



National Indian Gaming Commission

Government Performance and Results Act Strategic Plan for Fiscal Years 2009 – 2014



MESSAGE FROM THE CHAIRMAN

It is my pleasure to present the National Indian Gaming Commission's first ever Strategic Plan for fiscal years 2009–2014. This Strategic Plan was prepared pursuant to the Government Performance and Results Act of 1993, and outlines the Commission's mission and strategic goals and objectives for the current, and the next five, fiscal years.



This is a unique and important time for the Commission. Indian gaming has proved to be the most effective economic development tool that has ever been utilized in Indian country, notwithstanding generations of attempts by other means, and the expenditure of untold taxpayers' dollars on other ventures. While Indian gaming will only work effectively where there is a market for gaming, and while the extent of Indian gaming's success will be proportionate to the size of that market and the competition therein, it has proven to be a remarkable success in many parts of Indian country. The Indian gaming industry has grown annually at significant rates, increasing in complexity and sophistication, and producing positive impacts in many areas of Indian society.

The Commission is mindful of the trust relationship that the United States bears to the Indian nations it serves and of the importance of prompt and efficient administration of the Indian Gaming Regulatory Act of 1988 to foster the economic development so urgently needed by Indian tribes. The Commission strives to be responsive to tribes seeking guidance as they enter the dynamic gaming industry. The Commission monitors trends in tribal government gaming, and reports its findings to the tribes, the Federal family, and other constituencies.

In accordance with the requirements of OMB Circular A-11, the Strategic Plan includes:

- the Commission's vision and mission statements;
- strategic goals and objectives defining how the Commission will fulfill its mission;
- descriptions of the means and strategies that will be used to achieve the strategic goals and objectives;
- identification of key external factors that could affect achievement of the strategic goals and objectives;
- a description of the relationship between the strategic goal framework and performance measures in the annual performance report;
- descriptions of cross-cutting efforts to be utilized to achieve the Commission's strategic goals; and
- descriptions of program evaluations to be used to continually assess progress towards achieving the Commission's strategic goals.

I look forward to working with all interested parties and the Commission staff in the coming year to continue to provide high-quality service and to maintain the trust of tribal governments, tribal regulators, Indian gaming industry, and the public, in the job that we are doing.

Philip N. Hogen, Chairman

National Indian Gaming Commission

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OVERVIEW

The Commission

The National Indian Gaming Commission (“Commission”) is an independent regulatory agency of the United States established pursuant to the Indian Gaming Regulatory Act of 1988 (“IGRA”). The Commission was created to fulfill the mandates of IGRA of fostering tribal economic development. The Commission became operational in 1993, and is comprised of a Chairman and two Commissioners, each of whom are appointed to three-year terms.

The Commission establishes policy, oversees the agency, and is responsible for carrying out the duties assigned to it by IGRA. The Commission is authorized to: conduct investigations; undertake enforcement actions, including the issuance of notices of violation and closure orders, and the assessment of civil fines; review and approve management contracts; and issue such regulations as are necessary to meet its responsibilities under IGRA.

The Commission provides Federal oversight to approximately 443 tribally-owned, operated, or licensed gaming establishments operating in 29 states. The Commission maintains its headquarters in Washington, D.C., and has five regional offices and four satellite offices. The Commission established its regional structure to increase effectiveness and improve the level and quality of services that it provides to tribal gaming regulatory authorities. The regional offices are vital to executing the Commission’s statutory responsibilities and securing industry compliance with IGRA. The Commission’s efficiency and effectiveness have improved as a result of locating auditors and investigators geographically closer to Indian gaming facilities, as regular visits enable better oversight of tribal compliance with regulations and allows for timely intervention where warranted. In addition to auditing and investigative activities, the Commission field staff provides technical assistance, education, and training to promote a better understanding of gaming controls within the regulated industry, and to enhance cooperation and compliance. Further, the Commission serves as a clearinghouse for vital information sharing between the tribes, Federal agencies, and the states and other stakeholders, such as law enforcement and public safety agencies.

The Indian Gaming Regulatory Act of 1988

The rise of tribal government-sponsored gaming dates back to the late 1970’s when a number of tribes established bingo operations as a means of raising revenues to fund tribal government operations. At approximately the same time, a number of state governments were also exploring the potential for increasing state revenues through state-sponsored gaming. By the mid-1980’s, a number of states had authorized charitable gaming, and some were sponsoring state-operated lotteries.

Although government-sponsored gaming was an issue of mutual interest, tribal and state governments soon found themselves at odds over Indian gaming. The debate centered on

the issue of whether tribal governments possessed the authority to conduct gaming independent of state regulation. Although many lower courts affirmed the tribal view, the matter was not finally resolved until 1987, when the U.S. Supreme Court, in *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987), affirmed the authority of tribal governments to establish gaming operations independent of state regulation provided that the state in question permits some form of that gaming.

In the mid 1980's, Congress took up the issue of Indian gaming and initiated several draft Indian gaming bills and conducted a series of hearings, ultimately culminating in the passage of IGRA in 1988. IGRA set up the jurisdictional framework governing Indian gaming, establishing three classes of games with different regulatory schemes for each class. IGRA was intended to embody a compromise between tribal and state interests.

Class I gaming is defined as traditional and social Indian gaming for minimal prizes. Regulatory authority over class I gaming is vested exclusively in tribal governments.

Class II gaming is defined as the game of chance commonly known as bingo, whether or not electronic, computer, or other technological aids are used in connection with the game. In addition, if played in the same location as bingo, class II gaming also includes pull-tabs, punchboards, tip jars, instant bingo, and other games similar to bingo. Class II gaming also includes non-banked card games, *i.e.*, games played exclusively against other players, versus the house or a player acting as the bank. IGRA specifically excludes slot machines or electronic facsimiles of any game of chance from the definition of class II games. Tribes retain the authority to conduct, license, and regulate class II gaming as long as the state in which the tribe is located permits such gaming for any purpose, the tribal government adopts a gaming ordinance approved by the Commission, and there is Commission oversight.

Class III gaming includes all forms of gaming that are neither class I nor class II gaming. Class III gaming is often referred to as full-scale, casino-style gaming, such as slot machines, blackjack, craps, and roulette, as well as wagering games and electronic facsimiles of games of chance. As a compromise between tribal, state and Federal interests, IGRA restricts tribal authority to conduct class III gaming. Before a tribe may lawfully conduct class III gaming, the following conditions must be met: (1) the particular form of class III gaming that the tribe wishes to conduct must be permitted in the state in which the tribe is located; (2) the tribe and the state must have negotiated a compact approved by the Secretary of the Interior, or the Secretary must have approved regulatory procedures; and (3) the tribe must have adopted a tribal gaming ordinance approved by the Chairman of the Commission. The regulatory scheme for class III gaming is more complex than a casual reading of IGRA might suggest. Although Congress clearly intended for states to address regulatory issues in tribal-state compacts, this was not made mandatory by IGRA. Accordingly, many states relied upon continued Commission regulatory oversight under IGRA to address regulatory concerns regarding class III gaming, including the approval of management contracts and tribal gaming ordinances. Thus, the extent of a state's participation in the regulation of class III gaming varies from state to state.

