

CHAPTER 2
LICENSES, PERMITS AND AUDITS

SECTION 1 GENERAL PROVISIONS

- A. Any license, permit, finding of suitability or approval by the Commission, shall be deemed to be a revocable privilege and no holder of such a license, permit, finding of suitability, or approval by the Commission, shall be deemed to have acquired any vested rights therein. No natural person or business entity shall have a right to any particular license, permit, finding of suitability or approval.
- B. An applicant for a license or permit is seeking the granting of a privilege, and the burden of proving his qualification to receive any license or permit is at all times on the applicant. An applicant must accept any risk of adverse public notice, embarrassment, criticism, or other action or financial loss which may result from action with respect to an application and expressly waives any claim for damages as a result thereof.
- C. An applicant may claim any privilege legally applicable and afforded by the Constitution of the United States, the Indian Civil Rights Act, other provisions of federal law, or Tribal law, in refusing to answer questions by the Commission. However, a claim of privilege with respect to any testimony, question, or evidence pertaining to an application may constitute sufficient grounds for denial.
- D. No entity or person shall enter into a binding management contract for operation and management of Class II or Class III Gaming with the Tribe or shall be hired as a primary management official (as defined in Tribal Code Section 15-1-14(4)) or key employee (as defined in Tribal Code Section 15-1-14(3)) of a Class II Gaming or Class III Gaming enterprise, unless issued a license by the Commission. The Commission shall provide, within 30 days of any license issuance, notification to the Tribal Chief and the National Indian Gaming Commission of any such issued Class II gaming licenses, and the Tribal Chief, National Indian Gaming Commission and the Mississippi Gaming Commission of any such issued Class III gaming licenses. A gaming license will be issued to primary management officials and key employees for each place or location where gaming is conducted.
- E. In accordance with 25 CFR § 559, separate facility licenses will be required for each place or location where gaming is conducted; provided, however, places or locations connected by a walkway shall be considered one place or location.
- F. Any gaming employee, as defined in Chapter 1(L), not required to be licensed as a primary management official or key employee, shall nevertheless not be employed to work as a gaming employee in a Class II or Class III gaming enterprise, unless such person is the holder of a Class II or Class III gaming work permit issued by the Commission.

- G. No non-gaming employee, as defined in Chapter 1(U), shall be employed to work in a Class II or Class III gaming enterprise unless such person is the holder of a Class II or Class III restricted gaming work permit issued by the Commission.
- H. The gaming enterprise shall provide to the Commission an organizational chart and accompanying job descriptions for all employee positions so that the Commission may, in its discretion, determine whether a given position requires the issuance of a gaming license, a gaming work permit, or a restricted gaming work permit that limits the holder from certain or all gaming areas. It is contemplated that employees in non-gaming positions will receive a restricted gaming work permit.
- I. Restricted gaming work permits shall be issued to non-gaming employees under the same requirements as gaming work permits and shall be issued on identification cards whose color is distinctly different from those of gaming licenses or work permits. No gaming operator shall permit any non-gaming employee to perform any functions required to be performed solely by a gaming employee. On-duty non-gaming personnel are not allowed on the gaming floor, except for valid work purposes.
- J. While on duty in a casino, all licensed and permitted employees shall wear identification badges, including a photograph, name, title, license or permit number, signature and zones within the licensed premises to which he or she is permitted access. The identification badge shall be worn on the left shoulder and in full view at all times while on duty and shall not have items (such as stickers, pins, pennants, etc.) placed on the identification badge. Security and surveillance personnel may be exempted from this requirement, as necessary to perform certain job functions.
- K. All licenses and work permits shall be reviewed and, if appropriate, renewed on an annual basis except that the Commission may allow, by order of the Commission, that some or all licenses and work permits may be renewed every two (2) years after the first two (2) annual renewals. The Commission shall promptly notify the National Indian Gaming Commission of all renewals of licenses.
- L. The Commission may issue a license or work permit for a shorter period of time than the period specified in Section K above.
- M. The Commission may review, and if deemed appropriate, revoke or suspend a license or work permit at any time.
- N. A license or work permit shall automatically expire if the licensee or permittee is not employed at the gaming enterprise for thirty (30) consecutive days. Notwithstanding this automatic expiration, the Commission may, in its discretion and for good cause shown, revoke a license or work permit at any time before or after it automatically expires. Such revocation shall be retroactive to the date of termination from employment. Good cause for revocation includes, but is not limited to, the criteria for denial or revocation of a license or work permit set forth in Section O or Section P below.

