



# **BUDGET** The United States Department of the Interior **JUSTIFICATIONS**

and Performance Information  
Fiscal Year 2023

## **NATIONAL INDIAN GAMING COMMISSION**

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# DEPARTMENT OF THE INTERIOR NATIONAL INDIAN GAMING COMMISSION

## FY 2023 Budget Justification

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## Executive Summary





## **National Indian Gaming Commission (NIGC)**

### **Executive Summary**

The National Indian Gaming Commission (NIGC or “Commission”) was created by the Indian Gaming Regulatory Act of 1988 (P.L. 100-497). The purpose of the Indian Gaming Regulatory Act (IGRA) is, in part, to promote tribal economic development and self-determination; support the integrity of the Indian gaming industry; and ensure that tribes are the primary beneficiaries of their gaming activities. To ensure those purposes of IGRA are carried out, IGRA created the NIGC as an “independent Federal regulatory authority for gaming on Indian lands... to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue.”<sup>1</sup>

In addition to the NIGC, there are approximately 6,000 Tribal Gaming Regulators serving as the primary regulators of Indian gaming operations in 29 states. Further, states provide appropriate regulatory support to implement their respective responsibilities under IGRA and tribal-state compacts. Besides the NIGC, tribal and state regulatory agencies, the Department of the Interior, the Department of Justice, and the Department of the Treasury all implement and enforce laws that serve to ensure that tribes are the primary beneficiaries of Indian gaming. The NIGC coordinates closely with all of these governmental entities to fulfill the mandates of IGRA.

The NIGC’s budget is tied to the mandates of IGRA. In May 2006, Congress enacted the Native American Technical Corrections Act of 2006 (Sec. 301 of P.L. 109-221). This Act authorizes the Commission to collect up to 0.080 percent of the gross gaming revenue, but also links NIGC’s fee collections to the growth or contraction of the Indian gaming industry so that the agency’s funding reflects the financial status of the industry. Importantly, the Act also identified training and technical assistance as agency functions. As in the past, the FY 2023 budget will continue to include expanding tribal consultation and improving intergovernmental coordination, providing training and technical assistance to tribal gaming commissions and operations, conducting a regulatory review, examining and assessing the efficiency and effectiveness of the Commission, and enhancing the information technology infrastructure.

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<sup>1</sup> 25 U.S.C. § 2702(3).

## **Mission**

The NIGC's mission is to (1) promote tribal economic development, self-sufficiency, and strong tribal governments; (2) maintain the integrity of the Indian gaming industry; and (3) ensure that Tribes are the primary beneficiaries of their gaming activities. To fulfill its mission and achieve compliance, the NIGC works within the framework created by the IGRA by providing sound guidance, removing unnecessary roadblocks, and sensibly regulating gaming activities conducted by sovereign Indian tribes on Indian lands without stymieing the economic development and entrepreneurial spirit of tribes.

## **Vision**

The Commission's vision is to utilize all of its regulatory tools, including training, technical assistance, public education, and enforcement, to empower and partner with tribal governments to ensure that regulatory compliance and gaming integrity respect the capabilities and responsibilities of each sovereign tribe.

## **General Statement**

The Indian Gaming Regulatory Act (IGRA) established the NIGC as an independent Federal regulatory agency within the Department of the Interior. IGRA created the NIGC to protect tribal gaming as a means of generating revenue for tribal governance and tribal communities. IGRA further provides a legal framework structured to safeguard tribes as the primary beneficiaries of their gaming operations, support the integrity of the Indian gaming industry, and assure that gaming is conducted fairly and honestly by both the operators and players.

The NIGC ensures compliance with IGRA, NIGC regulations, and tribal gaming ordinances with more than 520 gaming establishments licensed by approximately 250 federally-recognized tribes located within 29 states. To do so, the Commission regulates and monitors tribal gaming activity, inspects gaming premises, conducts background investigations, analyzes audits of Class II and certain aspects of Class III gaming operations, and investigates violations of IGRA. The NIGC also coordinates its regulatory responsibilities with tribal regulatory agencies through the review and approval of tribal gaming ordinances and management agreements. The NIGC further provides technical assistance, including extensive training, to tribal leaders as well as tribal gaming commissions and operators. The Commission may issue guidance to improve the operation and understanding of its regulatory goals. In addition, the Commission considers its Office of Self-Regulation's recommendations when a tribe petitions for a certificate of self-regulation.

When technical assistance and training do not result in compliance with IGRA, NIGC regulations, or the tribal gaming ordinance, the NIGC will undertake enforcement action, which may include imposing appropriate sanctions for such violations, such as civil penalties and orders for temporary closure as well as referring criminal matters to appropriate tribal, Federal

and state entities. As the NIGC fulfills these responsibilities, the Commission closely reviews any indications of corrupting influences by non-tribal governmental entities.

IGRA authorizes the Commission to assess and collect fees on tribal gaming revenues to cover agency operating costs. The NIGC also conducts background investigations, including fingerprinting, of individuals and entities with a financial interest in, or management responsibility for, potential management contracts. These investigations are conducted to determine whether the management contracts can be approved. The Commission is reimbursed periodically by the potential contractors for performing these investigative services. The Commission is also reimbursed for fingerprint processing costs.

Although the NIGC was created as an independent regulatory agency within the Department of the Interior, IGRA tasked both the NIGC and the Department of the Interior with certain responsibilities under the Act. As such, the two Agencies work together to ensure the implementation of IGRA and effective regulation of the Indian gaming industry. The Commission also has unique relationships with the Indian gaming industry's stakeholders. The Commission, as an agency of the Federal government, maintains a trust relationship with Indian nations. The Commission is committed to meaningful consultation with tribes prior to making changes to regulations or policies having tribal implications. Additionally, the Commission endeavors to provide tribes, states, sister Federal agencies, and stakeholders with courteous and timely responses to issues as they arise.

