

initiation of the enterprise, provided there is assurance the enterprise will be initiated forthwith within the extended time period. The Assistant Secretary will notify the lender in writing of a proposed action to require the return of grant funds or of a proposal to extend the time.

§ 286.22 Reports.

(a) Grantees are required to furnish the Assistant Secretary comparative balance sheets and profit and loss statements semi-annually for the first two years of operation following receipt of the grant, and annually there-

after for the succeeding three years. These may be copied of financial statements required by and furnished to the lender which provided the loan portion of the total financing required. If the lender does not require financial statements, the grantee must prepare and furnish copies of comparative balance sheets and profit and loss statements to the Assistant Secretary.

(b) The Assistant Secretary will establish accounting and reporting systems which will appropriately show the status of the Indian Business Development Program at all times.

SUBCHAPTER O—MISCELLANEOUS [RESERVED]

APPENDIX TO CHAPTER I—EXTENSION OF THE TRUST OR RESTRICTED STATUS OF CERTAIN INDIAN LANDS

This appendix contains citations of Executive orders and acts of Congress continuing the trust or restricted period of Indian land, which would have expired otherwise, within the several Indian reservations in the States named. The asterisk to the left of the name of a reservation indicates that the reservation is subject to the benefits of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461-479), as amended, and as therein provided the trust or restricted period of the land is extended indefinitely.

Where the name of a reservation is not preceded by an asterisk, such reservation is not subject to the Reorganization Act and is not subject to the benefits of such indefinite trust or restricted period extension, but such reservation is dependent upon acts of Congress or Executive orders for extension of the trust or restricted period of the land.

For the purpose of insuring the continuation of the trust or restricted status of Indian allotments within Indian reservations not subject to the Reorganization Act, Congress by the act of June 15, 1935 (49 Stat. 378) reimposed such restrictions as may have been expired between the dates of June 18, 1934, and December 31, 1936.

State	Reservation	E. O. No.	Date	Period of extension
Arizona	*Papago	2066	Oct. 27, 1914	10 years.
Do	.....do	4464	June 28, 1926	Do.
California	Agua Caliente	3446	Apr. 30, 1921	Do.
Do	.....do	5580	Mar. 16, 1931	Do.
Do	Cabazon and Twenty-nine Palms.	3302	July 7, 1920	5 years.
Do	.....do	4159	Feb. 19, 1925	10 years.
Do	*Capitan Grande	3048	Feb. 27, 1919	5 years.
Do	.....do		Act of Feb. 8, 1927 (44 Stat. 1061).	10 years.
Do	Hoopa Valley (Klamath River)	2943	Aug. 23, 1918	1 year.
Do	.....do		Sept. 23, 1919	Do.
Do	.....do	3304	July 10, 1920	10 years.
Do	.....do	3980	Mar. 26, 1924	15 years.
Do	.....do	5416	Aug. 4, 1930	10 years.
	Mission Bands:			
Do	Augustine	2795	Jan. 26, 1918	Do.
Do	Campo	2795	.....do	Do.
Do	*Cuyapipe	2795	.....do	Do.
Do	Inaja	2795	.....do	Do.
Do	*Laguna	2795	.....do	Do.
Do	*La Posta	2795	.....do	Do.
Do	*Manzanita	2795	.....do	Do.
Do	Mesa Grande	2795	.....do	Do.
Do	Pala	2795	.....do	Do.
Do	Ramona	2795	.....do	Do.
Do	Santa Ysabel	2795	.....do	Do.

State	Reservation	E. O. No.	Date	Period of extension
Do	Sycuan	2795	.....do	Do.
Do	.....do	3383	Jan. 7, 1921	25 years.
Do	San Manuel	2795	Jan. 26, 1918	10 years.
Do	Temecula	2795	.....do	Do.
Do	All of above Mission Bands	4765	Nov. 23, 1927	Do.
Do	Morongo	6341	Oct. 17, 1933	Do.
Do	Pala	3383	Jan. 7, 1921	25 years.
Do	.....do		Act of Feb. 11, 1936 (49 Stat. 1106).	10 years.
Do	Potrero and Rincon	2684	Aug. 16, 1917	Do.
Do	.....do	4687	July 11, 1927	Do.
Do	*Round Valley	3223	Feb. 5, 1920	3 years.
Do	.....do	3805	Mar. 5, 1923	10 years.
Do	.....do	3995	Apr. 19, 1924	Do.
Do	.....do	5953	Nov. 23, 1932	Do.
Do	Temecula	3699	June 27, 1922	Do.
Do	.....do	5768	Dec. 30, 1931	Do.
Do	Torres-Martinez	7009	Apr. 10, 1935	Do.
Idaho	Nez Perce	3250	Mar. 24, 1920	Do.
Idaho	Nez Perce	4694	July 22, 1927	10 years.
Do	.....do	5305	Mar. 18, 1930	Do.
Kansas and Nebraska	*Iowa	2966	Sept. 23, 1918	Do.
Do	.....do	5023	Jan. 10, 1929	Do.
Do	*Sac and Fox	2607	May 4, 1917	Do.
Do	.....do	4571	Jan. 24, 1927	Do.
Do	.....do	5768	Dec. 30, 1931	Do.
Do	Kickapoo	3301	July 3, 1920	1 year.
Do	.....do	3447	May 2, 1921	10 years.
Do	.....do	5415	Aug. 4, 1930	Do.
Do	.....do	5626	May 18, 1931	Do.
Do	*Potawatomi	2747	Nov. 2, 1917	Do.
Do	.....do	2927	July 30, 1918	Do.
Do	.....do	3312	July 21, 1920	Do.
Do	.....do	4688	July 11, 1927	Do.
Do	.....do	4858	Apr. 16, 1928	Do.
Do	.....do	5299	Mar. 10, 1930	Do.
Do	.....do	5356	May 28, 1930	Do.
Do	.....do	5556	Feb. 11, 1931	Do.
Minnesota	*Fond du Lac	3445	Apr. 30, 1921	Do.
Do	.....do	5575	Mar. 12, 1931	Do.
Do	*Grand Portage	3613	Jan. 12, 1922	Do.
Do	.....do	5768	Dec. 30, 1931	Do.
Do	*Winnibigoshish	3614	Jan. 12, 1922	Do.
Do	.....do	5466	Oct. 22, 1930	Do.
Do	.....do	5768	Dec. 30, 1931	Do.
Do	*Deer Creek	4154	Feb. 10, 1925	Do.
Do	*Bois Fort	4233	May 26, 1925	Do.
Do	*Leech Lake, Cass Lake, and White Oak Point.	4298	Aug. 29, 1925	Do.
Do	.....do	5466	Oct. 22, 1930	Do.
Do	*White Earth	4642	May 5, 1927	Do.
Do	.....do	5768	Dec. 30, 1931	Do.
Do	.....do	5953	Nov. 23, 1932	Do.
Do	*Red Lake	5383	June 26, 1930	Do.
Montana	Crow	5301	Mar. 12, 1930	Do.
Do	.....do	5768	Dec. 30, 1931	Do.
Do	.....do	7001	Apr. 5, 1935	Do.
Do	.....do		Act of April 1940 (54 Stat. 106).	To May 23, 1940.
Do	*Flathead	5953	Nov. 23, 1932	Do.
Nebraska	*Omaha		July 3, 1909	Do.
Do	.....do	3111	July 10, 1919	Do.
Do	.....do	4145	Jan. 28, 1925	Do.
Do	.....do	4548	Dec. 4, 1926	Do.
Do	.....do	5148	July 3, 1929	Do.
Do	.....do	5253	Dec. 31, 1929	Do.
Do	*Ponca	2374	Apr. 29, 1916	Do.
Do	.....do	4407	Mar. 30, 1926	Do.
Do	*Santee		Dec. 12, 1910	Do.
Do	.....do	3348	Nov. 5, 1920	Do.
Do	.....do	3722	Aug. 12, 1922	Do.
Do	*Santee Sarah Jones allotment.	4075	Sept. 17, 1924	Do.

