

**SUPPORTING STATEMENT FOR RECORDKEEPING AND REPORTING  
REQUIREMENTS FOR 25 C.F.R. PARTS 519, 522, 523, 524, 556 AND 558**

**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.**

The Indian Gaming Regulatory Act, (25 U.S.C. § 2701 *et seq.*, 102 Stat. 2467, Pub. L. 100-497 (IGRA), governs the regulation of gaming on Indian lands. IGRA establishes National Indian Gaming Commission (NIGC) authority to oversee Indian gaming. IGRA sets standards for the regulation of gaming, including requirements for the approval or disapproval by the Chairman of tribal gaming ordinances and resolutions. Section 2705(a)(3) requires the Chairman of the NIGC to review and approve all class II and class III tribal gaming ordinances and resolutions before they become effective.

25 C.F.R. § 522.2 and § 522.3

IGRA requires the collection of certain information to make possible the Chairman's approval of gaming ordinances and resolutions. 25 C.F.R. § 522.2 regulates the approval of tribal gaming ordinances, a necessary prerequisite for gaming under IGRA. To make possible the Chairman's approval of those gaming ordinances, and to allow him to make sure that the ordinances meet IGRA's requirements, the section requires tribes to submit to the NIGC: (1) a copy of the gaming ordinance to be approved, a copy of the authorizing resolution by which it was enacted by the tribal government, a request for approval of the ordinance or resolution; (2) a description of procedures the tribe will employ in conducting background investigations on key employees or primary management officials; (3) a description of procedures the tribe will use to issue licenses to primary management officials and key employees; (4) copies of all gaming regulations; (5) a copy of any applicable tribal-state compact; (6) a description of dispute-resolution procedures for disputes arising between the gaming public and the tribe or management contractor; (7) identification of the law enforcement agent that will take fingerprints and a description of the procedures for conducting criminal history checks; and (8) designation of an agent for service of process for the tribe.

25 C.F.R. § 522.3 regulates when tribes must submit any amendments to their previously approved gaming ordinances. Further, the regulation requires the tribe to submit the same information requested under 25 C.F.R. § 522.2. The regulation states that tribes must submit amendments to the NIGC within 15 days after adoption of that amendment.

25 C.F.R. § 522.12

IGRA recognizes that tribes may revoke approval of gaming, just as it requires them to authorize it. If, however, a tribe revokes authorization for class III gaming, then the Chairman does not need to approve that ordinance or resolution. Section 2710 (d) (2) (D) states that if a tribe chooses to revoke an ordinance or resolution that permitted class III gaming, then it must provide the Chairman notice of its intent to do so. 25 C.F.R. § 522.12 requires that the Chairman publish the notice and submitted resolution or ordinance in the Federal Register.

#### 25 C.F.R. § 523.2 and § 523.4

IGRA requires the collection of certain information to make possible the Chairman's approval of gaming ordinances. 25 C.F.R. § 523.2 and § 523.4 regulate the approval of tribal gaming ordinances passed prior to enactment of NIGC regulations in 1993 when the Secretary of the Interior still handled ordinance approvals. These regulations allow the Chairman to request a review of those previously approved ordinances for his own determination. To make possible the Chairman's approval of these previously reviewed gaming ordinances, and to ensure that they comply with IGRA's requirements, the section requires tribes to submit to the NIGC: (1) a copy of the gaming ordinance to be approved, a copy of the authorizing resolution by which it was enacted by the tribal government, a request for approval of the ordinance or resolution; (2) a description of procedures the tribe will employ in conducting background investigations on key employees or primary management officials; (3) a description of procedures the tribe will use to issue licenses to primary management officials and key employees; (4) copies of all gaming regulations; (5) a copy of any applicable tribal-state compact; (6) a description of dispute resolution procedures for disputes arising between the gaming public and the tribe or management contractor; (7) identification of the law enforcement agent that will take fingerprints and a description of the procedures for conducting criminal history checks; and (8) designation of an agent for service of process.

