



**BILLING CODE 7565-01-P**

**DEPARTMENT OF THE INTERIOR**

**National Indian Gaming Commission**

**Submission of Information Collections Under the Paperwork Reduction Act**

**AGENCY:** National Indian Gaming Commission, Interior.

**ACTION:** Second notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the National Indian Gaming Commission (NIGC or Commission) is announcing its submission, concurrently with the publication of this notice or soon thereafter, of the following information collection requests to the Office of Management and Budget (OMB) for review and approval.

The Commission is seeking comments on the renewal of information collections for the following activities: (i) Indian gaming management contract-related submissions, as authorized by OMB Control Number 3141-0004 (expires on November 30, 2018); (ii) Indian gaming fee payments-related submissions, as authorized by OMB Control Number 3141-0007 (expires on November 30, 2018); (iii) minimum internal control standards for class II gaming submission and recordkeeping requirements, as authorized by OMB Control Number 3141-0009 (expires on November 30, 2018); (iv) facility license-related submission and recordkeeping requirements, as authorized by OMB Control Number 3141-0012 (expires on November 30, 2018); and (v) minimum technical standards for class II gaming systems and equipment submission and recordkeeping requirements, as authorized by OMB Control Number 3141-0014 (expires on November 30, 2018).

**DATES:** The OMB has up to 60 days to approve or disapprove the information collection requests, but may respond after 30 days. Therefore, public comments should be submitted to OMB by [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] in order to be assured of consideration.

**ADDRESSES:** Submit comments directly to OMB's Office of Information and Regulatory Affairs, Attn: Policy Analyst/Desk Officer for the National Indian Gaming Commission. Comments can also be emailed to <OIRA\_Submission@omb.eop.gov>, include reference to "NIGC PRA Renewals" in the subject line.

**CONTACT FOR FURTHER INFORMATION:** For further information, including copies of the proposed information collection requests and supporting documentation, contact Tim Osumi at (202) 632-7003; fax (202) 632-7066 (not toll-free numbers). You may also review these information collection requests by going to <<http://www.reginfo.gov>> (Information Collection Review, Currently Under Review, Agency: National Indian Gaming Commission).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The gathering of this information is in keeping with the purposes of the Indian Gaming Regulatory Act of 1988 (IGRA or the Act), Public Law 100-497, 25 U.S.C. 2701, *et seq.*, which include: providing a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments; ensuring that the Indian tribe is the primary beneficiary of the gaming operation; and declaring that the establishment of independent federal regulatory

authority for gaming on Indian lands, the establishment of federal standards for gaming on Indian lands, and the establishment of the Commission are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue. 25 U.S.C. 2702. The Act established the Commission and laid out a comprehensive framework for the regulation of gaming on Indian lands.

## **II. Data**

*Title:* Management Contract Provisions.

*OMB Control Number:* 3141-0004.

*Brief Description of Collection:* Amongst other actions necessary to carry out the Commission's statutory duties, the Act requires the NIGC Chairman to review and approve all management contracts for the operation and management of class II and/or class III gaming activities, and to conduct background investigations of persons with direct or indirect financial interests in, and management responsibility for, management contracts. 25 U.S.C. 2710, 2711. The Commission is authorized to "promulgate such regulations and guidelines as it deems appropriate to implement" IGRA. 25 U.S.C. 2706(b)(10). The Commission has promulgated parts 533, 535, and 537 of title 25, Code of Federal Regulations, to implement these statutory requirements.

Section 533.2 requires a tribe or management contractor to submit a management contract for review within 60 days of execution, and to submit all of the items specified in § 533.3. Section 535.1 requires a tribe to submit an amendment to a management contract within 30 days of execution, and to submit all of the items specified in § 535.1(c). Section 535.2 requires a tribe or a management contractor, upon execution, to submit the assignment by a management contractor of its rights under a previously

approved management contract. Section 537.1 requires a management contractor to submit all of the items specified in § 537.1(b),(c) in order for the Commission to conduct background investigations on: each person with management responsibility for a management contract; each person who is a director of a corporation that is a party to a management contract; the ten persons who have the greatest direct or indirect financial interest in a management contract; any entity with a financial interest in a management contract; and any other person with a direct or indirect financial interest in a management contract, as otherwise designated by the Commission. This collection is mandatory, and the benefit to the respondents is the approval of Indian gaming management contracts, and any amendments thereto.

*Respondents:* Tribal governing bodies and management contractors.

*Estimated Annual Responses:* 51 (submissions of contracts, contract amendments, contract assignments, and background investigation material).

*Estimated Time per Response:* Depending on the type of submission, the range of time can vary from 8 burden hours to 14 burden hours for one item.

*Frequency of Response:* Usually no more than once per year.

*Estimated Total Annual Burden Hours on Respondents:* 440.

*Estimated Total Non-hour Cost Burden:* \$379,480.