Bureau of Indian Affairs, Interior

Ch. I, App.

State	Reservation	E. O. No.	Date	Period of extension
Do	*Santee	5474	Oct. 31, 1930	Do.
Do	.....do	5768	Dec. 30, 1931	Do.
Do	.....do	5953	Nov. 23, 1932	Do.
Do	*Winnebago	2965	Sept. 20, 1918	Do.
Do	.....do	4548	Dec. 4, 1926	Do.
Do	.....do	4979	Oct. 16, 1928	Do.
Do	.....do	4994	Nov. 14, 1928	Do.
Do	*Sac and Fox, William Banks allotment.	3878	July 27, 1923	1 year.
Nevada	*Walker River	5730	Oct. 8, 1931	10 years.
North Dakota	Devils Lake	2804	Feb. 11, 1918	Do.
Do	.....do	3853	May 23, 1923	Do.
Do	.....do	4775	Nov. 30, 1927	Do.
Do	.....do	5303	Mar. 12, 1930	Do.
Do	.....do	5768	Dec. 30, 1931	Do.
Do	.....do	5953	Nov. 23, 1932	Do.
Do	*Fort Berthold	4293	Aug. 25, 1925	Do.
Do	*Standing Rock	5768	Dec. 30, 1931	Do.
Do	.....do	5953	Nov. 23, 1932	Do.
Oklahoma	Absentee Shawnee and Citizen Potawatomi.	2494	Nov. 24, 1916	Do.
Do	.....do	2512	Jan. 15, 1917	Do.
Do	.....do	4557	Dec. 23, 1926	Do.
Do	Cheyenne and Arapaho	2580	Apr. 4, 1917	Do.
Do	.....do	4587	Feb. 17, 1927	Do.
Do	Eastern Shawnee	2317	Feb. 15, 1916	Do.
Do	.....do	4384	Feb. 20, 1926	Do.
Do	.....do	5768	Dec. 30, 1931	Do.
Do	Mexican Kickapoo	3047	Feb. 27, 1919	5 years.
Do	.....do	4029	June 19, 1924	10 years.
Do	.....do		Act of Feb. 17, 1933 (47 Stat. 819).	Do.
Do	Modoc	2453	Sept. 14, 1916	Do.
Do	.....do	4470	July 1, 1926	Do.
Do	Ottawa, Seneca and Wyandotte.	2591	Apr. 11, 1917	Do.
Do	.....do	4588	Feb. 17, 1927	Do.
Do	Pawnee	2816	Mar. 2, 1918	Do.
Do	.....do	4898	May 29, 1928	Do.
Do	Ponca	3327	Sept. 19, 1920	1 year.
Do	.....do	3363	Dec. 1, 1920	25 years.
Do	.....do	5539	Jan. 23, 1931	10 years.
Do	Sac and Fox, and Iowa		Mar. 27, 1896	Do.
Do	.....do		July 23, 1906	Do.
Do	.....do		Aug. 28, 1906	Do.
Do	.....do	2432	Aug. 1, 1916	Do.
Do	.....do	4435	Apr. 29, 1926	Do.
Do	Tonkawa	2866	May 25, 1918	Do.
Do	Tonkawa (Oakland)	4816	Feb. 25, 1928	Do.
Do	Kaw		Act of March 1923 (42 Stat. 1561).	25 years.
Do	.....do		Act of May 27, 1924 (43 Stat. 176).	20 years.
Do	Otoe and Missouri	4281	Aug. 11, 1925	10 years.
Do	.....do	5728	Sept. 29, 1931	Do.
Do	.....do	5768	Dec. 30, 1931	Do.
Do	Kiowa, Comanche, Apache, and Wichita.	4398	Mar. 18, 1926	Do.
Do	.....do	5953	Nov. 23, 1932	Do.
Do	.....do	5955	Nov. 30, 1932 (Gertrude Lamb).	Do.
Do	Seneca	5306	Mar. 18, 1930	Do.
Do	Quapaw		Act of Mar. 3, 1921 (41 Stat. 1248) as amended Nov. 18, 1921 (42 Stat. 1570).	25 years.
Do	.....do		As supplemented or amended by the act of July 27, 1939 (53 Stat. 1127).	Do.
Oregon	*Grande Ronde	2376	Apr. 29, 1916	10 years.
Do	.....do	4408	Mar. 30, 1926	Do.
Do	Siletz	3110	July 10, 1919	Do.
Do	Siletz (cont.)	5087	Apr. 1, 1929	Do.
Do	*Warm Springs	3586	Dec. 7, 1921	Do.

