

under 25 U.S.C. 2716(b), the information could be relevant to an investigation by the Commission.

(iv) In the interviewing of individuals or obtaining evidence in other ways during an investigation, the Commission could obtain information that may or may not appear relevant at any given time; however, the information could be relevant to another investigation by the Commission.

**PART 516—TESTIMONY OF COMMISSIONERS AND EMPLOYEES AND FORMER COMMISSIONERS AND FORMER EMPLOYEES RESPECTING OFFICIAL DUTIES; RESPONSE TO SUBPOENA**

Sec.

516.1 What is the purpose of this part and to whom does it apply?

516.2 When may a person to whom this part applies give testimony, make a statement or submit to interview?

516.3 When may a person to whom this part applies produce records?

516.4 How are records certified or authenticated?

AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2706; 25 U.S.C. 2716(a); 18 U.S.C. 1905.

SOURCE: 64 FR 54542, Oct. 7, 1999, unless otherwise noted.

**§ 516.1 What is the purpose of this part and to whom does it apply?**

(a) The purpose of this part is to promulgate regulations regarding the release of official National Indian Gaming Commission information and provision of testimony by National Indian Gaming Commission personnel with respect to litigation or potential litigation and to prescribe conduct on the part of National Indian Gaming Commission personnel in response to a litigation-related request or demand.

(b) This part applies to requests or demands that are litigation-related or otherwise arise out of judicial, administrative or other legal proceedings (including subpoena, order or other demand) for interview, testimony (including by deposition) or other statement, or for production of documents relating to the business of the National Indian Gaming Commission, whether or not the National Indian Gaming Commission or the United States is a

party to the litigation. It does not, however, apply to document requests covered by 25 CFR parts 515 and 517.

(c) To the extent the request or demand seeks official information or documents, the provisions of this part are applicable to Commissioners, employees, and former Commissioners and former employees, of the National Indian Gaming Commission.

**§ 516.2 When may a person to whom this part applies give testimony, make a statement or submit to interview?**

(a) No person to whom this part applies, except as authorized by the Chairman or the General Counsel pursuant to this regulation, shall provide testimony, make a statement or submit to interview.

(b) Whenever a subpoena commanding the giving of any testimony has been lawfully served upon a person to whom this part applies, such individual shall, unless otherwise authorized by the Chairman or the General Counsel, appear in response thereto and respectfully decline to testify on the grounds that it is prohibited by this regulation.

(c) A person who desires testimony or other statement from any person to whom this part applies may make written request therefor, verified by oath, directed to the Chairman setting forth his or her interest in the matter to be disclosed and designating the use to which such statement or testimony will be put in the event of compliance with such request: provided, that a written request therefor by an official of any federal, state or tribal entity, acting in his or her official capacity need not be verified by oath. If it is determined by the Chairman or the General Counsel that such statement or testimony will be in the public interest, the request may be granted. Where a request for a statement or testimony is granted, one or more persons to whom this part applies may be authorized or designated to appear and testify or give a statement with respect thereto.

## §516.3

### §516.3 When may a person to whom this part applies produce records?

(a) Any request for records of the National Indian Gaming Commission shall be handled pursuant to the procedures established in 25 CFR parts 515 and 517 and shall comply with the rules governing public disclosure as provided in 25 CFR parts 515 and 517.

(b) Whenever a subpoena duces tecum commanding the production of any record has been lawfully served upon a person to whom this part applies, such person shall forward the subpoena to the General Counsel. If commanded to appear in response to any such subpoena, a person to whom this part applies shall respectfully decline to produce the record on the ground that production is prohibited by this part and state that the production of the record(s) of the National Indian Gaming Commission is a matter to be determined by the Chairman or the General Counsel.

### §516.4 How are records certified or authenticated?

(a) Upon request, the person having custody and responsibility for maintenance of records which are to be released under this part or 25 CFR parts 515 or 517 may certify the authenticity of copies of records that are requested to be provided in such format.

(b) A request for certified copies of records or for authentication of copies of records shall be sent to the National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005, Attention: Freedom of Information Act Officer.

## PART 517—FREEDOM OF INFORMATION ACT PROCEDURES

### Sec.

- 517.1 General provisions.
- 517.2 Public reading room.
- 517.3 Definitions.
- 517.4 Requirements for making requests.
- 517.5 Responsibility for responding to requests.
- 517.6 Timing of responses to requests.
- 517.7 Confidential commercial information.
- 517.8 Appeals.
- 517.9 Fees.

AUTHORITY: 5 U.S.C. 552, as amended.

## 25 CFR Ch. III (4–1–11 Edition)

SOURCE: 71 FR 20007, Apr. 19, 2006, unless otherwise noted.

### §517.1 General provisions.

This part contains the regulations the National Indian Gaming Commission (Commission) follows in implementing the Freedom of Information Act (FOIA) (5 U.S.C. 552) as amended. These regulations provide procedures by which you may obtain access to records compiled, created, and maintained by the Commission, along with procedures the Commission must follow in response to such requests for records. These regulations should be read together with the FOIA, which provides additional information about access to records maintained by the Commission.

### §517.2 Public reading room.

Records that are required to be maintained by the Commission shall be available for public inspection and copying at 1441 L Street, NW., Suite 9100 Washington, DC. Reading room records created on or after November 1, 1996, shall be made available electronically via the Web site.

### §517.3 Definitions.

(a) *Commercial use requester* means a requester seeking information for a use or purpose that furthers the commercial, trade, or profit interests of himself or the person on whose behalf the request is made, which can include furthering those interests through litigation. In determining whether a request properly belongs in this category, the FOIA Officer shall determine the use to which the requester will put the documents requested. Where the FOIA Officer has reasonable cause to doubt the use to which the requester will put the records sought, or where that use is not clear from the request itself, the FOIA Officer shall contact the requester for additional clarification before assigning the request to a specific category.

(b) *Confidential commercial information* means records provided to the government by a submitter that arguably contains material exempt from disclosure under Exemption 4 of the FOIA, because disclosure could reasonably be expected to cause substantial competitive harm.