

(i) Is an elected member of the governing body of the tribe that is party to the management contract;

(ii) Has been convicted of any felony or any misdemeanor gaming offense;

(iii) Has knowingly and willfully provided materially false statements or information to the Commission or to a tribe;

(iv) Has refused to respond to questions asked by the Chairman in accordance with his or her responsibilities under this part; or

(v) Is determined by the Chairman to be a person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of related business and financial arrangements;

(2) The management contractor or its agents have unduly interfered with or influenced for advantage, or have tried to unduly interfere with or influence for advantage, any decision or process of tribal government relating to the gaming operation;

(3) The management contractor or its agents has deliberately or substantially failed to follow the terms of the management contract or the tribal gaming ordinance or resolution adopted and approved pursuant to this Act; or

(4) A trustee, exercising the skill and diligence to which a trustee is commonly held, would not approve the contract.

(c) The Chairman may disapprove a management contract for class III gaming if he or she determines that a person with a financial interest in, or management responsibility for, a management contract is a person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of related business and financial arrangements.

[74 FR 36935, July 27, 2009]

§ 533.7 Void agreements.

Management contracts and changes in persons with a financial interest in or management responsibility for a management contract, that have not been approved by the Chairman in accordance with the requirements of part 531 of this chapter and this part, are void.

[74 FR 36936, July 27, 2009]

PART 534 [RESERVED]

PART 535—POST-APPROVAL PROCEDURES

Sec.

535.1 Amendments.

535.2 Assignments.

535.3 Post-approval noncompliance.

AUTHORITY: 25 U.S.C. 81, 2706(b)(10), 2710(d)(9), 2711.

SOURCE: 58 FR 5830, Jan. 22, 1993, unless otherwise noted.

§ 535.1 Amendments.

(a) Subject to the Chairman's approval, a tribe may enter into an amendment of a management contract for the operation of a class II or class III gaming activity.

(b) A tribe shall submit an amendment to the Chairman within thirty (30) days of its execution.

(c) A tribe shall include in any request for approval of an amendment under this part:

(1) An amendment containing original signatures of an authorized official of the tribe and the management contractor and terms that meet the applicable requirements of part 531 of this chapter;

(2) A letter, signed by the tribal chairman, setting out the authority of an authorized tribal official to act for the tribe concerning the amendment;

(3) Copies of documents evidencing the authority under paragraph (c)(2) of this section;

(4) A list of all persons and entities identified in § 537.1(a) and § 537.1(c)(1) of this chapter:

(i) If the amendment involves a change in person(s) having a direct or

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indirect financial interest in the management contract or having management responsibility for the management contract, a list of such person(s) and either:

(A) The information required under § 537.1(b)(1) of this chapter for class II gaming contracts or § 537.1(b)(1)(i) of this chapter for class III gaming contracts; or

(B) The dates on which the information was previously submitted;

(ii) [Reserved]

(5) If applicable, a justification, consistent with the provisions of § 531.1(h) of this chapter, for a term limit in excess of five (5) years, but not exceeding seven (7) years; and

(6) If applicable, a justification, consistent with the provisions of § 531.1(i) of this chapter, for a management fee in excess of thirty (30) percent, but not exceeding forty (40) percent.

(d)(1) The Chairman shall approve or disapprove an amendment within thirty (30) days from receipt of a complete submission if the amendment does not require a background investigation under part 537 of this chapter, unless the Chairman notifies the parties in writing of the need for an extension of up to thirty (30) days.

(2) The Chairman shall approve or disapprove an amendment as soon as practicable but no later than 180 days from receipt of a complete submission if the amendment requires a background investigation under part 537 of this chapter;

(3) A party may appeal the Chairman's approval or disapproval of an amendment under part 539 of this chapter. If the Chairman does not approve or disapprove an amendment within the timelines of paragraph (d)(1) or (d)(2) of this section, the amendment shall be deemed disapproved and a party shall have thirty (30) days to appeal the decision under part 539 of this chapter.

(e)(1) The Chairman may approve an amendment to a management contract if the amendment meets the submission requirements of paragraph (c) of this section. Failure to comply with the submission requirements of paragraph (c) of this section may result in the Chairman's disapproval of an amendment.

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(2) The Chairman shall disapprove an amendment of a management contract for class II gaming if he or she determines that the conditions contained in § 533.6(b) of this chapter apply.

(3) The Chairman may disapprove an amendment of a management contract for class III gaming if he or she determines that the conditions contained in § 533.6(c) of this chapter apply.

(f) Amendments that have not been approved by the Chairman in accordance with the requirements of this part are void.

[74 FR 36936, July 27, 2009]

§ 535.2 Assignments.

Subject to the approval of the Chairman, a management contractor may assign its rights under a management contract to the extent permitted by the contract. A tribe or a management contractor shall submit such assignment to the Chairman upon execution. The Chairman shall approve or disapprove an assignment applying the standards of, and within the time provided by §§ 535.1(d) and 535.1(e) of this part.

§ 535.3 Post-approval noncompliance.

If the Chairman learns of any action or condition that violates the standards contained in parts 531, 533, 535, or 537 of this chapter, the Chairman may require modifications of, or may void, a management contract or amendment approved by the Chairman under such sections, after providing the parties an opportunity for a hearing before the Chairman and a subsequent appeal to the Commission as set forth in part 577 of this chapter. The Chairman will initiate modification or void proceedings by serving the parties, specifying the grounds for the modification or void. The parties will have thirty (30) days to request a hearing or respond with objections. Within thirty (30) days of receiving a request for a hearing, the Chairman will hold a hearing and receive oral presentations and written submissions. The Chairman will make a decision on the basis of the developed record and notify the parties of the decision and of their right to appeal.

[74 FR 36936, July 27, 2009]