State	Reservation	E. O. No.	Date	Period of extension
Do	.....do	5734	Oct. 17, 1931	Do.
Do	Umatilla	4024	June 10, 1924	Do.
Do	.....do	5516	Dec. 17, 1930	Do.
Do	Klamath	6961	Feb. 4, 1935	Do.
Do	.....do		Act of Dec. 24, 1942 (56 Stat. 1081).	25 years.
South Dakota	Crow Creek	3362	Nov. 30, 1920	Do.
Do	.....do	5768	Dec. 30, 1931	10 years.
Do	.....do	6968	Feb. 9, 1935	Do.
Do	*Rosebud	4417	Apr. 14, 1926	Do.
Do	.....do	5028	Jan. 16, 1929	Do.
Do	.....do	5302	Mar. 12, 1930	Do.
Do	.....do	5768	Dec. 30, 1931	Do.
Do	Sisseton and Wahpeton	1916	Apr. 16, 1914	Do.
Do	.....do	3994	Apr. 19, 1924	15 years.
Do	*Yankton Sioux	2363	Apr. 20, 1916	10 years.
Do	.....do	4406	Mar. 30, 1926	Do.
South Dakota	Crow Creek	5173	Aug. 9, 1929	10 years.
Do	*Lower Brule	4981	Oct. 20, 1923	Do.
Do	*Pine Ridge	5557	Feb. 13, 1931	Do.
Do	.....do	5768	Dec. 30, 1931	Do.
Do	.....do	5953	Nov. 23, 1932	Do.
Do	*Cheyenne River	5546	Jan. 31, 1931	Do.
Do	.....do	5768	Dec. 30, 1931	Do.
Utah	*Uncompahgre, Uintah and White River Bands of Utes.	5357	May 29, 1930	Do.
Washington	Chief Moses Band	2109	Dec. 23, 1914	Do.
Do	.....do	4382	Feb. 10, 1926	10 years from Mar. 8, 1926.
Do	Colville	4157	Feb. 17, 1925	10 years.
Do	.....do	6962	Feb. 4, 1935	Do.
Do	*Quinalt	5768	Dec. 30, 1931	Do.
Do	Spokane	6939	Jan. 7, 1935	10 years.
Do	Yakima	3630	Feb. 3, 1922	Do.
Do	.....do	4168	Mar. 11, 1925	Do.
Do	.....do	5746	Nov. 10, 1931	Do.
Do	.....do	7036	May 8, 1935	Do.
Do	.....do		Act of May 27, 1937 (50 Stat. 210).	To July 9, 1942.
Wisconsin	*Oneida	2623	May 19, 1917	1 year.
Do	.....do	2856	May 4, 1918	9 years.
Do	.....do	4600	Mar. 1, 1927	10 years.
Wyoming	Wind River	5768	Dec. 30, 1931	Do.
Do	.....do	5953	Nov. 23, 1932	Do.

Pursuant to act of June 21, 1906 (34 Stat. 325) extending trust or other period of restriction contained in patents issued to Indians for land on the public domain, the following orders have been promulgated:

E. O. No.	Date	Period of extension
2133	Feb. 3, 1915	1 year.
2326	Feb. 23, 1916	Do.
2505	Jan. 3, 1917	Do.
2778	Dec. 31, 1917	Do.
3024	Jan. 11, 1919	Do.
3204	Dec. 23, 1919	Do.
3365	Dec. 7, 1920	25 years.

No further separate orders covering extension of trust periods on public domain allotments were issued subsequent to Executive Order 3365 of December 7, 1920. The trust or other periods of restriction contained in patents issued to Indians for land on the public

domain have thereafter been extended by the terms of the general Executive orders.

GENERAL ORDERS

E. O. No.	Date	Period of extension
6498	Dec. 15, 1933	10 years.
6926	Dec. 20, 1934 (Oklahoma only)	Do.
7206	Oct. 14, 1935 (Oklahoma only)	Do.
7464	Sept. 30, 1936	25 years.
7716	Sept. 29, 1937	Do.
7984	Oct. 7, 1938	25 years.
8276	Oct. 28, 1939	Do.
8580	Oct. 29, 1940	Do.
8965	Dec. 10, 1941	Do.
9272	Nov. 17, 1942	Do.
9398	Nov. 25, 1943	Do.
9500	Nov. 14, 1944	Do.
9659	Nov. 21, 1945	Do.
9811	Dec. 17, 1946	Do.
9920	Jan. 8, 1948, effective Jan. 1, 1948	Do.
10027	Jan. 6, 1949	Do.

Bureau of Indian Affairs, Interior

Pt. 290

GENERAL ORDERS—Continued

E. O. No.	Date	Period of extension
10091	Dec. 11, 1949	Do.
10191	Dec. 13, 1950	Do.

Beginning with Executive Order 6498, issued December 15, 1933, regardless of the location of the allotments, all trust or restrictive periods on allotments expiring on a given date have been extended by one general Executive order issued annually.

