

1 Part 556 – Background Investigations for Primary Management Officials and Key  
2 Employees

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11  
12 **§ 556.1 Scope of this Part.**

13 Unless a tribal-state compact assigns sole jurisdiction to an entity other than a tribe with  
14 respect to background investigations, the requirements of this part apply to all class II and  
15 class III gaming. The procedures and standards of this part apply to primary management  
16 officials and key employees.

17 **§ 556.2 Privacy Notice.**

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

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

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

**Comment:** Sections under Parts 556 and 558 have been reorganized as they relate to background investigations and licensing. All procedures occurring before a license is issued are contained in Part 556. All procedures occurring after a license is issued are contained in Part 558.

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PRELIMINARY DRAFT - FOR DISCUSSION PURPOSES ONLY

Due Date for Written Comments to NIGC: August 10, 2011

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

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

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

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

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10 (d) All license application forms used one-hundred eighty (180) days after the effective  
11 date of this section shall comply with this section.

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12 **§556.3 Notice regarding false statements.**

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

15 A false statement on any part of your license application may be grounds for denying a license or the  
16 suspension or revocation of a license. Also, you may be punished by fine or imprisonment ([U.S. Code, title](#)  
17 [18, section 1001](#)).

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

20  
21 (1) Complete a new application form that contains a notice regarding false statements;  
22 or

23  
24 (2) Sign a statement that contains the notice regarding false statements.  
25

26 (c) All tribal gaming ordinances and ordinance amendments approved by the Chair prior  
27 to the effective date of this section and that reference this notice do not need to be  
28 amended to comply with this section. All future ordinance submissions, however, must  
29 comply.  
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31 (d) All license application forms used 180 days after the effective date of this section  
32 shall comply with this section.  
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34 **§ 556.4 Background investigations.**

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

PRELIMINARY DRAFT - FOR DISCUSSION PURPOSES ONLY

Due Date for Written Comments to NIGC: August 10, 2011

- 1 (a) A tribe shall request from each primary management official and from each key  
2 employee all of the following information:
- 3 (1) Full name, other names used (oral or written), social security number(s), birth  
4 date, place of birth, citizenship, gender, all languages (spoken or written);
- 5 (2) Currently and for the previous five years: business and employment positions  
6 held, ownership interests in those businesses, business and residence addresses, and  
7 drivers license numbers;
- 8 (3) The names and current addresses of at least three personal references, including  
9 one personal reference who was acquainted with the applicant during each period of  
10 residence listed under paragraph (a)(2) of this section;
- 11 (4) Current business and residence telephone numbers;
- 12 (5) A description of any existing and previous business relationships with Indian  
13 tribes, including ownership interests in those businesses;
- 14 (6) A description of any existing and previous business relationships with the gaming  
15 industry generally, including ownership interests in those businesses;
- 16 (7) The name and address of any licensing or regulatory agency with which the  
17 person has filed an application for a license or permit related to gaming, whether or  
18 not such license or permit was granted;
- 19 (8) For each felony for which there is an ongoing prosecution or a conviction, the  
20 charge, the name and address of the court involved, and the date and disposition if  
21 any;
- 22 (9) For each misdemeanor conviction or ongoing misdemeanor prosecution  
23 (excluding minor traffic violations) within 10 years of the date of the application, the  
24 name and address of the court involved and the date and disposition;
- 25 (10) For each criminal charge (excluding minor traffic charges) whether or not there  
26 is a conviction, if such criminal charge is within 10 years of the date of the  
27 application and is not otherwise listed pursuant to paragraph (a)(8) or (a)(9) of this  
28 section, the criminal charge, the name and address of the court involved and the date  
29 and disposition;
- 30 (11) The name and address of any licensing or regulatory agency with which the  
31 person has filed an application for an occupational license or permit, whether or not  
32 such license or permit was granted;
- 33 (12) A photograph;

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

2 (14) Fingerprints consistent with procedures adopted by a tribe according to  
3 §522.2(h) of this chapter.

4 (b) If a tribe has submitted a notification of results for an individual seeking to be  
5 employed by another tribe as a primary management official or key employee, and the  
6 second tribe (1) has access to the investigative materials held by the first tribe; or (2)  
7 obtained the investigative materials from the NIGC, the second tribe may update the  
8 investigation and investigative report under §556.6(b)(1) of this part.

9 (c) In conducting a background investigation, a tribe or its agents shall keep confidential  
10 the identity of each person interviewed in the course of the investigation.

11 **§ 556.5 Tribal Eligibility Determination.**

12 A tribe shall conduct an investigation sufficient to make an eligibility determination.

13 (a) To make a finding concerning the eligibility of a key employee or primary  
14 management official for granting of a gaming license, an authorized tribal official shall  
15 review a person's:

16 (1) Prior activities;

17 (2) Criminal record, if any; and

18 (3) Reputation, habits and associations.

19 (b) If the authorized tribal official, in applying the standards adopted in a tribal  
20 ordinance, determines that licensing of the person poses a threat to the public interest or  
21 to the effective regulation of gaming, or creates or enhances the dangers of unsuitable,  
22 unfair, or illegal practices and methods and activities in the conduct of gaming, an  
23 authorizing tribal official shall not license that person in a key employee or primary  
24 management official position.

**Comment:** Previous title of §556.5 was "Report to Commission" but moved to 556.6. The new language was previously Part 558.2(a) and mentioned in 556.4(b)

1 **§ 556.6 Report to the Commission.**

2 (a) When a tribe employs a primary management official or a key employee, the tribe  
3 shall maintain a complete application file containing the information listed under  
4 §556.4(a)(1)-(14) of this part.

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Comment: Pilot Program

5 (b) Before issuing a license to a primary management official or to a key employee, a  
6 tribe shall:

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7 (1) Create and maintain an investigative report on each background investigation. An  
8 investigative report shall include all of the following:

Comment: Pilot Program

9 (i) Steps taken in conducting a background investigation;

10 (ii) Results obtained;

11 (iii) Conclusions reached; and

12 (iv) The bases for those conclusions.

13 (2) Submit a notification of results of the applicant's background investigation to the  
14 Commission no later than sixty (60) days after the applicant begins work. The  
15 notification of results shall contain:

Deleted: (c) When a tribe forwards its report to the Commission, it shall include a

Comment: Includes Previous 558.3(b)

16 (i) Applicant's name, date of birth, and social security number;

17 (ii) Date on which applicant will begin work as key employee or primary  
18 management official;

19 (iii) A summary of the information presented in the investigative report, which  
20 shall at a minimum include a listing of:

21 A. Licenses that have previously been denied;

22 B. Gaming licenses that have been revoked, even if subsequently  
23 reinstated;

24 C. Every known criminal charge brought against the applicant within the  
25 last 10 years of the date of application; and

26 D. Every felony of which the applicant has been convicted or any  
27 ongoing prosecution.

28 (iv) Copy of the eligibility determination made under §556.5 of this Part.

Comment: Pilot Program

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§556.7 Notice.

Comment: New Section

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(a) All notices under this part shall be provided to the Commission through the appropriate Regional office.

(b) Should a tribe wish to submit notifications electronically, they should contact the appropriate Regional office for guidance on acceptable document formats and means of transmission.

Comment: New section.

§556.8 Compliance with this Part.

All tribal gaming ordinances and ordinance amendments approved by the Chair prior to the effective date of this Part and that reference this Part, do not need to be amended to comply with this Part. All future ordinance submissions, however, must comply.

Comment: Previously part 558.2(b).

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