With the exception of unilateral good faith compact negotiations in some states, the model envisioned by IGRA has generally worked for nearly 20 years, producing over \$26 billion in Indian gaming revenue in 2007. The Commission is in a position to see Indian gaming from a broad vantage, enabling it to spot trends and react in ways that the tribes and states are not equipped.

DEVELOPING THE STRATEGIC PLAN

The Commission views a strategic plan as a fundamental tool that is a prerequisite for success in any good business. Strategic planning provides organizational direction with outcome-oriented, measurable strategic goals and objectives (“the whats”) in support of the mission, the means and strategies (“the hows”) in achieving said goals and objectives, and the measures of monitoring progress towards achieving the goals and objectives.

The development of the Commission’s Strategic Plan was an agency-wide team effort, which included every Commission employee at every level. The Commission genuinely believes that in order for any strategic plan to have successful outcomes, it must have the involvement, understanding, and “buy-in” of those who will be responsible for implementing the plan, achieving the goals and objectives, and subject to the performance measures. Although the process utilized by the Commission may not be as expedient as dictating from the top, we believe that this approach will lead to success. We are proud of the effort devoted by the entire Commission team, and the important substance of the resulting Strategic Plan.¹

In addition, the Commission sought comments and suggestions from its numerous stakeholders and partners, which include: the tribes engaged in gaming, and their members; tribal, state, and Federal law enforcement and regulatory agencies; and tribal gaming operations. We recognize that successful achievement of our goals and objectives will require the support, cooperation, and collaboration of these stakeholders and partners. Of course, strategic planning is never a static activity, and the Commission’s strategic direction will continue to evolve and improve as it evaluates its performance in the coming fiscal years.

Finally, the Commission’s Strategic Plan is intended to be a management tool in the administration of good government and sound regulation. The plan was developed to present a roadmap for the Commission for the next five years. While it is, of course, subject to changes by the next administration, it is our belief that the plan transcends politics and provides a clear, objective vision moving forward.

¹ It should be noted that this is the Commission’s first attempt at a formal strategic plan. The Commission is a relatively-new and relatively-small Federal agency, and was not formally required to comply with all elements of the Government Performance and Results Act until IGRA was amended in 2006.

VISION

An Indian gaming industry in which Indian tribes are the primary beneficiaries of gaming revenues; gaming is conducted fairly and honestly by both operators and players; and tribes and gaming operations are free from organized crime and other corrupting influences.

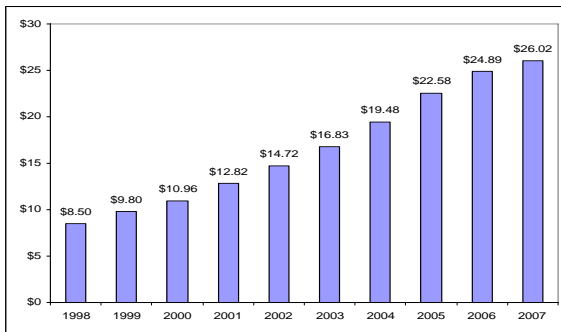
MISSION

To effectively monitor and participate in the regulation of Indian gaming pursuant to the Indian Gaming Regulatory Act in order to promote the integrity of the Indian gaming industry.

About the Vision and Mission

Indian tribes as the primary beneficiaries of gaming revenues...

Indian gaming revenues have grown at a rapid rate since IGRA was enacted in 1988. The most recent totals for Indian gaming revenue for 2007 stood at over \$26 billion. With these increased resources, tribes have been able to strengthen tribal governments, better provide for the general welfare of their respective tribal members, reinvest in the expansion of gaming facilities, and diversify into other economic growth opportunities. As this economic development and prosperity continues and expands to include a broader number of tribes and tribal members throughout the United States, the Commission intends to help ensure such economic development benefits the participating tribes.



Growth of Indian Gaming Revenues (in Billions)

Gaming conducted fairly and honestly by both operators and players...

In the past, in some jurisdictions, gambling and casino-style gaming has been highly susceptible to corrupt and dishonest operators and patrons. The fast-paced, cash intensive nature of casinos has often proven to attract those who would violate the rules and the law in order to realize a quick payout. Fortunately, the gaming industry, along with Federal and local law enforcement, has over the past several decades developed fervent policies and procedures to prevent cheating and fraud. IGRA envisions and enables the Commission to utilize these proven techniques to maintain the integrity of gaming as it has expanded to Indian lands.

Indian gaming operations that are free from organized crime and corrupting influences...

Historically (although not pervasively), tribes have been the victims of unscrupulous contractors and loan sharks, as well as attempts at penetration by criminal organizations and organized groups of card cheats. Regrettably, there has also been the occasional success in bribing and corrupting elected tribal officials. These unfortunate events are evidenced by numerous law enforcement investigations, prosecutions and convictions, and regulatory enforcement actions. Subsequent enforcement actions have often had a direct adverse effect on the Indian gaming revenue stream.

STRATEGIC GOALS, OBJECTIVES AND OUTCOMES

Effectively monitoring and regulating Indian gaming necessitates a broad agenda of initiatives, both short- and long-term. In the context of this Strategic Plan, the Commission will pursue 3 strategic goals to improve the integrity of the Indian gaming industry:

- Increase compliance with gaming laws and regulations;
- Increase service to tribal governments and gaming operations; and
- Maximize the use of Commission resources.

Although these three goals may appear broad and far-reaching, we believe that focusing our attention on these goals is a priority in supporting our mission during the current and next five fiscal years. Each goal is supported by more specific strategic objectives, means and strategies for achieving those objectives, and potential measures of success.

Strategic Goal #1: Increase compliance with gaming laws and regulations.

Increasing compliance with gaming laws and regulations is a core component of the Commission's mission. Detecting and eliminating issues of noncompliance will ultimately enhance the integrity of Indian gaming, as well as facilitate our organizational vision. In support of Strategic Goal # 1, we have identified two primary objectives: (1) effectively monitor compliance with gaming laws and regulations; and (2) expand the knowledge and implementation of Indian gaming laws and regulations throughout the industry. These objectives are key to not only accomplishing our primary mission of monitoring and participating in the regulation of Indian gaming, but also assisting tribes and tribal regulatory agencies in self regulation.

