conference that will include presentations on CJIS updates, Accounting and reporting considerations, IT threats, Mobile Gaming Overview, EPHS & Preparedness, and Q&A Panels.

RELATIONSHIP WITH THE TGRA



NIGC Resources

During the initial months of the pandemic the Indian Gaming Industry saw over 99% of tribal gaming operations close their doors. As result of the closures, the NIGC issued guidance to address and respond to tribal leaders and regulators' questions on various topics. This guidance includes the following: five (5) Dear Tribal Leader Letters, two (2) checklists and assessments, one (1) press release, two (2) tribal resource documents, one (1) frequently asked questions document, one (1) industry info graphic. These resources and others are available on the NIGC website at www.nigc.gov.

The NIGC continues to provide guidance on COVID-19 related matters through published guidance located on the NIGC website. Through continued communication with Tribes, the NIGC has been providing technical assistance based on guidance from health agencies and sharing best practices learned through ongoing review of public health and safety plans. The NIGC has created many guidance documents that are available on the NIGC website at www.nigc.gov.

The NIGC COVID-19 Preliminary Assessment is used by our region offices to assess local conditions and was made available to tribes to assist in their reopening plans. The reopening guidance covers IGRA and NIGC regulations and guidelines from public health agencies to ensure gaming operations reopen and operate in a manner that protects the health and safety of employees and patrons.

NIGC Resource Documents

NIGC COVID-19 Outreach Guidance Call Resources

- [NIGC COVID-19 Outreach Call Resource PowerPoint](#)

Dear Tribal Leader Letters

- [April 24, 2020 – Reopening resources with attached NIGC COVID-19 Reopening guidance, updated April 24, 2020](#)
- [April 17, 2020 – NIGC Budgetary Impacts from Coronavirus Pandemic and NIGC Resources and Responses with attached:](#)
- [March 20, 2020 – Available NIGC Resources with attached:](#)
- [March 16, 2020 – Temporary Casino Closures in relation to NIGC regulation 25 C.F.R. Part 559 with attached](#)
- [March 12, 2020 – NIGC Measures Regarding Coronavirus with attached](#)

Frequently Asked Questions

- [August 5, 2020 - Updated FAQs](#)
- [May 5, 2020 – Updated FAQs](#)
- [April 7, 2020 – Updated FAQs](#)
- [March 27, 2020 – Updated FAQs](#)
- [March 20, 2020 - FAQs](#)



**NIGC Resources
Cont.**

Checklists and Assessments

- [May 5, 2020 - Updated NIGC COVID-19 Preliminary Assessment \(Replaces the April 24, 2020 Assessment\)](#)
- [March 16, 2020 - COVID-19 Facility Closure Checklist](#)

Press Release

- [March 18, 2020 – NIGC Guidance Addresses COVID-19 Decision Making, Agency health and continuity of operations.](#)

Appendix A

**SUMMURIZED*

NIGC GUIDANCE ON COVID-19 & CJIS

Question: The NIGC provided COVID guidance and resources. What are these documents' purposes, how does the NIGC expect the documents to be used, and what can the NIGC do to help streamline communication around these documents?

Answer: The guidance that is being provided is from public health agencies such as the CDC to tribal gaming. It is to assist in reopening tribal gaming facilities to mitigate the spread of COVID-19. Our region offices are utilizing the COVID-19 Preliminary Assessment to collect information. To be transparent and resourceful to tribes in developing their own checklist and reopening protocols, we decided to share the assessment tool.

NIGC GUIDANCE ON COVID-19 & CJIS

Question: The NIGC provided COVID guidance and resources. What are these documents' purposes, how does the NIGC expect the documents to be used, and what can the NIGC do to help streamline communication around these documents?

Answer: The purpose of our guidance is to share information from public health agencies such as the CDC and to provide guidelines specific to tribal gaming that may assist in reopening tribal gaming facilities in a way that mitigates the spread of COVID-19. Within our guidance, the NIGC shared our COVID-19 Preliminary Assessment that our region offices are using to collect information. This assessment tool was also shared in an effort to be transparent and to provide another resource to tribes for developing their own checklist and reopening protocols.

