

# **1 Supporting Statement for Paperwork Reduction Act Submissions**

## **25 CFR 150: Land Records and Title Documents**

### **OMB Control Number 1076-0NEW**

**Terms of Clearance:** None.

#### **General Instructions**

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When Item 17 of the OMB Form 83-I is checked "Yes", Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

#### **Specific Instructions**

##### **A. Justification**

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

This is a new Paperwork Reduction Act submission. The Department is proposing to revise 25 CFR Part 150 to fulfill the Secretary of the Department of the Interior's fiduciary responsibilities to federally recognized tribes and individual Indians and to meet the trust management policies articulated by Congress in the Indian Land Consolidation Act, as amended by the American Indian Probate Reform Act of 2004 (AIPRA). ILCA, as amended, is attached. The Secretary holds certain land in trust and restricted status as part of its trust responsibilities to Indians. To ensure that it keeps track of the ownership of these parcels, as well as maintains records of property held in trust or restricted status is various Land Title and Records Offices (LTROs) across the country. Part 150 primarily addresses the internal processes of the LTRO, but includes several information collection request burdens for persons or entities wishing to receive LTRO services or products. Specifically, three sections of the proposed Part 150 include information collection requirement burdens:

- Proposed Section 150.302(b) requires persons requesting services or products from the Land Title and Records Office (LTRO) to include certain information to allow LTRO to readily identify the property for which it is to provide a service or product.
- Proposed Section 150.302(c) requires persons requesting services and products from the LTRO to include certain alternate information, where they are unable to include the

information listed in 150.302(b). This alternate information is necessary for the LTRO to identify the property for which it is to provide a service or product.

- Proposed Section 150.208 requires persons notifying LTRO of an error or omission to provide a written description of the error or omission and supporting documents.

Completion of these information collection requests will ensure that LTRO provides the best service and most accurate information possible to its beneficiaries and that LTRO records are as complete and accurate as possible. These goals are essential because the LTRO houses the Indian Land Record of Title, which is the official record of instruments affecting title to Indian trust and restricted land.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. [Be specific. If this collection is a form or a questionnaire, every question needs to be justified.]**

The LTRO provides a number of products and services, including but not limited to:

- indexing names or tracts of land,
- creating probate inventories,
- researching title records and searching microfiche files,
- certifying documents, preparing title status reports,
- creating customized maps,
- providing photocopies of documents, and
- faxing and mailing documents.

Each of these products and services is provided with respect to a specific tract or tracts or property. In nearly all cases, the Bureau of Indian Affairs or the tribal agency requests a service or product from the LTRO on behalf of the individual or entity. The BIA or tribal agency either has the required information on file or requests the individual or entity for the required information for submission to the LTRO. Additionally, when requesting the LTRO to record a document, the document itself will contain the necessary information, so no information collection request is involved.

Section 150.302(b) requires persons requesting LTRO services or products to identify the property in which they are interested by providing one of the following:

- 1) a legal description of the property;
- 2) an identification number for the tract; **or**
- 3) the identification number of the owner of the tract.

Section 150.302(c) allows persons requesting LTRO services or products who are unable to provide the information in Section 150.302(b) to provide any other information that will assist LTRO in identifying the property. This information may include:

- 1) the name and tribal affiliation of an owner,
- 2) the recording number of the instrument, or
- 3) an allotment number.

The LTRO will use the information provided in either 150.302(b) or 150.302(c) to identify the property and locate records relating to the property. Each of the information items listed are

unique identifiers that will ensure that the correct property is located. This will allow the LTRO to provide the product and/or service for the specific parcel(s) of property requested. Without using these unique identifiers, LTRO may provide products or services relating to the wrong property. Not only would this undermine the LTRO's ability to provide the best service possible to beneficiaries, but it may cause a ripple effect of confusion if the LTRO product is used for other purposes, such as in a request for acquisition.

