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CHEROKEE NATION GAMING COMMISSION

ADMINISTRATIVE PROCEDURES ACT POSTING

TITLE: Proposed Cherokee Nation Gaming Commission Rules and Regulations

TYPE OF ACTION: Notice of Proposed Rule

PROPOSED RULES:

Chapter IV – Financial Accountability, Section G-1 – Audit Charter

PUBLICATION DATE: 2 May 2019

SUMMARY:

The purpose of the attached proposed rule is to define the roles and responsibilities related to the CNGC internal audit function, as well as the standards governing independence and objectivity for the gaming facilities under the jurisdiction of the Cherokee Nation Gaming Commission.

AUTHORITY:

Title 4 § 22 CNCA
Title 4 § 38 CNCA
Title 4 § 40 CNCA
25 C.F.R. §§ 543.3 and 543.23
25 C.F.R. §§ 542.22, 542.32, and 542.42
Tribal-State Compact Part 5 (B)

REGULATORY ANALYSIS:

No regulatory analysis of the revised rule was performed.

COMMENT PERIOD:

Written comments must be received on or before 5 p.m., Monday, 3 June 2019.

SUPPLEMENTARY INFORMATION:

Comments may be submitted electronically at gaming-commission@cherokee.org. Written comments may be sent to the Cherokee Nation Gaming Commission, P. O. Box 627, Tahlequah, OK 74465 and must be postmarked by the date above.

A copy of the current Cherokee Nation Gaming Commission Rules and Regulations may be obtained by submitting a request electronically or in writing using either of the above electronic / physical addresses.

The Tribal-State Compact may be accessed by visiting the State Compliance Agency website at [www.ok.gov/OSF/Tribal Gaming](http://www.ok.gov/OSF/Tribal_Gaming).

PUBLIC HEARING:

Persons requesting public hearings or submitting comments must include their name, address, phone number, and e-mail address, if the submission is electronic, but may request this identifying information be kept confidential. Anonymous comments will not be accepted.

A request for a public meeting shall not end before fifteen- (15) days following the public notice of all responses to written comments. A request for a public meeting shall include a statement of the issues desired to be discussed and a summary of the argument supporting the person's position on the issues. A public hearing on a rule proposed to be adopted may not be held earlier than twenty- (20) days after notice of its location and time is published on the website.

Public hearings may be held only from 8:00 A.M. to 10:00 P.M. on Monday thru Saturday. The public hearing shall be recorded by audio, audio and video, stenographic or other means.

Persons requesting an opportunity to comment at a public meeting may be required to register by name and indicate whether they support or oppose the rule or a part of the rule.

BACKGROUND:

The Indian Gaming Regulatory Act (IGRA) was enacted by the United States Congress on 17 October 1988, establishing the National Indian Gaming Commission (NIGC). Under

the IGRA, the NIGC is charged with regulating Class II gaming and certain aspects of Class III gaming.

The NIGC adopted certain regulations in Chapter III of Title 25, Code of Federal Regulations (Parts 500-599), to provide purpose and scope, procedures for service of NIGC determinations, requirements for submitting new and existing gaming ordinances to the Chairman for approval, including requirements for conducting fiscal and compliance audits of the gaming facilities.

The Cherokee Nation adopted Legislative Act 30-89 on 8 April 1989 establishing the Cherokee Nation Gaming Commission (CNGC) to regulate the conduct of gaming owned and operated by the Cherokee Nation. The Act was amended several times with the last revision being passed by the Tribal Council in July 2014 and approved by the NIGC in October 2014.

The Cherokee Nation entered into a Tribal-State Gaming Compact (Compact) with the State of Oklahoma in 2005. Within the Compact is a requirement for the CNGC to adopt minimum internal control standards that meet or exceed those of the NIGC as provided for in 25 C.F.R. Section 542.¹ These standards are complemented by the Class II MICS contained in 25 C.F.R. Section 543. Combined, these standards require the performance of annual audits on each operational unit within a gaming facility.

The CNGC adopted regulation IV (G-1) Internal Audit Charter on 28 July 2008, which set forth the framework on which CNGC internal audits will be carried out. These audits also serve as the means for complying with Section 5 (B) of the Compact.

In accordance with the International Standards for the Professional Practices Framework (IPPF), which set forth the standards for the professional practice of internal auditing, the internal audit activity must be formally defined in an internal audit charter. Additionally, the Chief Audit Executive (CAE) must periodically review and update the internal audit charter and present it to the board for approval.²

It has been some time since the CNGC Audit Charter has been reviewed and updated, primarily due to pending updates to the IPPF Standards and other priorities. The most recent edition of the IPPF was published in January 2017. The IPPF standards set forth the authoritative guidance necessary to ensure the internal audit function meets the following core principles:

¹ Section 542 was placed in abeyance in August 2018 and replaced with a Guidance Document. The State has issued a bulletin anticipating tribes to use the more stringent standard between 542 and the guidance document.

