

**1 Supporting Statement for Paperwork Reduction Act Submissions  
25 CFR 152: Conveyances of Trust or Restricted Indian Land;  
Removal of Trust or Restricted Status  
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.**

The Secretary holds certain lands in trust for individual Indians and tribes. Section 5 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 98, 25 U.S.C. 465) as amended by the Indian Land Consolidation Act of January 12, 1983 (96 Stat. 2517, 25 U.S.C. 2202), authorizes the Secretary of the Interior (Secretary), to convey lands through relinquishment, gift, exchange, or assignment within or without existing reservations for the purpose of providing land for Indians. In order for the Secretary to administer this trust responsibility, certain information must be collected at the time an individual Indian or tribe applies for the Secretary to convey trust or restricted land or remove land from trust or restricted status. This information is necessary to accurately describe the land to be conveyed, identify the fair market value of the land, and otherwise fulfill the Secretary's fiduciary responsibilities to protect trust assets for individual Indians and tribes. This information is also necessary to ensure that conveyances of land meet the policy objectives of consolidating land and eliminating fractionated interests in accordance with the Indian Land Consolidation Act (ILCA), as amended by the American Indian Probate Reform Act (AIPRA), 25 U.S.C. §§2201 et seq.. ILCA, as amended by AIPRA, is attached. Each item of information the Secretary requests is necessary to make a determination to accept or reject an application by an individual Indian or tribe to convey trust or restricted land or remove trust or restricted status.

**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.]**

Title 25, Code of Federal Regulations, Part 152 sets forth the policy and requirements for conveying trust or restricted Indian land and removing trust or restricted status from Indian land. The Department is proposing to revise 25 CFR Part 152 to fulfill the Secretary's fiduciary responsibilities to federally recognized tribes and individual Indians and to meet the trust management policies articulated by ILCA, as amended by AIPRA.

The information collection requests required by the proposed Part 152 include:

- written request for LTRO information regarding current parcel owners (Section 152.3)
- documentation in support of a tribal land consolidation plan (Section 152.102),
- tribal resolution requesting sale or exchange when a tribal land consolidation plan has been approved (152.105),
- tribal resolution requesting sale or exchange in the absence of a tribal land consolidation plan (152.107),
- documentation in support of a negotiated sale, gift or exchange (152.206),
- request for notification of tribal acquisition under the Indian Land Consolidation Program (152.217(b))
- agreement by persons acquiring land in fee to pay the pro rata share of construction costs of projects chargeable to the land, all construction costs that accrue in the future, and all future charges assessable to the land that are based on the annual costs of operation and maintenance of the irrigation system (152.219(b))
- documentation in support of a tribal tract purchase (152.303),
- application for consolidation by sale (152.403),
- copy of tribal law or resolution stating intent to match high bid (152.412),
- documentation in support of a partition (152.503),
- documentation in support of approval of a mortgage or deed of trust (152.602).

Specifically, the following addresses each section individually, describing how, by whom, and for what purpose the information is to be used.

- Section 152.102, allows tribes to submit tribal land consolidation plans for Secretarial approval and requires the following information to be included:
  - o Description of lands and interests: BIA provides this information. Both BIA and the tribe use this information to determine the location, ownership, and adherence to Federal policies concerning possible restrictions and limitations as to future uses and development.
  - o Map: BIA provides this information. BIA and the tribe use this information to identify the lands that the tribe plans to consolidate.
  - o Explanation of how the plan will contribute to consolidation: The tribe provides this information. BIA and the tribe use this information to record the tribe's intent
  - o Tribal resolution: The tribe prepares tribal resolutions as a usual and customary business practice, but the time to print and deliver the resolution is included in

this estimate. BIA uses this item of information to ensure that the tribe has considered and voted on the conveyance as a governing body, rather than having to determine whether someone is rightfully an agent of a tribe with authority to request the conveyance. BIA also maintains this information as a record of its authority.