Objective 1.1: Effectively monitor compliance with Indian gaming laws and regulations.

Monitoring and, when necessary, enforcing gaming laws and regulations is an essential function of the Commission. The Commission also works with other Federal agencies to ensure the integrity of the Indian gaming industry. In the past, some individuals have been subjected to public corruption investigations, prosecutions, convictions, and fines for a variety of gaming-related offenses including (but not limited to):

- misappropriation of Indian gaming revenues, or unlawful receipt of funds from gaming contractors;
- internal theft or embezzlement of funds in Indian gaming operations; and
- tax-related violations for not reporting gambling winnings, and for non-compliance with the Title 31 money laundering statutes.

In addition, some tribes have been subjected to numerous findings and enforcement actions by the Commission including:

- operational compliance audits that have resulted in hundreds of findings of non-compliance with required minimum internal control standards relative to cash handling and revenue accountability; and
- the issuance of numerous notices of violations, facility closure orders, and the imposition of substantial monetary fines totaling millions of dollars.

These findings and enforcement actions directly affect the profitability of the Indian gaming operation, and in relation to our mission, the integrity of the Indian gaming industry.

Means and Strategies for Achieving Objective 1.1

The Commission will utilize three strategies in order to effectively monitor compliance with gaming laws and regulations.

First, the Commission will ensure that tribes meet the statutory prerequisites to conduct gaming under IGRA by making timely determinations on tribal gaming ordinances, management contracts, and other statutorily-required activities.

Second, the Commission will conduct monitoring activities of Indian gaming operations in a uniform and consistent manner. Routine site visits will consist of compliance reviews and the use of standardized audit checklists. The Commission will, through its various field offices, develop and maintain positive working relationships with tribal gaming regulatory authorities. The Commission will also publish annual compliance reports and annual Indian gaming revenue reports.

Third, the Commission will conduct prudent regulatory enforcement actions as necessary. Working with tribal gaming regulatory authorities, we will provide advice and assistance,

as well as assessments, warnings, and recommendations for observed compliance weaknesses. As a last resort or in cases of imminent jeopardy, the Commission will initiate enforcement actions. Most enforcement actions will result in a settlement agreement between the tribes and the Commission; thus, we will monitor compliance with the provisions in these settlement agreements.

Objective 1.2: Expand the knowledge and implementation of Indian gaming laws and regulations throughout the industry.

The gaming industry as a whole, and the Indian gaming industry in particular, is a highly fluid and ever-changing environment. A constantly shifting economic landscape, combined with technological changes, results in continually changing regulatory requirements. As the laws and regulations change, it is incumbent on the Commission to ensure those changes are disseminated throughout the industry as quickly and completely as possible.²

From a tribal perspective, this regulatory environment becomes even more complex. While the Commission's focus is limited to Federal Indian gaming laws and regulations, tribal gaming regulatory authorities must concern themselves with all tribal laws, as well as state and Federal laws and regulations. For example, tribes must familiarize themselves with Federal tax laws and regulations, Indian gaming laws and regulations and building, health and safety codes. Given the complexity and comprehensiveness of all of the compliance and enforcement requirements relevant to tribal gaming regulatory authorities, it is inevitable that issues are missed or overlooked, resulting in instances of non-compliance.

Means and Strategies for Achieving Objective 1.2

Expanding the knowledge and implementation of Indian gaming laws and regulations will involve two basic approaches. These strategies will incorporate the collaboration and cooperation of tribal governing and regulatory authorities, coupled with mutual respect for the government-to-government relationship.

First, the Commission will draft and publish new or revised regulations as necessary. Whenever possible, the Commission will utilize tribal advisory committees to assess either the need for new regulations or the revision of existing regulations. In doing so, the tribes' primary role in enforcement will be continually emphasized.

Second, the Commission will provide technical assistance through formal and informal regulatory guidance to tribes. This is, in fact, the Commission's most desired approach to achieving this objective. By publishing informative bulletins which address "frequently asked questions" and "best practices," we will provide the tribes with non-threatening

² The amendment of IGRA in May 2006 specifically mandated the Commission to provide technical assistance to tribes engaged in Indian gaming. The types of technical assistance that the Commission provides can take many forms, including formal and informal guidance.

education and guidance. In addition, we will conduct voluntary compliance audits, and provide timely responses to inquiries from tribes, including recommendations for regulatory improvement. Initial and follow-up reviews in order to monitor progress will be made as necessary.

Collectively, the implementation of these strategies will enable tribes to become more knowledgeable of the Indian gaming laws and regulations, leading to increased compliance with these laws and regulations. This is intended to lead to a decreased number of necessary Commission enforcement actions, while enhancing the integrity of the industry as a whole.

Potential Measures of Progress of Strategic Goal # 1

- The timeliness of agency determinations for, and/or responses to, tribal submissions;
- The number and breadth of site visits and compliance audits by Commission personnel, as well as the results of such audits;
- The level of satisfaction of tribal gaming regulatory authorities and other governmental authorities in Commission regulatory activities;
- An increase in the number of tribes who indicate or demonstrate that they are familiar with IGRA and other regulatory requirements;
- A decrease in the number and breadth of enforcement actions, notices of violation and settlement agreements, including monetary penalties ordered and collected; and
- A decrease in criminal investigations and proceedings related to Indian gaming.

Strategic Goal # 2: Increase service to tribal governments and gaming operations.

Improving the services that the Commission provides to tribal governments and gaming operations is crucial to accomplishing its mission. To be effective, the Commission must have the full faith and trust of tribal governments and must be perceived as partners with tribal gaming regulatory authorities. Without this trust, the Commission will be hindered in its ability to regulate Indian gaming effectively. In support of Strategic Goal # 2, we have identified two primary objectives: (1) improve technical assistance to tribal governments and gaming operations; and (2) improve inter-agency relationships and communications. Achieving these objectives will help to enhance and protect the integrity of Indian gaming and ensure that the industry remains fair, honest, and protected from negative influences.

Objective 2.1: Improve technical assistance to tribal governments and gaming operations.

The 2006 IGRA amendment mandated the Commission to provide technical assistance to tribes engaged in Indian gaming. The manner of technical assistance can take many forms, including consultations and training. While consultation sessions are not

necessarily technical assistance, they are often specific discussions where tribal representatives seek technical guidance on casino operations, regulatory issues, or other matters affecting their gaming operations. The Commission has had a formal consultation policy since 2004, and currently invests a considerable amount of time and resources in conducting consultations with tribal gaming leaders. Despite these efforts, many tribal leaders and tribal gaming organizations have communicated that they believe the process to be inadequate and unsatisfactory to their needs for consultation and guidance. The Commission recognizes that there is room for improvement.