² IPPF 1000 Purpose, Authority, and Responsibility (2017)

- Demonstrates integrity.
- Demonstrates competence and due professional care.
- Is objective and free from undue influence (independence).
- Aligns with the strategies, objectives, and risks of the organization.
- Is appropriately positioned and adequately resourced.
- Demonstrates quality and continuous improvement.
- Communicates effectively.
- Provides risk-based assurance.
- Is insightful, proactive, and future-focused.
- Promotes organizational improvement.

In addition to the IPPF standards, we have incorporated various regulations and standards from Title 4, CNCA (L.A. 17-14), which provides for the authority to access and obtain the audit evidence necessary to complete our reviews. In making the proposed revisions to the existing audit charter, the CNGC Audit department has taken steps necessary to comply with the IPPF Standards.



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CHEROKEE NATION GAMING COMMISSION

RULES AND REGULATIONS

CHAPTER:	Financial Accountability	CHAPTER #:	IV
SUBJECT:	Internal Audit Charter	SECTION – SUBSECTION:	G 1
EFFECTIVE DATE:		SUPERSEDES MATERIAL DATED:	07/28/2008
APPROVED BY:		DATE:	04/26/2019

CHEROKEE NATION GAMING COMMISSION ~~INTERNAL~~ AUDIT CHARTER

PURPOSE OF CHARTER

This Charter defines the purpose, authority, and responsibility of the Cherokee Nation Gaming Commission (CNGC) ~~Internal~~ Audit Department in accordance with the [International Professional Practices Framework \(IPPF\)](#) standards for the professional practice of internal auditing and Federal, [State](#), and Tribal rules and regulations.

PURPOSE OF INTERNAL AUDIT

Internal auditing is an independent appraisal activity established to examine and evaluate the activities of the gaming organization. The objectives of internal auditing are to assist CNGC and members of the gaming organization in the effective discharge of their responsibilities by furnishing ~~them with~~ analyses, appraisals, recommendations, counsel, and information concerning the activities reviewed and by promoting effective control at reasonable cost.

[Internal audit shall work with management to the extent possible to ensure results are an accurate reflection of current operations and the review is based on sufficient evidence that is factual, adequate, and convincing so that a prudent, informed person would reach the same conclusion as the auditors.](#)

~~ROLE OF THE INTERNAL AUDIT DEPARTMENT SCOPE~~

The ~~Internal~~ CNGC Audit Department is established by [the CNGC](#), and its responsibilities are defined ~~by~~ [within the Indian Gaming Regulatory Act \(IGRA\), the National Indian Gaming Commission’s \(NIGC\) Regulations 25 CFR Chapter III, any Tribal-State Gaming Compact\(s\) to which the Nation is a party, and CNGC regulatory standards, policies and procedures.](#) The ~~director~~ [of Chief Audit Executive \(CAE\) of the CNGC Internal Audit Department](#) will report administratively to the Director of the CNGC and functionally to CNGC Commissioners.

AUTHORITY

Title 4 § 22 CNCA

Title 4 § 38 CNCA

Title 4 § 40 CNCA

25 CFR 543.23 NIGC Minimum Internal Control Standards

25 CFR 543.3, 542.22, 542.32, and 542.42 NIGC Minimum Internal Control Standards, inclusive of related Guidance, per Tribal-State Gaming Compact(s)

A. DEFINITION OF AUDIT SCOPE

The scope of internal auditing shall encompass the examination and evaluation of the adequacy and effectiveness of the gaming organization's system of internal control and the quality of performance in carrying out assigned responsibilities. The scope may include, but will not be limited to:

1. Reviewing the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information;
2. Reviewing the systems established to ensure compliance with those policies, plans, procedures, laws, and regulations, which could have a significant impact on operations and whether the organization is in compliance;
3. Reviewing the means of safeguarding assets and, as appropriate, verifying the existence of such assets; and, as applicable to the engagement,
4. Reviewing and appraising the economy and efficiency with which resources are employed; and/or,
5. Reviewing operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.

B. ~~AUTHORIZATION AND RESPONSIBILITIES~~ AUTHORIZATION FOR ACCESS

1. The CNGC is responsible for approving and ensuring all gaming facilities maintain an accounting system, which reflects all business and financial transactions involved or connected in any manner with the gaming operation and the conduct of gaming activities. CNGC Audit shall have immediate, unfettered access to all areas of a gaming facility to review, inspect, examine, photocopy and/or audit all records of the gaming facility.
2. No applicant, licensee or employee shall neglect or refuse to produce records or evidence or to give information upon proper and lawful demand by the CNGC Director or CNGC Audit staff as the designee responsible for performing audits on behalf of the CNGC; or shall otherwise interfere with any proper and lawful efforts to produce such information.
3. The CNGC Commissioners authorizes the CNGC Audit Department to have ~~Authorization is granted for~~ full and complete access to any facility licensed to conduct gaming by the

Cherokee Nation, to include [unrestricted access to all functions](#), records (either manual or electronic), physical properties, and personnel relevant to a review.