GENERAL ORDERS

Order	Date	Per. of exten.	FR citation
Sec. Int. ...	Dec. 29, 1951 ..	1 year	17 FR 799.
Do	Dec. 29, 1952 ..	...do	18 FR 106.
Do	Dec. 28, 1953 ..	...do	18 FR 8897.
Do	Dec. 17, 1954 ..	...do	19 FR 8658.
Do	Nov. 17, 1955 ..	...do	20 FR 8519.
Do	Dec. 6, 1956 ....	...do	21 FR 9644.
Do	Jan. 7, 1958 ....	...do	23 FR 112.
Do	Jan. 7, 1959	5 yrs	24 FR 127.
Do	Dec. 8, 1959 ....	...do	24 FR 9847.
Do	Dec. 24, 1960 ..	...do	25 FR 13688.
Do	Dec. 28, 1961 ..	...do	26 FR 12569.
Sec. Int. ...	Jan. 4, 1963 ....	...do	28 FR 122.
Do	Oct. 31, 1963 ...	...do	28 FR 11630.
Do	Oct. 9, 1968 ....	...do	33 FR 15067.
Dep. Ass ..	Dec. 14, 1973 ..	...do	38 FR 33463.
Sec. Int ...	Dec. 14, 1978 ..	...do	43 FR 58369.
Do	July 27, 1983 ...	...do	48 FR 34026.
Sec. Int ...	Aug. 15, 1988 ..	5 yrs.	53 FR 30674.

NOTE: Executive orders and orders of the Secretary of the Interior (17 FR 799, Jan. 26, 1952; 18 FR 106, Jan. 6, 1953; 18 FR 8897, Dec. 31, 1953; 19 FR 8658, Dec. 17, 1954; 20 FR 8519, Nov. 11, 1955; 21 FR 9644, Dec. 6, 1956; 23 FR 112, Jan. 7, 1958; 24 FR 127, Jan. 7, 1959; 24 FR 9847, Dec. 8, 1959; 25 FR 13688, Dec. 24, 1960; 26 FR 12569, Dec. 28, 1961; 28 FR 122, Jan. 4, 1963; 28 FR 11630, Oct. 31, 1963; 33 FR 15067, Oct. 9, 1968; 38 FR 34463, Dec. 14, 1973; 43 FR 58369, Dec. 14, 1978; 48 FR 34026, July 27, 1983; 53 FR 30674, Aug. 15, 1988, extended the trust periods on Indian lands expiring during the calendar years of 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964-1968, 1969-1973, 1974-1978, 1979-1983, 1984-1988, 1989-1993 respectively.

PART 290—TRIBAL REVENUE ALLOCATION PLANS

- Sec.
- 290.1 Purpose.
- 290.2 Definitions.
- 290.3 Information collection.
- 290.4 What is a tribal revenue allocation plan?
- 290.5 Who approves tribal revenue allocation plans?
- 290.6 Who must submit a tribal revenue allocation plan?

- 290.7 Must an Indian tribe have a tribal revenue allocation plan if it is not making per capita payments?
- 290.8 Do Indian tribes have to make per capita payments from net gaming revenues to tribal members?
- 290.9 How may an Indian tribe use net gaming revenues if it does not have an approved tribal revenue allocation plan?
- 290.10 Is an Indian tribe in violation of IGRA if it makes per capita payments to its members from net gaming revenues without an approved tribal revenue allocation plan?
- 290.11 May an Indian tribe distribute per capita payments from net gaming revenues derived from either Class II or Class III gaming without a tribal revenue allocation plan?
- 290.12 What information must the tribal revenue allocation plan contain?
- 290.13 Under what conditions may an Indian tribe distribute per capita payments?
- 290.14 Who can share in a per capita payment?
- 290.15 Must the Indian tribe establish trust accounts with financial institutions for minors and legal incompetents?
- 290.16 Can the per capita payments of minors and legal incompetents be deposited into accounts held by BIA or OTFM?
- 290.17 What documents must the Indian tribe include with the tribal revenue allocation plan?
- 290.18 Where should the Indian tribe submit the tribal revenue allocation plan?
- 290.19 How long will the ABO take to review and approve the tribal revenue allocation plan?
- 290.20 When will the ABO disapprove a tribal revenue allocation plan?
- 290.21 May an Indian tribe appeal the ABO's decision?
- 290.22 How does the Indian tribe and its members ensure compliance with its tribal revenue allocation plan?
- 290.23 How does the Indian tribe resolve disputes arising from per capita payments to individual members or identified groups of members?
- 290.24 Do revisions/amendments to a tribal revenue allocation plan require approval?
- 290.25 What is the liability of the United States under this part?
- 290.26 Are previously approved tribal revenue allocation plans, revisions or amendments subject to review in accordance with 25 CFR part 290?

AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2, 9, and 2710.

SOURCE: 65 FR 14467, Mar. 17, 2000, unless otherwise noted.

§ 290.1

25 CFR Ch. I (4–1–01 Edition)

§ 290.1 Purpose.

This part contains procedures for submitting, reviewing, and approving tribal revenue allocation plans for distributing net gaming revenues from tribal gaming activities. It applies to review of tribal revenue allocation plans adopted under IGRA.

§ 290.2 Definitions.

Appropriate Bureau official (ABO) means the Bureau official with delegated authority to approve tribal revenue allocation plans.

IGRA means the Indian Gaming Regulatory Act of 1988 (Public Law 100–497) 102 Stat. 2467 dated October 17, 1988, (Codified at 25 U.S.C. 2701–2721(1988)) and any amendments.

Indian Tribe means any Indian tribe, band, nation, or other organized group or community of Indians that the Secretary recognizes as:

(1) Eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(2) Having powers of self-government.