With regards to training, there are two main factors which drive the need to institutionalize a methodology for continuous training of tribal governmental and regulatory officials: (1) there is the enormous complexity of all of the legal and regulatory compliance requirements associated with Indian gaming; and (2) due to the nature of elected or appointed terms, there is a consistent, relatively-high turnover rate of tribal gaming leadership, resulting in a continual loss of knowledge and expertise in Indian gaming regulatory compliance and enforcement requirements.

Means and Strategies for Achieving Objective 2.1

Improving technical assistance to tribes will involve two strategic approaches, both of which will require the collaboration and cooperation of tribal governing and regulatory authorities, coupled with mutual respect for the government-to-government relationship.

First, the Commission will work to improve the government-to-government consultation process. To accomplish this, the Commission will reach out to the tribes and tribal organizations to work collaboratively with the Commission to establish a mutually agreeable and beneficial consultation process; annually publish upcoming consultation calendars; and actively seek and focus on issues most important to tribes, while informing them of Federal issues which may have an impact on them.

Second, the Commission will establish and implement effective training programs which will focus on expressed or perceived tribal needs. These tribal needs will be met by accommodating specific requests or identified weaknesses in areas of compliance. This strategy will require the dedication of significant resources, and will consequently require adequate budgetary planning. However, the resulting benefits from this strategy will far outweigh the costs. The Commission will also encourage tribes to increase their participation in the Indian Gaming Working Group training.

Objective 2.2: Improve inter-agency relationships and communications.

Protecting tribal gaming revenues, ensuring gaming is conducted fairly, and safeguarding the industry from criminal or undesirable elements all require a high level of cooperation and interaction between all levels of regulatory bodies. Communication between the Commission and tribal governments and gaming operations will only augment the quality of regulatory oversight of Indian gaming. Additionally, because many tribal regulatory

bodies rely on the Commission to assist in background investigative procedures, the need exists for an improved system of support and cooperation.

Means and Strategies for Achieving Objective 2.2

First, the Commission will improve and expand its external communication. This will require publishing Commission bulletins and quarterly newsletters with valuable regulatory information and guidelines. These bulletins and newsletters will be disseminated as widely as possible throughout the industry, including posting to the Commission's website (www.nigc.gov). The website will also be updated frequently with pertinent regulatory information and guidelines, Commission actions and organizational changes. We will also improve our practice of maintaining an accurate list of names and tribal contact information to ensure that the information is current.

Second, the Commission will improve response time to external tribal inquiries and submissions. To accomplish this, the Commission will implement a more efficient document tracking and reporting system, and establish and monitor response time goals. In addition, we will expand the ability for tribes to make electronic submissions.

Third, the Commission will improve the methodology and timeliness of providing tribal gaming regulatory authorities with applicant background information. We will implement a more efficient system for the timely acknowledgement of receipt of fingerprint submissions and fees, and respond with the results of the fingerprint checks within the required regulatory deadlines. In addition, we will improve the timely distribution of monthly invoices and statements, and provide applicant background information as a routine use.

Potential Measures of Progress of Strategic Goal # 2

- Number, nature and complexity of requests from tribal regulatory bodies for regulatory assistance;
- The level of satisfaction of tribal leaders with the consultation process and schedule;
- The number of consultations completed each year;
- The number and breadth of training programs conducted for tribal officials;
- The level of participation in the Indian Gaming Working Group;
- The level of satisfaction of tribal leaders with the Commission's training program;
- The number of bulletins published by the Commission each year; and
- The level of satisfaction of tribal regulators with Commission response time and service in processing external requests and background information.

Strategic Goal # 3: Maximize the use of Commission resources.

The Commission's third strategic goal is challenging, yet critical to the organization's mission accomplishment. In comparison to most Federal agencies, the Commission is a relatively new entity. In the past, the Commission was subject to funding limitations that hindered its ability to develop and keep pace with the rapidly-growing Indian gaming industry. Specifically, these funding limitations:

- prohibited the Commission from procuring the necessary resources to provide adequate services to the tribes engaged in gaming, and from providing the appropriate regulatory oversight;
- prevented the Commission from hiring and retaining highly-qualified personnel to focus on correcting the real or perceived organizational and procedural weaknesses; and
- required the Commission to routinely turn to Congress in order to raise the cap on funding.

When IGRA was amended in 2006, the Commission was able to realize a more adequate and stable source of funding. The Commission's funding is now based on fee assessments on a limited percentage of industry-wide Indian gaming revenues. The continued growth of Indian gaming requires the Commission to ensure that the necessary infrastructure is in place for the agency to maintain a well-qualified workforce that will better serve the industry.

Objective 3.1: Improve agency administration.

Due to the relative small size of the Commission and its very limited resources, the Commission has, in the past, contracted with the Department of the Interior for its administrative services. At times, the lack of in-house capabilities, planning, and resources has prevented the Commission staff from providing adequate support to the Commissioners. The continued growth of the Commission requires a new focus on developing the necessary infrastructure for appropriate agency administration. The Commission recognizes that effective and efficient internal operations are critical to success in accomplishing its strategic goals and fulfilling its mission.

Means and Strategies for Achieving Objective 3.1

First, we will improve fiscal discipline and provide transparency to affected stakeholders by establishing a justifiable and fiscally-sound budget. This budget will be effectively managed and tracked by closely monitoring budgeted-to-actual expenses. The Commission will also procure and implement updated financial accounting systems, and establish and comply with appropriate internal controls and funds management practices. In addition, routine internal audits will be conducted, along with an annual external independent audit.

Second, the Commission will improve and expand internal communications by developing an intranet, as well as continuing to develop the tribal information management systems. The Commission will also hold regularly-scheduled meetings or conference calls with field personnel in the Commission's regional and satellite offices to better understand the tribal concerns in the regions.

Finally, the Commission will develop and/or procure the appropriate technological advances to enhance internal communication. The Commission will perform reasonable assessments of its technological needs, and make the necessary budget allocations with the appropriate justifications supported by sound cost/benefit analyses.

Objective 3.2: Develop human resource programs that support the Commission's mission, goals and objectives.

The Commission's staff is its most valuable resource in accomplishing its mission. The unique skill sets and qualifications that are necessary in Indian gaming regulation make human capital development a priority in achieving our strategic goals. The highly fluid nature of the industry combined with an ever-changing regulatory environment requires continuous training and development. Additionally, the distinctive history and cultures of the numerous tribes across the county provide exceptional challenges in fostering mutual respect between the Commission, tribal government officials, and tribal members. Only with an ambitious and comprehensive human resource development program will the Commission be able to maximize the use of our human capital.