- O. The Commission shall deny or revoke licenses or work permits of persons or entities whose prior activities, criminal record, or records, habits, or associations pose a threat to the public interest or to the effective regulation of gaming or create or enhance the dangers of unsuitable, unfair or illegal practices and activities in connection with gaming activities. All licenses, permits, findings of suitability and approvals by the Commission shall be subject to periodic random review, in whole or in part, to verify continuing compliance with applicable regulations.
- P. Without limiting the foregoing, the Commission shall deny or revoke licenses or permits to persons:
1. Who have been convicted of a felony in any jurisdiction;
 2. Who have been convicted of a violation or conspiracy to violate the provisions of Title XV of the Choctaw Tribal Code or the Indian Gaming Regulatory Act or other federal laws relating to involvement in gaming without required licenses or permits or willful evasion of gaming fees or taxes;
 3. Having a notorious or unsavory reputation or association with such individuals which adversely affect public confidence and trust in gaming;
 4. Whose license or work permit would violate conflict of interest rules in Ordinance 76; or
 5. Who are under the age of twenty-one (21). However, applicants eighteen (18) and older may hold a restricted gaming work permit.
- Q. Each license or permit holder shall report any arrest or conviction to the Commission within ten (10) days after such conviction or arrest. Failure to do so will be grounds for suspension or revocation of the license or work permit.
- R. The Commission may utilize in its review process of licenses and work permits any resources, either in-house or by contract, as it deems necessary in light of the nature and extent of the review being conducted.
- S. The Commission shall maintain a file listing all applications for all Class II and Class III gaming licenses and work permits and a record of all its actions on such applications, and such record shall not be confidential. The Commission shall place the necessary privacy and false statement notices on all applications for licenses or work permits in the forms set forth at 25 C.F.R. 556 (556.2 and 556.3). Except as otherwise provided herein, confidential information is prohibited from public disclosure by the Commission, the Mississippi Gaming Commission or by individual members or employees of either Commission. Records containing confidential information, whether in whole or in part, shall not be included as sections of or attachments to budget documents, annual reports, minutes or audit findings by the

Commission. Copies of confidential records may be forwarded to the National Indian Gaming Commission upon the written request of that agency or in compliance with the appropriate reporting requirements of the Indian Gaming Regulatory Act or regulations promulgated thereto.

Confidential information includes:

1. Records and financial data acquired by the Commission in carrying out its background investigations of potential gaming entities, primary management officials, key employees, gaming employees and any other person or business entity investigated by the Commission;
2. The identity of persons interviewed during the course of such investigations;
3. Proprietary financial data or trade secrets;
4. Any application form submitted by an applicant seeking a license or permit as well as any supporting documentation provided in conjunction with an application; and
5. Any other category of information deemed confidential by regulations adopted by the Commission or by order of the Commission.

Notwithstanding the foregoing, if a person executes a release of confidential information, the Commission may provide that information to the recipient designated by the person. Further, the Commission may use information otherwise deemed confidential in any administrative or judicial proceeding brought by an applicant for any action taken by the Commission.

