



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

MAY - 1 2013



Ms. Janice Prairie Chief-Boswell  
Cheyenne-Arapaho Tribes  
Office of Tribal Council  
P.O. Box 38  
Concho, Oklahoma 73022

Dear Ms. Prairie Chief-Boswell:

On April 8, 2013, our office received a proposed Settlement Agreement (Agreement) between the State of Oklahoma (State) and the Cheyenne-Arapaho Tribes (Tribes). The letter from the Tribes' attorney covering the Agreement states that "neither Party believes it must be approved pursuant to the Indian Gaming Regulatory Act," while also stating "that the Agreement is being treated by the Parties as an Addendum to the Compact." In looking over the Agreement, it appears that its terms are intended to amend the Tribes' existing Class III gaming compact approved by the Department on March 16, 2005 (Compact). *See* Letter to Honorable William Blind, Chairman, Cheyenne-Arapaho Tribes from George T. Skibine, Deputy Assistant Secretary - Policy and Economic Development; *see also* Notice of Approved Tribal-State Compacts, 70 Fed. Reg. 18041 (April 8, 2005). In particular, the Agreement provides for substantive modifications to the Compact involving revenue sharing and expanded scope of gaming to include Internet gaming, in addition to other technical changes. Unfortunately, we are returning the Agreement to you because it is incomplete due to the lack of accompanying documentation required by the Department's regulations at 25 C.F.R. Part 293 governing submission and review of gaming compacts and amendments.

The Indian Gaming Regulatory Act, 25 U.S.C. 2701-2721 (IGRA), gives the Secretary 45 days to review and approve proposed compacts. 25 U.S.C. § 2710 (d)(8)(C). The Department has applied the same review and approval requirements to compact amendments since the enactment of IGRA. In 2008, we codified this long-standing policy at 25 C.F.R. § 293.4 by providing that "all amendments, regardless of whether they are substantive compact amendments or technical amendments, are subject to review and approval by the Secretary." In order to insure that all compacts or amendments we receive have been "entered into" by the responsible party, our regulations require that both a tribal approval resolution and certification from the state that its representative was authorized to enter into the agreement be included with all submissions. 25 C.F.R. §§ 293.8 (b) and (c).

We were unable to locate a tribal resolution or other document stating that the Tribe has approved the amendment in accordance with applicable tribal law. Similarly, we did not find a certification or other explanation from the State indicating that the Governor is empowered under the laws of the State of Oklahoma to bind the state to the proposed amendment. We find that the Agreement, as submitted without accompanying documentation required by our regulations, is

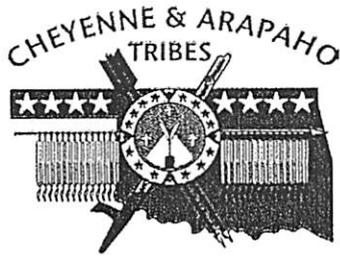
not properly before us and the 45-day review period provided by IGRA was not triggered on April 8, 2013, the date of its receipt by the Office of Indian Gaming.

We are returning the Agreement to the Tribe in order to allow the Tribe and the State to submit a complete set of documents in compliance with the requirements of 25 C.F.R. Part 293. We look forward to the opportunity to review the Agreement in the future.

A similar letter is being sent to the Honorable Mary Fallin, Governor, State of Oklahoma.

Sincerely,

*for*   
Paula L. Hart  
Director, Office of Indian Gaming



**FILED**  
APR 05 2013  
OKLAHOMA SECRETARY  
OF STATE



**SETTLEMENT AGREEMENT BETWEEN**  
**THE STATE OF OKLAHOMA**  
**AND THE CHEYENNE-ARAPAHO TRIBES**

This Settlement Agreement ("Agreement") is entered into by and between the State of Oklahoma ("State") and the Cheyenne-Arapaho Tribes of Oklahoma (collectively "Tribes") (all of which are hereafter collectively referred to as "the Parties"), through their authorized representatives.

**RECITALS**

A. The Parties have previously entered into a *State Tribal Gaming Compact*, published in the Federal Register, Vol. 70, No. 67, Friday, April 8, 2005, and filed with the Oklahoma Secretary of State on March 30, 2006.

B. The Tribes are currently operating an online website [www.pokertribes.com](http://www.pokertribes.com). The State contends that as currently operated, this website, and other similar electronic practices, materially violate the State Tribal Gaming Compact.

C. Part 12 - Dispute Resolution of the State Tribal Gaming Compact states that it is the goal of the parties to "resolve all disputes amicably and voluntarily." Therefore, due to the high regard with which each sovereign holds the other, to avoid the delay, uncertainty, inconvenience, and expense of protracted arbitration and litigation of the above dispute, and in consideration of the mutual promises and obligations of this Agreement, the Parties hereby agree and covenant as follows.

## STIPULATIONS

1. IT IS HEREBY STIPULATED BY THE PARTIES, that any gaming by the Tribes, in all physical and electronic forms, is covered conduct under the State Tribal Gaming Compact.

2. IT IS HEREBY STIPULATED BY THE PARTIES, that gaming by the Tribes, regardless of the location of any portion of a gaming transaction, is covered conduct under the State Tribal Gaming Compact.

