

## 1 Supporting Statement A

### Class III Tribal State Gaming Compact Process

OMB Control Number 1076-0172

Terms of Clearance: None.

#### General Instructions

#### Specific Instructions

#### Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

The Secretary of the Interior (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, 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.**

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 includes:

- (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. The Secretary (through the Office of Indian Gaming) accepts electronic submissions by email. All 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.**

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. 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.**

A 60-day notice for public comments was published in the Federal Register on March 26, 2021 (86 FR 16234). No comments were received in response to this notice.

**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.**

**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 in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

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: an attorney with the Wyatt Rosette law firm, 411 Perimeter Center Place, Oklahoma City, OK 73112; an attorney with Hobbs Straus Dean and Walker, 1899 L Street, NW, Suite 1200, Washington, DC 20036; and an attorney with Dentons US LLP, 1301 K Street NW, Suite 600 E Tower, Washington, D.C. 20005. Each of these individuals have been employed by Tribes to prepare and submit Tribal-State compacts. In summary, they all stated that it is clear what information must be submitted and that the burden estimates are reasonable. Based on this feedback, no changes were made to this information collection.

- 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. 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.

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

**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.
- \* 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.

Annual reporting and record keeping for this collection of information is estimated to average 200 hours for approximately 40 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 8,000 hours or the amount equivalent to \$308,800.

# of Respondents	Frequency of Response	Time per Response	Total Burden Hours	Hourly Rate*	Total
40	1	200 hours	8,000 hours	\$38.60	<b>\$308,800</b>

\* To obtain the hourly rate, BIA used \$38.60, the wages and salaries including benefits figure for civilian workers from BLS Release USDL-21-0437, Employer Costs for Employee Compensation—December 2020, Table 1, Table 1. Employer Costs for Employee Compensation by ownership, at <https://www.bls.gov/news.release/pdf/ecec.pdf>.

**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 already reflected in item 12.)**

- \* 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 for form processing). 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 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. 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.**

The estimated hourly salary cost to the Tribal contractors, on behalf of the federal government, is \$671,840. The review for Class III Tribal State gaming compacts and compact amendments takes approximately 200 hours for each application.

Position	Hourly Base Rate	Time to Complete	# of Applications Processed	Total
Review and Approval of Class III Tribal State Gaming Compact/Amendment (GS-14/6) <sup>1</sup>	\$83.98	200 hours	40	<b>\$671,840</b>

<sup>1</sup>The estimated average salary for Federal government and tribal compacting employees performing these duties is at the GS-14, Step 6 (\$52.49/hour) level. The salary associated with this grade and step is based on the General Schedule 2021, incorporating the 1%

General Schedule Increase. See

[https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/GS\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/GS_h.pdf). This salary, multiplied by 1.6 to cover benefits, equals a rate of \$83.98/hour.

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

The program changes and adjustments in hour and cost burden are based on updated figures from both the Bureau of Labor and Statistics and the Office of Personnel Management, along with a more streamlined approach to analyzing tribal state compacts and the Department's use of a database for the surname process. The Department's streamlined approach to analyzing compacts has led to a reduction in burden for the public.

**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.**

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.**

No forms are associated with this collection.

**18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."**

There are no exceptions.