## The Indian Gaming Regulatory Act (IGRA) of 1988

In 1987, the Supreme Court affirmed the inherent sovereign authority of tribes to operate and regulate gaming facilities on Indian lands free from state regulation if the state did not prohibit gaming (*California v. Cabazon Band of Indians*, 480 U.S. 202 (1987)). The following year, Congress enacted the Indian Gaming Regulatory Act. Embodied in IGRA was a compromise between state and tribal interests. The drafters “balance[d] the need for sound enforcement of gaming laws and regulations, with a strong Federal interest in preserving the sovereign rights of tribal governments to regulate activities and enforce laws on Indian lands.”<sup>2</sup> IGRA fully preserved tribal regulatory authority over Class II gaming without state intervention. However, IGRA gave the states a role in determining the scope and extent of tribal gaming by requiring tribal-state compacts for Class III gaming.

IGRA establishes the jurisdictional framework that governs Indian gaming. IGRA establishes three classes of games with a different regulatory scheme for each.

- Class I gaming is defined as traditional and social Indian gaming for minimal prizes. Regulatory authority over Class I gaming is vested exclusively in tribal governments.
- Class II gaming is defined as the game of chance commonly known as bingo (whether or not electronic, computer, or other technological aids are used in connection therewith) and (if played in the same location) pull-tabs, lotto, punchboards, tip jars, instant bingo and other games similar to bingo. Class II gaming also includes non-banked card games. IGRA specifically excludes slot machines or electronic facsimiles of any game of chance from the definition of Class II games. Tribes retain their authority to conduct, license and regulate Class II gaming as long as the state in which the tribe is located permits such gaming for any purpose, and the tribal government adopts a gaming ordinance approved by the Commission. Tribal governments are responsible for regulating Class II gaming, with Commission oversight.
- Class III is defined as all forms of gaming that are neither Class I nor Class II. Games commonly played in casinos, such as slot machines, blackjack, craps, and roulette, fall in the Class III category. Class III gaming is often referred to as full-scale casino-style gaming. As a compromise among tribal, state and Federal interests, IGRA restricts tribal authority to conduct Class III gaming. Before a tribe may lawfully conduct Class III gaming, the following conditions must be met: (1) the facility must be located in a State that permits such gaming for any purpose by any person, organization or entity; (2) the tribe and the state must have negotiated a compact that has been approved by the Secretary of the Interior, or the Secretary must have approved regulatory procedures; and (3) the tribe must have adopted a tribal gaming ordinance that has been approved by the Chair of the Commission. State and tribal governments are primarily responsible for regulating Class III gaming.

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<sup>2</sup> 134 Cong. Rec. S12649 (daily ed. Sept. 15, 1988).

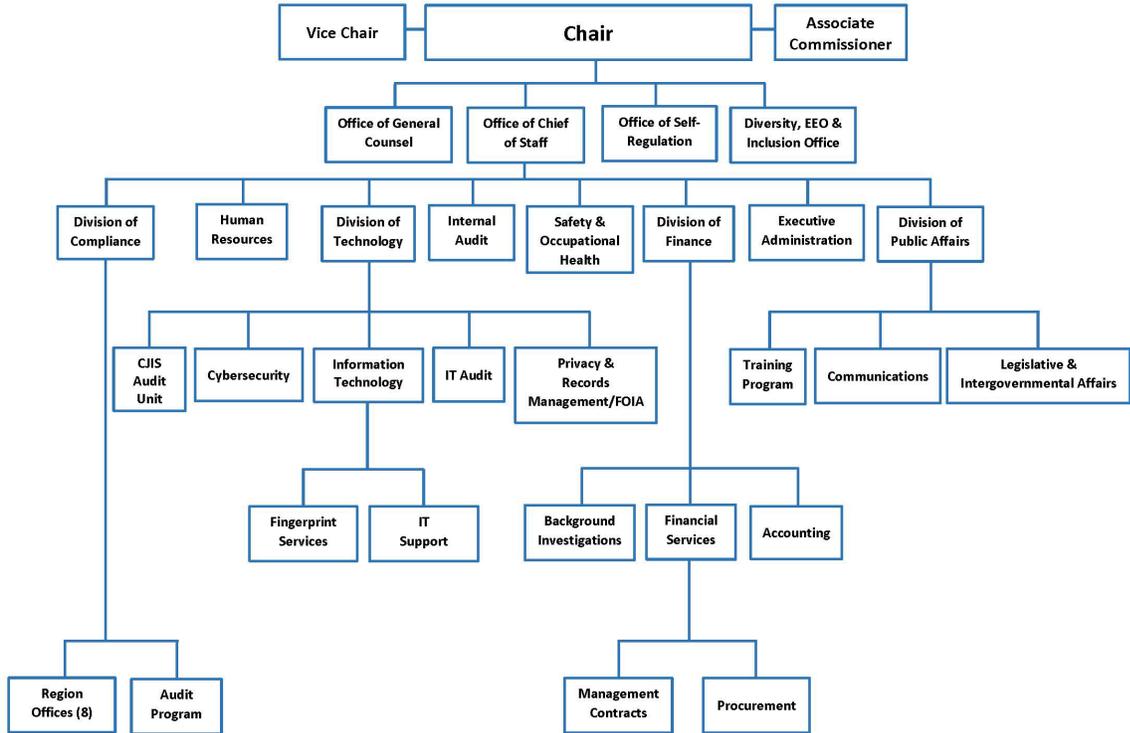
Although Congress clearly intended states to address Class III regulatory issues in tribal-state compacts, IGRA did not make this mandatory, and many states accordingly rely upon continued tribal and Federal oversight by the NIGC to address their regulatory concerns regarding Class III tribal gaming under IGRA. Additionally, IGRA tasks the NIGC with a number of specific regulatory functions, such as: approving tribal ordinances for Class II and Class III gaming; approving management contracts; promulgating and implementing regulations; and ensuring tribes and management contractors comply with IGRA and Commission rules and regulations. Accordingly, the Commission plays a key role in the oversight and regulation of both Class II and Class III gaming.