Question: What is the focus of NIGC going to be this year? How will the focus as well as any deadlines be impacted by the uncertainty from COVID?

Answer: Our focus will be on special emphasis areas for Compliance. Areas such as CJIS compliance, which consists of audits, training, and technical assistance. Also in, EPHS/Preparedness, consisting of reviews, training and technical assistance. We will continue adjusting our procedures to perform our duties remotely and to minimize travel. Extensions to planned deadlines may be necessary as we continue to assess and monitor the challenges created by the pandemic.

Question: Has the NIGC's work on CJIS changed during the pandemic?

Answer: There has not been any changes to the CJIS compliance during the pandemic for either the NIGC or the TGRAs. Being mindful of the many challenges, we continue to work with TGRA's to achieve CJIS compliance. For open facilities, we complete checklists remotely and providing technical help as needed. Available online is the CJIS Security Awareness Training. Information on how to register was sent to designated Local Agency Security Officer (LASO). The National Virtual Training Conference is being prepared for October with CJIS updates. Beta testing is being done on a Learning Management System. It will offer online/on-demand training opportunities across a broad range of topics including CJIS.

Question: Recently in Arizona, an Indian gaming operation reopened and then closed. What has the NIGC learned from that event? Is the NIGC going to update its guidance to reflect lessons that may have been learned?

Answer: We acknowledge many factors affecting the Indian gaming enterprise. An effective way of calculating or mitigating risks is not based upon length of being open and/or the size of an operation. In NIGC COVID-19 Outreach Guidance Call Report • September 28, 2020

Arizona, and across the country, a few operations reopened, and then closed. Although operations differ in size and location, the circumstances that presented themselves are the same, which caused the gaming facilities to close.

It is important to have a contingency plan in the event a facility must close or deal with an outbreak. In the event of having a breakout or infected employees and/or patron, proactively having a strategy and plan in place is essential and equally important before reopening. Key preventative measures to apply are temperature checks, symptom monitoring, and personal protective equipment. Contact tracing and other post-infection measures are vital to include.

EPHS REQUIREMENTS

Question: In the past, the NIGC has provided information about Environment, Health and Public Safety. In light of what is going on with COVID, will the NIGC provide formal guidance on this topic like it did with class III guidance in the past?

Answer: Yes, we are exploring ways to provide more guidance. The guidance currently available are sample infectious disease response and preparedness plans, sample emergency preparedness plans, and checklists. In addition, we are preparing to launch our Learning Management System which will include training on EPHS.

Question: Operators and regulators are looking for advice from the NIGC on how to make sure they stay open.

Answer: To remain open, follow the guidelines issued by NIGC and local public health agencies assessing their gaming operations. Prepare for an increased outbreak of COVID-19. Guidance for infectious disease control and contact tracing are being worked on. Reoccurring meetings with IHS/CDC are being held when issuing any new guidance. They are helping in reviewing any potential EPHS conditions where imminent jeopardy exists. The TGRA must consider suspending gaming operations if they cannot fulfill its regulatory responsibilities, or ensure the public health and safety of employees and patrons or if application of tribal laws warrants.

Strong mitigation practices and trainings should include:

PPE requirements: (Requiring employees and patrons to wear face masks).

Social distancing: (Following CDC guidelines of at least 6ft. closing off areas where social distancing cannot be maintained).

Training on how to disinfect: (Scheduled cleaning of high touch areas, cage, gaming devices, kiosk, ATM).

Temperature checks: (Temporary checks of patrons. Employees checked at least a couple times during shift).

Testing for COVID: (Testing procedures for returning employees. Testing employees who have been exposed. Requiring release of test results before returning to work).

Employee certifying of no symptoms: (Employees certifying that they have no symptoms associated with COVID before coming on duty. Some employees have used fever reducers to pass temperature testing).

Signage: (Adequate signage at entrances and throughout casino about PPE, social distancing and symptoms of COVID-19).