- T. The Commission shall provide to all applicants for licenses, permits, or findings of suitability the forms for such application. Unless otherwise specified in these regulations, or by order of the Commission with regard to a particular application for a license or permit, no application shall be accepted except on a form approved by the Commission.
- U. The Commission may require any vendor, or a subcontractor of a vendor, before the vendor contracts with a gaming enterprise to provide goods and/or services, to obtain a vendor license, regardless whether the goods or services provided are gaming related.
- V. Any gaming enterprise shall require, in its contracts with any third party, that the third party employ to work on the premises only such person who is greater than eighteen (18) years of age and is not a convicted felon. For such employee who is eighteen (18) years of age, but less than twenty-one (21) years of age, the third party shall identify the employee to gaming enterprise security and security shall escort such employee through the gaming floor when necessitated by such employee's job duties.

- W. Upon notification from the Gaming Commission that an individual has not met the eligibility requirements for a valid gaming license or work permit, the gaming enterprise shall immediately suspend the employment of that individual.

SECTION 2 TYPES OF LICENSES AND FEES

- A. Applicants for the following licenses and permits shall pay to the Commission a non-refundable application fee in an amount determined by order of the Commission:
1. *Facility License* authorizes the holder to conduct Class II or Class III gaming at a particular location in accordance with the criteria set forth in the Commission Gaming Facility Standards.
 2. *Gaming Management Contractor License* authorizes a natural person or business entity to conduct business on the licensed premises in accordance with the gaming management contract and all applicable statutes and regulations.
 3. *Primary Management Official License* authorizes a natural person meeting the description set forth at 25 CFR 502.19, the Tribal-State Compact, and/or Choctaw Tribal Code Section 15-1-14(4) to be employed by a gaming enterprise.
 4. *Finding of Suitability* is a finding by the Commission that the holder is suitable to be associated with a gaming enterprise or a manufacturer or distributor of gaming devices or associated equipment.
 5. *Key Employee License* authorizes the holder to work as a key employee.
 6. *Distributor of Gaming Devices License* authorizes the holder to lend, lease, sell, give or distribute any gaming device for use or play on lands subject to the jurisdiction of Mississippi Band of Choctaw Indians.
 7. *Distributor of Associated Equipment License* authorizes the holder to lend, lease, sell, give or distribute any associated equipment for use on lands subject to the jurisdiction of Mississippi Band of Choctaw Indians.
 8. *Manufacturer of Gaming Devices License* authorizes the holder to manufacture, assemble, or modify any gaming device for use or play on lands subject to the jurisdiction of Mississippi Band of Choctaw Indians.
 9. *Manufacturer of Associated Equipment License* authorizes the holder to manufacture, assemble, or modify any associated equipment for use on lands subject to the jurisdiction of Mississippi Band of Choctaw Indians.
 10. *Vendor License* authorizes a vendor, or a subcontractor of a vendor, to provide goods and/or services to a gaming enterprise. In its discretion, the Commission may place limitations and/or conditions on such licenses, including, but not limited to, requiring prior approval before a vendor uses a particular subcontractor for work at the Tribe's gaming enterprise.

11. *Junket Representative License* authorizes the holder to contract with a gaming enterprise to provide services consisting of arranging transportation or lodging for preferred guests at the licensed premises in exchange for a fee based on the preferred guest's theoretical win to the facility.
 12. *Gaming Work Permit* authorizes a gaming employee who is not required to be licensed as a primary management official or key employee to work as a gaming employee.
 13. *Restricted Gaming Work Permit* authorizes a non-gaming employee to work for a gaming enterprise but limits the areas the non-gaming employee may access.
- B. Fees or costs for applications for licenses, permits or findings of suitability shall be paid by the applicant to the Commission in the manner prescribed by the Commission. The Commission will take no final action to approve any application unless all application and investigative fees and costs have been paid in full or satisfactory arrangements have been made with the Commission for payment. The Commission may deny any application if the applicant has failed or refused to pay all application and investigative fees and costs or failed or refused to enter into satisfactory arrangements with the Commission for payment.
- C. If the Commission determines that investigative costs or fees exceed the amounts set by order of the Commission for the type of license or permit listed above for any particular applicant, the Commission may notify the applicant in writing of the estimated costs to be incurred or actual costs incurred by the Commission and require the applicant to pay such estimated or actual costs to the Commission prior to final action on the application.