### **Commission Structure**

The Commission is composed of a Chair, appointed by the President and confirmed by the Senate, and two Associate Commissioners appointed by the Secretary of the Interior after a public notice and comment period. The Commission selects a Vice Chair by majority vote. IGRA established the NIGC as a bipartisan agency, permitting only two of the three Commissioners to be from the same political party. In addition, at least two members of the Commission must be enrolled tribal members. The NIGC's organizational structure is composed of two main branches, the Office of General Counsel which handles legal affairs, and the Office of the Chief of Staff, which manages day-to-day activities and includes the Division of Compliance, Division of Finance, Division of Public Affairs, and the Division of Technology.

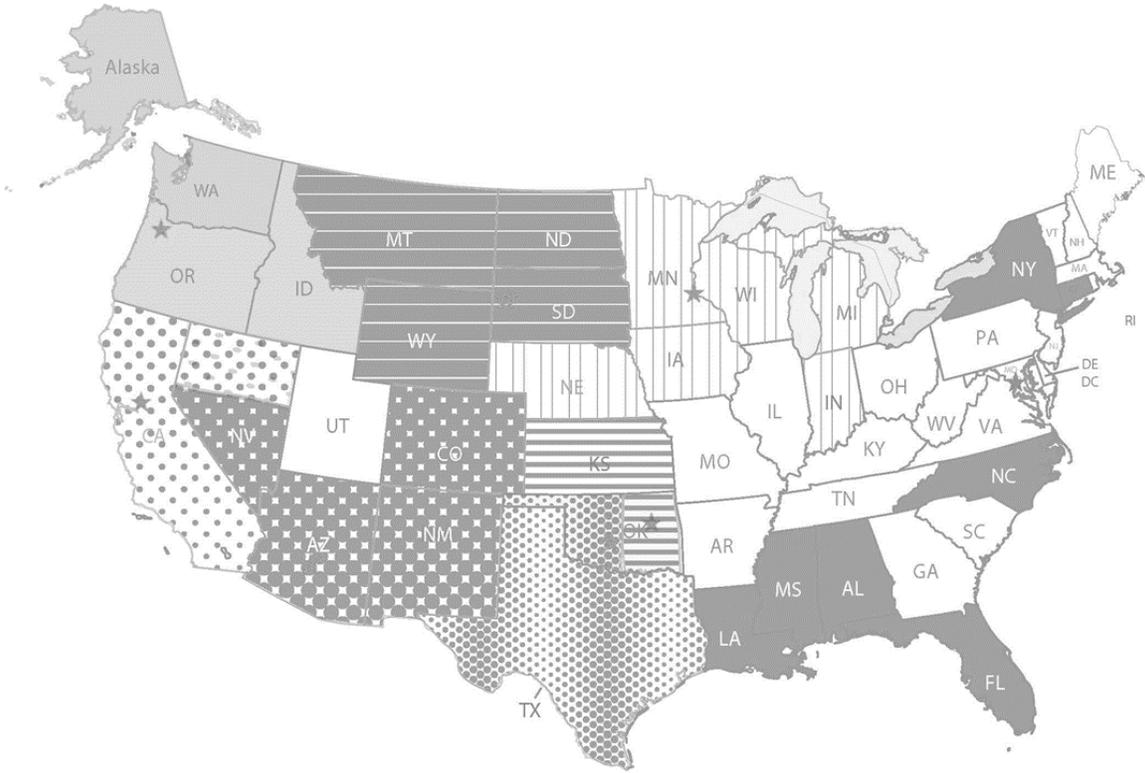
The Commission provides Federal oversight to more than 520 tribally licensed gaming establishments on Indian land in 29 states. The Commission maintains its headquarters in Washington, DC, and has eight regional offices and one satellite office. The Commission had a combined staff of 104 full-time employees as of the end of 2021. Approximately half of the Commission staff is assigned to headquarters in Washington, DC, with the remaining staff assigned to regional offices located in Portland, Oregon; Sacramento, California; Phoenix, Arizona; St. Paul, Minnesota; Rapid City, South Dakota; Tulsa, Oklahoma; Washington, DC; and Oklahoma City, Oklahoma.

NATIONAL INDIAN GAMING COMMISSION ORGANIZATIONAL CHART



Current as of 02/28/2022

## National Indian Gaming Commission Regions



Regional Office	Areas Served
<b>Portland</b>	Alaska, Washington, Oregon and Idaho
<b>Sacramento</b>	California, and northern Nevada
<b>Phoenix</b>	Arizona, New Mexico, Colorado, and southern Nevada
<b>St. Paul</b>	Nebraska, Minnesota, Iowa, Wisconsin, Michigan and Indiana
<b>Rapid City</b>	Montana, Wyoming, North Dakota and South Dakota
<b>Tulsa</b>	Kansas and eastern Oklahoma
<b>Oklahoma City</b>	Texas and western Oklahoma
<b>Washington, DC</b>	Louisiana, Mississippi, Alabama, Florida, North Carolina, New York and Connecticut

The Commission administratively established the locations of its field offices not to reflect the distribution of gaming activity or market considerations but to improve the level and quality of services it provides to tribes, and to enhance its ability to communicate, collaborate, and interact with tribes located within each office’s geographic region. The field offices are vital to carrying out the statutory responsibilities of the Commission. By having auditors and compliance officers close to tribal gaming facilities, the Commission seeks to facilitate compliance with the Act and foster better relationships with tribal leaders, officials and regulatory personnel. In addition to auditing and investigative activities, the field staff provides technical assistance and training to

promote a better understanding of gaming controls within the regulated industry, and to enhance cooperation and compliance to ensure the integrity of gaming operations.

### **Budget Priorities**

The Commission will continue its positive trend of improving services to tribal governments and tribal gaming commissions while finding a stable balance in its fee rate collections. Technology in the gaming industry continues to evolve, resulting in both greater efficiencies and new challenges. In order to keep pace with changes in technology, financial resources will be directed to providing technical training to the Commission staff and updating technology platforms. In addition, the agency will continue to provide up-to-date technical training to tribal gaming operators and regulators to assure their ability to regulate and safeguard the integrity of Indian gaming. Strategic flexibility will ensure that adequate resources are available to meet the growing needs for technical assistance and training in Indian gaming enterprises large and small.