Means and Strategies for Achieving Objective 3.2

First, the Commission will focus on developing and implementing internal agency policies and procedures. The Commission will assess and identify the areas of procedural weaknesses, or non-compliance with existing regulations, and work to correct them. The Commission will also issue an employee handbook and an updated agency policy manual, both of which will be expanded or updated as necessary.

Next, the Commission will establish an employee development program in order to attract and retain highly-qualified personnel. The Commission will annually assess the skills of its employees and provide the necessary training to address identified skill gaps or performance weaknesses. The Commission will enable employees to attend job-related professional training opportunities through appropriate budget allocations. In addition, the Commission will update its incentive and award program. This will contribute to a higher rate of employee retention.

The Commission will implement a tribal cultural awareness training program for all agency personnel. This approach is grounded on the belief that the tribes will appreciate and value interacting with an agency whose personnel have a solid understanding and awareness of the widely-varied Native American cultures. We believe that such a program provides a better foundation for mutual respect and understanding, and more

effective communication. We will instill an aggressive and proactive cultural awareness training program to educate Commission employees in the numerous and varied tribal customs and traditions, as well as the diversity of tribal governmental structures. We believe that this kind of knowledge will be mutually beneficial to both the Commission and the tribes.

Finally, we will continue to monitor the Indian preference litigation and determine the impact that litigation has on the Commission. In the meantime, the Commission will continue its efforts to assure that it hires employees who have experience in and knowledge and understanding of Native American culture.

Potential Measures of Progress of Strategic Goal # 3

- The establishment and effective management of a fiscally sound budget, with a low variance between budgeted to actual expenditures;
- Annual audited financial statements that include an unqualified opinion;
- The adherence of Commission personnel to internal compliance programs;
- The level of user satisfaction with the NIGC website and employee intranet;
- Employee feedback on policy manuals and Commission policies and procedures;
- Number of employees attending training programs each year;
- The identification and implementation of agency technological needs; and
- The number and breadth of cultural awareness training programs.

KEY EXTERNAL FACTORS

The following are key external factors that the Commission has identified which could significantly and adversely affect the ability of the Commission to achieve its strategic goals:

- An important element of the Commission's vision is that Indian tribes are the primary beneficiaries of gaming revenues. As mentioned previously, these revenues have played a vital role in the economic development of Indian tribes. A sharp downturn in the local or national economy could adversely affect the gaming public's amount of disposable income, thereby reducing Indian gaming patronage and resulting in a decrease in Indian gaming revenues.
- The Commission is comprised of a Chairman and two Commissioners. Currently, there is a vacancy on the Commission. To take certain regulatory actions, the Commission can act only if there is a quorum of two Commissioners. The sudden and unexpected departure of one or two Commissioners would paralyze the Commission until such time that new Commissioners are appointed.

- The Commission is a very small agency, with approximately 100 full-time employees. Extensive litigation against the Commission would result in a shift of limited agency resources, normally used to perform its normal regulatory oversight functions (e.g., reviews of management contracts and tribal gaming ordinances, drafting of Indian land opinions, etc.) to instead perform litigation defense work.
- As a result of the decision in *Colorado River Indian Tribes v. National Indian Gaming Commission*, 466 F.3d 134 (D.C. Cir. 2006), the Commission lacks the authority to prescribe minimum internal control standards for most class III gaming activities, and the Commission is prevented from auditing high-risk class III gaming facilities. Other future court or legislative decisions may further influence the scope of the Commission's regulatory authority.
- Commission personnel often have to drive long distances to remote locations of the country in order to perform site visits of Indian gaming facilities. Prolonged, severe weather conditions in certain parts of the country may prevent Commission personnel from conducting site visits, consultations, and other mission-oriented travel. Increased travel costs may also influence such travel.
- Certain statutory limitations inhibit the Commission's ability to achieve its vision of shielding tribes from corrupting influences. For example, Title 25, United States Code, § 2713 authorizes the Commission to levy and collect appropriate civil fines for any violation of IGRA against a tribal operator of an Indian game or a management contractor engaged in Indian gaming. The Commission, however, lacks the statutory authority to bring enforcement actions against certain non-tribal persons or entities affiliated with Indian gaming, such as unscrupulous third-party vendors, lenders, developers, and organized crime figures or other corrupting influences.
- The Commission maintains cooperative relationships with other Federal agencies. In those circumstances when the Commission has to rely on these other agencies for factual information or documentation, the Commission may be inhibited in its ability to make timely determinations. Similarly, when the Commission is requested by other Federal investigatory agencies to postpone enforcement actions while they conduct their own criminal and/or civil investigations, the Commission's regulatory activities may be delayed.
- Finally, a key external factor that may adversely impact the Commission's ability to achieve its strategic goals is the lack of a "Seminole fix." The United States Supreme Court in *Seminole Tribe of Florida v. Florida*, 517 U.S. 44 (1996) concluded that Congress could not waive States' immunity from suit by Indian tribes for failing to negotiate compacts in good faith, thus shifting the balance of power in tribal-state compact negotiations. As a result, some tribes have not achieved the full benefit of the IGRA scheme. This places a greater Class II compliance oversight burden on the Commission.

RELATIONSHIP BETWEEN STRATEGIC GOALS AND THE ANNUAL PERFORMANCE REPORT

The Commission will prepare an annual performance plan for each of the one-year periods covered by the Commission's Strategic Plan. The annual performance plan will explain the role of each Commission program activity as set forth in the Commission's budget. The performance plan's specific objectives, adjusted to reflect policy determinations and resource allocations in the annual budget process, will serve as intermediate steps in the Commission's overall efforts to successfully accomplish the goals of its Strategic Plan.

The Strategic Plan provides the framework for developing the annual performance plan. The annual performance plan will delineate objective, quantifiable, and measurable goals to be achieved in a given fiscal year that support the goals contained in the Strategic Plan. Each annual plan will also include indicators to be used in measuring or assessing the relevant expected outcomes related to the performance goals.

The performance indicators in each annual plan will demonstrate the expected progress towards achievement of the Commission's strategic goals. Performance will be measured and reported annually and will be fully integrated with the Commission's annual budget.

