

**SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSIONS**  
**Tribal Revenue Allocation Plans, 25 CFR 290**  
**OMB Control Number 1076-0152**

**Terms of Clearance: None.**

**A. JUSTIFICATION**

- 1. Explain the circumstances that make the collection 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.**

The Indian Gaming Regulatory Act (IGRA) 25 U.S.C. 2701 *et seq.*, Section 2710 (b)(3)(B) requires that net revenues from any tribal gaming are not to be used for purposes other than, ( i) to fund tribal government operations or programs; (ii) to provide for the general welfare of the Indian tribe and its members; (iii) to promote tribal economic development; (iv) to donate to charitable organizations; or (v) to help fund operations of local government agencies. Section 2710 (b)(3) of the IGRA further provides, “that net revenues may be used to make per capita payments to members of an Indian tribe only if:

- the Indian tribe has prepared a plan to allocate revenues to uses for tribal government operations and economic development,
- the plan is approved by the Secretary as adequate, particularly with respect to the uses to fund tribal government operations and programs and to promote tribal economic development,
- the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare, or the minor or other legally incompetent person under a plan approved by the Secretary and the governing body of the Indian tribe; and
- the per capita payments are subject to Federal taxation and tribes notify members of such tax liability when payments are made.”

The regulations implementing these requirements, 25 CFR 290, establish a method for the submission, review and approval of tribal revenue allocation plans in a timely manner.

Section 290.12 of the regulations establishes what information the tribal revenue allocation plan must contain.

Section 290.17 of the regulations establishes what documents must be included with the tribal revenue allocation plan.

Section 290.24 of the regulations establishes that revisions/amendments to a tribal revenue allocation plan must be submitted for approval in order to ensure compliance with 290.12 and the IGRA.

Section 290.26 of the regulations establishes that revisions or amendments to a previously approved tribal revenue allocation plan must be submitted for review and approval under these regulations.

**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.**

Office of Indian Gaming personnel use the information submitted by Indian tribes as part of the tribal revenue allocation plans to ensure that the criteria in 25 CFR § 290.12(b) are met. These criteria require that the plan:

(1) Reserve an adequate portion of the net gaming revenues from the tribal gaming activity for one or more of the following purposes: (i) to fund tribal government operations or programs; (ii) To provide for the general welfare of the tribe or its members; (iii) to promote tribal economic development; (iv) to donate to charitable organizations; or (v) to help fund operations of local government;

(2) Contain detailed information to allow Office of Indian Gaming personnel to determine that it complies with regulatory and IGRA requirements (particularly regarding funding for tribal governmental operations or programs and economic development;

(3) Protect and preserve the interests of minors and other legally incompetent persons who are entitled to receive per capita payments;

(4) Describe how the tribe will notify members of the tax liability for per capita payments and how the tribe will withhold taxes in accordance with IRS regulations;

(5) Authorize the distribution of per capita payments to members according to specific eligibility requirements and utilize or establish a tribal court system, forum or administrative process for resolution of disputes concerning the application of net gaming revenues and distribution of per capita payments.

**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.] Does the collection involve the use of electronic technology to reduce the burden?**

This collection of information does not involve the use of automated, electronic, mechanical, or other technological collection techniques. Automated submissions are not feasible because the information contained in a tribal revenue allocation plan is unique to each tribe. Tribes may use electronic means to prepare their responses. Nothing precludes the tribe from using any electronic system to submit via e-mail; however, tribes choose to submit in hard copy because it is easier to include the signed tribal resolution and other attachments in hard copy than to convert them to an electronic format. Tribal revenue allocation plans are approved and located at Central Office because authority has been delegated to the 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.**

Each plan contains information unique to a particular tribe, and the tribe does not otherwise provide this information to the Department of the Interior or any other Federal agency. In accordance with the IGRA, each tribe must submit a tribal revenue allocation plan if it intends to make per capita payments to members of the Indian tribe. No other Federal Agency has authority under IGRA to approve tribal revenue allocation plans for Indian tribes.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

This information is being collected from tribal governments, who are not considered to be small entities.

**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.**

Without this information collection, Office of Indian Gaming personnel cannot ensure that the provisions of IGRA and implementing regulations are met. The information that must be submitted is established by law. Therefore, we cannot reduce the burden. The information is collected when the tribal revenue allocation plan is submitted.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

There are no special circumstances that would require us to collect the

information in a manner inconsistent with OMB guidelines.

**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 number of persons contacted. One or two should be sufficient.]**

The notice providing a 60-day public comment period on this information collection was published on April 22, 2009 at 74 FR 18392. No comments were received in response to that notice or over the past three years.

The following persons outside the agency were contacted 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:

- Kurt Bluedog, Attorney, 5001 West 80<sup>th</sup> Street, Suite 500, Minneapolis, MN 44537, telephone (952) 893-1813; and
- Mark Anderson, Attorney, 1360 Energy Park Drive, Suite 210, St. Paul, MN 55108, telephone (651) 644-4710.

