

**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.

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 (d)(7)(B)(vii) requires that the Department of the Interior (Interior) prescribe a process, in consultation with the Indian tribes, for the submission and consideration of applications from Indian tribes seeking to conduct class II or class III gaming activities on lands acquired in trust after October 17, 1988. The implementing regulations, at 25 CFR part 292, establish what information tribal respondents must submit in support of a determination by the Secretary that gaming is in the best interest of the tribe (“Secretarial determination”) and the criteria that must be met for the various exceptions to the general ban on class II and III gaming.

Specifically, the following regulatory sections establish what information must be submitted as part of the application for a Secretarial determination:

- Section 292.16 establishes what general information the application for a Secretarial Determination must contain.
- Section 292.17 establishes what information the application must include to describe the benefits and impacts of a proposed gaming establishment to the tribe and its members.
- Section 290.18 establishes what information the application must include to describe the detrimental impacts of a proposed gaming establishment to the surrounding community.

The following regulatory sections state the criteria that apply for each exception:

- Section 292.4 states what criteria the trust land must meet for gaming to be allowed under the exceptions.
- Section 292.5 states what criteria must be met under the “settlement of a land claim” exception.
- Section 292.6 states what criteria must be met under the “initial reservation” exception.
- Section 292.7 states what criteria must be met under the “restored lands” exception.

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.

Interior uses the information submitted to determine whether the Indian tribe (respondent) has complied with IGRA and meets the criteria applicable to an exception.

The following table shows the information collection requirements under 25 CFR 292.16 through 292.18 (applications for Secretarial Determination).

Information Collection Requirement	Department's Use of Information
The full name, address, and telephone number of the Indian tribe submitting the proposal;	Uses this information to contact the appropriate tribal representative regarding the proposal
A description of the location of the land, including a legal description supported by a survey or other document;	Identifies the land at issue
Proof of identity of present ownership and title status of the land;	Ensures that the tribe has title to the land at issue
Distance of the land from the tribe's reservation or trust lands, if any, and tribal government headquarters	Allows Secretary to determine whether IGRA criteria are met and whether the enterprise would be in the tribe's "best interest"
Information required by § 292.17 (projected economic effects on tribe) to assist the Secretary in determining whether the proposed gaming establishment will be in the best interest of the tribe and its members;	Allows Secretary to assess the potential benefits and impacts of the proposed establishment and determine whether IGRA criteria are met
Information required by § 292.18 (projected environmental, economic, social, historical impacts to surrounding community) to assist the Secretary in determining whether the proposed gaming establishment will not be detrimental to the surrounding community;	Allows Secretary to assess the potential detrimental impacts to the surrounding community and determine whether IGRA criteria are met
A copy of the authorizing resolution from the Indian tribe submitting the proposal;	Ensures that the tribe has authorized the submission
A copy of the Indian tribe's gaming ordinance or resolution approved by the NIGC in accordance with 25 U.S.C. 2710, if any;	Ensures that the tribe is authorized to conduct gaming
A copy of the Indian tribe's organic documents, if any;	
The tribe's class III gaming compact with the State where the gaming establishment is to be located, if one has been negotiated	Ensures that the proposal meets State requirements
If the tribe has not negotiated a class III gaming compact with the State where the gaming establishment is to be located, the tribe's proposed scope of gaming, including the size of the proposed gaming establishment; and	Ensures that the proposal meets State requirements
A copy of the existing or proposed management contract required to be approved by the National Indian Gaming Commission under 25 U.S.C. 2711	Ensures that the proposed procedures meet all applicable legal requirements.

- 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 an application submitted by an Indian tribe to conduct gaming on trust lands acquired after October 17, 1988, 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. Decision documents approving an application to conduct gaming on trust lands after October 17, 1988, are approved and stored at Central Office.

- 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 application for a Secretarial determination will contain 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. No other Federal Agency has authority under IGRA to approve an application from and Indian tribe seeking to conduct gaming on lands acquired after October 17, 1988.

- 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 a 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, the Interior personnel cannot ensure that the provisions of IGRA and implementing regulations are met. The information is collected

one time only, when a tribe requests that the Secretary make a determination that gaming is in the tribe's best interest.

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 80th 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.

In summary, they felt the purpose of the information collection for gaming on trust lands acquired after October 17, 1988, was necessary and felt 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 2 tribes provide the information each year. Annual reporting and record keeping burden for this collection of information is estimated to average approximately 1,000 hours for each respondent. This includes the number of hours

that will be spent by legal staff to review the regulations research existing data sources, gathering and maintaining the data needed, compilation by clerical staff and submission to tribal council for review, revision and approval.

2 respondents x 1,000 hours per application = 2,000 hours

Therefore, the total annual hours for submission of an application by the respondents 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 per hour base salary x 1.4 benefits = \$47.35 per hour

The salary cost for each tribe to spend the 1,000 hours to complete its submission is \$47,350.

\$47.35 per hour x 1,000 hours = \$47,350 salary cost per tribe

The total annual cost burden for all 2 tribal respondents is therefore \$94,700.

\$47,350 x 2 respondents = \$94,700 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
2	1	1,000	2,000 (2 x 1 x 1,000)	\$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 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 of the submitted applications to ensure completeness and compliance with IGRA. The average time for Federal government review of a Secretarial determination application is 2,000 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, the hourly rate for a GS-14/6 in the Baltimore/Washington, D.C./Northern Virginia area according to the 2009 Pay Table and Schedule. 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 2,000 hours reviewing each submission, the total salary cost per submission is approximately \$172,260.

$$\$86.13 \text{ per hour} \times 2,000 \text{ hours} = \$ 172,260 \text{ salary cost per submission}$$

The approximate total annual cost for all 2 submissions is:

$$\$ 172,260 \text{ salary cost per submission} \times 2 \text{ submissions} = \$344,520 \text{ total cost}$$

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)
2	2,000	\$86.13	\$172,260 (2,000 x \$86.13)	\$344,520 (2 x 2,000 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 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. 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.