25 C.F.R. § 523.4 regulates when tribes must submit any amendments made prior to the NIGC regulations. Further, the regulation requires the tribe to submit the same information requested under 25 C.F.R. § 523.2. This section requires tribes to submit amendments to the NIGC within 15 days after adoption of that amendment.

#### 25 C.F.R. PART 524

IGRA also provides tribes, and in some cases other parties, with the ability to appeal the Chairman's decision on a gaming ordinance to the full Commission. This right of appeal ensures that the Chairman exercises his statutory duties in conformity with the law. Because 25 C.F.R. Part 524 provides respondents with the right to appeal the Chairman's decision regarding an ordinance to the full Commission, it requires the tribe or other entity seeking an appeal to file a concise statement setting forth reasons that the Chairman's was wrong. This appeal must be filed with the Commission within 30 days after notice of the Chairman's disapproval of an ordinance or amendment. The Commission will make its decision within 90 days of receiving the appeal notice.

#### 25 C.F.R. § 556.3, § 556.4, and § 556.5

IGRA's section 2710 requires tribes to conduct background investigations on key employees and primary management officials involved in class II and class III gaming. This is to ensure the integrity of gaming and avoid the introduction of criminal elements into Indian gaming operations. To protect gaming from the criminal element, under 25 C.F.R. § 556.4, the Commission requires tribes to insist on submission of the following information from applicants: 1) name, social security number, birth place and date, citizenship, gender, and languages; 2) business, employment positions and ownership interests; 3) names and addresses of three references; 4) current address and phone for business and residence; 5) description of business relationships or interests with Indian tribes; 6) description of business relationships or interests with Indian gaming in general; 7) name and address of any licensing agency that the person applied to; 8) any listed felonies; 9) any misdemeanors within 10 years; 10) any other criminal charge within the last 10 years; 11) name and address of any licensing agency outside of gaming that the person applied to; 12) photo; 13) any other relevant information; 14) fingerprints. To ensure compliance with these regulations and the Commission's mission to protect the integrity of gaming, the Commission requires tribes under 25 C.F.R. § 556.3 to warn applicants regarding the penalty for false statements in their application materials. Likewise Section 2710(b)(2)(F)(ii)(III) requires, and 25 C.F.R. § 556.5 implements the requirement that tribes submit reports regarding each of the investigations completed on applicants and whether the applicant meets the eligibility and suitability criteria for gaming.

#### 25 C.F.R. Part 558

IGRA's section 2710 requires tribes to conduct background investigations on key employees and primary management officials involved in class II and class III gaming. This is to ensure the integrity of gaming and avoid the introduction of criminal elements into Indian gaming operations. To ensure compliance with these regulations and the Commission's mission to protect the integrity of gaming, the Commission requires tribes under 25 C.F.R. Part 558 to maintain suitability determinations and background investigation reports on key employees and primary management officials. For those reasons, the statute and the regulations also require tribes to make a decision on whether an applicant is eligible to receive a license and send that report and findings to the Commission for review. To ensure the integrity of gaming, the statute requires the Commission to review those reports and decide if it has any objection to an applicant receiving a gaming license. Further, the statute requires the Commission to insist that tribes notify it whenever a licensee has their license suspended.

#### 25 C.F.R. PART 519

As part of any legal service of process regarding any action or review item, the Chairman will be required to serve official determinations on tribes, tribal operators, or management contractors. For this reason 25 C.F.R. Part 519 requires these persons to designate an agent for service by written notification to the NIGC.