CROSS-CUTTING EFFORTS TO ACHIEVE THE COMMISSION'S STRATEGIC GOALS

Several Federal agencies have objectives that are related to that of the Commission. The Commission regularly works with the following organizations:

- Federal Bureau of Investigation, Indian Country/Special Jurisdiction Unit
- Department of the Interior, Office of Inspector General
- Internal Revenue Services, Tribal Government Section
- Department of Treasury, Financial Crimes Analysis Center
- U.S. Department of Justice
- Bureau of Indian Affairs, Law Enforcement Service
- Bureau of Immigration and Customs Enforcement

The Commission has established memoranda of understanding ("MOU") or memoranda of agreement ("MOA") with some of these Federal agencies to ensure that areas of mutual interest and cooperation are treated in a consistent and coordinated manner. These agreements help avoid unnecessary redundancy, duplication, or conflict.

The Commission is also an active participant in the Indian Gaming Working Group ("IGWG"). The IGWG was established in 2003 to enhance cooperation between Federal agencies and to enable more effective investigation and prosecution of criminal activity at

Indian gaming operations. The interaction and cooperation of the IGWG significantly contribute to the Commission's accomplishment of its mission and strategic goals.

In addition, the Commission regularly works with state, local and tribal law enforcement as well as tribal gaming regulatory authorities. Cooperation with these organizations helps promote the compliance of Indian gaming operations with statutory regulations, as well as protect Indian gaming from external corrupting influences.

PROGRAM EVALUATION

The Commission will evaluate the progress towards achieving its strategic goals through the results of its annual performance measures, including continual assessments of the needs of its primary stakeholders: the tribes engaged in gaming. The evaluations will assess the extent to which annual performance goals have been reached and will provide insight into whether the strategic goals of the Commission are being accomplished. The Commission will use the results of these evaluations to continually update performance goals and objectives in the annual performance plan, as well as focus the Commission's strategic objectives for the coming years.

Specifically, the Commission will evaluate its progress through the use of: (i) analysis of annual performance plans; (ii) internal and external independent audits; (iii) periodic internal reviews and surveys conducted by Commission administrative staff; and (iv) feedback from tribes based on customer surveys and information gathered at meetings and conferences. This feedback will help the Commission to prioritize improvements and to update strategic objectives. Commission program strengths and weaknesses will be assessed annually to determine alternative performance measures.

Continuous evaluation of the Commission's annual performance measures is a key step to reaching our strategic goals. Thorough analysis of the annual performance plan and goals will assist the Commission to continually evaluate and, if necessary, adjust the Strategic direction of the agency.

CONSULTATION WITH STAKEHOLDERS

In developing its initial Strategic Plan, the Commission solicited comments and suggestions from Congress, the public, and the Indian tribes who engage in gaming. To communicate the goals and objectives of its Strategic Plan to its stakeholders, the Commission mailed to each individual tribe an electronic copy of the draft Strategic Plan on a compact disc, and posted a copy of the draft Strategic Plan on the Commission's Internet website. The Commission received comments from 10 tribes.

APPENDIX A: OUTLINE OF THE COMMISSION'S STRATEGIES / OBJECTIVES

Strategic Goal 1: Increase compliance with gaming laws and regulations.

Objective 1.1: Effectively monitor compliance with gaming laws and regulations.

- a. Strategy 1: Ensure that tribes meet prerequisites to gaming under IGRA.
 - i. Make timely determinations on tribal gaming ordinances and management contracts.
 - ii. Complete reviews of tribal submissions in a timely manner.
- b. Strategy 2: Conduct uniform and consistent monitoring activities.
 - i. Site visits with compliance checklists.
 - ii. Conduct audits as necessary or upon invitation.
 - iii. Develop and maintain positive working relationships with tribal gaming regulatory authorities.
 - iv. Annual compliance report.
 - v. Annual reporting of gaming revenues.
- c. Strategy 3: Perform regulatory enforcement actions.
 - i. Assist tribal gaming regulatory authorities and other governmental authorities in conducting regulatory investigations.
 - ii. First attempt voluntary compliance through assessments and warnings.
 - iii. Initiate enforcement actions as last resort or in cases of imminent jeopardy.
 - iv. Monitor compliance with provisions of enforcement action settlement agreements and follow up as warranted.
 - v. Defend the Commission in administrative and civil actions.

Objective 1.2: Expand the knowledge and implementation of gaming laws and regulations throughout the industry.

- a. Strategy 1: Promulgate regulations as necessary.
 - i. Maintain Tribal Advisory Committees.
 - ii. Assess needs for additional or revision of regulation.
 - iii. Write and publish regulations yielding to tribal primacy whenever possible.
- b. Strategy 2: Provide formal and informal guidance.
 - i. Publish Commission bulletins clarifying frequently asked questions and current regulatory best practices.
 - ii. Timely response to inquiries for information and clarifications of gaming operations.

- iii. Determine areas for regulatory improvement and provide recommendations for improvements.
- iv. Conduct follow-up reviews to ensure understanding of recommendations.
- v. Provide guidance on management contract approvals and reviews of gaming related agreements.

Strategic Goal 2: Increase service to Tribal governments and gaming operations.

Objective 2.1: Improve technical assistance to Tribal governments and gaming operations.

- a. Strategy 1: Improve the government-to-government consultation process.
 - i. Reach out to tribes to collaboratively develop a consultation policy/ process.
 - ii. Develop an annual consultation calendar.
 - iii. Consult with tribes, tribal gaming commissions, and tribal gaming operations as warranted.
 - iv. Focus issues addressed in consultations to those requested by tribal leaders.
 - v. Publish a list of completed consultation dates and attendees on website.
- b. Strategy 2: Establish and implement training program(s).
 - i. Develop, maintain and update when necessary all training programs referenced in the Commission catalog.
 - ii. Conduct external training classes/programs.
 - iii. Develop a training budget.
 - iv. Increase tribal participation in the Indian Gaming Working Group training.

Objective 2.2: Improve inter-agency relationships and communications.

- a. Strategy 1: Improve and expand external communication.
 - i. Publish Commission bulletins.
 - ii. Maintain a quarterly newsletter to mail to tribes and post on website.
 - iii. Maintain/update website (*i.e.*, latest regulations, Commission actions, GPRA, etc.).
 - iv. Ensure names, mailing address, e-mail addresses, and telephone numbers for tribal contacts for governments and gaming operations are current.
 - v. Enhance public relations with media, Congress, and other Federal agencies.
- b. Strategy 2: Improve external submission response time at headquarters.

- i. Establish a tracking and reporting system.
 - ii. Expand use of e-mail and electronic submission.
 - iii. Establish and monitor response time limits.
- c. Strategy 3: Provide applicant background information to tribal gaming agencies.
 - i. Acknowledgement of receipt of fingerprint submissions and fees.
 - ii. Ensure timely distribution of monthly invoices/statements.
 - iii. Respond within established regulatory deadlines to tribal gaming regulatory authorities on background information.
 - iv. Provide background information as routine use.

