

PRELIMINARY DRAFT - FOR DISCUSSION PURPOSES ONLY  
Due Date for Written Comments to NIGC: August 9, 2011

1 Part 537 – Background Investigations for Persons or Entities with a Financial Interest In,  
2 or Having Management Responsibility For, a Management Contract

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4 **§ 537.1 Applications for approval.**

5 **§ 537.2 Submission of background information.**

6 **§ 537.3 Fees for background investigations.**

7 **§ 537.4 Determinations.**

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9 **§ 537.1 Applications for approval.**

10 (a) For each management contract for any class II gaming, including a management  
11 contract that provides for management of both class II and class III gaming, the Chair  
12 shall conduct or cause to be conducted a background investigation of:

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13 (1) Each person with management responsibility for a management contract;

14 (2) Each person who is a director of a corporation that is a party to a management  
15 contract;

16 (3) The ten (10) persons who have the greatest direct or indirect financial interest in a  
17 management contract;

18 (4) Any entity with a financial interest in a management contract (in the case of  
19 institutional investors, the Chairman may exercise discretion and reduce the scope of the  
20 information to be furnished and the background investigation to be conducted); and

21 (5) Any other person with a direct or indirect financial interest in a management contract  
22 otherwise designated by the Commission.

23 (b) For each natural person identified in paragraph (a) of this section, the management  
24 contractor shall provide to the Commission the following information:

25 (1) *Required information.* (i) Full name, other names used (oral or written), social  
26 security number(s), birth date, place of birth, citizenship, and gender;

27 (ii) A current photograph, driver's license number, and a list of all languages spoken or  
28 written;

29 (iii) Business and employment positions held, and business and residence addresses  
30 currently and for the previous ten (10) years; the city, state and country of residence from  
31 age eighteen (18) to the present;

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- 1 (iv) The names and current addresses of at least three (3) personal references, including  
2 one personal reference who was acquainted with the person at each different residence  
3 location for the past five (5) years;
- 4 (v) Current business and residence telephone numbers;
- 5 (vi) A description of any existing and previous business relationships with Indian tribes,  
6 including ownership interests in those businesses;
- 7 (vii) A description of any existing and previous business relationships with the gaming  
8 industry generally, including ownership interests in those businesses;
- 9 (viii) The name and address of any licensing or regulatory agency with which the person  
10 has filed an application for a license or permit relating to gaming, whether or not such  
11 license or permit was granted;
- 12 (ix) For each gaming offense and for each felony for which there is an ongoing  
13 prosecution or a conviction, the name and address of the court involved, the charge, and  
14 the dates of the charge and of the disposition;
- 15 (x) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding  
16 minor traffic violations) within ten (10) years of the date of the application, the name and  
17 address of the court involved, and the dates of the prosecution and the disposition;
- 18 (xi) A complete financial statement showing all sources of income for the previous three  
19 (3) years, and assets, liabilities, and net worth as of the date of the submission; and
- 20 (xii) For each criminal charge (excluding minor traffic charges) regardless of whether or  
21 not it resulted in a conviction, if such criminal charge is within 10 years of the date of the  
22 application and is not otherwise listed pursuant to paragraphs (b)(1)(ix) or (b)(1)(x) of  
23 this section, the name and address of the court involved, the criminal charge, and the  
24 dates of the charge and the disposition.
- 25 (2) *Fingerprints*. The management contractor shall arrange with an appropriate federal,  
26 state, or tribal law enforcement authority to supply the Commission with a completed  
27 form FD-258, Applicant Fingerprint Card, (provided by the Commission), for each  
28 person for whom background information is provided under this section.
- 29 (3) *Responses to Questions*. Each person with a direct or indirect financial interest in a  
30 management contract or management responsibility for a management contract shall  
31 respond within thirty (30) days to written or oral questions propounded by the Chair.
- 32 (4) *Privacy notice*. In compliance with the Privacy Act of 1974, each person required to  
33 submit information under this section shall sign and submit the following statement:

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- 1 (5) Notice regarding false statements. Each person required to submit information under  
2 this section shall sign and submit the following statement:
- 3 (c) For each entity identified in paragraph (a)(4) of this section, the management  
4 contractor shall provide to the Commission the following information:
- 5 (1) List of individuals. (i) Each of the ten (10) largest beneficiaries and the trustees when  
6 the entity is a trust;
- 7 (ii) Each of the ten (10) largest partners when the entity is a partnership;
- 8 (iii) Each person who is a director or who is one of the ten (10) largest holders of the  
9 issued and outstanding stock alone or in combination with another stockholder who is a  
10 spouse, parent, child or sibling when the entity is a corporation; and
- 11 (iv) For any other type of entity, the ten (10) largest owners of that entity alone or in  
12 combination with any other owner who is a spouse, parent, child or sibling and any  
13 person with management responsibility for that entity.
- 14 (2) Required information. (i) The information required in paragraph (b)(1)(i) of this  
15 section for each individual identified in paragraph (c)(1) of this section;
- 16 (ii) Copies of documents establishing the existence of the entity, such as the partnership  
17 agreement, the trust agreement, or the articles of incorporation;
- 18 (iii) Copies of documents designating the person who is charged with acting on behalf of  
19 the entity;
- 20 (iv) Copies of bylaws or other documents that provide the day-to-day operating rules for  
21 the organization;
- 22 (v) A description of any existing and previous business relationships with Indian tribes,  
23 including ownership interests in those businesses;
- 24 (vi) A description of any existing and previous business relationships with the gaming  
25 industry generally, including ownership interest in those businesses;
- 26 (vii) The name and address of any licensing or regulatory agency with which the entity  
27 has filed an application for a license or permit relating to gaming, whether or not such  
28 license or permit was granted;
- 29 (viii) For each gaming offense and for each felony for which there is an ongoing  
30 prosecution or a conviction, the name and address of the court involved, the charge, and  
31 the dates of the charge and disposition;

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1 (ix) For each misdemeanor conviction or ongoing misdemeanor prosecution within ten  
2 (10) years of the date of the application, the name and address of the court involved, and  
3 the dates of the prosecution and disposition;

4 (x) Complete financial statements for the previous three (3) fiscal years; and

5 (xi) For each criminal charge (excluding minor traffic charges) whether or not there is a  
6 conviction, if such criminal charge is within 10 years of the date of the application and is  
7 not otherwise listed pursuant to paragraph (c)(1)(viii) or (c)(1)(ix) of this section, the  
8 criminal charge, the name and address of the court involved and the dates of the charge  
9 and disposition.

10 (3) Responses to questions. Each entity with a direct or indirect financial interest in a  
11 management contract shall respond within thirty (30) days to written or oral questions  
12 propounded by the Chair.

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13 (4) Notice regarding false statements. Each entity required to submit information under  
14 this section shall sign and submit the following statement:

15 (d) The Chair may exercise discretion and reduce the background investigation to be  
16 conducted pursuant to subsection (a), and the scope of the information to be furnished  
17 pursuant to subsection (b) for any a tribe, a wholly owned tribal entity, national bank, or  
18 institutional investor that is federally regulated or is required to undergo a background  
19 investigation and licensure by a state or tribe pursuant to a tribal-state compact.

20 **§537.2 Submission of background information.**

21 A management contractor shall submit the background information required in §537.1 of  
22 this part:

23 (a) In sufficient time to permit the Commission to complete its background investigation  
24 by the time the individual is to assume management responsibility for, or the  
25 management contractor is to begin managing, the gaming operation; and

26 (b) Within ten (10) days of any proposed change in financial interest.

27 **§537.3 Fees for background investigations.**

28 (a) A management contractor shall pay to the Commission or the contractor(s) designated  
29 by the Commission the cost of all background investigations conducted under this part.

30 (b) The management contractor shall post a deposit with the Commission to cover the  
31 cost of the background investigations as follows:

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32 (1) Management contractor (party to the contract)—\$25,000

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1 (2) Each individual and entity with a financial interest in the contract—\$10,000

2 (c) The management contractor shall be billed for the costs of the investigation as it  
3 proceeds; the investigation shall be suspended if the unpaid costs exceed the amount of  
4 the deposit available.

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5 (1) An investigation will be terminated if any bills remain unpaid for more than thirty  
6 (30) days.

7 (2) A terminated investigation will preclude the Chair from making the necessary  
8 determinations and result in a disapproval of a management contract.

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9 (d) The deposit will be returned to the management contractor when all bills have been  
10 paid and the investigations have been completed or terminated.

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11 **§537.4 Determinations.**

12 The Chair shall determine whether the results of a background investigation preclude the  
13 Chair from approving a management contract because of the individual disqualifying  
14 factors contained in §533.6(b)(1) of this chapter. The Chair shall promptly notify the tribe  
15 and management contractor if any findings preclude the Chair from approving a  
16 management contract or a change in financial interest.

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