### **Background**

Prior to 1997, the Commission was legislatively prohibited from collecting fees in excess of \$1.5 million annually. The 1998 Interior Appropriations Act (P.L. 105-83) expanded the fee base to include Class III (casino style) gaming and raised the limitation on annual fee collections to \$8 million. In the 2003, 2004, 2005, and 2006 Interior Appropriations Acts, the Congress enacted a general provision raising this limitation to \$12 million for fiscal years 2004, 2005, 2006, and 2007 respectively. On May 12, 2006, Congress enacted the Native American Technical Corrections Act of 2006 (P.L. 109-221) providing a new limit to the fees of no more than 0.080 percent of the gross gaming revenues of all gaming operations.<sup>3</sup>

This amendment allowed the Commission to maintain a fee collection level in proportion to the size of the industry it oversees. With fees now capped at 0.080 percent of the industry's gross revenue, the Commission's funding expands or contracts in proportion to the growth or contraction of the Indian gaming industry. The Commission historically has worked to maintain a fee rate well below the statutory limit, but due to the significant decrease of the industry's gross gaming revenues as a result of the pandemic, the fee rate was raised to its full statutory limit for FY 2022.

Another legislative change included in Public Law 109-221 was the requirement that the Commission, like other Federal agencies, be subject to the Government Performance and Results Act of 1993 (GPRA), and that any plan instituted in compliance with GPRA include technical assistance to tribal gaming operations.<sup>4</sup> In accordance with this mandate, the NIGC submitted its GPRA Strategic Plan for Fiscal Years 2022 to 2026 to Congress and the Office of Management and Budget (OMB). The NIGC strategic plan is posted on the NIGC website at: <https://www.nigc.gov/commission/strategic-plan>.

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<sup>3</sup> 25 U.S.C. 2717(a)(2)(B).

<sup>4</sup> 25 U.S.C. 2706(d)(1)-(2).

## **Annual Fees for Operations**

The Commission assesses annual fees on tribal gaming revenues in accordance with procedures set forth in 25 C.F.R. Part 514. On January 22, 2018, the Commission published changes to the fee regulations in the Federal Register (83 FR 2903). The amended regulations became effective on February 21, 2018. The changes to these regulations are intended to improve the efficiency of the Commission's fee rate analysis and publication process, coincide the fee rate announcement with the annual release of the Gross Gaming Revenue numbers and the completion of the Commission's budget for the upcoming year, and mitigate the confusion that may arise from changing the fee rate twice a year. Under the prior regulations published in 2012, the Commission adopted a preliminary fee rate by March 1 and a final fee rate by June 1 of every year. The new regulations simplify this process by providing that the Commission will adopt a final fee rate no later than November 1 of each year. The new regulations also define the fiscal year used in calculating the annual fee so that one fee rate is applied consistently to a gaming operation's assessable gross revenues for one fiscal year. Finally, among other clarifying revisions to the fee regulations, the rule describes the fees and statements required of gaming operations that cease operations. The fee rate must be sufficient to generate income to fund the annual operation of the Commission, and to maintain a transition balance for the upcoming year's operation. Each gaming operation within the jurisdiction of the Commission must self-administer the provisions of 25 C.F.R. Part 514, and report and pay any fees that are due to the Commission quarterly.

Maintenance of the transition balance is essential to the fiscal integrity of the Commission because the unique statutory provisions governing the Commission's funding subject it to significant cash flow variations. Unlike other Federal agencies, the Commission's authorizing legislation does not provide for full funding at the beginning of each fiscal year. Instead, the Commission receives quarterly payments equal to one fourth of each gaming operation's reported annual fee assessment. The carryover transition balance is necessary to cover the first and second quarter of operation until the fees are actually received and credited to the operating account. For example, fees collected on or before the December 31, 2022, due date will provide the operational capital for the first three months of calendar year 2023. The Commission attempts to maintain a transition balance to fund the first two quarters of the new year in order to absorb any cash flow variations that may occur.



# FY 2023 Budget



**DEPARTMENT OF THE INTERIOR  
NATIONAL INDIAN GAMING COMMISSION**

**Narrative Summary Statement**

The Indian Gaming Regulatory Act (IGRA) established the National Indian Gaming Commission (NIGC) as an independent Federal regulatory agency within the Department of the Interior. The purpose of the IGRA and the NIGC is to support and promote tribal economic development, self-sufficiency and strong tribal governments through the operation of gaming on Indian lands. The Commission collaborates with Tribes to monitor and regulate gaming activities conducted on Indian Lands to ensure that gaming operations are conducted with integrity and that Tribes are the primary beneficiaries of gaming revenues. IGRA authorizes the Commission to assess and collect fees on tribal gaming revenues to cover agency operating costs.

**Summary of the Fiscal Year 2023 Budget**

<b>NIGC Gaming Activity Fees</b>	<b>2021 Actual</b>	<b>2022 at Annual CR Rate</b>	<b>2023 Request</b>
Permanent Budget Authority (\$Million)	20	21	25
FTEs*	108	129	129

\* total compensable full time equivalents

**Permanent Appropriation**

The Indian Gaming Regulatory Act, as amended, established the National Indian Gaming Commission to monitor and participate in the regulation of gaming conducted on Indian lands. The NIGC’s operational costs are financed through annual assessments of gaming operations regulated by the Commission. Fees are paid quarterly, based on each gaming operation’s assessable gross revenue. This system often results in cash flow variations, and therefore a transition balance, derived from prior year funds carried forward to the new fiscal year. A transition balance is essential for continuity of operations. The Commission will continue its consultation with the affected tribes and evaluate their input prior to implementing the proposed budget.