Legal incompetent means an individual who is eligible to participate in a per capita payment and who has been declared to be under a legal disability, other than being a minor, by a court of competent jurisdiction, including tribal justice systems or as established by the tribe.

Member of an Indian tribe means an individual who meets the requirements established by applicable tribal law for enrollment in the tribe and—

(1) Is listed on the tribal rolls of that tribe if such rolls are kept or

(2) Is recognized as a member by the tribal governing body if tribal rolls are not kept.

Minor means an individual who is eligible to participate in a per capita payment and who has not reached the age of 18 years.

Per capita payment means the distribution of money or other thing of value to all members of the tribe, or to identified groups of members, which is paid directly from the net revenues of any tribal gaming activity. This definition does not apply to payments which have been set aside by the tribe for special purposes or programs, such as payments made for social welfare, medical

assistance, education, housing or other similar, specifically identified needs.

Resolution means the formal document in which the tribal governing body expresses its legislative will in accordance with applicable tribal law.

Secretary means the Secretary of the Interior or his/her authorized representative.

Superintendent means the official or other designated representative of the BIA in charge of the field office which has immediate administrative responsibility for the affairs of the tribe for which a tribal revenue allocation plan is prepared.

Tribal governing body means the governing body of an Indian tribe recognized by the Secretary.

Tribal revenue allocation plan or *allocation plan* means the document submitted by an Indian tribe that provides for distributing net gaming revenues.

You or your means the Indian tribe.

§ 290.3 Information collection.

The information collection requirements contained in §§ 290.12, 290.17, 290.24 and 290.26 have been approved by the OMB under the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), and assigned clearance number 1076–0152.

§ 290.4 What is a tribal revenue allocation plan?

It is the document you must submit that describes how you will allocate net gaming revenues.

§ 290.5 Who approves tribal revenue allocation plans?

The ABO will review and approve tribal revenue allocation plans for compliance with IGRA.

§ 290.6 Who must submit a tribal revenue allocation plan?

Any Indian tribe that intends to make a per capita payment from net gaming revenues must submit one.

§ 290.7 Must an Indian tribe have a tribal revenue allocation plan if it is not making per capita payments?

No, if you do not make per capita payments, you do not need to submit a tribal revenue allocation plan.

§ 290.8 Do Indian tribes have to make per capita payments from net gaming revenues to tribal members?

No. You do not have to make per capita payments.

§ 290.9 How may an Indian tribe use net gaming revenues if it does not have an approved tribal revenue allocation plan?

Without an approved tribal revenue allocation plan, you may use net gaming revenues to fund tribal government operations or programs; to provide for the general welfare of your tribe and its members; to promote tribal economic development; to donate to charitable organizations; or to help fund operations of local government agencies.

§ 290.10 Is an Indian tribe in violation of IGRA if it makes per capita payments to its members from net gaming revenues without an approved tribal revenue allocation plan?

Yes, you are in violation of IGRA if you make per capita payments to your tribal members from net gaming revenues without an approved tribal revenue allocation plan. If you refuse to comply, the DOJ or NIGC may enforce the per capita requirements of IGRA.

§ 290.11 May an Indian tribe distribute per capita payments from net gaming revenues derived from either Class II or Class III gaming without a tribal revenue allocation plan?

No, IGRA requires that you have an approved tribal revenue allocation plan.

§ 290.12 What information must the tribal revenue allocation plan contain?

(a) You must prepare a tribal revenue allocation plan that includes a percentage breakdown of the uses for which you will allocate net gaming revenues. The percentage breakdown must total 100 percent.

(b) The tribal revenue allocation plan must meet the following criteria:

(1) It must reserve an adequate portion of net gaming revenues from the tribal gaming activity for one or more of the following purposes:

(i) To fund tribal government operations or programs;

(ii) To provide for the general welfare of the tribe or its members;

(iii) To promote tribal economic development;

(iv) To donate to charitable organizations; or

(v) To help fund operations of local government.

(2) It must contain detailed information to allow the ABO to determine that it complies with this section and IGRA particularly regarding funding for tribal governmental operations or programs and for promoting tribal economic development.

(3) It must protect and preserve the interests of minors and other legally incompetent persons who are entitled to receive per capita payments by:

(i) Ensuring that tribes make per capita payments for eligible minors or incompetents to the parents or legal guardians of these minors or incompetents at times and in such amounts as necessary for the health, education, or welfare of the minor or incompetent;

(ii) Establishing criteria for withdrawal of the funds, acceptable proof and/or receipts for accountability of the expenditure of the funds and the circumstances for denial of the withdrawal of the minors' and legal incompetents' per capita payments by the parent or legal guardian; and

(iii) Establishing a process, system, or forum for dispute resolution.

(4) It must describe how you will notify members of the tax liability for per capita payments and how you will withhold taxes for all recipients in accordance with IRS regulations in 26 CFR part 31.

(5) It must authorize the distribution of per capita payments to members according to specific eligibility requirements and must utilize or establish a tribal court system, forum or administrative process for resolution of disputes concerning the allocation of net gaming revenues and the distribution of per capita payments.

§ 290.13 Under what conditions may an Indian tribe distribute per capita payments?

You may make per capita payments only after the ABO approves your tribal revenue allocation plan.

§ 290.14

25 CFR Ch. I (4–1–01 Edition)

§ 290.14 Who can share in a per capita payment?

(a) You must establish your own criteria for determining whether all members or identified groups of members are eligible for per capita payments.

(b) If the tribal revenue allocation plan calls for distributing per capita payments to an identified group of members rather than to all members, you must justify limiting this payment to the identified group of members. You must make sure that:

(1) The distinction between members eligible to receive payments and members ineligible to receive payments is reasonable and not arbitrary;

(2) The distinction does not discriminate or otherwise violate the Indian Civil Rights Act; and

(3) The justification complies with applicable tribal law.

