

BACKGROUND INVESTIGATIONS FOR PRIMARY MANAGEMENT OFFICIALS AND KEY EMPLOYEES

25 CFR PART 556

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§ 556.1 Scope of this part.

Unless a tribal-state compact allocates sole jurisdiction to an entity other than a tribe with respect to background investigations, the requirements of this part apply to all class II and class III gaming.

§ 556.2 Privacy notice.

(a) A tribe shall place the following notice on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 *et seq*. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

(b) A tribe shall notify in writing existing key employees and primary management officials that they shall either:

(1) Complete a new application form that contains a Privacy Act notice; or

(2) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

(c) All tribal gaming ordinances and ordinance amendments that have been approved by the Chairman prior to the effective date of this section and that reference this notice do not need to be amended to comply with this section. All future ordinance submissions, however, must comply.

(d) All license application forms used 180 days after the effective date of this section shall contain notices in compliance with this section.

§ 556.3 Notice regarding false statements.

(a) A tribe shall place the following notice on the application form for a key employee or a primary management official before that form is filled out by an applicant:

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

(b) A tribe shall notify in writing existing key employees and primary management officials that they shall either:

(1) Complete a new application form that contains a notice regarding false statements; or

(2) Sign a statement that contains the notice regarding false statements.

(c) All tribal gaming ordinances and ordinance amendments that have been approved by the Chairman prior to the effective date of this section and that reference this notice do not need to be amended to comply with this section. All future ordinance submissions, however, must comply.

(d) All license application forms used 180 days after the effective date of this section shall contain notices in compliance with this section.

§ 556.4 Background investigations.

A tribe shall perform a background investigation for each primary management official and for each key employee of a gaming operation.

(a) A tribe shall request from each primary management official and from each key employee all of the following information:

(1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

(2) Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;

(3) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (a)(2) of this section;

(4) Current business and residence telephone numbers;

(5) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(7) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

(8) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;

(9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date and disposition;

(10) For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (a)(8) or (a)(9) of this section, the criminal charge, the name and address of the court involved and the date and disposition;

(11) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(12) A photograph;

(13) Any other information a tribe deems relevant; and

(14) Fingerprints consistent with procedures adopted by a tribe according to §522.2(h) of this chapter.

(b) A tribe shall conduct an investigation sufficient to make a determination under §558.2 of this chapter. In conducting a background investigation, a tribe or its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

(c) If the Commission has received an investigative report concerning an individual who another tribe wishes to employ as a key employee or primary management official and if the second tribe has access to the investigative materials held by the first tribe, the second tribe may update the investigation and update the investigative report under §556.5(b) of this part.

§ 556.5 Report to Commission.

(a) When a tribe employs a primary management official or a key employee, the tribe shall forward to the Commission a completed application containing the information listed under §556.4(a)(1)–(13) of this part.

(b) Before issuing a license to a primary management official or to a key employee, a tribe shall forward to the Commission an investigative report on each background investigation. An investigative report shall include all of the following:

(1) Steps taken in conducting a background investigation;

(2) Results obtained;

(3) Conclusions reached; and

(4) The bases for those conclusions.

(c) When a tribe forwards its report to the Commission, it shall include a copy of the eligibility determination made under §558.2 of this chapter.

(d) If a tribe does not license an applicant—

(1) The tribe shall notify the Commission; and

(2) May forward copies of its eligibility determination under §558.2 and investigative report (if any) under §556.5(b) to the Commission for inclusion in the Indian Gaming Individuals Record System.