

§ 543.17 What are the minimum internal control standards for Complimentary Services and Items?

Comparison of July TGWG Submission to July 2010 Draft MICS

In 2010, the NIGC posted on its web-site draft Class II MICS. This document will compare the 2010 draft MICS to the TGWG MICS proposal.

Editing convention: The words in blue (underlined) and red (struck-through) are the additions and deletions made by the TGWG. Though included in the side-by-side comparison, this document does not discuss sections 543.17(b) – (d) (Computerized applications, Variances, and Supervision) of the TGWG Version. The provisions are identical to others discussed in earlier comparison documents.

July 2010 Draft MICS	TGWG Version
<p>§ 543.17 What are the minimum internal control standards for complimentary services or items?</p> <p>(a) <i>Complimentary services and items procedures.</i> (1) Each Tribal gaming regulatory authority or gaming operation shall establish and the gaming operation shall comply with procedures for the authorization, issuance, and tracking of complimentary services and items as defined in §543.2, including cash and non-cash gifts.</p> <p>(2) The procedures shall be approved by the Tribal gaming regulatory authority and shall include, but not be limited to, the procedures by which the gaming operation delegates to its personnel the authority to approve the issuance of complimentary services and items, and the procedures by which conditions or limits, if any, which may apply to such authority are established and modified (including limits based on relationships between the authorizer and recipient), and shall further include effective provisions for audit purposes.</p> <p>(3) Each gaming operation shall maintain a written record of limits or conditions which may be placed on the authority of its employees to approve or issue complimentary services or items, and the specific job titles to which they apply.</p> <p>(b) Complimentary services and items shall include, but are not limited to, travel, lodging, food, beverages, or entertainment expenses provided directly to the patrons and their guests by the gaming operation or indirectly to patrons and their guests on behalf of the gaming operation by a third party. Complimentary</p>	<p>§ 543.17 What are the minimum internal control standards for complimentary services or items?</p> <p>(a) Complimentary services and items procedures. (1) Each Tribal gaming regulatory authority or <u>Internal Control Procedures.</u> <u>Subject to the approval and oversight of the TGRA, each</u> gaming operation shall establish, and the gaming operation shall comply with procedures for the authorization, issuance, and tracking of complimentary services and items as defined in §543.2, including cash and non-cash gifts. <u>implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.</u></p> <p><u>(b) Computerized applications. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.</u></p> <p><u>(c) Variances. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.</u></p> <p>(2) The procedures shall be approved by the Tribal gaming regulatory authority and shall</p> <p>(d) Supervision. Supervision shall be provided for approval of complimentary services as needed by an agent(s) with authority equal to or greater than those being supervised.</p> <p><u>(e) Complimentary services or items. Controls must be established in a manner designed to prevent unauthorized access, misappropriation, forgery, theft or fraud. Such controls must</u></p>

