

**Supporting Statement for Paperwork Reduction Act Submissions**  
**25 CFR 103 -- Loan Guaranty, Insurance, and Interest Subsidy**  
**Program**  
**OMB Control Number 1076-0020**

**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.*

Indian Affairs' (IA) authority to finance economic development on Indian reservations is the Indian Financing Act of 1974 (the Act), as amended (Pub.L. 98-449, 98 Stat. 1725), codified at 25 U.S.C. 1451, *et seq.* Within the Act, the Loan Guaranty, Insurance, and Interest Subsidy Program (the Program) serves to encourage private commercial lenders to make loans to Indian businesses they might otherwise deny because of insufficient familiarity with Indian business prospects, a lack of sufficient loan collateral, or a perception that loan default remedies are less certain where the borrower is an Indian or an Indian business. The Program offers private lenders enhanced loan security with a partial loan guaranty. In this way, the Program has successfully used a modest investment of Federal funds to leverage large amounts of private capital to create and encourage Indian business development.

The Act has authorized the guaranty of loans to eligible Indians. Lending institutions who loan money to Indians, ask the Department to guaranty payment of those loans. The Department has to ask certain questions, i.e., gather information, to determine a lot of things. We must learn whether the lending institution is regulated and therefore dependable, the terms of their loans, what rate of interest they will charge, the likelihood of repayment, the credit history of the borrower, and other things. There are many rules

designed to ensure that only loans with a reasonable prospect for repayment are guaranteed. We have attached a copy of these rules in 25 CFR 103 and the authorizing statute for the program.

The forms used in the Program, together with regulatory requirements, collect information necessary to make sure that the Program promotes Indian economic development in the manner intended.

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.]*

Information is collected on different forms as part of managing and monitoring the program. The first six forms are submitted to the Regional Director where the loan is made.

- BIA Form 5-4749, Bureau of Indian Affairs Interest Subsidy Report, is a form submitted by lenders that calculates and documents the amount of interest subsidy that BIA is obligated to reimburse to borrowers. The form for interest subsidy requires:
  - Lender's name and address
  - Borrower's Name and addressThe body of the annual report on the status of the loan(s) is the report and is submitted on Exhibit A. More than one report on other borrowers may be included.  
Exhibit A, Calculation Page is used by Lender to report the status of loan(s).  
The Form requires:
  - Lender's name, to identify who is reporting and the reporting period; the Loan Guaranty Certificate No. or the Loan Insurance Agreement No., the date of the loan; Date of BIA insurance approval; Original Loan Principal Amount and the Lender's internal loan number. These help identify about which loan is being reported.A table lists 5 areas which lender will report; the report gives an explanation before so that the Lender knows what is necessary.
- BIA Form 5-4753, Loan Guaranty Agreement, is necessary to establish the respective rights and responsibilities of the lender and BIA. The information is reviewed to ensure lender is eligible and fully understands its duties under the Program.
- BIA Form 5-4754, Loan Insurance Agreement, is necessary to establish the respective rights and responsibilities of the lender and BIA. The information is reviewed to ensure the lender is eligible and fully understands its duties under the Program.
- BIA Form 5-4754a, Notice of Insured Loan, is used by BIA to monitor the existence and amount of loans that qualified lenders make subject to the requirements of a Loan Insurance Agreement.
- BIA Form 5-4755, Request to Bureau of Indian Affairs for Loan Guaranty, Loan Insurance, and/or Interest Subsidy, describes the purpose and amount of loan, the repayment schedule, percentage of guaranty requested, the interest rate, and

whether the borrower requests interest subsidy. It is to be submitted by the lender, together with additional information required by regulations. The information is reviewed to determine if the borrower and its proposed use of loan funds are eligible under the Program, whether there is a reasonable prospect of repayment, and whether the loan and proposed business otherwise conform to statutory and legal requirements.

- BIA Form 5-4759, Assignment of Loan Documents and Related Rights, is used after BIA pays a lender on its loan guaranty or insurance coverage, and documents the lender's assignment of all further rights in the loan and any remaining collateral to BIA.
- BIA Form 5-4760a, Notice of Default, is used to document when a loan has gone into default.

The form for Notice of Default (5-4760a) requests:

The BIA Loan Guaranty Certificate Number or BIA Loan Insurance Agreement Number, Lender's name and borrower's name. It requires the percentage of the loan that BIA guaranteed; the original loan principal amount; the Lender's internal loan number and whether an Interest Subsidy was awarded.

These help BIA identify the exact loan being dealt with as well as the guidelines to be followed. The Lender supplies the earliest date of default and all the bases for default; in the case of monetary default, certain information must be supplied such as amount past due of principal and interest, amount of late fees and any precautionary advances. The lender must also list any other amounts claimed and the date through which interest has been calculated. The lender details the correspondence or other contacts with the borrower and the dates. The lender also lists the precise nature of any action the borrower could take to cure the default. The lender also lists any other special circumstances about the default, such as a principal or guarantor facing bankruptcy proceedings. This information helps BIA decide in particular the degree to which BIA is responsible to provide payment to lender.

- BIA Form 5-4760b, Claim for Loss is used to calculate and document the amount BIA should pay the lender on a defaulted loan. It requires lender to give BIA Loan Guaranty/ Insurance number. Lender gives Name & Address and Borrower's Name & Address. The lender also supplies original loan principal amount and percentage. The lender gives the earliest date of default and the bases of the default. These forms typically are reviewed by the Regional Director, respectively, to determine whether any intervention might salvage the Indian business, and the extent to which a lender's claim for loss should be paid.

