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4-04 SPECIAL LAW ENFORCEMENT COMMISSIONS

POLICY

The Bureau of Indian Affairs (BIA), Office of Justice Services (OJS) issues Special Law Enforcement Commissions (SLECs) to Tribal, Federal, state, and local full-time certified law enforcement officers who will serve without compensation from the Federal government. This process allows BIA to obtain active assistance in the enforcement of Federal criminal statutes and Federal hunting and fishing regulations in Indian country.

RULES AND PROCEDURES

4-04-01 AUTHORITY TO ISSUE, RENEW, AND REVOKE DEPUTATION AGREEMENTS AND SLECs

- A. Authority to enter into Deputation Agreements and SLECs is based on Title 25, United States Code, Section 2804 (Pub. L. 101-379), 25 C.F.R. Part 12, and the Tribal Law and Order Act of 2010 (Pub.L. 111-211).
- B. Line Authority to Enter into Deputation Agreements and Issue SLECs

Authority to enter into Deputation Agreements and issue is delegated in 3 Indian Affairs Manual 2.8 to the Deputy Bureau Director, OJS. The Deputy Bureau Director has delegated to the District Special Agents in Charge (District SACs) the authority to enter into OJS- and Solicitor's Office-approved Deputation Agreements and the authority to sign SLEC cards granted pursuant to Deputation Agreements.

- C. Issuance of SLECs Exclusively for Legitimate Law Enforcement Need

SLECs are to be issued or renewed at BIA-OJS discretion and only when legitimate law enforcement need requires issuance. SLECs are not to be issued solely for the furtherance of inter-agency or public relations. Such decisions by the BIA-OJS are non-appealable.

- D. Deputation Agreements

1. The District SAC may enter into a Deputation Agreement with tribal, Federal, state, or other government law enforcement agencies to aid in the enforcement or carrying out of Federal laws in Indian country. Deputation Agreements with tribal law enforcement agencies require authorizing resolutions from the tribes.
2. Any Deputation Agreement that differs in any respect from the Model Deputation Agreement must be explicitly approved by the Deputy Bureau Director, OJS and by the Solicitor's Office before it can be executed.

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3. Before executing a Deputation Agreement, the District SAC shall:
 - make a written determination that the applicant law enforcement agency has written law enforcement policies and procedures in place that are at least as stringent as those of BIA-OJS, and
 - obtain the Deputy Bureau Director's concurrence with the decision to issue the Deputation Agreement.
 4. BIA-OJS shall continuously evaluate the effectiveness of the SLECs, in accordance with 25 C.F.R. § 12.21(a).
 5. BIA-OJS may revoke an SLEC, pursuant to 25 C.F.R. § 12.21(a), if BIA-OJS finds that the officer holding the SLEC has misused his or her authority or that the SLEC is not effective in meeting its purpose. BIA-OJS may suspend an SLEC while investigating allegations of the officer's misuse of authority.
 6. The BIA-OJS Central Office East (COE) shall ensure that all signed Deputation Agreements and tribal resolutions are converted to an electronic format and posted to the SLEC Tracking System.
- E. Deputation Agreements with Tribal, State, and Local Law Enforcement Agencies
1. Before BIA-OJS enters into a Deputation Agreement with a state or local law enforcement agency to provide law enforcement within a tribe's jurisdiction, BIA-OJS shall have an authorizing resolution from the appropriate tribal government, supporting the Deputation Agreement with the state or local law enforcement agency.
 2. Agreements for one tribe to provide officers within another tribe's jurisdiction, for the purpose of enforcing Federal law, must include authorizing resolutions from both the tribe providing officers and the recipient tribe. If BIA-OJS determines that there is an emergency situation, this requirement may be temporarily waived, at the discretion of BIA-OJS, until the emergency situation is under control.
 3. An SLEC officer acting under the authority granted by a Deputation Agreement, and within the scope of his or her duties, shall be considered an employee of the U.S. Department of the Interior for purposes of:
 - a. 5 U.S.C. § 3374(c)(2) (coverage under the FTCA)
 - b. 18 U.S.C. §§ 111 and 1114 (assault and protection of officers)
 - c. 5 U.S.C. §§ 8191- 8193 (compensation for work injuries)
- F. Standards for Issuance of SLECs

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Applicants for an SLEC must meet the following minimum requirements:

1. The applicant must be a United States citizen;
2. The applicant must have a high school diploma or equivalent;
3. The applicant must be at least 21 years of age;
4. The applicant must possess a valid driver's license;
5. The applicant must be a full-time certified law enforcement officer of a Federal, state, local or tribal law enforcement agency. Such certification shall meet the Peace Officer Standards of Training (POST) requirements for any state certification and shall be consistent with standards accepted by the Federal Law Enforcement Training Accreditation (FLETA). SLEC applicants who work for a federal law enforcement agency must provide evidence of Federal certification that shall be consistent with standards accepted by FLETA.
6. The applicant must have passed his or her law enforcement agency's firearms qualification course; must have been certified within six months preceding the issuance of the SLEC; and must continue to be certified every six months within the period immediately preceding the issuance of, and during the term of the SLEC. Verification of firearms qualification shall be submitted every six months to the District SAC and shall be maintained with the District's SLEC records;
7. The applicant must never have been convicted of a felony offense;
8. The applicant must not have been convicted of a misdemeanor offense within the one-year period preceding the issuance of the SLEC, with the exception of minor traffic offenses, excluding misdemeanor DUI/DWI convictions;
9. The applicant must never have been convicted of a misdemeanor crime involving moral turpitude (including any convictions expunged from the applicant's record);
10. The applicant must never have been convicted of a misdemeanor crime of domestic abuse that prevents the applicant from possessing a firearm or ammunition pursuant to Section 658 of Public Law 104-208 (the 1996 amendment to the Gun Control Act of 1968), 18 U.S.C. § 922(g)(9);
11. The applicant must sign a "Domestic Violence Waiver" certifying that the applicant has never been convicted of a domestic violence offense, including convictions in a tribal court;
12. The applicant must have successfully passed the Criminal Jurisdiction in Indian Country (CJIC) examination with a score of 70 % or higher;
13. If the applicant is a graduate of the Indian Police Academy's Basic Police Officer Training Program, the applicant is considered to have met the mandated training requirements, so long as the SLEC application is made within three years of the applicant's graduation; and
14. Pursuant to 25 U.S.C. § 3207(b), an applicant seeking an SLEC must not have been found guilty of, or entered a plea of *nolo contendere* or its equivalent (such as an Alford plea), to any felonious offense, or any two or more misdemeanor offenses, under Federal, state, or tribal law

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involving crimes of violence, sexual assault, molestation, exploitation, prostitution, crimes against persons, or offenses committed against children.

G. SLECs do not authorize access to "classified" information.

H. Required Information on SLEC Cards

Each SLEC card shall display the following data:

1. Name and recent photograph of the SLEC holder;
2. Date of issuance, date of expiration, title or position of the SLEC holder, the SLEC holder's agency/department, and control number;
3. Signature of the Authorizing Official; and
4. Signature of the SLEC holder.

I. Maintenance of SLEC Records

1. The District SAC shall keep a record of all outstanding SLECs, which is subject to review. The record will include, but is not limited to, the name and department of each SLEC holder, the date of issuance of the SLEC, and a copy of the signed Deputation Agreement.
2. Each District SAC shall be responsible for ensuring that all SLECs issued or revoked in the District are recorded in the SLEC Tracking System.

J. Orientation Includes Authority Conferred by SLEC

The Indian Police Academy (IPA) shall sponsor or host regional training sessions in Indian Country, not less frequently than every six months, to educate and certify candidates for the SLEC. These training sessions will provide a minimum course of instruction, focusing particularly on Federal jurisdiction, Federal law, and the authority that the SLEC confers. This course must be successfully completed before the District SAC issues the SLEC.

K. Federal Liability for SLEC Holders

The SLEC grants the holder specific Federal authority and responsibility, and, as a result, places a high level of liability risk on the U.S. Government. To reduce liability risks for the Government, the District SAC is responsible for ensuring that all requirements are satisfied before issuing the SLEC.

L. Renewal of SLECs

An SLEC holder shall apply for renewal of the SLEC 90 days before the

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SLEC expires.

M. Expiration of SLECs

SLECs expire five years from the date of issuance.

N. Revocation of SLECs

SLECs may be revoked for cause. Cause for revocation includes, but is not limited to, the following:

1. Resignation/termination from law enforcement;
2. Providing false information on an SLEC application;
3. A sustained allegation of serious misconduct;
4. Giglio-Henthorne issues affecting the officer's ability to perform duties;
5. Sustained allegations of misuse of SLEC authority as described in 25 C.F.R. §12.21(a); or
6. Termination of the Deputation Agreement.

O. Suspension of SLECs

SLECs may be suspended for cause. The chief law enforcement officer of the law enforcement agency employing the SLEC holder shall ensure that the SLEC is confiscated and held until a determination is made regarding the cause for suspension. If applicable, the chief law enforcement officer shall notify the District SAC of a decision regarding the suspended SLEC. Cause for suspension includes, but is not limited to, the following:

1. An active criminal investigation involving the SLEC holder;
2. An active internal affairs investigation involving the SLEC holder.
3. An active investigation of misuse of SLEC authority.

4-04-02 SLEC APPLICATIONS

A. After a Deputation Agreement has been executed, SLEC applicants shall submit their completed Application for SLECs (Application) to the District SAC.

B. The completed Application shall include:

1. A Domestic Violence Waiver signed by the applicant;
2. Verification of training at a state POST academy or IPA;
3. Current firearms qualifications (at least 80 %);
4. Certification from the Indian Police Academy that the applicant passed the Criminal Jurisdiction in Indian Country course examination with a score of 70% or higher;
5. Written acknowledgement that the applicant has reviewed and agrees to comply with the BIA-OJS Code of Conduct;

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6. A Standard Form SF-87 fingerprint chart; and
7. An official high school diploma or GED certificate.