Strategic Goal 3: Maximize the use of NIGC resources.

Objective 3.1: Improve agency administration.

- a. Strategy 1: Enhance fiscal discipline and transparency to stakeholders.
 - i. Establish a fiscally sound agency budget.
 - ii. Monitor budget to actual expenses for effective budget management.
 - iii. Identify delegations of authority to ensure proper internal controls and funds management practices.
 - iv. Effectively track and account for agency revenues.
 - v. Perform regular internal audits to ensure compliance with Commission policies and procedures as well as an annual outside independent audit.
 - vi. Comply with the Freedom of Information Act.
- b. Strategy 2: Improve and expand internal communication.
 - i. Implement an intranet.
 - ii. Implement and follow a schedule for quarterly conference calls with commission and chief of staff.
 - iii. Implement the Tribal Information Management System (TIMS).
- c. Strategy 3: Develop and implement technological resources.
 - i. Continually identify and refine agency technological needs.
 - ii. Implement technological aids to enhance communications (*i.e.*, video conference, record keeping, encryption, etc.).

Objective 3.2: Develop human resource programs that support the Commission's mission, goals and objectives.

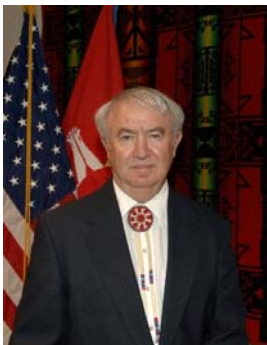
- a. Strategy 1: Develop and implement policies and procedures including internal compliance programs.
 - i. Identify non-compliant areas.
 - ii. Publish an employee handbook.

- iii. Initiate annual review of employee handbook and policies and procedures manual, and update when necessary.
- b. Strategy 2: Establish employee development programs.
 - i. Conduct performance reviews.
 - ii. Provide training that addresses identified skill gaps or performance weaknesses.
 - iii. Provide incentives for employee retention (*i.e.*, award programs, recognition programs, additional responsibilities, etc.).
 - iv. Enable personnel to obtain professional training opportunities.
- c. Strategy 3: Encourage Native American cultural awareness.
 - i. Educate employees on tribal customs and traditions.
 - ii. Educate employees on the diversity of tribal governmental structures.

APPENDIX B: COMMISSION ORGANIZATIONAL STRUCTURE

Commissioners

The Commission is comprised of a Chairman and two Commissioners, each of whom serves on a full-time basis for a three-year term, or until their successors are appointed. The Chairman is appointed by the President and confirmed by the Senate. The Secretary of the Interior appoints the other two Commissioners. Pursuant to IGRA, at least two of the three Commissioners must be enrolled members of a Federally-recognized Indian tribe, and no more than two members may be of the same political party.



Philip N. Hogen, Chairman

President George W. Bush appointed Philip Hogen to Chair the Commission in the fall of 2002. Prior to his appointment as Chair of Commission, Chairman Hogen served as the Associate Solicitor for the Division of Indian Affairs at the Department of the Interior.

From 1995 to 1999, Chairman Hogen served as an Associate Member and the Vice Chairman of Commission. From 1981 to 1991, Chairman Hogen was the U.S. Attorney for the District of South Dakota. While serving as U.S. Attorney, Chairman Hogen served as the Chairman of the Indian Affairs Subcommittee of the Attorney General's Advisory Committee of United States Attorneys at the Department of Justice.

Chairman Hogen is a member of the Oglala Sioux Tribe of the Pine Ridge Indian Reservation in South Dakota and makes his home in the Black Hills. He earned his law degree at the University of South Dakota (1970), and his undergraduate degree at Augustana College in Sioux Falls, SD (1967).



Norman DesRosiers, Vice Chairman

Norman DesRosiers was appointed as a Commissioner in January 2007 by the Secretary of the Interior, Dirk Kempthorne.

Between 1998 and late 2006, Commissioner DesRosiers served as Commissioner for the Viejas Tribal Gaming Commission. He was Executive Director of the San Carlos Apache Tribal Gaming Commission from 1994-1998, as well as serving as Vice President of the Arizona Tribal Gaming Regulators Alliance.

Commissioner DesRosiers is a Member and former Secretary/Treasurer of the San Carlos Tribal Bar Association. In 1993-94, he was an inspector and training supervisor at the Fort McDowell Tribal Gaming Commission. He is also a former member of the National Indian

Gaming Association's faculty for Tribal Gaming Commissioner Certification Training; Former Chairman and Vice Chairman of the National Tribal Gaming Commissioners/Regulators Organization; and is the past Indian Gaming Committee Chairman of the North American Gaming Regulators Association.

Commissioner DesRosiers has authored numerous nationally published papers and is an Associate Member of the International Masters of Gaming Law. He obtained his B.A. Degree in Law and Justice from Central Washington State University and served 10 years in law enforcement.

Organizational Structure

The Commission's organizational structure is composed of two main branches, the Office of the Chief of Staff and the Office of the General Counsel.