**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.**

25 C.F.R. § 522.2 and § 522.3

The information submitted in connection with an ordinance will be used by the Chairman for approving or disapproving tribal ordinances and resolutions as required by IGRA's section 2710(b)(1)(B) and (d)(1)(A). This information allows the Chairman to decide whether an ordinance meets IGRA's statutory requirements and helps the Chairman ascertain whether an adequate regulatory system exists within the tribal gaming operation. The Chairman uses the information to determine whether the tribe has created an adequate system to regulate gaming and protect Indian gaming from criminal influence. The Chairman also reviews the information presented to ensure that the ordinance or resolution was enacted in accordance with all applicable tribal laws. Failure to request this information from tribes would render the Chairman unable to complete his statutory duties under IGRA.

25 C.F.R. § 522.12

The information submitted in connection with an ordinance is used by the Chairman to determine whether class III gaming has been revoked and thus rendered illegal. The Chairman uses this notice to stay apprised of which Indian gaming operations offer class III gaming and which do not.

25 C.F.R. § 523.2 and § 523.4

The information submitted in connection with an ordinance will be used by the Chairman for approving or disapproving tribal ordinances and resolutions as required by IGRA's section 2710(b)(1)(B) and (d)(1)(A). This information allows the Chairman to decide whether an ordinance meets IGRA's statutory requirements and helps the Chairman ascertain whether an adequate regulatory system exists within the tribal operation. The Chairman uses the information to determine that the tribe has created an adequate system to regulate gaming and protect Indian gaming from criminal influence. The Chairman also reviews the information presented to ensure that the ordinance or resolution was enacted in accordance with all applicable tribal laws. Failure to request this information from tribes would render the Chairman unable to complete his statutory duties under IGRA.

25 C.F.R. PART 524

The information submitted in connection with an ordinance appeal will be reviewed by the Commission as part of its statutory obligations to ensure that the Chairman has properly executed his statutory duties. The information contained in the administrative appeal will assist the Commission in framing the issues and providing an appeal process that is thorough and complete. If this information were unavailable to the Commission, the parties would have no administrative recourse for decisions that did not comply with IGRA. To ensure that the Chairman has completed his statutory duties in conformity with the law, the Commission must review a complete record on appeal.

25 C.F.R. § 556.4, § 556.5, and Part 558

The information submitted in connection with an ordinance will be used by the Commission, in accordance with its statutory duties, for reviewing tribal decisions to license key employees and primary management officials. The Commission must review this information, and continually monitor tribal compliance, to ensure that tribal gaming avoids the criminal element and maintains its integrity. Thus, the Commission reviews licensing reports to ensure that no criminal element enters the tribal gaming system.

#### 25 C.F.R. PART 519

This information submitted in connection with an ordinance is needed to perfect the Chairman's legal obligation to provide tribes proper and legal service of process about ordinances or resolutions that have been approved or disapproved. If the collection of information were not conducted as described, the NIGC would lack confidence that official determinations have been legally and effectively served.

**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.**

#### 25 C.F.R. § 522.2 and § 522.3

Information may be submitted to the NIGC by any compatible electronic means, but this is not done very often. No specific technological collection techniques are employed.

#### 25 C.F.R. § 522.12

See supporting statement for sections 522.2 and 522.3.

#### 25 C.F.R. § 523.2 and § 523.4

See supporting statement for sections 522.2 and 522.3.

#### 25 C.F.R. PART 524

See supporting statement for sections 522.2 and 522.3.

#### 25 C.F.R. § 556.4, § 556.5, and § 558

Almost 64% of the information submitted in connection with background investigations is received here electronically. The tribes send the information via e-mail and other means. This method significantly reduces the review time and costs associated with file maintenance. This method has vastly improved response time between the tribes and the Commission and reduces time and costs for investigation review.

25 C.F.R. PART 519

See supporting statement for sections 522.2 and 522.3.

**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.**

25 C.F.R. § 522.2 and § 522.3

IGRA requires a certain minimum degree of regulation in each tribe's gaming ordinance, and the tribes have the sovereign ability to pass more stringent requirements on any subject. Thus, each tribe's ordinance will be unique. The Commission, therefore, does not collect duplicate information pertaining to Indian gaming because each tribal gaming ordinance will vary. Likewise, licensing information and determinations are unique to each applicant, as are the facts and issues in an ordinance appeal.