SECTION 3 RULES CONCERNING AMENDMENT TO APPLICATIONS

- A. It is grounds for denial of an application or for disciplinary action for any license or permit applicant, whether an initial applicant or a renewal applicant, to: (1) make any untrue statement of material fact in any application, notice, statement or report filed with the Commission in compliance with the provisions of applicable law and regulations, or (2) willfully to omit to state in any such application, notice, statement or report any material fact which is required to be stated therein, or (3) omit to state a material fact necessary to make the facts stated, in view of the circumstances under which they were stated, not misleading.
- B. All information included in an application by any applicant must be true and complete as of the date of submittal of the application by the applicant to the Commission, and an applicant shall promptly supply by amendment any information based on facts occurring after the original application necessary to make the information in the application not misleading as of the date that the Commission takes action on the application.
- C. An application may be amended in any respect by leave of the Commission at any time prior to final action thereon.
- D. In the discretion of the Commission, any amendment to an application may be deemed to have the effect of establishing the date of such amendment as the new filing date of such application.
- E. An amendment to an application filed after the date on which the Commission has taken the action sought by such application, if such amendment is approved by the Commission, shall become effective on such date as the Commission may determine, having due regard for the public interest.
- F. Any document filed under any of the provisions of Title XV of the Choctaw Tribal Code, the Indian Gaming Regulatory Act, or regulations related thereto may be incorporated by reference in a subsequent application if it is available in the files of the Commission, to the extent that the document is currently accurate.
- G. The Commission may summon any person that files an application for a license or permit to appear and testify before them at such time and place as they may designate. All such testimony shall be under oath and may embrace any matter which the Commission deems relevant to the application. Failure to appear and testify fully at the time and place designated, unless excused, constitutes grounds for denial of the application without further consideration by the Commission. Any request for excusal of appearance must be in writing, for good cause shown, and filed with the Commission Chair sufficiently prior to the scheduled appearance for the Commission to evaluate the request. The granting of such excusal is within the sole discretion of the Commission Chair.

- H. After submitting an application for a license or permit to the Commission, an applicant must cooperate with the Commission investigation in determining the eligibility of the applicant for a license or permit. Failure of an applicant to reasonably cooperate with Commission personnel in an investigation shall be grounds for the Commission's denial, revocation, or suspension of a license or permit.

SECTION 4 WITHDRAWAL OF APPLICATION, LICENSE OR PERMIT

- A. A request for voluntary withdrawal of an application, license or permit may be made at any time by filing a written request to withdraw with the Commission Chair.
- B. The Commission Chair may, in his discretion, deny the request, or grant the request with or without prejudice. If a request for withdrawal is granted with prejudice, the Commission Chair may, in his discretion, determine how long the applicant or holder must wait before being eligible to apply again for a license or permit.
- C. The Commission Chair shall notify the applicant or holder in writing whether its request has been granted with or without prejudice or denied.

SECTION 5 FINDINGS OF SUITABILITY

- A. Title XV of the Choctaw Tribal Code, the Tribal-State Compact and the Indian Gaming Regulatory Act and any regulations promulgated thereunder may permit or require the Commission to make findings of suitability to be directly and actively associated with a gaming enterprise or manufacturer or distributor of gaming devices or associated equipment. If the nature or facts regarding any findings of suitability or approval changes from that for which the original findings or approval was made, the Commission may require a new determination.

- B. Whenever it is the judgment of the Commission that the interests of Mississippi Band of Choctaw Indians will be served by requiring any employee of a gaming operator or licensee to be found suitable, the Commission shall serve notice of such determination upon the gaming operator or licensee.

- C. The holder of a finding of suitability must file with the Commission an Annual Report, providing all information and documentation requested on forms provided by the Commission.