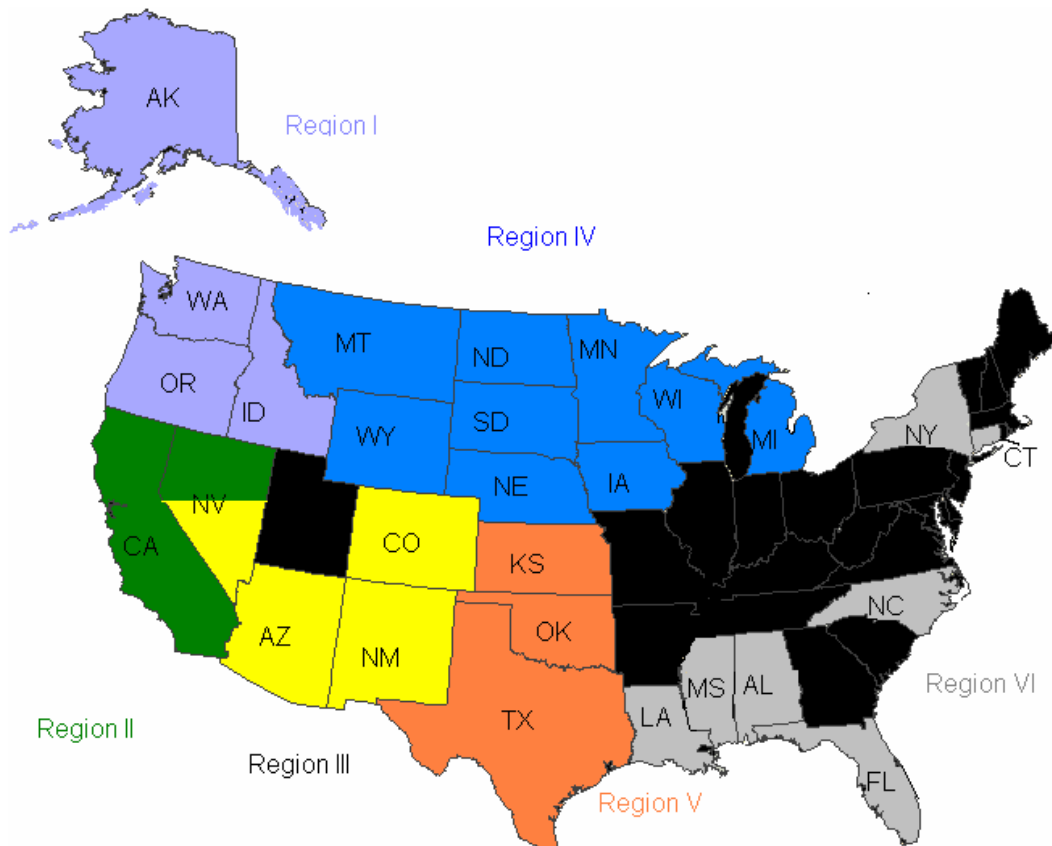


The *Office of the Chief of Staff* implements the policies of the Commission and is responsible for the direction, supervision, and evaluation of the work of all Commission employees outside the Office of the General Counsel. It is divided into 6 divisions which include: Division of Management Contracts and Investigations; Division of Enforcement; Division of Congressional Affairs and Media Relations; Division of Audits; Division of Training; and Division of Administration.

The Division of Management Contracts and Investigations works with all interested parties, including tribal officials, management contractors, attorneys, accountants, and Tribal Gaming Regulatory Authorities to ensure that all proposed management contracts meet the requirements established by IGRA. The Division also conducts required background investigations to ensure the satisfaction of related suitability criteria as it relates to management contractors. The Division also has primary responsibility for evaluating and ensuring compliance with the National Environmental Policy Act as it relates to projects proposed by the terms of proposed management contracts. The Division also manages the submission and distribution of results from the processing of fingerprint identification and background investigations through an MOU with the FBI. In turn, the Commission has agreements with various tribes for submission and processing.

The Division of Enforcement serves as the Commission's main tool in monitoring tribal compliance with all applicable laws and regulations. It consists of 6 regional offices and 4 satellite offices.

Region I – Portland, OR	Satellite – Bellingham, WA
Region II – Sacramento, CA	Satellite – Temecula, CA
Region III – Phoenix, AZ	Satellite – Rapid City, SD
Region IV – St. Paul, MN	Satellite – Flowood, MS
Region V – Tulsa, OK	
Region VI – Washington, D.C.	



Employees from the Division of Enforcement regularly visit Indian gaming facilities in their region, evaluating compliance with relevant laws and regulations, such as IGRA and Commission regulations. Given the vastness of Indian gaming, education and outreach are among the Division's best tools in achieving compliance. As such, the Division offers monthly training programs covering a wide range of issues. The Division also plays a critical role in processing background investigations at Indian gaming facilities. IGRA requires tribes to conduct background investigations on key employees and primary management officials, including submission of fingerprint cards to the FBI. The Division processes thousands of investigative reports, fingerprint cards, and employee applications on an annual basis.

The Division of Congressional Affairs and Media Relations is responsible for the planning, coordination, and management of agency programs and activities relating to both legislative and public affairs. Among its principal duties, the Division monitors legislation affecting the Commission and advises on any necessary policy action. The Division coordinates submission of bills, resolutions, reports, testimony, and other statements on legislation to the Congress, and also prepares agency press releases, speeches, reports, and policy statements.

The primary focus of the Division of Audits is to monitor compliance with the Commission's minimum internal control standards. This important set of regulations establishes uniform standards that are effective and have proven essential in protecting the integrity of Indian gaming. The Audits Division also assists the Commission's Office of Self-Regulation. When a tribe petitions for a certificate of self-regulation, Division auditors conduct an extensive review of the records of the gaming operation and the tribal gaming regulatory authority. The results of these reviews provide valuable feedback to the tribal government regarding regulatory compliance and facilitate a determination as to whether a certificate of self-regulation should be issued. The Division also provides critical support to the Commission's Enforcement Division. The Audits Division has facilitated the investigation of alleged financial irregularities, as well as noncompliance with per capita distribution plans. Given the cash-intensive nature of the Indian gaming industry, trained auditors have proven an especially valuable asset in obtaining compliance with applicable laws and regulations. In addition, the Audit Division has the added responsibilities of conducting internal audits of the Commission's activities.

A new Division of Training was established in FY 2008 to provide both external and internal training. The Division will support implementation of Public Law 109-221 and assist in attaining the strategic goal of organizational excellence. Externally, the Division of Training, among other responsibilities, will coordinate numerous course offerings presented in the Commission's Training Catalog. The Commission will work with tribal governments, gaming regulators, law enforcement, members of the state and Federal families, and other constituencies to identify needed areas of training. Internally, the Division will coordinate training to ensure that employees have the skills necessary to perform their work effectively, efficiently, and knowledgeably. Together, the external and internal training will strengthen Commission's ability to support and further the goals of the Commission.

The Division of Administration provides administrative, technical and support services to the Commission. The Division provides support and essential services to all organizational

components of the Commission including its regional and satellite offices. All daily office support functions, including personnel management, procurement activities, travel, and information technology support are provided by the Administration Division. The Division also is responsible for accounting of fees, network management and internet services, and records management.

The *Office of the General Counsel*, under the leadership of the General Counsel, provides legal advice and counsel to the Commission on all matters relating to IGRA and Commission compliance with all applicable laws and regulations. The Office represents the Chairman in all enforcement actions and, as needed, coordinates with the U.S. Department of Justice to implement the Commission's enforcement actions. The Office also plays an important role in handling appeals before the full Commission, and where Commission action results in litigation, the Office works directly with the Department of Justice attorneys handling the case.

The Office of the General Counsel also manages the day-to-day legal affairs of the Commission, providing counsel and legal support to each division. The Office reviews tribal gaming ordinances and proposed management contracts, provides legal advisory opinions on the appropriate classification of games played in Indian gaming facilities, on Indian land issues, contract issues, and general law questions. The Office also coordinates opinions and other specific matters with the Department of the Interior's Office of the Solicitor, and other agencies as necessary.

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