25 C.F.R. § 522.12

See supporting statement for sections 522.2 and 522.3.

25 C.F.R. § 523.2 and § 523.4

See supporting statement for sections 522.2 and 522.3.

25 C.F.R. PART 524

See supporting statement for sections 522.2 and 522.3.

25 C.F.R. § 556.4, § 556.5, and § 558

See supporting statement for sections 522.2 and 522.3.

25 C.F.R. PART 519

See supporting statement for sections 522.2 and 522.3.

**5. If the collection of information impacts small business or other small entities (item 5 of OMB Form 83-1), describe any methods used to minimize burden.**

25 C.F.R. § 522.2 and § 522.3

Not applicable.

25 C.F.R. § 522.12

Not applicable.

25 C.F.R. § 523.2 and § 523.4

Not applicable.

25 C.F.R. PART 524

Not applicable.

25 C.F.R. § 556.3, § 556.4, § 556.5, and § 558

Not applicable.

25 C.F.R. PART 519

Not applicable.

**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.**

25 C.F.R. § 522.2 and § 522.3

IGRA requires an ordinance submission (and all corresponding information) for a one-time approval or disapproval of tribal gaming ordinances and resolutions. Thus tribal gaming operators need only submit the information once unless amendments are later made. Tribes must submit those amendments to the Chairman for review. The statute requires both the Chairman and the Tribe to approve class II and III gaming on Indian lands, so non-submission of ordinances is not an option. The Chairman already imposes the collection requirements as infrequently as possible.

25 C.F.R. § 522.12

The submission requirements apply only when a tribe adopts an ordinance or resolution that revokes class III gaming. No tribe has done so in recent years.

25 C.F.R. § 523.2 and § 523.4

The submission requirements apply to the approval or disapproval of tribal gaming ordinances and resolutions. Thus, tribes need only submit the information once unless amendments are later made. In that case, those amendments must be submitted to the Chairman. The Chairman must review these ordinances and amendments for approval or fail in his statutory

duty to protect Indian gaming's integrity. The Chairman already imposes these collection requirements as infrequently as possible.

#### 25 C.F.R. PART 524

The frequency of filing appeals is inextricably linked to disapprovals of ordinances or resolutions by the Chairman. The Commission must review all appeals from the Chairman's decisions or fail in its statutory duty to protect the integrity of Indian gaming and ensure due process for tribes seeking administrative review of the Chairman's decisions. The Commission already imposes these collection requirements as infrequently as possible.

#### 25 C.F.R. § 556.4, § 556.5, and Part 558

The frequency of the need to provide relevant background and licensing information is inextricably linked to the hiring of primary management officials or key employees. Failure of the Commission to ensure that an adequate system is in place and that the tribe complies with its reporting obligations would constitute a failure of its statutory duties and of its obligation to protect the integrity of Indian gaming.

#### 25 C.F.R. PART 519

The collection of information required by this section would occur upon the designation of an agent for service of process or a change of designation. The Chairman already imposes this collection requirement as infrequently as possible.

#### **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, which 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, which 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.**

25 C.F.R. § 522.2 and § 522.3

IGRA, 25 U.S.C. § 2716, requires the Commission to keep confidential trade secrets, privileged or confidential, commercial or financial information, or information related to ongoing law enforcement investigations. 25 U.S.C. § 2716 removes from the Commission any discretion it otherwise would have to disclose information that falls within FOIA exemptions 4 and 7 and requires the Commission to disclose such information only to other law enforcement agencies for law enforcement purposes.

25 C.F.R. § 522.12

See supporting statement for 25 C.F.R. § 522.2 and § 522.3.

25 C.F.R. PART 524

See supporting statement for 25 C.F.R. § 522.2 and § 522.3.