BIA will consider each of the above items of information in determining whether the tribal land consolidation plan should be approved as consistent with Subpart B.

- Section 152.105 requires the tribe to provide a tribal resolution requesting sale or exchange when a tribal land consolidation plan has been approved. While the tribe prepares tribal resolutions as a usual and customary business practice, the time to print and deliver the resolution is included in this estimate. BIA uses this item of information to ensure that the tribe has considered and voted on the conveyance as a governing body, rather than having to determine whether someone is rightfully an agent of a tribe with authority to request the conveyance. BIA also maintains this information as a record of its authority.
- Section 152.107 requires a tribal resolution requesting sale or exchange in the absence of a tribal land consolidation plan. While the tribe prepares tribal resolutions as a usual and customary business practice, the time to print and deliver the resolution is included in this estimate. BIA uses this item of information to ensure that the tribe has considered and voted on the conveyance as a governing body, rather than having to determine whether someone is rightfully an agent of a tribe with authority to request the conveyance. BIA also maintains this information as a record of its authority.
- Section 152.206 requires the following documentation in support of a negotiated sale, gift or exchange—
  - o Description of lands and interests: BIA provides this information. Both BIA and the tribe use this information to determine the location, ownership, and adherence to Federal policies concerning possible restrictions and limitations as to future uses and development.
  - o The grantee and his or her tribal affiliation: The applicant provides this information. BIA uses this information to record to whom the land interest is being conveyed and identify the tribal affiliation.
  - o Any limitations known by the grantor of his or her right to convey the subject parcel: BIA provides this information to the grantor. BIA will use this information to ensure that the conveyance is permitted by law.
  - o Any intention to reserve rights in land: The applicant provides this information. BIA will use this information in preparation of the land conveyance documents.
  - o Whether the owner waives right to fair market value information: The applicant provides this information. BIA will use this information to determine whether the owner may waive fair market value under Section 152.210.
  - o Terms of the sale, gift or exchange: The applicant provides this information. BIA will use this information to prepare the land conveyance documents.

- Section 152.303 requires documentation in support of a tribal tract purchase:
  - o An appraisal which establishes the fair market value of the tract as of the date the application is filed. The Department's Office of Appraisal Services provides this information. BIA uses this information to ensure that the tribe purchases interests at fair market value, so that owners are provided with just compensation, and to provide proper notice to co-owners. BIA will concurrently review any objections to the appraisal to determine whether the appraisal should be approved.
  - o A certified title report and/or consent forms from the owners. BIA provides this information. BIA uses this information to ensure that the tribal applicant has either acquired at least 50% of the trust or restricted interests in the tract or obtained the consent of the owners of at least 50% of such interests.
  - o A deposit of the purchase funds needed to compensate the owners of all of the outstanding trust or restricted interests in the tract, based on the applicant's appraisal. The Department's field office provides information on the amount of purchase funds needed. BIA uses the deposit to ensure that the owners of outstanding trust or restricted interests in the tract are provided with just compensation.
  
- Section 152.403 requires applicants for a consolidation by sale to submit an application. BIA uses the application as a record of the request for consolidation by sale to initiate its determination of whether the parcel is highly fractionated, whether all the necessary consents were obtained, the costs of providing notice, whether whereabouts unknown procedures have been followed for owners of interests who cannot be identified or located, and the fair market value of the property. There is a new form associated with this requirement (see attached). The form requires the following information:
  - o Applicant Name: Required for identification purposes
  - o Applicant Social Security Number or Tribal Identification Number: Required for identification purposes
  - o Applicant Address: Required for identification purposes
  - o Applicant Mailing Address: Required for correspondence
  - o Description of the parcel for which consolidation by sale is sought: Required for identification of the parcel to be sold
  - o Description of the ownership interest in the parcel for which consolidation by sale is sought: Required to ensure that the applicant currently owns a share of the parcel
  - o Certification that the applicant meets certain conditions: Required to determine whether the person is an eligible bidder under ILCA, as amended by AIPRA
  - o Agreement to update information, as needed: Required to ensure that the Department is able to contact applicant should applicant's contact information change
  - o Acknowledgement that applicant is responsible for costs of mailing and publishing notice of the application: Required to ensure that the applicant is aware that he or she is responsible for the costs.