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<p>cash gifts shall include, but are not limited to:</p> <p>(1) Public relations payments made for the purpose of resolving complaints by or disputes with casino patrons (appeasement payments);</p> <p>(2) Travel or “walk money” payments made for the purpose of enabling a patron to return home.</p> <p>(c) At least monthly, accounting, information technology, or audit personnel that cannot grant or receive complimentary privileges shall prepare reports that include the following information for all complimentary items and services:</p> <p>(1) Name of patron who received the complimentary service or item;</p> <p>(2) Name(s) of authorized issuer of the complimentary service or item;</p> <p>(3) The actual cash value of the complimentary service or item;</p> <p>(i) A complimentary service or item provided directly to a patron in the normal course of a gaming operation’s business shall be recorded at the full retail price normally charged for such service or item by the gaming operation.</p> <p>(ii) A complimentary service or item not offered for sale to patrons in the normal course of a gaming operation’s business, but provided directly by the gaming operation, shall be recorded at the actual cost to the gaming operation of providing such service or item.</p> <p>(iii) A complimentary service or item provided directly or indirectly to a patron on behalf of a gaming operation by a third party not affiliated with the gaming operation shall be recorded at the actual cost to the gaming operation of having the third party provide such service or item.</p> <p>(iv) A complimentary service or item provided directly or indirectly to a patron on behalf of a gaming operation by a third party who is affiliated with the gaming operation shall be recorded as if the affiliated third party were the gaming operation.</p> <p>(4) The type of complimentary service or item (i.e., food, beverage, etc.); and</p> <p>(5) Date the complimentary service or item was</p>	<p>include, but not be limited to, the procedures <u>by which following:</u></p> <p><u>(1) How the gaming operation delegates to its personnel the authority to approve the issuance of complimentary services and or items, and the procedures by which conditions or limits, if any, which may apply to such authority are established and modified (including limits based on relationships between the authorizer and recipient), and shall further include effective provisions for audit purposes. including levels of authorization for the agents approving the issuance of complimentary services or items;</u></p> <p><u>(2) Written limits and conditions on the approval and issuance of complimentary services or items, and how the conditions or limits of authority may be modified.</u></p> <p>(3) Each gaming operation shall maintain a written record of limits or conditions which may be placed on the authority of its employees to approve or issue complimentary services or items, and the specific job titles to which they apply.</p> <p>(b) Complimentary services and items shall include, but are not limited to, travel, lodging, food, beverages, or entertainment expenses provided directly to the patrons and their guests by the gaming operation or indirectly to patrons and their guests on behalf of the gaming operation by a third party. Complimentary cash gifts shall include, but are not limited to:</p> <p>(1) Public relations payments made for the purpose of resolving complaints by or disputes with casino patrons (appeasement payments);</p> <p>(2) Travel or “walk money” payments made for the purpose of enabling a patron to return home. <u>Documentation and recordation requirements for the authorization, issuance, and tracking of complimentary services and items, including cash and non-cash gifts;</u></p>
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<p>issued.</p> <p>(d) Complimentary services or items exempt from paragraph (c) reporting requirements:</p> <p>(1) A non-cash complimentary service or item which has a value no greater than \$150 (as calculated in accordance with (c) (3) above), or a lesser amount established by the Tribal gaming regulatory authority.</p> <p>(2) A complimentary cash gift of \$100.00 or less, or an amount established by the Tribal gaming regulatory authority, which shall not be greater than \$100.</p> <p><i>543.17 (e) has been moved to proposed Revenue Audit 543.50 (f).</i></p> <p>(e) The internal audit or accounting departments shall review the reports required in paragraph (e) of this section at least monthly. These reports shall be made available to the Tribe, Tribal gaming regulatory authority, audit committee, other entity designated by the Tribe, and the Commission upon request.</p>	<p>(e) At least monthly, accounting, information technology, or audit personnel that cannot grant or receive complimentary privileges shall prepare reports that i) <u>Complimentary issuance records shall</u> include the following information-for all complimentary items and services- <u>equal to or exceeding an amount established by the TGRA.</u></p> <p>(1A) Name of patron who received the complimentary service or item;</p> <p>(2B) Name(s) of authorized issuer of the complimentary service or item;</p> <p>(3C) The actual cash value of the complimentary service or item;</p> <p>(1D) A-<u>The type of complimentary service or item provided directly to a patron in the normal course of a gaming operation's business shall be recorded at the full retail price normally charged for such service or item by the gaming operation- (i.e., food, beverage, etc.); and</u></p> <p>(ii) A complimentary service or item not offered for sale to patrons in the normal course of a gaming operation's business, but provided directly by the gaming operation, shall be recorded at the actual cost to the gaming operation of providing such service or item.</p> <p>(iii) A complimentary service or item provided directly or indirectly to a patron on behalf of a</p>
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	<p>gaming operation by a third party not affiliated with the gaming operation shall be recorded at the actual cost to the gaming operation of having the third party provide such service or item.</p> <p>(iv) A complimentary service or item provided directly or indirectly to a patron on behalf of a gaming operation by a third party who is affiliated with the gaming operation shall be recorded as if the affiliated third party were the gaming operation.</p> <p>(4) The type of complimentary service or item (i.e., food, beverage, etc.); and</p> <p style="padding-left: 40px;">(E) <u>(E)</u> Date the complimentary service or item was issued.</p> <p style="padding-left: 40px;">(d) Complimentary services or items exempt from paragraph (c) reporting requirements: ii) <u>Reserved.</u></p> <p>(1) A non-cash complimentary service or item which has a value no greater than \$150 (as calculated in accordance with (c)(3) above), or a lesser amount established by the Tribal gaming regulatory authority.</p> <p>(2) A complimentary cash gift of \$100.00 or less, or an amount established by the Tribal gaming regulatory authority, which shall not be greater than \$100.</p>
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NIGC Comments and Questions regarding the TGWG Proposed Regulation (questions in blue)