Enforcement of mitigation practices: (Casino and TGRA monitoring and enforcing compliance public health and safety protocols and mitigation efforts).

Training: (Temp readings, PPE, Contact tracing, cleaning etc.)

Contact tracing within facility: (Utilizing technology such as surveillance, security, Players Club and logs to identify those exposed to virus. Casino and TGRA should establish relationship with local health agency).

Working with tribal, IHS and state health departments: (Sharing information with health departments to contact trace crucial in slowing spread of virus).

Identifying what conditions must be present to close a facility:

Tribal emergency declaration orders.

Local government emergency orders: (City, County State).

Lack of operation/regulatory staff: (If staffing levels fall below established threshold that poses a risk to EPHS or assets).

Federal guidelines: (CDC guidelines indicate businesses should close).

ALTERNATIVE REVENUE REPLACEMENT & PAYOUTS

Question: How is the NIGC taking into account cost savings that tribes are instituting during the pandemic?

Answer: Tribes had to make hard and fast cost saving decisions for the tribes, TGRA's and casinos. Savings such as the discontinuation of food and beverage services, events, tribal programs and more. We are continuing to provide guidance, technical assistance, and best practices to assist the Tribes in their COVID-19 mitigation efforts.

Question: Many banks are limited on the coins they receive because of the Federal Reserve. Can NIGC do anything to help the impact this limitation has for cash on hand?

Answer: There is a limited availability of coin for distribution to banks and in turn to customers. This may affect larger facilities. For instance, Winstar using something like \$45,000 in coin per day. Other large casinos may also have similar issues with getting enough coin from their banking institutions.

Potential suggestions to offset bank availability for coins at an operational level could include:

- Encourage employees to cash in personal coin at the cage
- If not already, encourage employees to cash in coin tips for cash
- If technology is available in the cage, issue credit tickets for coin

Encourage customers to transfer credits to their player's club card. If technology and specific instances allow, they could also have "change" from other purchases transferred to the player's club card.

There is nothing in our MICS that would prevent those things from occurring. Tax considerations still exist for Employee tips. They would need to ensure those reporting/recording protocols are still in place.

Question: Tribes expect to continue to face diminished returns and will need to look at alternatives like sports betting to replace lost revenue. What role will the NIGC play if tribes look to alternatives like sports betting?

Answer: The Office of the General Counsel explained the Declination process. Contracts must not be executed. Areas of concern and problematic language in contracts. More information is in our [Bulletin No. 2020-1](#) on our website.

Question: With reduced staff, operators are looking for guidance on how to streamline jackpot and other
NIGC COVID-19 Outreach Guidance Call Report • September 28, 2020

payout processes. Does the NIGC have any recommendations?

Answer: The operation should look at the current internal controls regarding payouts, jackpots, and see where the COVID-19 risk lies. If they can reduce the TICS while staying in bounds with MICS, they can do so. If they need an alternate standard, we can work with them to identify controls that may serve the overall purpose of the NIGC MICS while addressing the virus risk.

If staffing is an issue, the operation could consider adding additional staff with verification level authority to meet the signature threshold for jackpots. This could be done by cross training different positions and employees with the appropriate gaming license could fill in as slot attendants. The operation and TGRA may need to adjust TICS and or position descriptions and be mindful this would likely be considered a KEY duty and the individual may need to go through the additional background investigation processes if their position was not previously considered Key or a Primary Management Official.

EXTENSIVE EDUCATION ON REGULATIONS

Question: In some areas or the Northern Plains there has been rapid expansion of state authorized electronic pull-tab games. This expansion is undermining tribal gaming operations. How can the NIGC educate the public about the strength of the tribal gaming industry's integrity and the rigorous regulatory controls that apply to Indian gaming but do not apply to non-tribal gaming?

Answer: The NIGC will look to provide more information on the strength of the tribal gaming industry's integrity and regulatory structures. NIGC Bulletins contained on our website site may also be helpful in explaining and communicating various regulatory items.

