

## **1 Supporting Statement A**

### **Bureau of Indian Affairs Class III Tribal State Gaming Compact Process 25 CFR 293**

**OMB Control Number 1076-0172**

This is a request for extension of the OMB approval.

**Terms of Clearance:** None.

#### **Justification**

#### **1. Explain the circumstances that make the collection of information necessary.**

The Secretary has the authority to authorize Class III gaming activities on Indian lands under the Indian Gaming Regulatory Act (IGRA) and has promulgated regulations to implement IGRA at 25 CFR 293. The Secretary must approve, disapprove or “consider approved” (i.e. deem approved) a Tribal-State gaming compact or compact amendment and publish notice of that approval or considered approval in the Federal Register as promulgated regulations to implement the Act. See 25 U.S.C. 2710. The Secretary must collect certain information to determine whether to approve, disapprove, or “consider approved” a Tribal-State gaming compact.

#### **2. Indicate how, by whom, how frequently, and for what purpose the information is to be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, explain how the collection complies with all applicable Information Quality Guidelines.**

Tribes and State governments submit Tribal-State compacts or compact amendments to the Secretary for review, approval, disapproval or considered approved. The documentation that must be submitted with a Tribal-State compact or compact amendment include:

- (1) At least one original Tribal-State compact or compact amendment executed by both the Tribe and the State;
- (2) A Tribal resolution or other document, including the date and place of adoption and the result of any vote taken, that certifies that the Tribe has adopted the Tribal-State compact or compact amendment in accordance with applicable Tribal law;
- (3) Certification from the Governor or other representative of the State that he or she is authorized under State law to enter into the compact or amendment; and
- (4) Any other documentation requested by the Secretary that is necessary to determine whether to approve or disapprove the compact or amendment.

#### **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].**

The information contained in a proposed Class III Tribal State gaming compact or an amendment is unique to each Tribe. Electronic submission is not practical at this time. 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.**

This information is not duplicated in any other data collection. The information required is unique to each Tribe and must be updated to ensure the Tribal-State gaming compacts remains effective.

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

The collection of this information does not impact small businesses or other small entities. Tribes are not considered to be small entities by the federal government for these purposes.

**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, the Secretary cannot ensure that the provisions of IGRA, State law, Federal law and the trust obligations of the United States are met. Therefore, we cannot reduce the burden. The information is collected when the Class III Tribal State gaming compacts or compact amendments are submitted.

**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 special circumstances that will apply to this collection.

- 8. Provide 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 (or in response to a PRA Statement) and describe actions taken by the agency in response to these comments.**

A 60-day notice for public comments was published in the Federal Register on July 21, 2011 (76 FR 43701). No comments were received during this comment period.

**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 the names, titles, addresses, and phone numbers of persons contacted.]**

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. In summary, they felt the purpose of the information collection for the Tribal State compact process was necessary and the information requested was no more than necessary.

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

Respondents will not receive any payment, gift, or other remuneration for providing the information collection requirements.

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

There is no assurance of confidentiality provided to respondents in connection with the information collection requirements.

**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.**

The information collection does not request any information of sensitive nature.

**12. Provide estimates of the hour burden of the collection of information.**

Annual reporting and record keeping for this collection of information is estimated to average 360 hours for approximately 32 respondents, annually, which is based on previous experience and information received from individuals consulted regarding this information collection. This estimate includes the time for reviewing instructions, researching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This is a one-time submission by the respondent and will not need renewal. Therefore, the total annual estimated burden is 11,520 hours.

The estimated total salary cost for each applicant is 1 hour x \$29.27 per hour, which is an average of the hourly wages for civilian, as shown below.

	Salary per hour	Benefits Multiplier	Total
Civilian*	20.91	1.4	29.27
		Total	29.27

\*Table 1, Wages & Salaries – All Workers, Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Civilian workers, by major occupational and industry group, March 2011.

We have used the Bureau of Labor Statistics, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—March 2011 (released June 8, 2011), USDL 11-0849, as a guide for our estimates, including the benefits multiplier. See [www.bls.gov/news.release/pdf/ecec.pdf](http://www.bls.gov/news.release/pdf/ecec.pdf).

Therefore, the total cost burden on the public is \$29.27 x 11,520, which totals \$337,190.

**13. Provide an estimate of the total annual [nonhour] cost burden to respondents or recordkeepers resulting from the collection of information.**

There is no total annual cost burden to respondents or record keepers for this information collection.

**14. Provide estimates of annualized cost to the Federal government.**

The estimated hourly salary cost to the Tribal contractors, on behalf of the federal government, is \$47.35. The review for Class III Tribal State gaming compacts and compact amendments takes approximately 360 hours for each application.

Position	Hourly Base Rate	Benefits Multiplier	Hourly Rate including Benefits <sup>2</sup>	Time to Complete	Total
Review and Approval of Class III Tribal State Gaming Compact/Amendment (GS-14/6) <sup>1</sup>	\$47.35	1.5	71.03	360	\$25,570.80
				Applications	32
				Total	\$818,265.60

<sup>1</sup>The estimated average salary for Federal government and tribal compacting employees performing these duties is at the GS-14, Step 6 (\$47.35/hour) level. The salary associated with this grade and step is based on the General Schedule 2011.

<sup>2</sup> This salary, multiplied by 1.5 to cover benefits, equals a rate of \$71.025/hour which was rounded to the nearest penny to equal \$71.03/hour. This benefits multiplier is inferred from the Bureau of Labor Statistics, Employer Costs for Employee Compensation – March 2011; USDL 11-0849.

The total estimated annualized cost to the Federal government is \$818,266.

**15. Explain the reasons for any program changes or adjustments in hour or cost burden.**

There are no changes.

**16. For collections of information whose results will be published, outline plans for tabulation and publication.**

The information collection will not be published.

**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.**

We intend to display the OMB Control Number and the expiration date.

**18. Certification.**

We are not seeking any exceptions to the certification Statement.