Complimentary Service or Items

Effect of 2010 Draft Regulation: The draft regulation is intended to establish criteria for the authorization, issuance, and tracking of complimentary services and items. The draft regulation also requires the TGRA to approve the gaming operations procedures for same. The standard also requires gaming operations to establish a written threshold on limits and conditions to protect the gaming operations and tribal assets from the issuance of fraudulent complimentaries.

Effect of TGWG Proposal: Does the proposed standard attain the level of specificity necessary to ensure comps are not abused? For example, the proposed standard removes the responsibility for the TGRA to approve the policy, and removes the limits in cases where relationships exist between the authorizer and recipient. Does the TGWG Guidance sufficiently address these areas?

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Appeasement Payments and Travel Payments

Effect of 2010 Draft Regulation: The draft regulation is intended to define the applicability of the comp controls and differentiate them from promotional programs. It also adds appeasement payments and “walk money” payments under the requirements of this section. Appeasement payments and travel payments have been shown to be avenues for abuse and fraud in gaming environments.

Effect of TGWG Proposal: The proposed revision is vague and has removed the applicability of the comp controls. [Will deletion of this standard result in confusion for tribal gaming operations between comps and enhanced promotional opportunities resulting from technological advancements?](#)

Reporting

Effect of 2010 Draft Regulation: The draft regulation gives guidance to tribal gaming operations on creating a good comp report. The comp report is intended to ensure that management personnel are well informed of transactions that a recap record is created to facilitate audit and regulatory staff oversight.

Effect of TGWG Proposal: [Does the removal of the requirement that comp reports be prepared by personnel who can not themselves grant comps increase risk? What about removing the requirement to prepare a comp report on a monthly basis? Does the fact that the reference to comp records fails to identify who is responsible for recording the required information create the possibility that individual departments and personnel with the ability to issue comps would or could prepare their own records? As comps are left to the discretion of individuals, the threat of misappropriation of casino assets for personal gain or to an undeserving patron heightens the need for segregation of duties.](#)

Reporting Exemptions

Effect of 2010 Draft Regulation: The draft regulation is intended to set minimum guidance on the reporting threshold amounts for the comp report, and establish a framework for reviewing the reports.

Effect of TGWG Proposal: The proposed standard removes threshold reporting amounts for a monthly comp report. [Does the TAC agree that industry practices identify the need to establish thresholds for reporting purposes to eliminate the possibility of gaming operations’ establishing thresholds so high as to effectively circumvent the standards?](#)

TGWG Guidance

(f) Complimentary Services or Items. Complimentary services or items must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery or fraud. Such controls must include the establishment of comp limits, authorization levels, issuance criteria, inventory controls, tracking of complimentary services or items, and audit and accounting procedures, as well as the following:

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(1) The procedures by which the gaming operation delegates to its agents the authority to approve the issuance of complimentary services or items;

(2) The procedures by which conditions or limits, if any, may apply to such authority are established and modified (including limits based on relationships between the authorizer and recipient), and must also include audit procedures in accordance with 543.19 and related guidance documents; and

(3) The written procedures must include, at a minimum, the following controls:

(i) Only authorized agents may issue complimentary services or items.

