

**SUPPORTING STATEMENT FOR RECORDKEEPING AND
REPORTING REQUIREMENTS UNDER 25 CFR § 515**

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, or the Act) governs the regulation of gaming on Indian lands. The Act established the National Indian Gaming Commission (NIGC, or the Commission) as a federal regulatory agency with authority to oversee Indian gaming. To implement the Act, it is necessary for the NIGC to collect, maintain, and use personal information gathered on certain individuals. For example, under 25 C.F.R. 556.4 and 556.6, tribal gaming operators must submit to the NIGC information regarding key employees and primary management officials employed at gaming operations. The NIGC compiles and stores this information in two different systems of records, the Indian Gaming Individuals Record System and the Management Contract Individuals Record System. Pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a (PA), agencies must promulgate regulations regarding the collection, maintenance, use, and dissemination of records within such systems.

25 C.F.R. § 515.3

25 C.F.R. § 515.3 allows individuals to request information on whether a record exists of which that person is the subject. Individuals may also request access to those records. 25 C.F.R. § 515.12 sets forth certain exemptions under which the NIGC may withhold information under the PA.

25 C.F.R. § 515.5

Under 25 C.F.R. § 515.5, individuals may submit requests to amend records in existence within the NIGC's two systems of records, the Indian Gaming Individuals Record System and the Management Contract Individuals Record System. Requests for such information may be made either in writing or in person.

25 C.F.R. § 515.7

25 C.F.R. § 515.7 provides requesters with the right to appeal an adverse determination for access or an amendment by the NIGC. This appeal must be filed with the NIGC within 30 business days after the adverse decision is rendered.

Sections of the statute and regulations authorizing the submission of the above

information are attached to this statement.

2. Indicate how, by whom, and for what purposes 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 collation.

25 C.F.R. § 515.3

Under 25 C.F.R. § 515.3, the requests for access are used by the NIGC for determining whether records exist of which a particular individual is the subject. The PA requires that an individual seeking access to records must request such access.

25 C.F.R. § 515.5

Under 25 C.F.R. § 515.5, the requests for amendments are used by the NIGC for determining whether a record should be amended. If the collection of information were not conducted as described, the NIGC would be unable to effectively respond to a request for an amendment.

25 C.F.R. § 515.7

Under 25 C.F.R. § 515.7, the information will be reviewed by the NIGC on appeal of any adverse determinations for access or an amendment. The information contained in the appeal will assist the NIGC in framing the issues and providing a proceeding that will be expeditious, yet provide a full review of all issues. If the collection of information were not conducted, the NIGC would be unable to provide the appeal required under the PA.

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 collections. Also describe any consideration of using information technology to reduce burden.

The information collection does not require the use of automated, electronic, mechanical, or other technological techniques; however, the proposed rule does allow for electronic submission of responses.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose described in item 2 above.

25 C.F.R. § 515.3

The required information is unique to each individual's request for information. Duplication of records under this section will not occur. Similar information that could be used or modified for use for the purposes described in item 2 is not available.

25 C.F.R. § 515.5

The required information is unique to each individual's request for information. Duplication of records under this section will not occur. Similar information that could be used or modified for use for the purposes described in item 2 is not available.

25 C.F.R. § 515.7

The required information is unique to each individual's request for information. Duplication of records under this section will not occur. Similar information that could be used or modified for use for the purposes described in item 2 is not available.

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

25 C.F.R. § 515.3

The collection of information does not involve any small entities. The only respondents affected by the information collection are individuals.

25 C.F.R. § 515.5

The collection of information does not involve any small entities. The only respondents affected by the information collection are individuals.

25 C.F.R. § 515.7

The collection of information does not involve any small entities. The only respondents affected by the information collection are individuals.

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.

The frequency of the need to provide relevant information is inextricably linked to the desire of individuals to obtain access to records of which they are the subject and can only be conducted in response to requests for access, amendment, or appeal.

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 documents;**

- 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.

The frequency of the need to provide relevant information is inextricably linked to the desire of individuals to obtain access to records of which they are the subject and can only be conducted in response to requests for access, amendment, or appeal.

The NIGC implemented its Indian Gaming Individuals Record System and the Management Contract Individuals Record System consistent with the PA to govern the maintenance, use and dissemination of records that contain personal information gathered on certain individuals. Under 25 USC § 2716, the NIGC must preserve any and all information received pursuant to the IGRA as confidential under exemptions four and seven to the FOIA and requires the NIGC to disclose such information only to other law enforcement agencies for law enforcement purposes.

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

On October 25, 2000, notice was published in the Federal Register (65 Fed. Reg. 63,894) that indicated the NIGC was seeking an extension of approval for information collection under the PA.

