

## **Fundamentals of Tribal Casino Gaming Regulation – A Primer for Regulators**

### **Top 11 Gaming Licensing Suitability Considerations for Tribal Gaming Regulatory Agencies**

Tribal gaming regulatory agencies (TGRAs) play a critical role in protecting the integrity of gaming operations and tribal assets. This responsibility begins by ensuring that prospective casino employees meet stringent suitability requirements for licensure. The following eleven considerations highlight key factors TGRAs should weigh when conducting gaming license background investigations:

**1. Comprehensive Background Investigations**

TGRAs must conduct thorough background investigations on applicants, including casino employees, key management officials, vendors, and vendor control persons. Investigations typically encompass criminal history checks, financial responsibility reviews, employment and business history, prior gaming applications, and references, with collaboration from state gaming agencies and the NIGC.

**2. Criminal History and Legal Compliance**

Applicants with felony convictions, pending disqualifying charges, or associations with criminal organizations may be deemed unsuitable. TGRAs should assess the risk posed by past criminal activity while considering mitigating factors such as elapsed time, rehabilitation, or changes in legal circumstances, such as diversion, dismissal, or expungement of charges.

**3. Financial Responsibility and Integrity**

Assessing the financial stability, honesty, and integrity of applicants is essential. This includes reviewing assets, liabilities, tax records, and financial interests in gaming-related activities. Vendors and key employees must demonstrate that their financial background does not pose a risk to the casino or tribal assets.

**4. Key Employees and Primary Management Officials**

Licensing scrutiny should be heightened for individuals with management authority, supervisory responsibilities, access to cash or critical systems, or significant influence over gaming operations. Clear definitions of key employees and primary management officials, based on duties and access rather than solely on compensation, are crucial for accurate licensing determinations.

**5. Compliance with Tribal, Federal, and State Regulations**

All applicants must comply with the Indian Gaming Regulatory Act (IGRA), National Indian Gaming Commission (NIGC) regulations, tribal gaming ordinances, and tribal-state gaming compacts. TGRAs must ensure that licenses are issued only to those who meet these regulatory standards.

**6. Vendor Licensing and Control Persons**

Vendors with influence over gaming outcomes, access to critical infrastructure, or financial thresholds set by TGRA regulations require thorough vetting. Determining which vendor control persons must be licensed ensures operational integrity and mitigates potential risks associated with third-party service providers.

**7. Reciprocity and Third-Party Vetting**

TGRAs may recognize licensing determinations from other qualified jurisdictions through reciprocity, provided those standards meet or exceed the TGRA’s own. Third-party background providers may supplement investigations, including international vetting, but must comply with the Fair Credit Reporting Act (FCRA), state laws, and TGRA standards.

**8. Reference Checks and Open-Source Intelligence (OSINT)**

Beyond applicant-provided references, TGRAs should seek secondary and tertiary references to assess character, integrity, and reliability. OSINT resources can provide publicly available information to guide investigations, while social media should be accessed cautiously to avoid privacy or bias issues. Reliance on third-party background providers for social media inquiries ensures the TGRA receives only data related to licensing suitability determination.

**9. License Issuance, Renewal, and Monitoring**

Licensing is an ongoing responsibility, encompassing initial issuance, renewals, and monitoring for life changes, policy violations, or criminal activity that may impact suitability. TGRAs must track expiration dates, ensure badge coordination with casino IT, and maintain confidential records per regulatory requirements.

**10. Confidentiality of the TGRA Licensing Process**

TGRAs must be mindful of the need for maximum confidentiality of licensee information derived from the background investigation process. Licensee information cannot be shared with casino management, supervisors, or human resources personnel. Sharing information with TGRA personnel outside the Licensing Department must be based on a Right to Know/Need to Know basis. Disclosure of licensee criminal history information is restricted and unauthorized release can result in significant sanctions and legal liability. Archived licensee information must meet stringent data storage, access, and disposal requirements.

**11. Risk Assessment and Mitigating Factors**

Most suitability determinations involve nuanced grey areas rather than clear-cut prohibitions. Licensing decisions should weigh factors in aggravation and mitigation to assess overall risk to gaming integrity. Experienced TGRA leadership and commissioners must exercise sound judgment, balancing regulatory compliance with fairness to applicants.

This structured approach ensures that TGRAs uphold the integrity, transparency, and credibility of tribal gaming operations while mitigating risks associated with licensing unsuitable individuals or entities.

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