§ 290.15 Must the Indian tribe establish trust accounts with financial institutions for minors and legal incompetents?

No. The tribe may establish trust accounts with financial institutions but should explore investment options to structure the accounts to the benefit of their members while ensuring compliance with IGRA and this part.

§ 290.16 Can the per capita payments of minors and legal incompetents be deposited into accounts held by BIA or OTFM?

No. The Secretary will not accept any deposits of payments or funds derived from net gaming revenues to any account held by BIA or OTFM.

§ 290.17 What documents must the Indian tribe include with the tribal revenue allocation plan?

You must include:

(a) A written request for approval of the tribal revenue allocation plan; and

(b) A tribal resolution or other document, including the date and place of adoption and the result of any vote taken, that certifies you have adopted the tribal revenue allocation plan in accordance with applicable tribal law.

§ 290.18 Where should the Indian tribe submit the tribal revenue allocation plan?

You must submit your tribal revenue allocation plan to your respective Superintendent. The Superintendent will review the tribal revenue allocation plan to make sure it has been properly adopted in accordance with applicable tribal law. The Superintendent will then transmit the tribal revenue allocation plan promptly to the ABO.

§ 290.19 How long will the ABO take to review and approve the tribal revenue allocation plan?

The ABO must review and act on your tribal revenue allocation plan within 60 days of receiving it. A tribal revenue allocation plan is not effective without the ABO's written approval.

(a) If the tribal revenue allocation plan conforms with this part and the IGRA, the ABO must approve it.

(b) If the tribal revenue allocation plan does not conform with this part and the IGRA, the ABO will send you a written notice that:

(1) Explains why the plan doesn't conform to this part of the IGRA; and

(2) Tells you how to bring the plan into conformance.

(c) If the ABO doesn't act within 60 days, you can appeal the inaction under 25 CFR part 2. A tribal revenue allocation plan is not effective without the express written approval of the ABO.

§ 290.20 When will the ABO disapprove a tribal revenue allocation plan?

The ABO will not approve any tribal revenue allocation plan for distribution of net gaming revenues from a tribal gaming activity if:

(a) The tribal revenue allocation plan is inadequate, particularly with respect to the requirements in §290.12 and IGRA, and you fail to bring it into compliance;

(b) The tribal revenue allocation plan is not adopted in accordance with applicable tribal law;

(c) The tribal revenue allocation plan does not include a reasonable justification for limiting per capita payments to certain groups of members; or

(d) The tribal revenue allocation plan violates the Indian Civil Rights Act of

Bureau of Indian Affairs, Interior

§ 291.1

1968, any other provision of Federal law, or the United States' trust obligations.

§ 290.21 May an Indian tribe appeal the ABO's decision?

Yes, you may appeal the ABO's decision in accordance with the regulations at 25 CFR part 2.

§ 290.22 How does the Indian tribe ensure compliance with its tribal revenue allocation plan?

You must utilize or establish a tribal court system, forum or administrative process in the tribal revenue allocation plan for reviewing expenditures of net gaming revenues and explain how you will correct deficiencies.

§ 290.23 How does the Indian tribe resolve disputes arising from per capita payments to individual members or identified groups of members?

You must utilize or establish a tribal court system, forum or administrative process for resolving disputes arising from the allocation of net gaming revenue and the distribution of per capita payments.

§ 290.24 Do revisions/amendments to a tribal revenue allocation plan require approval?

Yes, revisions/amendments to a tribal revenue allocation plan must be submitted to the ABO for approval to ensure that they comply with § 290.12 and IGRA.

§ 290.25 What is the liability of the United States under this part?

The United States is not liable for the manner in which a tribe distributes funds from net gaming revenues.

§ 290.26 Are previously approved tribal revenue allocation plans, revisions, or amendments subject to review in accordance with this part?

No. This part applies only to tribal revenue allocation plans, revisions, or amendments submitted for approval after April 17, 2000.

(a) If the ABO approved your tribal revenue allocation plan, revisions, or amendments before April 17, 2000, you need not resubmit it for approval.

(b) If you are amending or revising a previously approved allocation plan,

you must submit the amended or revised plan to the ABO for review and approval under this part.

PART 291—Class III Gaming Procedures

Sec.

291.1 Purpose and scope.

291.2 Definitions.

291.3 When may an Indian tribe ask the Secretary to issue Class III gaming procedures?

291.4 What must a proposal requesting Class III gaming procedures contain?

291.5 Where must the proposal requesting Class III gaming procedures be filed?

291.6 What must the Secretary do upon receiving a proposal?

291.7 What must the Secretary do if it has been determined that the Indian tribe is eligible to request Class III gaming procedures?

291.8 What must the Secretary do at the expiration of the 60-day comment period if the State has not submitted an alternative proposal?

291.9 What must the Secretary do at the end of the 60-day comment period if the State offers an alternative proposal for Class III gaming procedures?

291.10 What is the role of the mediator appointed by the Secretary?

291.11 What must the Secretary do upon receiving the proposal selected by the mediator?

291.12 Who will monitor and enforce tribal compliance with the Class III gaming procedures?

291.13 When do Class III gaming procedures for an Indian tribe become effective?

291.14 How can Class III gaming procedures issued by the Secretary be amended?

291.15 How long do Class III gaming procedures remain in effect?

AUTHORITY: 5 U.S.C. 301; 25 U.S.C. sections 2,9 and 2710.

SOURCE: 64 FR 17543, Apr. 12, 1999, unless otherwise noted.

§ 291.1 Purpose and scope.

The regulations in this part establish procedures that the Secretary will use to promulgate rules for the conduct of Class III Indian gaming when:

(a) A State and an Indian tribe are unable to voluntarily agree to a compact and;

(b) The State has asserted its immunity from suit brought by an Indian tribe under 25 U.S.C. 2710(d)(7)(B).