The agency’s actual employee count was 104 at the end of 2021 (108 total compensable full-time equivalents) and projected to be 129 at the end of 2022 and 2023. Due to uncertainties in fee collection caused by the pandemic, the Commission instituted budget restrictions starting in April 2020 that carried through the end of fiscal year 2021. The uncertainties in the agency’s budget and funding caused several critical positions to remain unfilled for an extended period of time. The number of deferred hires underscores the strain on the agency’s staff and the record high attrition rate of 10% that the NIGC has experienced during fiscal year 2021. As the NIGC continues to rebound from the pandemic, backfilling positions has been a priority along with budgeted travel and employee development training. The Commission has established a year-long schedule to replace currently vacant positions. Additionally, the NIGC has established a Criminal Justice Information Services Audit Unit (CAU) to implement and monitor compliance with the Federal Bureau of Investigation’s CJIS requirements for processing fingerprints and the handling of criminal history record information. The CAU will be staffed by a Deputy CJIS Systems Officer (DCSO) and three auditors. For FY 2023, the Commission remains dedicated to recruiting and retaining talented employees along with identifying employee professional development opportunities and competitive salaries. NIGC employees have shown great resiliency and dedication to keeping up with the additional demands brought on by the pandemic.

Unlike other Federal agencies funded by the appropriations process each year, the Commission’s annual Gaming Activity Fees are determined by the fee rate adopted by November 1<sup>st</sup> each year in accordance with procedures set forth in 25 C.F.R. Part 514. The

COVID-19 pandemic had a significant impact on the FY 2020 tribal Gross Gaming Revenue (GGR). Because the GGR was significantly reduced in FY 2020 which is the basis for calculating FY 2022's Gaming Activities Fees, the Commission raised the fee rate to its statutory cap of 0.08% on November 1<sup>st</sup>, 2021, in order to collect sufficient fees to ensure the continuous funding of the agency's operations throughout FY 2022. With the 0.08% fee rate, the Commission projects its Gaming Activity Fees receipt for FY 2022 at \$21 million based on FY 2020's GGR. The estimated FY 2023 Gaming Activity Fees of \$25 million reflects the preliminary forecast of the FY 2021 GGR (basis for calculating FY 2023's Gaming Activities Fees).

As part of the Commission's plans for ongoing outreach, the Commission started a new periodic Operations Briefing with tribal leaders in FY 2020 to increase tribes' access to information and opportunities to influence and inform the NIGC's planning processes. The Commission will continue its efforts to enhance coordination with tribes during the annual budget planning process as the Commission finalizes its FY 2023 operating budget.

### **Reimbursable Expenses**

The National Indian Gaming Commission conducts background investigations of individuals and entities with a financial interest in, or management responsibility for, potential management contracts. Tribes may also submit fingerprint cards to the Commission for processing by the Federal Bureau of Investigation and the Commission may charge a fee to process fingerprint cards on behalf of the Tribes. The Commission is reimbursed from the potential contractors to conduct these background investigations and also for fingerprint processing costs.

## **Fee Regulation**

The regulations implementing the legislative provisions governing the collection of fees allow the Commission to collect the statutory maximum allowed by Congress:

### §514.14 Annual Fees

(a) The total amount of all fees imposed during any fiscal year shall not exceed the statutory maximum imposed by Congress. The Commission shall credit pro-rata any fees collected in excess of this amount against amounts otherwise due.

Additionally, in January 2018, NIGC regulations were amended to specifically address the collection of fees for fingerprint processing:

### § 514.15 May tribes submit fingerprint cards to the NIGC for processing?

Tribes may submit fingerprint cards to the Commission for processing by the Federal Bureau of Investigation (FBI) and the Commission may charge a fee to process fingerprint cards on behalf of the tribes.

### § 514.16 How does the Commission adopt the fingerprint processing fee?

(a) The Commission shall review annually the costs involved in processing fingerprint cards and, by a vote of not less than two of its members, shall adopt the fingerprint processing fee no later than November 1st of each year.

(b) The Commission shall publish the fingerprint processing fee in a notice in the Federal Register.

(c) The fingerprint processing fee shall be based on fees charged by the Federal Bureau of Investigation and costs incurred by the Commission. Commission costs include Commission personnel, supplies, equipment costs, and postage to submit the results to the requesting tribe.

### § 514.17 How are fingerprint processing fees collected by the Commission?

(a) Fees for processing fingerprint cards will be billed monthly to each tribe for cards processed during the prior month. Tribes shall pay the amount billed within forty-five (45) days of the date of the bill.

(b) The Chair may suspend fingerprint card processing for a tribe that has a bill remaining unpaid for more than forty-five (45) days.

(c) Remittances and other communications about fingerprint processing fees shall be sent to the Commission by the methods provided for in the rates of fees notice published in the Federal Register.

**Authorization:**

Indian Gaming Regulatory Act, Public Law 100-497, as amended.

**Objectives:**

To regulate and monitor gaming conducted on Indian lands and to protect Indian gaming as a means of generating tribal revenues.

**Program Activities:**

The Commission's mission is to work within the framework created by the Indian Gaming Regulatory Act (IGRA) for the regulation of gaming activities conducted by sovereign Indian tribes on Indian lands to fully realize IGRA's goals: (1) promoting tribal economic development, self-sufficiency, and strong tribal governments; (2) maintaining the integrity of the Indian gaming industry; and (3) ensuring that tribes are the primary beneficiaries of their gaming activities. To affect these goals, the Commission is authorized to carry out training and technical assistance; conduct investigations; undertake enforcement actions, including the issuance of notices of violation, assessment of civil fines, and issuance of closure orders; approve management contracts; and issue such regulations as necessary to meet its responsibilities under the Act.

The Act grants broad authority to the Commission and provides authority to the Chair to:

- issue temporary closure orders<sup>5</sup>
- levy civil fines, of up to \$57,527 per violation per day, against a tribe, management contractor, or individual operator for violation of the Act, the regulations, or a tribal gaming ordinance<sup>6</sup>
- approve tribal gaming ordinances<sup>7</sup>
- approve gaming management contracts<sup>8</sup>
- appoint and supervise staff<sup>9</sup>

The Commission as a whole is empowered to:

- monitor gaming activities<sup>10</sup>
- inspect gaming premises<sup>11</sup>

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<sup>5</sup> 25 U.S.C. 2705(a)(1).