4. [Requests for access, records, and evidence, as provided for in paragraphs 2-3 of this section, shall be provided within a reasonable time frame. Failure to provide a response to proper and lawful requests and inquiries may result in disclosure as a significant impairment to the audit engagement.](#)
5. Documents and information given to internal auditors during a periodic review will be handled in the same prudent manner as by those employees normally accountable for them and in accordance with the signed Cherokee Nation Gaming Commission Confidentiality Agreement required of all CNGC employees.

C. INDEPENDENCE AND OBJECTIVITY

1. The CNGC Commissioners and the CNGC CAE will ensure that the CNGC Audit Department remains free from all conditions that threaten the ability of internal auditors to carry out their responsibilities in an unbiased manner, including matters of audit selection, scope, procedures, frequency, timing, and report content. If the CNGC CAE determines that independence or objectivity may be impaired in fact or appearance, the details of impairment will be disclosed to the appropriate parties.
2. CNGC Audit staff will maintain an unbiased mental attitude that allows them to perform engagements objectively and in such a manner that they believe in their work product, that no quality compromises are made, and that they do not subordinate their judgment on audit matters to others. Any matters that threaten independence, objectivity, or quality (including accuracy) will be reported to the CAE.
3. CNGC ~~Internal~~ Audit staff ~~auditors~~ shall have no direct responsibility or any authority over any of the activities or operations that they review. [Accordingly, staff will not implement internal controls, develop procedures, install systems, ~~They should not develop and install procedures,~~ prepare records, or engage in activities, ~~which they would normally review.~~](#) that may impair their judgment, including:
 - Assessing specific operations for which they have had direct responsibility within the previous year.
 - Performing operational duties, subject to review by CNGC Audit.
 - Initiating or approving transactions external to the CNGC Audit Department.
 - Directing the activities of any employee not employed by the CNGC Audit Department, except where such activities would not fall within the scope of CNGC audit activities.

4. CNGC Audit staff will:
 - Disclose any impairment of independence or objectivity, in fact or appearance, to the CAE.
 - Exhibit professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined.
 - Make balanced assessments of all available and relevant facts and circumstances.
 - Take necessary precautions to avoid being unduly influenced by their own interests or by others forming judgments.
5. The CAE will disclose to the CNGC Commissioners any interference and related implications in determining the scope of internal audit work, performing work (e.g. failure to obtain requested documentation in a reasonable time frame), and/or communication of results.
6. CNGC Audit may provide independent consulting services, as requested, to add value and improve the Commission's oversight role, risk management, and control processes without the audit function assuming any management responsibility.
7. CNGC Audit may provide assurance services where it had previously performed consulting services, provided the nature of the consultation did not impair objectivity and provided individual objectivity is managed when assigning resources to the engagement.
8. CNGC Audit will incorporate knowledge of controls gained from consulting engagements into evaluation of the organization's control processes.
9. Recommendations on standards of control to apply to a specific activity may be included in a written report of audit findings and opinions, which is to be given to operating management for review, comment, and implementation.
10. The CNGC ~~Internal~~-Audit Department will abide by the IPPF Code of Ethics established by the IIA and the CNGC Code of Conduct.
11. Where the CAE has or is expected to have roles and/or responsibilities that fall outside of the internal audit function (includes assurance and consulting duties), safeguards will be established to limit impairments to independence and objectivity.

~~C. DEFINITION OF AUDIT SCOPE~~

~~The scope of internal auditing shall encompass the examination and evaluation of the adequacy and effectiveness of the gaming organization's system of internal control and the quality of~~

~~performance in carrying out assigned responsibilities. The scope may include, but will not be limited to:~~

~~6. Reviewing the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.~~

~~7. Reviewing the systems established to ensure compliance with those policies, plans, procedures, laws, and regulations, which could have a significant impact on operations and whether the organization is in compliance.~~

~~8. Reviewing the means of safeguarding assets and, as appropriate, verifying the existence of such assets.~~

~~9. Reviewing and appraising the economy and efficiency with which resources are employed.~~

~~10. Reviewing operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.~~

D. ~~REPORTING ACCOUNTABILITIES~~ RESPONSIBILITIES

The CAE has the responsibility to:

1. Submit, at least annually, to the CNGC Commissioners an Audit Plan, which shall include:
 - a. Audits of each department of a gaming operation, which shall include the compliance specific requirements outlined in the Minimum Internal Control Standards/Regulations promulgated by the National Indian Gaming Commission and/or,
 - b. Additional reviews as directed by the CNGC Director and/or the Commissioners as determined to meet its regulatory responsibilities under any Tribal-State Gaming Compact(s), the Cherokee Nation Code, and other Federal/State/Tribal regulations subject to the oversight and within the jurisdiction of the CNGC.
2. Communicate the internal audit activity's plans and resource requirements, including any potential impact of resource limitations. Additionally, the CAE must ensure that internal audit resources are appropriate, sufficient, and effectively deployed to achieve the approved plan.
3. Ensure timing and areas of audit concentration are based upon proper risk assessment and administrative priorities.
4. Ensure each engagement of the annual schedule is executed, including the establishment of objectives and scope, the assignment of appropriate and adequately supervised resources, and the documentation of work programs.

5. Establish and maintain a system to monitor the disposition of results communicated to management.
6. Ensure the principles of integrity, objectivity, confidentiality, and competency are applied and upheld.
7. Ensure the CNGC Audit Department collectively possesses or obtains the knowledge, skills, and other competencies needed to meet the requirements of the Audit Charter.
8. Ensure emerging trends and successful practices in internal auditing are considered.
9. Establish and ensure adherence to policies and procedures designed to guide the internal audit function and maintain compliance standards and evaluation criteria applicable to the internal audit activity.
10. Communicate the final written report(s) to the CNGC Commissioners. Upon release, the CAE will ensure the final report is distributed to the appropriate parties. ~~will be prepared and issued by the director of internal auditing following the conclusion of each audit and will be distributed as appropriate. A full copy of the final report will be forwarded to CNGC Commissioners through the director of CNGC.~~

The CNGC Audit Department has the responsibility to:

1. Prepare audit reports, ~~when appropriate,~~ which will provide, within the scope of the audit work performed, a general evaluation of the system of internal control and organizational policies necessary to achieve compliance with the applicable regulatory provisions. Reports shall include audit objectives, audit procedures and scope, findings and conclusions, recommendations (if applicable), and management's response. ~~together with detailed findings, comments, and recommendations for improvement.~~
2. Ensure the audit findings are ~~will be~~ reviewed at the conclusion of each audit with the appropriate management and, as required, with executive management. Communication of audit findings will be made in a written report for review by management. Communications must be accurate, objective, clear, concise, constructive, complete, and timely. Management's opinions and judgements must not impede independence and objectivity.
3. Ensure documentation, such as checklists, programs, reports, etc. are prepared to evidence all internal audit work and the follow-up as it relates to compliance matters. Evidence used to support audit conclusions must be sufficient for re-performance by the external auditor.
4. Ensure all instances of noncompliance identified are reported.
5. Perform follow-up observations and examinations to verify that corrective action has been taken regarding all instances of non-compliance. The verification must be performed

within six (6) months following the date of notification of non-compliance (i.e. the date the final report is issued).

Management (external) has the responsibility to:

1. Provide timely responses to audit inquiries and requests for documentation/evidence.
2. Provide timely responses and a corrective action plan necessary to effectively remediate audit findings, as applicable, which shall be included in the final written report.
3. Follow-up and ensure that progress is made toward implementation of corrective action plans and remediation of recurring audit findings.

~~Management's response to audit findings, evaluations, conclusions, and/or recommendations will be included in the final report. A thirty (30) day follow up evaluation will be conducted on all compliance exceptions to determine if corrective action has been taken. It is the responsibility of management to follow up and ensure that progress is made toward correcting unsatisfactory conditions. It is the audit department's responsibility to report conditions and whether corrective action has taken place.~~

CNGC Compliance/Licensing Departments have the responsibility to:

1. Provide timely responses to audit inquiries and requests for documentation/evidence.
2. Provide timely responses and a corrective action plan necessary to effectively remediate audit findings, as applicable, which shall be included in the final written report.
3. Follow-up and ensure that progress is made toward implementation of corrective action plans and remediation of recurring audit findings.
4. Assist CNGC Audit in documenting follow-up procedures for external audit findings.
5. Independently review any audit findings for which Management does not provide for a corrective action plan (includes official regulatory interpretation/clarification) for a determination on disposition.

~~1. In accordance with Title 4 of the Cherokee Nation Code Annotated, CNGC is responsible for the proper accounting for all revenues received and monies distributed by the gaming operations. As such, it is CNGC's responsibility for promulgating regulations pertaining to proper accounting procedures and methodologies and to ensure that the gaming operations establish accounting policies and procedures. Such procedures shall reflect all business and financial transactions involved or connected in any manner with the gaming operation. The accounting system utilized by the gaming operations must be approved by CNGC.~~

~~2. The accounting system must also comply with the applicable provisions of the Tribal State Compact.~~