*Title:* Fees.

*OMB Control Number:* 3141-0007.

*Brief Description of Collection:* Amongst other actions necessary to carry out the Commission's statutory duties, the Act requires Indian tribes that conduct a class II and/or class III gaming activity to pay annual fees to the Commission on the basis of the

assessable gross revenues of each gaming operation using rates established by the Commission. 25 U.S.C. 2717. The Commission is authorized to “promulgate such regulations and guidelines as it deems appropriate to implement” IGRA. 25 U.S.C. 2706(b)(10). The Commission has promulgated part 514 of title 25, Code of Federal Regulations, to implement these statutory requirements.

Section 514.6 requires a tribe to submit, along with its fee payments, quarterly fee statements (worksheets) showing its assessable gross revenues for the previous fiscal year in order to support the computation of fees paid by each gaming operation. Section 514.7 requires a tribe to submit a notice within 30 days after a gaming operation changes its fiscal year. Section 514.15 allows a tribe to submit fingerprint cards to the Commission for processing by the Federal Bureau of Investigation (FBI), along with a fee to cover the NIGC’s and FBI’s respective costs to process the fingerprint cards on behalf of the tribes. Part of this collection is mandatory and the other part is voluntary. The required submission of the fee worksheets allows the Commission to both set and adjust fee rates, and to support the computation of fees paid by each gaming operation. In addition, the voluntary submission of fingerprint cards allows a tribe to conduct statutorily mandated background investigations on applicants for key employee and primary management official positions.

*Respondents:* Indian gaming operations.

*Estimated Number of Respondents:* 664.

*Estimated Annual Responses:* 74,706.

*Estimated Time per Response:* Depending on the type of submission, the range of time can vary from 0.5 burden hours to 2.0 burden hours for one item.

*Frequency of Response:* Quarterly (for fee worksheets); varies (for fingerprint cards and fiscal year change notices).

*Estimated Total Annual Burden on Respondents:* 47,498.

*Estimated Total Non-hour Cost Burden:* \$1,312,857.

*Title:* Minimum Internal Control Standards for Class II Gaming.

*OMB Control Number:* 3141-0009.

*Brief Description of Collection:* Amongst other actions necessary to carry out the Commission's statutory duties, the Act directs the Commission to monitor class II gaming conducted on Indian lands on a continuing basis in order to adequately shield Indian gaming from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players. 25 U.S.C. 2702(2), 2706(b)(1). The Commission is also authorized to "promulgate such regulations and guidelines as it deems appropriate to implement" IGRA. 25 U.S.C. 2706(b)(10). The Commission has promulgated part 543 of title 25, Code of Federal Regulations, to aid it in monitoring class II gaming on a continuing basis.

Section 543.3 requires a tribal gaming regulatory authority (TGRA) to submit to the Commission a notice requesting an extension to the deadline (by an additional six months) to achieve compliance with the requirements of the new tier after a gaming operation has moved from one tier to another. Section 543.5 requires a TGRA to submit a detailed report after the TGRA has approved an alternate standard to any of the NIGC's minimum internal control standards, and the report must contain all of the items specified in § 543.5(a)(2). Section 543.23(c) requires a tribe to maintain internal audit reports and

to make such reports available to the Commission upon request. Section 543.23(d) requires a tribe to submit two copies of the agreed-upon procedures (AUP) report within 120 days of the gaming operation's fiscal year end. This collection is mandatory and allows the NIGC to confirm tribal compliance with the minimum internal control standards in the AUP reports.

*Respondents:* Tribal governing bodies.

*Estimated Number of Respondents:* 424.

*Estimated Annual Responses:* 798.

*Estimated Time per Response:* Depending on the tier level of the gaming facility, the range of time can vary from 1 burden hour to 108 burden hours for one AUP audit report.

*Frequency of Response:* Annually.

*Estimated Total Annual Hourly Burden to Respondents:* 8,467.

*Estimated Total Non-hour Cost Burden:* \$8,359,234.

*Title:* Facility License Notifications and Submissions.

*OMB Control Number:* 3141-0012.

*Brief Description of Collection:* Amongst other actions necessary to carry out the Commission's statutory duties, the Act requires Indian tribes that conduct class II and/or class III gaming to issue "a separate license ... for each place, facility, or location on Indian lands at which class II [and class III] gaming is conducted," 25 U.S.C. 2710(b)(1), (d)(1), and to ensure that "the construction and maintenance of the gaming facilities, and the operation of that gaming is conducted in a manner which adequately protects the environment and public health and safety." 25 U.S.C. 2710(b)(2)(E). The Commission is authorized to "promulgate such regulations and guidelines as it deems appropriate to

implement” IGRA. 25 U.S.C. 2706(b)(10). The Commission has promulgated part 559 of title 25, Code of Federal Regulations, to implement these requirements.