SECTION 6 DEATH, DISABILITY, OR INSOLVENCY OF A LICENSEE OR PERMIT HOLDER

- A. Licenses or permits issued by the Commission are not assignable.
- B. In the event the Commission becomes aware of the death of a natural person who is a licensee or permittee, or of a disability that renders a natural person unable to do the work for which he is licensed or permitted, as established by an applicable administrative or judicial order, the license or permit shall be considered automatically revoked at the time of the death or date of order confirming such disability. A gaming operator that becomes aware of such death or disability of a natural person shall immediately notify the Commission.
- C. Any business entity that holds a license issued by the Commission shall, within ten (10) days of execution of an agreement for the change of control or ownership of the licensee or immediately, if no such agreement exists, inform the Commission Chair of such event and provide such information as requested by the Commission. The Commission may require that a new license be obtained prior to such change of control or ownership or may issue a temporary permit for such period as the Commission deems warranted. For a business entity “change of control or ownership” refers to a transfer of ownership or control of greater than ten percent (10%) ownership or beneficial interest from the date the license is issued.
- D. A business entity holding a license issued by the Commission, shall notify the Commission Chair as soon as practicable of a filing placing it under the jurisdiction of the bankruptcy court, but in no event shall such notice be more than ten (10) days after such filing. Such notice shall be given verbally and in writing. The licensee shall provide such other information that the Commission may request. Such event shall constitute a change of ownership and control, pursuant to paragraph 6.C. above.
- E. In the event of the filing for bankruptcy by an employee who holds a license or permit issued by the Commission, the holder of the license or permit shall notify in writing the Commission Chair of such filing within ten (10) days of filing such petition for relief. The licensee or permittee shall provide such other information as the Commission may request. Such a filing may be grounds for suspension or revocation of the employee’s license or permit depending on the circumstances.
- F. Failure of a licensee or permittee to notify the Commission Chair in accordance with the provisions of subsections C, D, and E of this Section 6 shall be grounds for the suspension or revocation of the license or permit.

SECTION 7 APPLICATION PROCESS

- A. For all licenses and permits, the Commission shall make available an application form to be completed by the applicant and be submitted to the Commission within the time allowed.
- B. The following notice shall appear in bold lettering on the face of the application form for primary management official, key employee, gaming employee, finding of suitability and non-gaming employee:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply an SSN may result in errors in processing your application.

- C. The following notice shall appear on the application form in bold lettering above the signature line for primary management official, key employee, gaming employee, finding of suitability and non-gaming employee:

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, Title 18, Section 1001).

- D. A completed application shall include all documentation and other information specified or required in the application. If required documentation cannot be provided, the applicant shall provide a detailed description of the circumstances preventing provision of such documentation. An incomplete application may be accepted or denied in the sole discretion of the Commission.
- E. For all licenses, other than facility licenses, the Commission shall conduct its investigation, as appropriate with regard to the classification of the applicant. The investigation may include:

1. Verification and review of the applicant's prior activities;
 2. Verification and review of the applicant's prior criminal record. Criminal history verification shall include a check through the Federal Bureau of Investigation National Criminal Information Center;
 3. Inquiry into the reputation, habits and associations of the applicant;
 4. Verification that the applicant does not violate any provisions of Section 15-1-17 of Title XV of the Choctaw Tribal Code or the Indian Gaming Regulatory Act;
 5. Verification of compliance with the provisions of 25 CFR 558 ;
 6. Verification of compliance with the provisions of 25 CFR 556;
 7. Such other inquiries and determinations as the Commission deems necessary and appropriate;
 8. Obtaining fingerprint impressions from all applicants for a license. All fingerprint impressions shall be accompanied by a "Fingerprint Certification Card Verification" form to be provided by the Commission. Copies of all fingerprint impressions for positions for which the NIGC will conduct a background check shall be sent directly to the National Indian Gaming Commission for completion of a NIGC/FBI background check. For positions where the NIGC will not conduct a background check, the Commission will conduct a background check by means the Commission determines is appropriate; and
 9. Any other requirements of the Tribal-State Compact, the IGRA, NIGC regulations or Title XV.
- F. For all licenses, other than facility licenses, the Commission, upon completion of the investigative process, shall prepare an investigative report which shall include the following:
1. Steps taken in conducting a background investigation;
 2. Results obtained;
 3. Conclusions reached;
 4. Basis for those conclusions;
 5. Findings concerning eligibility of the applicant; and