(ii) Functions should be adequately segregated to prevent misappropriation of complimentary services or items. For example, the gaming operation agents entering manual player ratings resulting in additional comps for a patron must obtain approval from a supervisory agent prior to issuing complimentary services or items to that patron. Conversely, if the agent is simply performing a data entry function and did not perform the manual rating, a requirement for additional authorization to issue complimentary services or items is typically not required.

NIGC Question

Did the TGWG consider including a requirement for additional authorization on a system generated complimentary service or item based on the established limit of the internal control policies and procedures (i.e. complimentary items over \$100 require the signature of the department manager)? If so, why is it left out? Does the TAC think it necessary?

TGWG Guidance

(iii) Complimentary services or items may only be issued to eligible patrons. Because comps may only be issued to patrons, best practice suggests that if the comp process and forms are used to issue employee incentives, gifts, or for other business expenses, the form should provide for the appropriate tracking for proper accounting. The following examples are illustrative of this point:

(A) For example, if management wishes to reward an employee with a gift of a free meal in the steakhouse and comp forms are used to do so, the form should have an "Employee Incentives" checkbox or other notation so that the expense may be properly entered into the general ledger.

(B) Similarly, if management wishes to honor a celebrity with a gift of a free night stay at the hotel and comp forms are used to do so, the form should have a "Business Expense" checkbox or other notation so that the expense may be properly entered into the general ledger.

(iv) Records for each comp issuance must include the following:

(A) Patron name and any additional information required;

(B) Authorizing agent's name;

(C) Signature of the authorizing agent(s) (electronic signature will suffice);

NIGC Question

Should the Guidance require password or other means of protection for authorizing electronic signature? If not, how does a facility prevent other employees from using the electronic signature?

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TGWG Guidance

- (D) Cash value of complimentary services or items;
- (E) Type of complimentary services or items given (i.e., food, beverage, t-shirt, hotel, travel, etc.);
- (F) Date issued; and
- (G) Expiration date, if any.
- (v) Maintaining justification for issuance such as patron loyalty programs, dispute resolutions, and special occasions, among others.
- (vi) Best practice suggests that manual comp forms should be issued in at least duplicate, with one (1) copy forwarded directly to accounting, and one (1) copy issued to the patron or point of sale agent for processing.

NIGC Comment/Question to TGWG Guidance

[How does the TAC propose to instruct TGRA's on manual complimentary forms?](#) At a minimum, the forms should be pre-numbered, secured until needed, and a record made and maintained of the name of the individual signing out the manual forms.

TGWG Guidance

- (vii) Sending redeemed comps and forms to accounting daily for auditing purposes.
- (viii) Perform audit of comp transactions in accordance with 543.19 (Audit and Accounting) and related guidance documents.

NIGC Question

[What information should be included in "records" for audit of comp transactions?](#)

TGWG Guidance

- (g) Audit and Accounting.
- (1) When complimentary services or items are used in conjunction with Class II gaming then controls must be established for audit and accounting in accordance with MICS 543.19 (What are the minimum internal control standards for audit and accounting?) and the guidance provided in the associated document.

NIGC Question

[What information should be included in "records" for audit of comp transactions?](#)

TGWG Guidance

- (2) Best practice suggests that each operational area secure daily audit and accounting records, forms, and documents prior to audit. For example a cashier may place records in a locked box for next-day delivery to accounting for audit.

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NIGC Comment/Question to TGWG Guidance

Does the Guidance offer enough specificity on which department should place the accounting paperwork in the locked box? Perhaps a better example would be: “For example, if complimentary service or items *are issued at the cage*, a cashier may place records in a locked box for delivery to accounting no later than the following day.”