<sup>6</sup> 25 U.S.C. § 2705(a)(2). Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of P. L. 114-74), the original civil penalty amount of \$25,000 is adjusted annually.

<sup>7</sup> 25 U.S.C. § 2705(a)(3).

<sup>8</sup> 25 U.S.C. § 2705(a)(4).

<sup>9</sup> 25 U.S.C. § 2707.

<sup>10</sup> 25 U.S.C. § 2706(b)(1).

<sup>11</sup> 25 U.S.C. § 2706(b)(2).

- conduct background investigations<sup>12</sup>
- inspect records relating to gaming<sup>13</sup>
- approve the annual budget<sup>14</sup>
- adopt regulations for the assessment and collection of civil fines<sup>15</sup>
- adopt a schedule of annual fees<sup>16</sup>
- issue permanent closure orders<sup>17</sup>
- adopt regulations as deemed appropriate to implement the provisions of IGRA<sup>18</sup>
- issue subpoena and conduct depositions<sup>19</sup>
- issue and rescind certificates of self-regulation<sup>20</sup>

In carrying out its responsibilities, the Commission also:

- maintains and enhances relationships with other Federal agencies and partner governments
- provides education, training, and technical assistance regarding applicable statutory and regulatory requirements
- assists tribes with background investigations and fingerprint processing
- receives and processes appeals<sup>21</sup>
- conducts formal and informal hearings
- consults with Indian tribes
- engages with states and the regulated community
- defends against lawsuits challenging the Commission's actions
- issues advice and guidance through bulletins, advisory opinions, and other publications
- provides audits and other evaluative services

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<sup>12</sup> 25 U.S.C. § 2706(b)(3).

<sup>13</sup> 25 U.S.C. § 2706(b)(4).

<sup>14</sup> 25 U.S.C. § 2706(a)(1).

<sup>15</sup> 25 U.S.C. § 2706(a)(2).

<sup>16</sup> 25 U.S.C. § 2706(a)(3).

<sup>17</sup> 25 U.S.C. § 2706(a)(5).

<sup>18</sup> 25 U.S.C. § 2706(b)(10).

<sup>19</sup> 25 U.S.C. § 2715.

<sup>20</sup> 25 U.S.C. § 2710(c).

<sup>21</sup> 25 U.S.C. §§ 2705(a), 2706(a)(5), 2713(a)(2).

**National Indian Gaming Commission**  
**Employee Count by Grade**  
(Total Employment)

<b>Employee Count by Grade</b>	<b>2021 Actual</b>	<b>2022 Estimate</b>	<b>2023 Estimate</b>
Executive Level V.....	1	2	2
SES .....	0	0	0
<b>Subtotal .....</b>	<b>1</b>	<b>2</b>	<b>2</b>
SL - 00 .....	1	1	1
ST - 00 .....	0	0	0
<b>Subtotal .....</b>	<b>1</b>	<b>1</b>	<b>1</b>
GS/GM -15 .....	18	20	20
GS/GM -14 .....	21	25	25
GS/GM -13 .....	39	54	54
GS -12 .....	10	11	11
GS -11 .....	4	4	4
GS -10 .....	0	0	0
GS - 9 .....	1	1	1
GS - 8 .....	0	1	1
GS - 7 .....	9	10	10
GS - 6 .....	0	0	0
GS - 5 .....	0	0	0
GS - 4 .....	0	0	0
GS - 3 .....	0	0	0
GS - 2 .....	0	0	0
GS - 1 .....	0	0	0
<b>Subtotal .....</b>	<b>102</b>	<b>126</b>	<b>126</b>
Other Pay Schedule Systems .....	0	0	0
<b>Total employment (actuals &amp; estimates) .....</b>	<b>104</b>	<b>129</b>	<b>129</b>



## GPRC Information



## **Government Performance and Results Act Information**

In 2006, Congress amended the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 – 2721, Pub. L. 100-497, and for the first time made the National Indian Gaming Commission subject to the Government Performance and Results Act of 1993 (GPRA), Pub. L. 103-62. That obligation is set out at 25 U.S.C. § 2706(d)(1), which states: “In carrying out any action under this chapter, the Commission shall be subject to the Government Performance and Results Act of 1993.”

GPRA requires that an agency’s “strategic plan shall be updated and revised at least every four years.” 5 U.S.C. § 306(b). Consistent with this obligation and the Commission’s vision of adhering to principles of good government, including transparency to promote agency accountability and fiscal responsibility, the NIGC followed the consultation requirements set forth in the GPRA, Executive Order 13175 “Consultation and Coordination with Indian Tribal Governments,” the National Indian Gaming Commission Policy on Consultation with Indian Tribes, and guidance from the Office of Management and Budget (OMB). The NIGC recognizes the importance of tribal consultation in formulating policy and maintaining the government-to-government relationship with tribal nations. To engage with tribal leaders in formulating the strategic plan, the NIGC sent written notice of the availability of the draft strategic plan and held a webinar to present and hear comments on it, followed by a comment period of more than a month. In addition, tribal input received during preceding consultation sessions related to the subject matter was taken into consideration. The NIGC also engaged with the public by posting the draft strategic plan for comment to the NIGC website. All relevant comments and feedback received during the webinar, in-person tribal consultations sessions, and from the public were taken into consideration in the strategic plan.

The strategic plan for fiscal years 2022-2026 was published in February 2022. The Plan focuses on support for industry integrity, efforts around Agency accountability, the regulatory community’s commitment to preparedness, and innovation in the Agency’s outreach and collaboration. This strategic plan updates and supersedes the fiscal years 2018 – 2022 plan.

## Summary and Highlights of Commission Activities

During FY 2021, the Commission's five primary goals arising from its 2018 Strategic Plan consisted of (1) protecting against gamesmanship; (2) maintaining a strong workforce both within the agency as well as with NIGC's tribal regulatory partners; (3) leveraging reliable and emerging industry technology trends to support tribal economic development and self-sufficiency; (4) developing and executing a rural outreach plan; and (5) achieving operational excellence. Due to the COVID-19 pandemic, the NIGC remained fully operational through modification of work processes and maximum telework to protect the safety of its staff and stakeholders. As such, during the past fiscal year, the Commission accomplished the following goals and tasks.