6. Approval or disapproval of the application.
- G. Before a license is issued to a primary management official or key employee, an authorized Commission official shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations. For all key employees and primary management officials, the Commission shall issue to the NIGC a notice of the results of all background investigations provided, however, the Commission shall not have to comply with this requirement with regard to key employees and primary management officials for whom the NIGC does not conduct background checks.
 - H. Upon receipt of an application for a facility license, the Commission shall review such application, and act upon such, in accordance with the criteria set forth in Tribal Council Resolution CHO 10-102 and any amendments thereto, and 25 CFR 559.
 - I. In performing its investigation and review with regard to any license, permit or finding of suitability, the Commission may utilize its own resources, contract with competent and recognized private companies, utilize the resources of the Choctaw Department of Public Safety or other agencies of the Mississippi Band of Choctaw Indians, and, pursuant to the Tribal-State Compact, the resources of the Mississippi Gaming Commission.

SECTION 8 APPLICATION PROCESS: WORK PERMITS

- A. Gaming and non-gaming work permit applications shall be completed on the form provided by the Commission and include such documentation and information specified in the application.
- B. Fingerprint impressions shall be obtained from all applicants for a work permit. Fingerprint impressions shall be accompanied by a “Fingerprint Certification Card Verification” form to be provided by the Commission.
- C. The applicant shall sign a written statement certifying that the applicant is not automatically disqualified for a work permit in accordance with Section 15-1-17 of the Choctaw Tribal Code.
- D. An applicant for a work permit shall pay the application fee established by the Commission.
- E. For all permits, the Commission shall conduct its investigation, as appropriate with regard to the classification of applicant. The investigation may include:
 - 1. Verification and review of the applicant’s prior activities;
 - 2. Verification and review of the applicant’s prior criminal record by means that the Commission determines is appropriate;
 - 3. Inquiry into the reputation, habits and associations of the applicant;
 - 4. Verification that the applicant does not violate any provisions of Section 15-1-17 of Title XV of the Choctaw Tribal Code or the Indian Gaming Regulatory Act;
 - 5. Such other inquiries and determinations as the Commission deems necessary and appropriate; and
 - 6. Obtaining fingerprint impressions from all applicants for a license. All fingerprint impressions shall be accompanied by a “Fingerprint Certification Card Verification” form to be provided by the Commission.
- F. The Commission shall forward a copy of all applications for Class III gaming work permits to the Mississippi Gaming Commission prior to granting the work permit.
- G. The Commission may either grant or deny the work permit based upon its investigation and review of the application.
- H. Compliance with any other requirements of the Tribal-State Compact, the IGRA, NIGC regulations, or Title XV.

- I. In performing its investigation and review with regard to any work permit, the Commission may utilize its own resources, contract with competent and recognized private companies, utilize the resources of the Choctaw Department of Law Enforcement or other agencies of the Mississippi Band of Choctaw Indians, and pursuant to the Tribal-State Compact, the resources of the Mississippi Gaming Commission.

SECTION 9 AUDIT OF VENDORS

- A. Vendors providing goods or services to a gaming enterprise shall agree to be subject to an audit by the Commission or the gaming enterprise of the goods and services provided, the value of such goods and services and verification of compliance with the conflict of interest policies of the Tribe, Commission and gaming enterprise. The vendor shall provide such documentation as necessary for the audit. The Commission or the gaming enterprise shall have the authority to terminate any agreement for goods or services if the vendor refuses to submit to an audit, or the Commission or the gaming enterprise finds the agreement is detrimental to the reputation of the gaming enterprise, violates a conflict of interest policy, or is unconscionable. Any such termination by the Commission or the gaming enterprise shall be without recourse to the Tribe, Commission or gaming enterprise.