

Supporting Statement for Paperwork Reduction Act Submissions

Gaming on Trust Lands Acquired After October 17, 1988, 25 CFR 292

OMB Control Number 1076-0158

Terms of Clearance: “None”

General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When Item 17 of the OMB Form 83-I is checked "Yes", Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

In accordance with authority set forth in 5 U.S.C. 301, 25 U.S.C. 2, 25 U.S.C. 9 to prescribe regulations and in accordance with 25 U.S.C. 2701 the Indian Gaming Regulatory Act (IGRA), the proposed rule establishes specific procedures at 25 CFR Part 292 for the submission of an application from an Indian tribe seeking to conduct gaming on land acquired in trust after October 17, 1988. This on-going collection has been cleared under the guidelines developed to aid the tribes seeking to establish gaming on their trust lands regardless of when the trust lands were acquired. In order to give more particular guidance for those lands acquired after October 17, 1988, a rule was proposed. A decision was made by the last administration to stop working on the rule. Because we had guidelines that were used to make decisions on gaming on trust lands, a decision to proceed with finalizing the rule was not made. A determination has now been made to proceed with finalizing the rule.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. [Be specific. If this collection is a form or a**

questionnaire, every question needs to be justified.]

The information collection requests the information necessary for an adequate application from an Indian tribe seeking to conduct gaming on land acquired in trust after October 17, 1988,

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden [and specifically how this collection meets GPEA requirements].**

During December, 2001, Indian Affairs (IA) was forced to disconnect from the internet by a court order issued by the judge in the Cobell litigation. Hence, IA cannot implement GPEA until reconnection to the internet is completed.

The information contained in an application submitted by an Indian tribe to conduct gaming on trust lands acquired after October 17, 1988, is unique to each tribe. Electronic submission is not practical at this time. Storage of applications to conduct gaming on trust lands after October 17, 1988, are approved and located at Central Office because authority has been delegated to the Principal Deputy Assistant Secretary – Indian Affairs by part 290 of the Departmental Manual.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

Duplication of information submitted on an application from an Indian tribe seeking to conduct gaming on trust lands acquired after October 17, 1988, cannot be identified. Each application submission will contain information unique to a particular tribe. No other Federal Agency has authority under IGRA to approve an application from an Indian tribe seeking to conduct gaming on trust lands acquired after October 17, 1988.

- 5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

While this collection takes 1,000 hours, much information is needed to show not only the benefit to the tribe but the lack of harm to the surrounding community, which requires much research; thus the only information requested will be the minimum to reach a decision on the request.

- 6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

We require only the information that will ensure that the provisions of IGRA, Federal law and the trust obligations of the United States are met and nothing more. Therefore, we cannot reduce the burden. The information is collected one time only.

7. **Explain any special circumstances that would cause an information collection to be conducted in a manner:**
- * *requiring respondents to report information to the agency more often than quarterly;*
 - * *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
 - * *requiring respondents to submit more than an original and two copies of any document;*
 - * *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;*
 - * *in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*
 - * *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
 - * *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
 - * *requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

There are no exceptions to 5 CFR 1230.5(d)(2).

8. **If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice [and in response to the PRA statement associated with the collection over the past three years] and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. [Please list here the names, titles, addresses, and phone numbers of persons contacted. One or two should be sufficient.]

The proposed information collection was published on October 25, 2006, (71 FR 62485) and solicited comments on the information collection. No comments were received. However, we contacted James Schoessler, a tribal attorney. He agrees with the estimated annual burden. He can be contacted at, 1360 Energy Park Drive, St. Paul, MN 55108, telephone (651) 644-4710.

9. **Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

Not applicable. No payments or gifts will be provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Not applicable. No assurances of confidentiality are provided as part of FOIA/Privacy Act.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

Not applicable. No sensitive or private information is requested.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- * Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- * If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
- * Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.**

Annual reporting and record keeping burden for this collection of information is estimated to average 1000 hours for each of approximately 2 respondents. This includes the time for reviewing instructions, researching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Because this is a one-time submission, the total annual reporting for this collection is estimated to be 2000 hours.

There are no specific forms to be completed by respondents. Estimated initial cost to respondents is approximately \$100 per hour. Annual cost is approximately \$100,000 each X 2= \$200,000 cost burden annually.

13. Provide an estimate of the total annual [non-hour] cost burden to respondents or

recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- * The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- * If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- * Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

Record maintenance cost for respondent is minimal and would be considered a part of their gaming business. There are no additional costs incurred. The tribes that choose to use any electronic means may do so because they routinely use electronics for normal tribal government functions.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

Cost to the Federal government is associated with the review and approval of a tribe's application for a Secretarial determination that a gaming establishment on land acquired in trust after October 17, 1988, would be in the best interest of the tribe and its members and not detrimental to the surrounding community. The average time for review of an application is 1000 hours with respondents estimated at 2 per year. This includes reviewing staff, supervisor, attorneys and approving officials. The estimated average hourly rate is \$50.00. Approximate annual cost is: 2 Applications x 1000 hours = 2000 hours x 50 = \$100,000

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Number of respondents annually	Hours Per Response	Hours x salary = Cost Burden	Start Up and O&M	Hour Burden for Federal Gov't for 2 cases	Cost per hour x 2 = Federal Gov't cost
2	1000	1000 x \$100 = 100,000 x 2 = \$200,000	0	1000 hours x 2 = 2000 Total Hours	\$50/hour x 2000 Hours = \$100,000

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

There are no changes to this collection.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

A notice in the federal register will publicize any approvals but will not be detailed.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The OMB number and expiration date will be displayed in the record along with the required Paperwork Reduction Act statements.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

Not applicable. We will display the OMB Control Number and Expiration Date.