25 C.F.R. § 523.2 and § 523.4

See supporting statement for 25 C.F.R. § 522.2 and § 522.3.

25 C.F.R. § 556.4, § 556.5, and Part 558

See supporting statement for 25 C.F.R. § 522.2 and § 522.3.

Further, the tribes will report this information to the Commission whenever it becomes available. This ensures that the Commission is up-to-date on all background investigations and eligibility determinations happening in Indian Country. Such continuous reporting is necessary to ensure integrity in Indian gaming and avoid criminal influence.

25 C.F.R. PART 519

Not applicable.

**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 C.F.R. § 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comment received in response to that notice 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 record keeping, disclosure, or reporting format, (if any), and on the data elements to be recorded, disclosed, or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years - even if the collection of information activity is the same as prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

On February 16, 2012, a notice containing the information collections requirement was published in the Federal Register allowing the public an opportunity to comment on the requirements. The public comment period closed on April 16, 2012. No public comments were received.

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

Not applicable.

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

25 C.F.R. § 522.2 and § 522.3

With regard to confidential information, the Commission must ensure the integrity of Indian gaming and that it is kept free from criminal influence. To that end, the Commission must require the maintenance and reporting of certain confidential information. The Commission has established a system of records for maintaining and protecting confidential information. However, the Commission will not reveal any personal information of individuals received in connection with a background investigation under the Privacy Act. 5 U.S.C. § 552(a). Further, the Commission will not reveal information that constitutes a trade secret or information connected to an ongoing law enforcement investigation. 25 U.S.C. § 2716 removes from the Commission any discretion it would otherwise have to disclose information that falls within FOIA exemptions 4 and 7 and requires the Commission to disclose such information only to other law enforcement agencies for law enforcement purposes. Information in these categories can become issues during an appeal of the Chairman's decisions or during the reporting of a background investigation. Thus, steps will be taken to protect the information and ensure continual integrity in gaming.

25 C.F.R. PART 524

See supporting statement for 25 C.F.R. § 522.2 and § 522.3

25 C.F.R. § 523.2 and § 523.4

See supporting statement for 25 C.F.R. § 522.2 and § 522.3

25 C.F.R. § 556.4, § 556.5, and Part 558

See supporting statement for 25 C.F.R. § 522.2 and § 522.3

25 C.F.R. PART 519

Not applicable.

**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 questions are asked.

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

- **Indicate the number of respondents, frequency of responder 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 on Item 13 of OMB Form 83-1.**
- **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 14.**

See attached Chart. Hourly rate was based upon average prevailing rate for the services required.

**13. Provide an estimate of the total annual cost burden to respondents or record keepers 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. Include description 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 economics 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 11 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.

See attached chart.

**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.**

See attached chart. As a general matter, cost rate was based upon prevailing rate of personnel assigned to task. Support services are included in cost estimates.

**15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of OMB Form 83-1.**

No change from previous submission.

**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.**

25 C.F.R. § 522.2, § 522.3, and § 523.4

This is an ongoing information collection with no ending date and no plans for publication. (This item is identical for all supporting statements.)

25 C.F.R. PART 524

This is an ongoing information collection with no ending date and no plans for publication. (This item is identical for all supporting statements.)

25 C.F.R. § 523.2

This is an ongoing information collection with no ending date and no plans for publication. (This item is identical for all supporting statements.)

25 C.F.R. § 556.4, § 556.5, and § 558

This is an ongoing information collection with no ending date and no plans for publication. (This item is identical for all supporting statements.)

25 C.F.R. PART 519

This is an ongoing information collection with no ending date and no plans for publication. (This item is identical for all supporting statements.)

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

Not applicable.

**18. Explain each exception to the certification statement in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-1.**

Not applicable. The NIGC certifies compliance with 5 C.F.R. § 1320.9.

**B. Collection of Information Employing Statistical Methods.**

This section is not applicable. Statistical methods are not employed.