Section 150.208 provides the public with the opportunity to notify LTRO of any errors or omissions in LTRO records and to provide LTRO with supporting documentation substantiating the claim that an error or omission is present. This information will allow LTRO to keep its records as up to date and accurate as possible. The supporting documentation is necessary to ensure that the alleged error or omission is in fact an error or omission, and to ensure that LTRO does not make changes to its records based upon someone's memory, opinion, or misinformation. Upon receipt of the information required by 150.208, LTRO will determine whether the LTRO record is, in fact, inaccurate or incomplete. Because the description is written and supporting documentation is provided, this information provides LTRO with a record substantiating any revisions to LTRO records.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden [and specifically how this collection meets GPEA requirements].**

During December 2001, BIA was forced to disconnect from the internet by a court order issued by the judge in the Cobell litigation. Hence, BIA cannot implement GPEA until reconnection to the internet is permissible. However, the Department is in the process of implementing an electronic version of the Trust Asset and Accounting Management System (TAAMS) that may ultimately reduce the time required to respond. The Department anticipates that the new TAAMS will be implemented by the time for renewal of this Paperwork Reduction Act submission and OMB control number; therefore, the Department will prepare a revised Paperwork Reduction Act submission at that time. The Privacy Act system of record notice related to TAAMS, BIA-04 Indian Land Records, has been published at 72 Fed. Reg. 8772 (February 27, 2007)

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

With regard to the information collections in Sections 150.302(b) and 150.302(c), each public request for LTRO services or products is unique in that it relates to only the tract or tracts of land in which the person requesting is interested. While the information provided is in the LTRO, the request must necessarily duplicate the legal description of the property, property identification number, or owner identification number to allow the LTRO to identify the tract of property for which to provide the requested service/product.

With regard to the information collections in Section 150.208, the information concerning an

error or omission is by definition not duplicated. While the LTRO does the best to ensure that its records are as complete and accurate as possible, members of the public may identify information that conflicts with LTRO records. This proposed information collection offers the opportunity to notify LTRO of that conflicting information.

**5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

This collection of information does not impact small businesses or other small entities; any member of the public may request a service or product from the LTRO or notify LTRO of an error or omission.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

Preventing the LTRO from conducting the collections proposed in Sections 150.302(b) and 150.302(c) would greatly reduce its efficiency in responding to a request for services or products. Without the information allowing it to pinpoint the tract or tracts to which the request relates, the LTRO will spend time narrowing down the options and ultimately requesting additional information from the person requesting. Requiring requestors to provide this information will increase LTRO's efficiency and ability to speedily fulfill requests.

Preventing LTRO from collecting the information proposed in Section 150.208 would reduce the LTRO's ability to maintain accurate and complete land title records. As the official record of land records and title instruments affecting Indian land, it is imperative that LTRO records are as accurate and complete as possible. Error or omissions in these records affect individual Indian and tribes' property rights. While the LTRO does its best to minimize and eliminate errors and omissions, having an external check on the accuracy and completeness of its records further ensures that no errors or omissions are included. Requiring persons to provide supporting documentation of an error or omission provides a further check that any change to the LTRO record is appropriate. Without requiring supporting documentation, LTRO would have to rely in good faith on a person's claim that the LTRO record is inaccurate, which could result in LTRO changes making inaccurate what is in fact an accurate record.

No technical or legal obstacles to reducing this burden exist.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

**\* *requiring respondents to report information to the agency more often than quarterly;***

A person requesting services or products from LTRO may request services or products more than once a quarter, resulting in the requirement to provide the identifying information more than quarterly. However, it is likely the person would request information with respect to different parcels of property, so he or she would not be required to duplicate the information. Additionally, a person may identify an error or

omission in an LTRO record more than once a quarter, resulting in the requirement to provide the written request and supporting documentation more than quarterly.

\* ***requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;***

- Each of the sections requiring information collection are triggered by the respondent. There is no deadline for providing that information.

\* ***requiring respondents to submit more than an original and two copies of any document;***

The proposed revisions do not require respondents to provide more than one original or one copy of any document.