- Section 152.412 requires tribes to submit a copy of tribal law or resolution stating intent to match high bid. BIA uses this information to document that the tribe intends to match the highest bid in a consolidation sale and determine to whom the land interests should be conveyed.
  
- Section 152.503 requires documentation in support of a partition, including:
  - o Legal descriptions of the tract to be partitioned and the smaller tracts to be created therefrom, with an accompanying survey if the smaller tracts cannot be described by aliquot parts. BIA provides this information. BIA uses this information to determine the location, ownership, and adherence to Federal policies concerning possible restrictions and limitations as to future uses and development.
  - o Appraisals of the tract to be partitioned and the smaller tracts to be created therefrom. The Department's Office of Appraisal Services provides this information. BIA uses this information in evaluating the partition request to determine whether each owner, after partition, would hold property that is valued at no less than that held prior to the partition, in proportion to the interests of other owners.
  - o Identification of ownership of the tract to be partitioned and the proposed ownership of the smaller tracts to be created therefrom, with an accompanying title report for the larger tract. BIA provides this information. BIA uses this information to identify to whom the tracts will be transferred and to prepare the conveyance documents.
  
- Section 152.602 requires certain documentation in support of approval of a mortgage or deed of trust, including:
  - o An executed mortgage or deed of trust to be approved: BIA records this information to document the transfer of an interest in the property to the financial institution.
  - o The promissory note defining the amount of the loan to be secured and other terms: BIA uses this information to verify the amount of the loan and to examine the terms of the mortgage or deed of trust to ensure that the terms allow continued protection of the trust asset.
  - o Any other documents describing the remedies available to the secured party in the event of a default on the loan: BIA examines these documents to ensure that the remedies do not interfere with continued protection of the trust asset.
  - o An appraisal or evaluation which establishes the fair market value: BIA uses this information to determine the market value of the land and consider whether the terms of the mortgage/deed of trust are equitable.
  - o The loan application and any other description of how the loan proceeds will be used: BIA uses this information to determine whether the basis for the loan undermines continued protection of the trust asset.
  - o Any credit report or credit analysis required, obtained, or prepared by the proposed mortgagee or beneficiary, with a verification of the borrower's income or a description of other means of debt coverage: BIA uses this information to

ensure that the risk of default and the accompanying risk of the mortgage company obtaining title to the land, is low.

- o Any title reports or title insurance policies required or obtained by the proposed mortgagee or beneficiary: BIA requires this information to balance the risks posed by the mortgage or deed of trust.
- o Any necessary environmental or historic preservation documentation: BIA uses this information to determine whether environmental and historic preservation factors are considered in the mortgage or deed of trust transaction and are consistent with the Secretary's trust responsibilities.

**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. For this collection, we use limited automated, electronic, mechanical, or other information technology to provide information such as the names of co-owners who must be notified and surveys of the land.

A Privacy Act system of records notice is related to this regulation: BIA-25 Integrated Records Management System (IRMS), published on February 27, 2007 at 72 Fed. Reg. 8769.

**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.**

BIA maintains records of ownership, descriptions, and maps of trust and restricted Indian land, which it provides in support of conveyance applications. Because each application for a conveyance of trust or restricted Indian land is unique to the tract of land for which conveyance is sought, no additional similar information can be used or modified in support of the 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.**

Tribes and tribal organizations are considered small governmental jurisdictions or small entities under the Small Business Regulatory Enforcement Fairness Act (SBREFA). The BIA consulted with the tribes and through various tribal-member non-governmental organizations to identify what information collection was necessary in support of conveyance applications. Through this consultation, the information collection burden has been minimized.

