



BULLETIN

No. 2022-01

April 4, 2022

Subject: Self-Regulation under the Indian Gaming Regulatory Act

The purpose of this bulletin is to provide guidance regarding the Indian Gaming Regulatory Act's self-regulation process. Pursuant to the Indian Gaming Regulatory Act (IGRA), the National Indian Gaming Commission (NIGC) may delegate some of its regulatory role over Class II gaming to tribes through certificates of self-regulation. Once self-regulated, a tribe pays lower fees on its Class II gaming revenues and is subject to less oversight from the NIGC.

To obtain a certificate of self-regulation, a tribe must petition the NIGC's Office of Self-Regulation and meet certain eligibility requirements.¹ The NIGC Compliance Division has published self-regulation checklists to help tribes assess their readiness to petition the Commission for self-regulation, evaluate their eligibility for self-regulation, and determine whether a petition is complete.² Once the Office of Self-Regulation receives a petition for self-regulation from a tribe, it will review the petition against NIGC's regulations and inform the tribe whether the petition is complete.

If the petition is complete, the Office of Self-Regulation has 120 days to complete a review of the tribe's gaming operations going back three years and will perform an on-site review, making sure to work with tribal leaders and regulators. The purpose of this review is to determine whether the requirements for self-regulation have been met and is not intended to be a compliance check. If the Office of Self-regulation discovers a potential violation of IGRA, NIGC regulations, or a Tribe's gaming ordinance, it will not investigate the violation itself, but instead refer the matter to the NIGC's Compliance Division, which will follow its normal training and technical assistance and/or investigative procedures. Once the review is completed, the Office of Self-Regulation will submit a report and recommendation to the full Commission and to the petitioning tribe. The Commission will then consider the recommendation along with any

¹ 25 C.F.R. §§ 518.3, 518.4.

² See Checklists and Worksheets <https://www.nigc.gov/compliance/checklists-and-worksheets>.

submissions from the Tribe and will issue its final determination on the petition within 30 days. The Commission shall grant a self-regulation petition if a tribe has, for at least a period of three years:

- (1) conducted its gaming operations in a fair and safe manner, that is generally free of evidence of criminal or dishonest activity;
- (2) has adopted and is implementing adequate systems that:
 - a. account for all revenues from the gaming activity;
 - b. investigate, license, and monitor all employees;
 - c. investigate, enforce, and prosecute violations of the tribe's gaming ordinance and regulations; and,
- (3) has conducted gaming operations in a fiscally sound manner.³

If the Commission grants a self-regulation petition, the tribe is no longer subject to the Commission's authorities stated in Section 2706(b)(1-4).⁴ These four powers state that the Commission:

- (1) shall monitor class II gaming conducted on Indian lands on a continuing basis;
- (2) shall inspect and examine all premises located on Indian lands on which class II gaming is conducted;
- (3) shall conduct or cause to be conducted such background investigations as may be necessary; [and]
- (4) may demand access to and inspect, examine, photocopy, and audit all papers, books, and records respecting gross revenues of class II gaming conducted on Indian lands and any other matters necessary to carry out the duties of the Commission under this chapter[.]⁵

Additionally, the NIGC may not assess a fee on a self-regulated tribe's Class II gaming activity in excess of 0.25%.⁶

IGRA recognizes that tribal gaming is a means of promoting tribal economic development, self-sufficiency, and strong tribal governments.⁷ The Commission has recognized that tribes are primary regulators of Indian gaming and are best suited to lead and make critical determinations about the regulation of gaming operations on their Indian lands. Self-regulation accomplishes these policy goals and provides more autonomy to tribes.

If you have any questions self-regulation, please contact a NIGC Region Office or the Office of Self-Regulation at 202-632-7003. For questions about how to comply with IGRA and NIGC regulations after a tribe receives its self-regulation certificate, *see* NIGC Bulletin 2022-02.

³ 25 U.S.C. § 2710(c)(5)(A); *see also* 25 C.F.R. § 518.5.

⁴ 25 U.S.C. § 2710(c)(5)(A).

⁵ 25 U.S.C. § 2706(b)(1-4).

⁶ 25 U.S.C. § 2710(c)(5)(C); *see also* 25 C.F.R. 514.3(b).

⁷ 25 U.S.C. § 2702(1).