To summarize, both Mr. Bluedog and Mr. Anderson felt the purpose of the information collection was necessary in order to obtain approval of a Tribal Revenue Allocation Plan and further indicated that they felt that the information requested was no more than was necessary.

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

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.**

No assurances of confidentiality are provided.

**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.

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 then aggregate the hour burdens.**

**\* 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.**

**What do you estimate as the reporting and record keeping “hour” burden?**

Approximately 20 tribes provide the information each year. The annual reporting and record keeping burden for this collection of information is estimated to average 75-100 hours for each of approximately 20 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. Some tribes have limited funds and tribal attorneys may be required to review and prepare the plan for submission to the tribal council. Tribal council sessions to review the documents may take less than one hour or could take more depending on the priority of the document. For purposes of this collection 100 hours per respondent is used.

100 hours x 20 respondents = 2,000 hours

Therefore, the total annual reporting and record keeping burden for this collection is estimated to be 2,000 hours.

There are no specific forms to be completed by respondents.

It is estimated that tribal staff compiling the information are paid a base salary of \$33.82, based on the Bureau of Labor Statistics, Employer Costs for Employee Compensation – September 2008, Table 1, estimate for civilian workers in the Management, Professional, and Related category (see <http://www.bls.gov/news.release/ecec.t01.htm>).

The estimated base salary of \$33.82 including a 1.4 multiplier for benefits results in a salary cost of approximately \$47.35 per hour.

$$\$33.82 \text{ per hour base salary} \times 1.4 \text{ benefits} = \$47.35 \text{ per hour}$$

The salary cost for each tribe to spend the 100 hours to complete its submission is \$4,735.

$$\$47.35 \text{ per hour} \times 100 \text{ hours} = \$4,735 \text{ salary cost per tribe}$$

The total annual cost burden for all 20 tribal respondents is therefore \$94,700.

$$\$4,735 \times 20 \text{ respondents} = \$94,700 \text{ total annual cost burden}$$

Record maintenance cost for each respondent is estimated to be minimal, as tribes maintain records as part of their usual course of business.

Public Burden						
Respondents, annually	Responses per respondent, annually	Hours per response	Total annual hour burden (respondents x responses x hours)	Cost per hour	Total cost burden (Total annual hour burden x cost per hour)	Start-up and O&M
20	1	100	2,000 (20 x 1 x 100)	\$47.35	\$94,700 (2,000 x \$47.35)	\$0

**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.

There are no additional capital, operation, start-up costs or maintenance and purchase of services costs incurred. Tribes that choose to use any equipment, such as computers, to prepare their submissions may do so where they routinely use electronics for normal tribal business functions; however, no new equipment is required to prepare the information submission.

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 the tribal revenue allocation plan. The average time for Federal government review of a tribal revenue allocation plan is estimated at 24 hours. This includes clerical

assistance, reviewing staff, supervisor, attorneys, and approving official. The average grade and step level for all these staff is estimated at a GS-14/6.

The cost to the Federal government is estimated at a base salary of \$57.42, based on the hourly rate for a GS-14/6 in the Baltimore/Washington, D.C./Northern Virginia area for 2009. Including a multiplier of 1.5 for benefits equals approximately \$86.13.

$$\$57.42 \text{ base salary} \times 1.5 \text{ benefits} = \$86.13 \text{ per hour}$$

Given that Federal staff spend approximately 24 hours reviewing each tribal revenue allocation plan submission, the total salary cost per submission is approximately \$2,067.

$$\$86.13 \text{ per hour} \times 24 \text{ hours} = \$ 2,067.12 \text{ salary cost per submission}$$

The approximate total annual cost to the Federal government for all 20 tribal revenue allocation plans is \$41,342.

$$\$2,067.12 \text{ salary cost per submission} \times 20 \text{ submissions} = \$41,342$$

Federal Government Burden				
Submissions annually	Hours per submission	Cost per hour	Cost per submission (hours per submission x cost per hour)	Total cost burden (submissions x hours x cost per hour)
20	24	\$86.13	\$2,067.12 (24 x \$86.13)	\$41,342 (20 x 24 x \$86.13)

**15. Explain the reasons for any program changes or adjustments reported in reporting and record keeping burden, and in capital start-up costs or O&M.**

There are no changes or adjustments.

**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 Federal government approvals of tribal allocation plan submissions but will not include detailed information.



- 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. Is the agency seeking approval not to display the expiration date?**

No, we will display the OMB Control Number and expiration date on all appropriate materials.

- 18. Explain each exception to the certification statement identified in 5 CFR 1320.9 (hourly and cost burden) and 5 CFR 1320.8(b)(3) (the questions we ask commenters to address).**

There are no exceptions to the certification statement.