- The Commission continued its emphasis on working with tribal, state, and Federal regulators to ensure effective coordination in the regulation of Indian gaming, working with tribes to ensure compliance with IGRA, and taking enforcement action for violations of IGRA when necessary.
- The agency met National Archives and Records Administration standards for electronic record management and is on schedule to meet records management priorities.
- The Office of General Counsel advised the Chair and Commission on nine management contracts, thirty-nine tribal ordinance submissions, and litigation. Additionally, the Office of General Counsel assisted and brought stability to the tribal gaming industry by offering opinions on a variety of matters including two game classifications, two Indian land status, and seventy-four financing or other agreements to ensure they do not implicate management or sole proprietary interest concerns.
- The Commission initiated a three-part consultation series and held Series A & B with tribes in FY 2021 on potential regulatory and policies changes. These important discussions will result in policy updates and shape future policy discussions. The consultation efforts will also bring more certainty to Agency policy, identify flexibilities in Agency operations beneficial to the NIGC and tribes, and promote more dialogue across the industry on emerging issues.
- Commission staff continued to offer training and technical assistance to gaming tribes regarding regulatory changes.
- The Commission continued the process of focusing its training activities and agency resources by identifying partnerships, improving training offerings, and utilizing technology to more effectively reach intended audiences. The Commission completed 48 training events, including instruction at 2 National Virtual Training Conferences, 10 National Training Topic of the Month, 12 professional organization events, 11 site-specific trainings, 1 CJIS Symposium, 1 Human Trafficking Outreach, 1 Fingerprint Video, 6 employee trainings and continued management of the CJIS Online learning management system. These events provided instruction to 29,303 individuals including stakeholders and NIGC employees.

- The Commission held two (2) COVID-19 outreach related sessions that were attended by 1,062 attendees.
- Commission auditors performed 26 reviews and evaluations for FY 2021: 1 Internal Control Assessments (ICA), 2 Internal Audit Reviews (IAR), 8 Investigative Audits (IVA), 1 GAAP Audit Review (GAR), 12 ICA Follow-ups, 1 IAR Follow-up, and 1 GAR Follow-up, 524 reviews on audited financial statements and 405 Agreed Upon Procedure report reviews. The audit findings were included in reports delivered to the audited tribes. The Commission will offer technical assistance to the tribes in identifying and implementing remedial action.
- Commission staff continued to diligently review management contracts. The Commission received five new management agreement/amendment submissions and one management contract was approved by the Chairman in FY 2021.
- The Commission continued to conduct financial background investigations on persons and entities associated with management contractors. The Commission received 20 applications for background investigations in FY 2021.
- The Commission processed approximately 236,673 background and licensing actions including dissemination of fingerprint cards to and from the FBI and name checks for tribal gaming commissions.
- The Commission, through its Compliance Division, addressed potential non-compliance through its standardized regulatory processes, analyzed tribal gaming facilities and created a compliance plan that included one site visit at each tribal gaming facility. Remote site visits continued through FY 2021 due to the pandemic. The Compliance Division completed 471 site visits, 54 internal audit checklists, 258 licensing reviews and 130 Criminal Justice Information Services (CJIS) audits.
- The Commission, through its Technology Division, established a “Tech Alerts & Warnings” page on the NIGC web site to provide tribes with more centralized access to published IT security bulletins and resources, implemented a secure file transfer system to provide the agency and its external stakeholders a secure method of transfer for exchanging sensitive information, and completed 1 Information Technology Vulnerability Assessment in FY 2021. IT Audit worked with over 20 different tribes on 41 different information technology issues from CJIS, MICS, to general IT questions by email and/or phone calls providing guidance to our tribal partners.
- To continue to help tribes combat the COVID-19 Pandemic the Commission provided ongoing updates to available resources which included public health and safety assessment checklists, a running list of answers to frequently asked questions, a model infectious disease and preparedness and response plan, and a weekly publication of statistics outlining the effects of the pandemic. Additional updates were provided which included a Winter COVID-19 Guidance Update, Additional Guidance on Fully Vaccinated People, and Additional Guidance on Large Gatherings and Events.

**During FY 2022, the Commission will continue its four strategic plan initiatives which focus on support for industry integrity; efforts around Agency accountability; the regulatory community's commitment to preparedness; and innovation in the Agency's outreach and collaboration.**

- The Commission will continue ongoing meetings with tribes regarding NIGC Operational Updates, Budget Development Process and Regional Summits.
- The Commission continues its consultation efforts in FY 2022 with Series C focusing on regulations with implications for technology and NIGC processes to protect tribal assets, including NIGC background investigations and the substantial violations list. The Agency anticipates that this consultation could lead to the promulgation of new regulations after an additional round of consultation and dialogue with tribes and industry stakeholders during FY 2022.
- The Commission has been working with the Treasury to implement the electronic fingerprint payment option through Pay.gov. This project will be completed in FY 2022 which offers the Tribes the flexibility and convenience of making fingerprint payments online.
- The Commission continues to offer training and technical assistance, and enforcement when necessary, to help facilitate compliance throughout all regions.
- The Commission will look to assess and seek out opportunities to enhance diversity, equity, inclusion, and accessibility in its hire practices to recruit, hire, develop, retain, engage, and motivate a diverse, results-oriented, high performing workforce.
- The Commission continues to provide technical assistance and resources to tribes related to the COVID-19 Pandemic.
- The Commission continues to build upon relationships with tribal, Federal, and state regulatory and/or law enforcement agencies.
- The Commission will continue promoting tribes' capacity to plan for risks to tribal gaming assets including man-made disaster threats, cybersecurity threats, pandemics, natural disaster threats, the need to modernize and enhance regulatory and gaming operation workforces, or public health and safety emergencies such as active shooter and human trafficking threats. To enhance these efforts, the Commission has hired staff with subject matter expertise in environmental, public health and safety to better assist tribes with critical event response and preparedness planning.
- The Commission continues to review and update its regulations to maintain the integrity of Indian gaming. The Commission will continue to consult with tribes as part of its regulatory review.
- The Office of General Counsel continues to advise the Chair and Commission on management contracts, tribal ordinance submissions, and litigation. Additionally, the Office of General Counsel continues to assist and bring stability to the tribal gaming industry by offering opinions on a variety of matters including game classifications, Indian land status,

and whether financing or other agreements implicate management or sole proprietary interest concerns.

