

(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 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

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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;

(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