\* ***requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;***

No proposed provision requires respondents to retain records.

\* ***in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;***

- No proposed provision requires a statistical survey.

\* ***requiring the use of a statistical data classification that has not been reviewed and approved by OMB;***

- No proposed provision requires use of a statistical data classification.

\* ***that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use;***

No proposed provision includes a pledge of confidentiality that is not supported by authority.

or

\* ***requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.***

No proposed provision requires respondents to submit proprietary trade secrets or other confidential information.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice [and in response to the PRA statement associated with the collection over the past three years] and describe actions taken by the agency in response to these comments. Specifically address comments Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and**

**recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. [Please list here the names, titles, addresses, and phone numbers of persons contacted. One or two should be sufficient.]**

The notice required by 5 CFR 1320.8(d) soliciting comments on the information collection was published with the proposed rule at 71 Fed. Reg. 45174 (August 8, 2006). The comment period was reopened November 1, 2006 (71 FR 64181) and January 25, 2007 (72 FR 3377). No comments were received on the collection of information. Additionally, the Department has consulted with the following person who regularly handles LTRO requests for services and products under 25 CFR 150; this person will be able to direct OMB to a member of the public outside the Department of the Interior:

Glean Elaine Hunt-Sanshu  
Southern Pueblo Agency-Real Estate Services  
P.O. Box 1667  
Albuquerque, NM 87103  
(505)363-3680

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payment or gift will be provided to respondents in connection with the proposed provisions.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

While no assurance of confidentiality needs to be provided to respondents in connection with the proposed provisions because documents and records filed with the LTRO are part of the public record, there is a system of records (INTERIOR/BIA-04 Trust Asset and Accounting Management System) which provides as much privacy as can be afforded.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

The information required by the proposed provisions does not include information of a sensitive nature.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- \* Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base**

hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- \* If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.
- \* Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.

See Attachment A. This collection has 6348 respondents, 12686 responses for a total of 12,696 hours. And at \$18.52/hr, a cost burden of \$23,513.

13. Provide an estimate of the total annual [non-hour] cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- \* The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- \* If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- \* Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

The information requests included in proposed revisions to Part 150 involve information that the person requesting the LTRO service or product will have on hand and do not

impose any capital, start-up or annualized costs, or purchase of external services.

Part 150 does include an operation and maintenance cost by charging fees to persons and entities. However, Section 150.303 exempts the following:

(1) an individual Indian recording a transaction that reduces the number of owners of undivided interests in a tract of Indian land;

(2) an individual Indian recording an instrument to transfer your undivided interest in Indian land to a tribe;

(3) a tribe recording a transaction that will consolidate the ownership interests of a tract of Indian land; or

(4) an agency or office within the Department of the Interior or the Department of Justice.

As mentioned in response to Question 2, in nearly all cases, the Bureau of Indian Affairs or the tribal agency requests a service or product from the LTRO on behalf of the individual or entity. The Department estimates that only 30% of members of the public who request a service or product from the LTRO are persons or entities that do not qualify for the exception in Section 150.303.

See Attachment A, Table 3 for the fee schedule; an estimate of total fees to be paid on an annual basis is \$907,795. Note that not all of the services for which fees are charged involve an information collection request. For example, recording instruments does not involve an information collection request because the public merely provides the instrument to be recorded. These non-hour burden costs are the result of a program change to charge fees.

- 14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

The collection of this information will assist the LTRO in providing the services and identifying the requested products. Without this information, the LTRO would spend additional time reviewing its files for the appropriate products. Additionally, allowing respondents to provide information on errors and omissions will save the LTRO time by reconciling records. The LTRO will not have to incur any additional operational expenses as a result of this collection of information. See Attachment A, Table 2.

- 15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.**

All hourly burden and fees reported as program change due to requirements of a new law.

- 16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be**



**used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

The Department does not plan to publish the collection of information.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

The Department is not seeking approval to not display the expiration date for OMB approval.

**18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.**

The certification statement does not include any exceptions.