- The Commission continues to work on drafting, or revising, and adopting additional internal agency policies.
- The Commission continues to improve the level of response to requests received from tribes for technical assistance and support to include cybersecurity incident response. To assist in these efforts, the Commission will continue its engagement with Federal partners to leverage all forms of training, resources, and technical assistance to better serve targeted audiences being mindful of impacts to Commission and tribal financial resources. The Commission continues to update the training catalog and provides training to tribes throughout all eight NIGC regions. The Commission is continuing efforts to modernize the NIGC Information Technology (IT) services to improve and maintain reliability and manageability. This includes updating the agency's public facing website and accounting systems.
- The Commission through its Technology Division will continue its efforts to redesign the current NIGC Fingerprint program and Tribal Access Portal (TAP) application to provide enhanced security and usability for our tribal partners.
- The Commission will continue to improve its operational efficiency by working toward fully transitioning to newly approved electronic record schedules and by leveraging its ongoing IT upgrades to further enhance the stability, security, and efficiency of the Commission's records management processes.
- The Commission will continue to track technological advancements in the industry to ensure the Commission provides up-to-date technical assistance, ensures regulations remain current and applicable, meets its oversight responsibilities, and fulfills its statutory mandates.
- The Commission will continue assessing long-term workforce needs and office planning.
- The Commission continues to ensure Agency tasks are completed to include, but not limited to the following:
  - performing internal control assessments specific to Class II gaming operations.
  - performing IT vulnerability assessments as a service for tribal gaming operations to identify and protect against IT threats and vulnerabilities.
  - responding to requests from tribal gaming operators and regulators for IGRA and gaming related training and technical assistance.
  - Ensuring availability of NIGC Fingerprint programs services enabling tribes with information to complete their own comprehensive background investigation of prospective licensing applicants.
  - maintaining accumulated financial data from the gaming operations' audited financial statements and Agreed Upon Procedures (AUP) report filings to ensure accuracy and justification of Commission established fee rates.

- performing internal audits of NIGC divisions to increase the Commission's efficiency, effectiveness, and compliance with Federal regulations.
- reviewing management contracts and amendments to management contracts.
- processing fingerprint cards for tribal gaming employees as they are submitted by the tribal gaming commissions and tracking payment for fingerprint processing.
- continuing to respond to technical assistance requests from tribal governments and tribal regulators, in particular, assisting tribes that are considering entry into the Indian gaming industry or have recently opened a new Indian gaming facility.

**As part of its program objectives for FY 2023, the Commission plans to:**

- Continue to hold ongoing meetings with tribes regarding NIGC Operational Updates, Budget Development Process and Regional Summits.
- Continue its emphasis on Upholding Integrity, Committing to Accountability, Promoting Preparedness, and Cultivating Outreach.
- Continue building relationships with partner governments and sister agencies to share timely information and provide technical assistance and training.
- Continue to take steps to achieve the NIGC Performance Goals as identified in the Strategic Plan and monitor strategic plan performance measures.
- Continue efforts to modernize NIGC Information Technology services to improve and maintain reliability and security for information systems and data. This includes adding staff with expertise and increasing cyber security protocols to protect agency data.
- Continue its regulatory review and implement its new and/or revised regulations and provide training to tribes on compliance with any new requirements.
- Continue to review management contracts and tribal ordinance submissions and make appropriate changes to process and staffing levels.
- Continue, through its Office of General Counsel, to offer opinions on a variety of matters including game classifications, Indian land status, and whether financing or other agreements implicate management or sole proprietary interest concerns.
- Continue to seek out opportunities to improving operational efficiencies by development of the Commission's internal administrative, communications and evaluation functions.
- Continue to inform the public about the Commission's activities through various outreach initiatives and training resources.
- Coordinate and provide training events to tribal entities in each of the eight regions either through virtual platforms or in person settings.

- Continue to respond to requests from tribes for technical assistance and increase both the amount and breadth of technical assistance provided and updating the training catalog as necessary.
- Utilize all forms of training forums and locations to better reach targeted audiences and save Commission and tribal financial resources.
- Continue to assess the effectiveness of the agency's training program to assist tribes in achieving and maintaining compliance.
- Continue to perform site visits, internal control assessments, IT vulnerability assessments, and other types of compliance reviews to maintain the integrity of the gaming industry.
- Continue to implement the requirements of GPRA.
- Continue to update information systems and programs to ensure compliance with the receipt of personal identifiable information and criminal history record information.
- Maintain a consistently high level of compliance for the submission of gaming activity fees and external year-end audits through continued monitoring and contact with gaming tribes, with an emphasis on compliance.
- Continue to enhance internal records management.
- Continue to monitor the training and employee development program in order to attract and retain highly-qualified personnel. The agency will annually assess the skills of its employees and provide necessary training.
- Continue to track technological advancements in the industry to ensure the Commission provides up-to-date technical assistance, ensures regulations remain current and applicable, meets its oversight responsibilities, and fulfills its statutory mandates.
- Promote the self-determination goals of IGRA through administration and promotion of the law's self-regulation provisions.
- Continue to support Indian country-wide efforts to promote awareness around environmental, public health and safety priorities and critical event response and preparedness. The Commission will look to accomplish these efforts by providing ongoing training and technical assistance.
- Continue to identify appropriate opportunities for the NIGC to support tribes' response and/or recovery efforts from the impact of the pandemic on Indian gaming.