The NIGC is submitting a notice seeking comment on the reinstatement of this collection to the Federal Register at the same time as the collection information request. The Notice contains the information required by 5 C.F.R. Part 1320 and provides for a 30 day comment period to receive feedback from the affected public regarding the cost and burden of complying with this request.

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

Not applicable. The NIGC does not provide any payment or gifts to respondents.

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

25 U.S.C. § 2716 requires NIGC to preserve all information received pursuant to the Act as confidential. Such information is protected from disclosure under the FOIA, 5 U.S.C. § 552(b)(4). Further, 25 U.S.C. § 2716 removes from the NIGC any discretion it would otherwise have to disclose information that falls within FOIA exemptions 4 and 7 and requires NIGC to disclose such information only to other law enforcement agencies for law enforcement purposes.

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 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 on Item 13 of OMB Form 83-I.

-Provide estimates of annualized costs 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.

25 C.F.R. § 515.3

Under 25 C.F.R. § 515.3, the NIGC estimates that request for information will be negligible. Under the PA as adopted by the NIGC, a request for information can be made orally or in writing. Written requests need only include a notarized statement, at a cost of \$5.00 for notary, or a statement witnessed by two people, signed by the individual, and setting forth the information sought. The NIGC estimates the average time and cost to a requester will be negligible and estimates two requests per year.

25 C.F.R. § 515.5

Under 25 C.F.R. § 515.5, the NIGC estimates that only a few individuals (if any) will seek amendments to their records. It is estimated that each individual's hour burden will be five hours at a cost burden of \$15.00 per hour for a total burden estimate of \$75.00 per individual. The NIGC estimates zero request for amendment each year.

25 C.F.R. § 515.7

For 25 C.F.R. § 515.7, the NIGC believes that most or all of the information submitted in a notice of appeal will already be in the possession of the respondent. Nevertheless, the likelihood that legal counsel will be consulted has been taken into consideration in estimating a cost burden of \$100.00 per hour. We estimate zero appeals per year.

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 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 past of customary and usual business or private practices.

25 C.F.R. § 515.3

For 25 C.F.R. § 515.3, as described in 12 above, the NIGC estimates the cost to a requester to be negligible.

25 C.F.R. § 515.5

For 25 C.F.R. § 515.3, as described in 12 above, the NIGC estimates the cost to a requester to be negligible.

25 C.F.R. § 515.7

For 25 C.F.R. § 515.7, the NIGC believes that most or all of the information submitted in a notice of appeal will already be in the possession of the respondent. Nevertheless, the likelihood that legal counsel will be consulted has been taken into consideration in estimating a cost burden of \$100.00 per hour.

14. Provide estimate 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.

25 C.F.R. § 515.5

Under 25 C.F.R. § 515.3, the total cost to the federal government of reviewing the request, searching for the records, duplicating the records and providing access to the records of requests for information will vary. An average of two requests are received per year, with the total estimated cost to the federal government \$ 620.00 (two requests x an average of 10 hours at \$31.00 per hour). Estimated hourly rates include operational expenses.

25 C.F.R. § 515.5

Under 25 C.F.R. § 515.5, the total cost to the federal government of reviewing a request for amendment and determining whether amendment is appropriate is difficult to estimate since the types of requests will vary. If two requests are made per year, the estimated cost is \$ 620.00 (two requests x an average of 10 hours at \$ 31.00 per hour). Estimated hourly

rate includes operational expenses.

25 C.F.R. § 515.7

Under 25 C.F.R. § 515.7, the cost to the federal government of this information collections requirement is estimated as 20 hours per appeal at \$ 100.00 per hour. We estimate zero appeals per year.

15. Explain reasons for any program changes or adjustments reported in Items 13 or 14 of OMB Form 83-I.

25 C.F.R. § 515.3

Hours on the OMB inventory for this collection have been adjusted to reflect current requests numbers and fees assessed.

25 C.F.R. § 515.5

Hours on the OMB inventory for this collection have been adjusted to reflect current requests numbers and fees assessed.

25 C.F.R. § 515.7

Hours on the OMB inventory for this collection have been adjusted to reflect current requests numbers and fees assessed.

16. For collections of information whose results are planned to be published for statistical use, outline plans for tabulation, statistical analysis, 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.

This is an ongoing information collection with no ending date and no plans for publication.

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 Submission," of OMB Form 83-I.

Not applicable. The NIGC certifies compliance with 5 CFR § 1320.9.

B. Collection of Information Employing Statistical Methods.

This is not applicable. Statistical methods are not employed.