Section 559.2 requires a tribe to submit a notice (that a facility license is under consideration for issuance) at least 120 days before opening any new facility on Indian lands where class II and/or class III gaming will occur, with the notice containing all of the items specified in § 559.2(b). Section 559.3 requires a tribe to submit a copy of each newly issued or renewed facility license within 30 days of issuance. Section 559.4 requires a tribe to submit an attestation certifying that by issuing the facility license, the tribe has determined that the construction, maintenance, and operation of that gaming facility is conducted in a manner that adequately protects the environment and the public health and safety. Section 559.5 requires a tribe to submit a notice within 30 days if a facility license is terminated or expires or if a gaming operation closes or reopens. Section 559.6 requires a tribe to maintain and provide applicable and available Indian lands or environmental and public health and safety documentation, if requested by the NIGC. This collection is mandatory and enables the Commission to perform its statutory duty by ensuring that tribal gaming facilities on Indian lands are properly licensed by the tribes.

*Respondents:* Indian tribal gaming operations.

*Estimated Annual Respondents:* 544.

*Estimated Annual Responses:* 847.

*Estimated Time per Response:* Depending on the type of submission, the range of time can vary from 0.5 burden hours to 22.0 burden hours for one item.

*Frequency of Response:* Varies.

*Estimated Total Annual Hourly Burden to Respondents:* 4,351.

*Estimated Total Non-hour Cost Burden:* \$0.

*Title:* Minimum Technical Standards for Class II Gaming Systems and Equipment.

*OMB Control Number:* 3141-0014.

*Brief Description of Collection:* Amongst other actions necessary to carry out the Commission's statutory duties, the Act directs the Commission to monitor class II gaming conducted on Indian lands on a continuing basis in order to adequately shield Indian gaming from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players. 25 U.S.C. 2702(2), 2706(b)(1). The Act allows Indian tribes to use "electronic, computer, or other technologic aids" to conduct class II gaming activities. 25 U.S.C. 2703(7)(A). The Commission is authorized to "promulgate such regulations and guidelines as it deems appropriate to implement" IGRA. 25 U.S.C. 2706(b)(10). The Commission has promulgated part 547 of title 25, Code of Federal Regulations, to aid it in monitoring class II gaming facilities that are using electronic, computer, or other technologic aids to conduct class II gaming.

Section 547.5(a)(2) requires that, for any grandfathered class II gaming system made available for use at any tribal gaming operation, the tribal gaming regulatory authority (TGRA): must retain copies of the gaming system's testing laboratory report, the TGRA's compliance certificate, and the TGRA's approval of its use; and must maintain records identifying these grandfathered class II gaming systems and their components. Section 547.5(b)(2) requires that, for any class II gaming system generally,

the TGRA must retain a copy of the system's testing laboratory report, and maintain records identifying the system and its components. As long as a class II gaming system is available to the public for play, section 547.5(c)(3) requires a TGRA to maintain records of any modification to such gaming system and a copy of its testing laboratory report. Section 547.5(d)(3) requires a TGRA to maintain records of approved emergency hardware and software modifications to a class II gaming system (and a copy of the testing laboratory report) so long as the gaming system remains available to the public for play, and must make the records available to the Commission upon request. Section 547.5(f) requires a TGRA to maintain records of its following determinations: (i) regarding a testing laboratory's (that is owned or operated or affiliated with a tribe) independence from the manufacturer and gaming operator for whom it is providing the testing, evaluating, and reporting functions; (ii) regarding a testing laboratory's suitability determination based upon standards no less stringent than those set out in 25 CFR § 533.6(b)(1)(ii) through (v) and based upon no less information than that required by 25 CFR § 537.1; and/or (iii) the TGRA's acceptance of a testing laboratory's suitability determination made by any other gaming regulatory authority in the United States. The TGRA must maintain said records for a minimum of three years and must make the records available to the Commission upon request. Section 547.17 requires a TGRA to submit a detailed report for each enumerated standard for which the TGRA approves an alternate standard, and the report must include: (i) an explanation of how the alternate standard achieves a level of security and integrity sufficient to accomplish the purpose of the standard it is to replace; and (ii) the alternate standard as approved and the record on which the approval is based. This collection is mandatory and allows the NIGC to

confirm tribal compliance with NIGC regulations on “electronic, computer, or other technologic aids” to conduct class II gaming activities.

*Respondents:* Tribal governing bodies.

*Estimated Number of Respondents:* 685.

*Estimated Annual Responses:* 685.

*Estimated Time per Response:* Depending on the type of submission, the range of time can vary from 1.0 burden hours to 16.0 burden hours for one item.

*Frequency of Response:* Annually.

*Estimated Total Annual Hourly Burden to Respondents:* 1,651.

*Estimated Total Non-hour Cost Burden:* \$0.

Dated: September 12, 2018.

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**Christinia Thomas,**

*Chief of Staff (Acting).*

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