This information collection that would have the most impact on tribes would be that related to the tribal consolidation plan. Tribal governments are affected to the extent that if they choose to prepare a tribal consolidation plan, they must expend some resources to fulfill the requirements for approval. Additionally, tribes applying for any of the conveyances must provide information in the application. The Department has determined that each required item of information is necessary for fulfillment of its fiduciary responsibilities.

**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.**

If the collection is not conducted, the Bureau of Indian Affairs would remain subject to its fiduciary responsibilities to Indian and tribal owners of trust and restricted land but would lack the information necessary to meet those fiduciary responsibilities. Additionally, the Bureau would be unable to implement the provisions of the Indian Land Consolidation Act, as amended by AIPRA, with respect to approving conveyances of trust and restricted land. The Secretary uses the information to determine whether proposed conveyances meet land consolidation/fractionation elimination goals. Applications are initiated by Indian tribes and individuals; the Secretary is obligated to evaluate such applications and respond accordingly.

Applications are initiated by Indian tribes and individuals desiring to convey trust or restricted land. Each application is unique to the land proposed to be conveyed and to the type of conveyance proposed (e.g., negotiated sale, gift or exchange, tribal tract purchase, consolidation by sale, partition, or mortgage/deed of trust). Circumstances vary on a case-by-case basis; therefore, no available information exists in lieu of that supplied on each application which is necessary for the Secretary to reach a determination.

**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;***
  - There is no special circumstance that would require respondents to report information more than quarterly. Part 152 includes one-time collections of information pertaining to a specific conveyance request by a tribe or an individual Indian.
  
- \* ***requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;***
  - There is no special circumstance that would require respondents to prepare a written response in fewer than 30 days after receipt.
  
- \* ***requiring respondents to submit more than an original and two copies of any document;***
  - There is no special circumstance that would require respondents to submit more than an original and two copies 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;***
- Tribes are directed to maintain records in accordance with BIA's records disposition schedule. This schedule does not clearly require the retention of records for more than three years.
- \* ***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;***
- There is no special circumstance that would require respondents to respond to 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.

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 received on cost and hour burden.**

**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 on August 8, 2006 (71 FR 45174). 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. When developing the rule, the Department contacted the following person outside the agency to obtain his views on the availability of data, frequency of collection, clarity of instructions, data elements and burden estimate:

Alvin Bissonette  
Box 1621  
Pine Ridge, SD 57770  
(605)867-5635

**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.**

No assurance of confidentiality is provided to respondents in connection with the proposed provisions. However, as mentioned in # 3 above, while information is in the custody of BIA, it is protected by a system of records and will not be released except under defined situations.

**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, Table 1 for a full description; tables 1A -1E give detailed description of division of public and federal burden. There are 1250 responses for an annual hourly public burden of 2,103 hours. At \$15/hr, the cost burden is \$31,545.

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 estimated total annual cost burden to respondents or record keepers for capital and start-up cost components (annualized over the expected useful life) for this information collection is zero. The information collection will not require the purchase of any capital equipment nor create any start-up costs because the Bureau maintains legal descriptions and other information. No computers or software are necessary to complete this information collection.

- 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 estimated total annualized cost burden to the Federal Government with respect to operations and maintenance costs such as equipment, overhead, and printing is zero. Attachment A, Table 2 provides a quantification of hours and associated costs. There are 1250 responses annually with a federal hourly burden of 7,110 hours; at \$24.25/hr, the federal burden is \$172,418.

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

This is a program change for new regulations implementing a new statute – American Indian Probate Reform Act of 2004.

- 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.

**ATTACHMENTS:**

Attachment A: Burden and Cost Estimates

Attachment B: Proposed Consolidation by Sale form

Attachment C: Indian Land Consolidation Act, as amended by AIPRA