§ 291.2

25 CFR Ch. I (4-1-01 Edition)

§ 291.2 Definitions

(a) All terms have the same meaning as set forth in the definitional section of IGRA, 25 U.S.C. section 2703(1)-(10).

(b) The term “compact” includes renewal of an existing compact.

§ 291.3 When may an Indian tribe ask the Secretary to issue Class III gaming procedures?

An Indian tribe may ask the Secretary to issue Class III gaming procedures when the following steps have taken place:

(a) The Indian tribe submitted a written request to the State to enter into negotiations to establish a Tribal-State compact governing the conduct of Class III gaming activities;

(b) The State and the Indian tribe failed to negotiate a compact 180 days after the State received the Indian tribe’s request;

(c) The Indian tribe initiated a cause of action in Federal district court against the State alleging that the State did not respond, or did not respond in good faith, to the request of the Indian tribe to negotiate such a compact;

(d) The State raised an Eleventh Amendment defense to the tribal action; and

(e) The Federal district court dismissed the action due to the State’s sovereign immunity under the Eleventh Amendment.

§ 291.4 What must a proposal requesting Class III gaming procedures contain?

A proposal requesting Class III gaming procedures must include the following information:

(a) The full name, address, and telephone number of the Indian tribe submitting the proposal;

(b) A copy of the authorizing resolution from the Indian tribe submitting the proposal;

(c) A copy of the Indian tribe’s gaming ordinance or resolution approved by the NIGC in accordance with 25 U.S.C. 2710, if any;

(d) A copy of the Indian tribe’s organic documents, if any;

(e) A copy of the Indian tribe’s written request to the State to enter into

compact negotiations, along with the Indian tribe’s proposed compact, if any;

(f) A copy of the State’s response to the tribal request and/or proposed compact, if any;

(g) A copy of the tribe’s Complaint (with attached exhibits, if any); the State’s Motion to Dismiss; any Response by the tribe to the State’s Motion to Dismiss; any Opinion or other written documents from the court regarding the State’s Motion to Dismiss; and the Court’s Order of dismissal;

(h) The Indian tribe’s factual and legal authority for the scope of gaming specified in paragraph (j)(13) of this section;

(i) Regulatory scheme for the State’s oversight role, if any, in monitoring and enforcing compliance; and

(j) Proposed procedures under which the Indian tribe will conduct Class III gaming activities, including:

(1) A certification that the tribe’s accounting procedures are maintained in accordance with American Institute of Certified Public Accountants Standards for Audits of Casinos, including maintenance of books and records in accordance with Generally Accepted Accounting Principles and applicable NIGC regulations;

(2) A reporting system for the payment of taxes and fees in a timely manner and in compliance with Internal Revenue Code and Bank Secrecy Act requirements;

(3) Preparation of financial statements covering all financial activities of the Indian tribe’s gaming operations;

(4) Internal control standards designed to ensure fiscal integrity of gaming operations as set forth in 25 CFR Part 542;

(5) Provisions for records retention, maintenance, and accessibility;

(6) Conduct of games, including patron requirements, posting of game rules, and hours of operation;

(7) Procedures to protect the integrity of the rules for playing games;

(8) Rules governing employees of the gaming operation, including code of conduct, age requirements, conflict of interest provisions, licensing requirements, and such background investigations of all management officials and key employees as are required by

Bureau of Indian Affairs, Interior

§ 291.8

IGRA, NIGC regulations, and applicable tribal gaming laws;

(9) Policies and procedures that protect the health and safety of patrons and employees and that address insurance and liability issues, as well as safety systems for fire and emergency services at all gaming locations;

(10) Surveillance procedures and security personnel and systems capable of monitoring movement of cash and chips, entrances and exits of gaming facilities, and other critical areas of any gaming facility;

(11) An administrative and/or tribal judicial process to resolve disputes between gaming establishment, employees and patrons, including a process to protect the rights of individuals injured on gaming premises by reason of negligence in the operation of the facility;

(12) Hearing procedures for licensing purposes;

(13) A list of gaming activities proposed to be offered by the Indian tribe at its gaming facilities;

(14) A description of the location of proposed gaming facilities;

(15) A copy of the Indian tribe's liquor ordinance approved by the Secretary if intoxicants, as used in 18 U.S.C. 1154, will be served in the gaming facility;

(16) Provisions for a tribal regulatory gaming entity, independent of gaming management;

(17) Provisions for tribal enforcement and investigatory mechanisms, including the imposition of sanctions, monetary penalties, closure, and an administrative appeal process relating to enforcement and investigatory actions;

(18) The length of time the procedures will remain in effect; and

(19) Any other provisions deemed necessary by the Indian tribe.

§ 291.5 Where must the proposal requesting Class III gaming procedures be filed?

Any proposal requesting Class III gaming procedures must be filed with the Director, Indian Gaming Management Staff, Bureau of Indian Affairs, U.S. Department of the Interior, MS 2070-MIB, 1849 C Street NW, Washington, DC 20240.

§ 291.6 What must the Secretary do upon receiving a proposal?

Upon receipt of a proposal requesting Class III gaming procedures, the Secretary must:

(a) Within 15 days, notify the Indian tribe in writing that the proposal has been received, and whether any information required under § 291.4 is missing;

(b) Within 30 days of receiving a complete proposal, notify the Indian tribe in writing whether the Indian tribe meets the eligibility requirements in § 291.3. The Secretary's eligibility determination is final for the Department.

§ 291.7 What must the Secretary do if it has been determined that the Indian tribe is eligible to request Class III gaming procedures?

(a) If the Secretary determines that the Indian tribe is eligible to request Class III gaming procedures and that the Indian tribe's proposal is complete, the Secretary must submit the Indian tribe's proposal to the Governor and the Attorney General of the State where the gaming is proposed.