3. IT IS HEREBY STIPULATED BY THE PARTIES, that all forms of internet and/or electronic gaming by individual players, who are not physically present at all times in a facility located entirely on Indian lands as defined by IGRA, is covered conduct under the State Tribal Gaming Compact, but is not permissible and is prohibited if the individual player(s) are located or reside within the boundary of the United States and its territories during any portion of a gaming transaction.

4. IT IS HEREBY STIPULATED BY THE PARTIES, that all forms of internet and/or electronic gaming by individual players, who are not physically present at all times in a facility located entirely on Indian lands as defined by IGRA, is covered conduct under the State Tribal Gaming Compact, and is permissible if the individual player is located or resides outside the boundary of the United States and its territories during the entirety of a gaming transaction pursuant to the attached technical standards of play. *See Attached Addendum.*

5. IT IS HEREBY STIPULATED BY THE PARTIES, that violation of any of these stipulations, would constitute a *per se* material breach of the State Tribal Gaming Compact and be subject to the breach of contract remedy of termination. Such a termination would void any and all contracts and agreements between the State and the Tribes related to Class III Gaming.

6. IT IS HEREBY STIPULATED BY THE PARTIES, that these stipulations constitute the understanding of each of the Parties to the State Tribal Gaming Compact as to the intent and interpretation of existing Compact terms and shall be considered only statements of intent and/or clarification, not modifications of Compact terms. Further, these stipulations and this Settlement Agreement in no way expands or modifies Compact standards already in existence.

## TERMS AND CONDITIONS

7. The Parties agree and acknowledge that Part 11 of the State Tribal Gaming Compact provides that in exchange for certain limitations on State action the Tribes are obligated to pay certain agreed fees. The Parties agree that the State has continuously maintained its' Compact obligations and the Tribes agree to pay certain fees associated with all forms of internet and/or electronic gaming by individual players, who are not physically present at all times in a facility located entirely on Indian lands as defined by IGRA, but are located or reside outside the boundary of the United States and its territories during the entirety of a gaming transaction.

8. The Tribes covenant and agree to pay to the State twenty percent (20%) of all gaming revenues generated by all forms of internet and/or electronic gaming by individual players, who are not physically present at all times in a facility located entirely on Indian lands as defined by IGRA, but are located or reside outside the boundary of the United States and its territories during the entirety of a gaming transaction.

9. The State agrees that any other federally recognized tribe with a valid State-Tribal Gaming Compact with the State may permissibly conduct internet and/or electronic gaming by individual players who are not physically present at all time in a facility located entirely on Indian lands as defined by IGRA, but are located or reside outside the boundary of the United States and its territories during the entirety of the gaming transaction only upon entering into a Settlement Agreement with the State.

10. The Parties further agree that twenty percent of all gaming revenues with respect to online activities that require no traditional brick and mortar operating expenses roughly equates to the ten percent maximum allowable under the State-Tribal Gaming Compact. Each party agrees that twenty percent is equitable.

11. The Tribes agree all payments shall be made in accordance with State Tribal Gaming Compact provisions and all depository financial transactions related hereto shall be done in a financial institution located within the State of Oklahoma.

12. Each Party agrees that any determination by a Court or Governmental Agency, whether Tribal, Federal, or State, that purports to sever ¶ 8 above will not effect this Agreement as both Parties agree that this Agreement is settlement of a dispute between the State and the Tribes and, as such, is not subject to any approval pursuant to the Indian Gaming Regulatory Act.

12. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and negotiation of this Agreement.

13. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

14. This Agreement is governed by the choice of law provisions contained within the State Tribal Gaming Compact.

15. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by both Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

16. This Agreement constitutes the complete agreement between the Parties with respect to the issues addressed herein. This Agreement may not be amended except by signed written consent of the Parties.

17. The undersigned represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated herein.

18. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

19. This Agreement is binding on the Parties successors, transferees, heirs, and assigns.

20. State and Tribes agree that the approval of the National Indian Gaming Commission, the Bureau of Indian Affairs, and the Department of the Interior may be beneficial, but is not necessary for this Agreement to be in full force and effect.

21. State and Tribes agree that either Party may, at their discretion, submit this Settlement Agreement to the Department of the Interior for clarification purposes as an Addendum to the original State-Tribal Gaming Compact. Provided, however, that no action or inaction on behalf of the Department of the Interior is required for this Agreement to be in full force and effect.

22. Notwithstanding any other provision herein, the Parties agree that should any other entity or federally recognized tribe located within the State of Oklahoma be allowed, through agreement or otherwise, to operate internet gaming on terms of revenue and/or scope (including but not limited to geographical location of individual player(s)) different than those contemplated herein, such more favorable terms shall, at the option of the Tribes, automatically be incorporated herein.

23. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

24. This Agreement will terminate in conjunction with the State-Tribe Gaming Compact between the State of Oklahoma and the Cheyenne and Arapaho Tribes, which was published in the Federal Register, Vol. 70, No. 67, Friday, April 8, 2005, and filed with the Oklahoma Secretary of State on March 30, 2006.

IT IS AGREED:

Each of the undersigned represents that they are duly authorized, and has the authority, to execute this agreement on behalf of the designated party.

**STATE OF OKLAHOMA**

Mary Fallin 4-5-13  
MARY FALLIN, GOVERNOR DATE

(Attest: Randy V. Pannell  
Secretary of State

**CHEYENNE-ARAPAHO TRIBES**

Janice Prairie-Chief-Boswell 4-5-13  
JANICE PRAIRIE-CHIEF BOSWELL, GOVERNOR DATE