



October 31, 2012

Ms. Tracie Stevens, Chairwoman
Ms. Steffani A. Cochran, Vice-Chairperson
Mr. Daniel Little, Associate Commissioner
National Indian Gaming Commission
1441 L St. NW, Suite 9100
Washington, DC 20005

Re: Draft Strategic Plan for Fiscal Years 2014-2018

Dear Commissioners:

Thank you for providing the Iowa Tribe of Oklahoma (“Tribe”) the opportunity to comment on the National Indian Gaming Commission’s (“NIGC”) draft strategic plan for fiscal years 2014-2018. We commend the NIGC for recognizing that the development of its strategic plan must be a collaborative effort that incorporates the views of tribal governments who bear the primary burden of regulating tribal gaming activities. We are aware that the development of a strategic plan can be a deceptively difficult task, especially when such plan must be carefully drafted in a manner that reflects the special relationship between tribes and the federal government. Based on this draft strategic plan, it is apparent that the NIGC has taken great strides to craft a more balanced regulatory approach that will promote the regulatory capacities and capabilities of tribal governments consistent with the letter and spirit of the Indian Gaming Regulatory Act (“IGRA”).

The Tribe thus supports the overall direction of the draft strategic plan, which shifts the regulatory focus of the NIGC to enhancing compliance and reducing the potential for future violations through training, technical assistance, and effective monitoring. The NIGC’s commitment to “work with Tribes to ensure compliance with IGRA by communicating with Tribes early in the process if there is a potential compliance issue and working with Tribes to resolve compliance issues voluntarily” is particularly noteworthy and commendable because it properly recognizes that cooperative mechanisms are more likely to foster compliance than the institution of an enforcement action. The Tribe strongly believes that the regulation of tribal gaming must be a joint, collaborative effort consistent with the terms of IGRA and the regulatory

framework it establishes. Besides the fact that this is what Congress intended when it enacted IGRA, it is the most effective means of achieving the regulatory purposes of the statute.

We are pleased that the voluntary compliance approach described in the draft strategic plan encourages greater reliance on tribal gaming regulatory agencies to conduct the majority of the enforcement function, which will in turn free up the NIGC's resources so that greater attention can be devoted to technical support and training activities. Tribal gaming regulatory agencies possess a great depth of experience and knowledge not just regarding their own gaming operations, but also with respect to the broader gaming industry. They are responsible for ensuring compliance at the operational level on a day-to-day basis and are thus well-positioned to address and resolve potential compliance issues in an appropriate and fair manner. We therefore support a regulatory approach that provides tribal regulators with the first opportunity to address any compliance issues in accordance with tribal laws and regulations. We believe that such approach will serve to strengthen tribal internal capacities for gaming regulation and enforcement.

Though we are largely pleased with the contents of the draft strategic plan, we believe there are a few issues that warrant the NIGC's consideration. First, on page 5 of the draft strategic plan, the NIGC explains that the purpose of the draft's supporting performance measures is two-fold: to evaluate the NIGC's process towards achieving its strategic goals and to measure performance in relation to those goals. We are concerned, however, that some of the performance measures in the draft plan are not framed in such a way that will help the NIGC accomplish either of these objectives.

In order to "evaluate progress," the performance measures must be described in a manner that is quantifiable, outcome-specific, and distinguishable in form from the strategies being employed. There are, however, several performance measures in the draft plan that are not easily quantifiable and drafted to read as strategies rather than indicators. For instance, one of the supporting performance measures under Goal 2 is to "increase the number of training opportunities for tribes to attend training events," which, as drafted, appears to require the *performance* of an action rather than the *measurement* of an action performed. A more appropriate performance measure for this particular strategic goal would be one that tracks the number and satisfaction levels of tribal participants so that the NIGC can better determine whether it has fulfilled its goal of providing sufficient training opportunities.

The performance measure to "proactively respond to tribal needs and industry changes by modifying course offerings, and methods of providing technical assistance" under Goal 2 of the draft strategic plan is another example of an unquantifiable measure. While the Tribe certainly agrees that this measure is a desirable objective, we do not believe it will serve as a useful indicator of the extent to which the NIGC has been successful with respect to its technical assistance efforts.

Second, we note that none of the strategies in this draft plan address the need to include tribal advisory committees (“TACs”) during the rulemaking process. The use of TACs during rulemakings should, however, be treated as more the rule than the exception. During the recent regulatory review of the NIGC’s Class II regulations, the TACs provided valuable input to the NIGC in the development of proposed updated Minimum Internal Control Standards and Technical Standards regulations, the requirements of which were very technical in nature. The tribal government representatives on the TACs had strong technical and regulatory backgrounds and were thus well-equipped to identify relevant issues and flag potential unintended consequences associated with the regulatory proposals under review. Moving forward, we urge the NIGC to continue to utilize TACs to assess either the need for new regulations or the revision of existing regulations.

Finally, unlike the preceding strategic plan, this current draft does not contain a discussion on program evaluations and key external factors that could significantly and adversely affect the NIGC’s ability to achieve its strategic goals, both of which are required under the GPRA Modernization Act of 2010. An assessment of key external factors would help the NIGC better judge the likelihood of achieving the strategic goals and actions needed to better meet its goals. As for program evaluations, we believe that the continuous evaluation of the NIGC’s annual performance measures will prove key to the successful implementation of the strategic plan and will, among other things, help highlight any areas of the strategic plan in need of revision or adjustment.

In closing, the Tribe wishes to thank the NIGC for this opportunity to submit comments on the draft strategic plan. We hope that you will give our comments and suggestions meaningful consideration as your deliberations continue.

Sincerely,



Janice Rowe-Kurak
Chairman
Iowa Tribe of Oklahoma