(b) The Governor and Attorney General will have 60 days to comment on:

(1) Whether the State is in agreement with the Indian tribe's proposal;

(2) Whether the proposal is consistent with relevant provisions of the laws of the State;

(3) Whether contemplated gaming activities are permitted in the State for any purposes, by any person, organization, or entity.

(c) The Secretary will also invite the State's Governor and Attorney General to submit an alternative proposal to the Indian tribe's proposed Class III gaming procedures.

§ 291.8 What must the Secretary do at the expiration of the 60-day comment period if the State has not submitted an alternative proposal?

(a) Upon expiration of the 60-day comment period specified in § 291.7, if the State has not submitted an alternative proposal, the Secretary must review the Indian tribe's proposal to determine:

(1) Whether all requirements of § 291.4 are adequately addressed;

§ 291.9

25 CFR Ch. I (4-1-01 Edition)

(2) Whether Class III gaming activities will be conducted on Indian lands over which the Indian tribe has jurisdiction;

(3) Whether contemplated gaming activities are permitted in the State for any purposes by any person, organization, or entity;

(4) Whether the proposal is consistent with relevant provisions of the laws of the State;

(5) Whether the proposal is consistent with the trust obligations of the United States to the Indian tribe;

(6) Whether the proposal is consistent with all applicable provisions of IGRA; and

(7) Whether the proposal is consistent with provisions of other applicable Federal laws.

(b) Within 60 days of the expiration of the 60-day comment period in §291.7, the Secretary must notify the Indian tribe, the Governor, and the Attorney General of the State in writing that he/she has:

(1) Approved the proposal if the Secretary determines that there are no objections to the Indian tribe's proposal; or

(2) Identified unresolved issues and areas of disagreements in the proposal, and invite the Indian tribe, the Governor and the Attorney General to participate in an informal conference, within 30 days of notification unless the parties agree otherwise, to resolve identified unresolved issues and areas of disagreement.

(c) Within 30 days of the informal conference, the Secretary must prepare and mail to the Indian tribe, the Governor and the Attorney General:

(1) A written report that summarizes the results of the informal conference; and

(2) A final decision either setting forth the Secretary's proposed Class III gaming procedures for the Indian tribe, or disapproving the proposal for any of the reasons in paragraph (a) of this section.

§ 291.9 What must the Secretary do at the end of the 60-day comment period if the State offers an alternative proposal for Class III gaming procedures?

Within 30 days of receiving the State's alternative proposal, the Secretary must appoint a mediator who:

(a) Has no official, financial, or personal conflict of interest with respect to the issues in controversy; and

(b) Must convene a process to resolve differences between the two proposals.

§ 291.10 What is the role of the mediator appointed by the Secretary?

(a) The mediator must ask the Indian tribe and the State to submit their last best proposal for Class III gaming procedures.

(b) After giving the Indian tribe and the State an opportunity to be heard and present information supporting their respective positions, the mediator must select from the two proposals the one that best comports with the terms of IGRA and any other applicable Federal law. The mediator must submit the proposal selected to the Indian tribe, the State, and the Secretary.

§ 291.11 What must the Secretary do upon receiving the proposal selected by the mediator?

Within 60 days of receiving the proposal selected by the mediator, the Secretary must do one of the following:

(a) Notify the Indian tribe, the Governor and the Attorney General in writing of his/her decision to approve the proposal for Class III gaming procedures selected by the mediator; or

(b) Notify the Indian tribe, the Governor and the Attorney General in writing of his/her decision to disapprove the proposal selected by the mediator for any of the following reasons:

(1) The requirements of §291.4 are not adequately addressed;

(2) Gaming activities would not be conducted on Indian lands over which the Indian tribe has jurisdiction;

(3) Contemplated gaming activities are not permitted in the State for any

Bureau of Indian Affairs, Interior

§ 291.15

purpose by any person, organization, or entity;

(4) The proposal is not consistent with relevant provisions of the laws of the State;

(5) The proposal is not consistent with the trust obligations of the United States to the Indian tribe;

(6) The proposal is not consistent with applicable provisions of IGRA; or

(7) The proposal is not consistent with provisions of other applicable Federal laws.

(c) If the Secretary rejects the mediator's proposal under paragraph (b) of this section, he/she must prescribe appropriate procedures within 60 days under which Class III gaming may take place that comport with the mediator's selected proposal as much as possible, the provisions of IGRA, and the relevant provisions of the laws of the State.

§ 291.12 Who will monitor and enforce tribal compliance with the Class III gaming procedures?

The Indian tribe and the State may have an agreement regarding monitoring and enforcement of tribal compliance with the Indian tribe's Class III gaming procedures. In addition, under existing law, the NIGC will monitor and enforce tribal compliance with the Indian tribe's Class III gaming procedures.

§ 291.13 When do Class III gaming procedures for an Indian tribe become effective?

Upon approval of Class III gaming procedures for the Indian tribe under either § 291.8(b), § 291.8(c), or § 291.11(a), the Indian tribe shall have 90 days in which to approve and execute the Secretarial procedures and forward its approval and execution to the Secretary, who shall publish notice of their approval in the FEDERAL REGISTER. The procedures take effect upon their publication in the FEDERAL REGISTER.

§ 291.14 How can Class III gaming procedures approved by the Secretary be amended?

An Indian tribe may ask the Secretary to amend approved Class III gaming procedures by submitting an amendment proposal to the Secretary. The Secretary must review the proposal by following the approval process for initial tribal proposals, except that the requirements of § 291.3 are not applicable and he/she may waive the requirements of § 291.4 to the extent they do not apply to the amendment request.

§ 291.15 How long do Class III gaming procedures remain in effect?

Class III gaming procedures remain in effect for the duration specified in the procedures or until amended pursuant to § 291.14.