4-04-03 CLEARANCE AND ISSUANCE OF SLECs

- A. The District SAC shall verify that a thorough background investigation has been conducted on the applicant. If a thorough background investigation has not been completed and adjudicated, the applicant shall not be issued the SLEC.
- B. A thorough background investigation shall consist of the following:
 1. Verification that the applicant is a U.S. citizen;
 2. Verification that the applicant is at least 21 years of age;
 3. Verification that the applicant has a high school diploma or GED;
 4. A criminal history check of tribal, municipal, county, state and federal records where the applicant has resided for the past ten years, to include any misdemeanor or felony offense;
 5. A credit history check for the past seven years;
 6. Interviews with listed and developed references, including previous employers for the last seven years;
 7. A driver's license check;
 8. A fingerprint card cleared through the Federal Bureau of Investigation (FBI) to determine criminal record; and
 9. Written identification of any disqualifying factors, which include:
 - a. misconduct or negligence in prior employment which would have a bearing on effective service or interfere with or prevent effective performance;
 - b. criminal or dishonest conduct related to the duties to be assigned;
 - c. intentional false statement or deception or fraud in examination or appointment;
 - d. alcohol abuse of a nature and duration which suggests the applicant would be prevented from performing the duties of the position in question or would constitute a direct threat to the property or safety of others;
 - e. illegal use of narcotics, drugs, or other controlled substances;
 - f. knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force; or
 - g. any statutory bar which prevents the lawful employment of the person involved in the position in question.
- C. Applicants who are employed by a law enforcement agency that requires, as a pre-employment condition, that they be fingerprinted and undergo a background investigation no less stringent than that required of a BIA-OJS officer may provide documentation of such background clearance. The employing chief law enforcement officer shall attest and certify in writing, on department letterhead, that the applicant has met all requirements for the SLEC, including a full background investigation that has been

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adjudicated by trained and qualified security professionals, and an FBI criminal history check.

- D. The Application must be fully completed and attested to by the chief law enforcement officer of the law enforcement agency for which the applicant is a full-time officer.
- E. The District SAC shall issue an SLEC within 60 days after determining that all requirements are met.

4-04-04 RENEWAL OF SLECs

- A. The District SAC shall certify in writing that a continuing need exists for commissioning officers of the renewal applicant's employing agency.
- B. The renewal applicant shall submit a Renewal Application, which shall consist of the following:
 - 1. An up-to-date Application;
 - 2. A letter of verification from the chief law enforcement officer of the renewal applicant's employing agency that an updated background investigation was completed and adjudicated within one year of the Renewal Application:
 - 3. Evidence from the Indian Police Academy that the renewal applicant passed the Criminal Jurisdiction in Indian country Update online examination, with a score of 70% or higher, within six months before submitting the Renewal Application.
- C. The chief law enforcement officer of the applicant's employing agency shall attest and certify in writing, on department letterhead, that all information on an applicant's Renewal Application is accurate.
- D. The District SAC shall issue an SLEC within 60 days after determining that all requirements are met.

4-04-05 RETURN OF SLECs

The chief law enforcement officer of the applicant's employing agency shall agree, in writing, to assume responsibility for returning the SLEC card to the District SAC when one of the following conditions occurs:

- 1. The SLEC has expired.
- 2. The SLEC holder terminates employment as a full-time peace officer for any reason.
- 3. The SLEC holder is transferred to another area of jurisdiction.

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4. The SLEC holder is suspended by the employing agency for any reason.
5. The SLEC holder is under indictment or has been charged with a serious crime or any other disqualifying factor as specified in the Deputation Agreement.
6. The SLEC is revoked by BIA-OJS for cause.
7. The tribe having jurisdiction has adopted a resolution objecting to the use of SLEC personnel of a non-Federal agency within the tribe's jurisdiction.

4-04-06 SLEC TRACKING SYSTEM

The District SAC or designee shall, immediately upon receiving an Application, enter the following data into the SLEC Tracking System:

1. Applicant's Last Name
2. Applicant's First Name
3. Applicant's Date of Birth
4. Applicant's Middle Initial (if applicable)
5. Date SLEC Issued to Applicant
6. SLEC Control Number
7. Applicant's Agency/Department
8. Applicant's Social Security Number
9. Comments (Optional)
10. SLEC Status
 - a. Undetermined
 - b. Issued
 - c. Denied
 - d. Suspended
 - e. Revoked
 - f. Expired
11. Reason for SLEC Status
If the applicant's SLEC is expired, suspended, or revoked, a reason or cause must be noted in the comments (e.g., applicant under investigation, resigned, or was terminated).

4-04-07 APPEAL PROCEDURE

Appeals of termination or revocation of a Deputation Agreement or suspension or revocation of an SLEC shall be made within 15 days of termination, revocation, or suspension to the BIA-OJS Associate Director of Operations, whose decision shall be the final agency action under the Administrative Procedure Act, 5 U.S.C. § 551.