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, Indian Affairs (IA) was forced to disconnect from the internet by a court order issued by the judge in the Cobell litigation. Electronic submissions are thus generally limited from outside sources. Indian Affairs is able to accept telefax mail to reduce the information collection burden with respect to most Program requirements. However, there are some notifications that a lender must furnish via certified mail, return receipt requested, to establish the parties' respective legal rights. Within the program, scanners have recently been acquired to improve the process of reviewing paperwork in various offices throughout the United States.

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.*

IA makes every effort to avoid requirements that duplicate information collection efforts. It has gone through its forms, and eliminated some that unnecessarily requested the same information at more than one stage of Program involvement. BIA also takes full advantage of the fact that lenders already gather much of the information of importance to the Program in the ordinary course of accepting loan applications, irrespective of whether the lender intends to seek Program benefits. The regulations allow the lender simply to submit to BIA, a copy of the borrower's application without any reformatting. Moreover, BIA does not require lenders to use any particular loan forms, which frees lenders from searching through unfamiliar documents to insert information they might already have elsewhere into Program-specific fields. Instead, lenders use the forms they already know, modified only to the extent necessary to meet Program requirements.

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.*

There is no significant economic impact on a substantial number of small businesses. The program is too small; it involves only a modest number of Indian businesses, individual Indian loan applicants and lending institutions. Loan applicants are expected to number only about 159 per year. Lenders involved with the Program currently number only about 180, with less than a quarter of that number active in any given year. Moreover, Lenders use the Program on a completely voluntary basis, when they want to help reduce the potential risk of making loans to Indian businesses. The information collection burden under the Program is limited further by the fact that information is generally collected only when it is needed. For instance, BIA only collects information on Form 5-4749 when the loan involves interest subsidy. Forms 5-4759 and 5-4760 are used only when there is a loan default. BIA's success in minimizing the information collection burden is further demonstrated by its overall burden estimates. For 1992-1995, the reported burden was 985 hours from 657 responses. In the current proposal, the overall burden estimate is 954 hours for 1613 responses

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.*

The Program could not be run effectively, if at all, if BIA were to significantly reduce the information collection requirements beyond what it now proposes. BIA would start to lose details concerning whether the lender and borrower are qualified under the Program, whether the proposed business serves the purposes of the Program, and whether claims for loss are justified. BIA would have inadequate means by which to monitor lender and borrower performance, resulting in little or no accountability and no data on which to gauge Program performance. BIA would be unable to submit accurate reports of the sort the Department of the Treasury requires, which, among other functions, help in assessment of the government's contingent liability. Ultimately, BIA would almost certainly end up paying out more Federal funds than necessary, with less Indian economic development to show for it.

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;*

None. The regulations do not require reports more than quarterly

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

None. The regulations do not require reports more than quarterly.

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

None. The regulations do not require more than one copy of a report.

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

Respondents must keep loan records for the life of the loan which can be up to 30 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;*

None. The program has never required responses to statistical surveys in its 32 years existence.

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

None.

*\* 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; or*

None.

*\* 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.*

None.

BIA sometimes requires a lender to perform a greater level of due diligence on a proposed borrower when the lender submits a loan guaranty application that, in BIA's experience, is not up to the industry norm. For instance, BIA has seen applications involving construction loans from lenders that clearly have little experience in

construction lending. BIA may correspondingly ask to see copies of loan construction contracts, plans and specifications, performance bonds, etc. to ascertain that the lender has adequately considered the greatest risks to repayment. By statute, BIA is required to gather sufficient information to assure that there is a reasonable prospect for repayment.

As a general matter, though, if there is a greater than average risk associated with a loan, or if a loan's structure is unavoidably complex, lenders tend to take more precautions and gather more information without any prior request from BIA – which it typically does anyway – it automatically supplies BIA with more information than usual, at virtually no additional burden to itself.

*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.*

A notice was published in the Federal Register on November 24, 2006 requesting comments from the public (71 FR 67895). No comments were received.

*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.*

We have had frequent conversations with bankers about the forms they submit in response to this collection of information. They typically call about where to address a form. We deal only with lenders, not borrowers. Some of the more frequent conversations have been with the following:

- Pam Nesius, Senior Vice President, Native American Bank, P. O. Box 730 Browning, Montana 59147.
- Jay Johnson, Vice President, Bank of America, 820 A Street, Suite 250, Tacoma, Washington 98402.
- J.D. Colbert, President, Native American Bank N.A., 999 18th Street, Suite 2460, Denver, CO 80202.

The Department of the Interior has amended Part 103 three times since 1975 and has solicited comments from the public without receiving any suggestion for changing the forms. However, BIA personnel have offered input based on their dealings with lenders. The requirements of the program are closely aligned to good business banking practices.

*9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees. No payment or gift is being given to*

respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. The information is maintained in strict accordance with the Privacy Act Systems of Records (Indian Loan Files) pursuant to 5 U.S.C. 552(a).

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.

There are no questions of a sensitive nature, other than matters of financial wherewithal and credit history, both of which are fundamental to the statutory obligation to determine if there is a reasonable prospect of repayment. See, 25 U.S.C. 552(a).

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 14.

The following table contains specifics of the hourly burden.

CFR Sections	BIA Forms	Number of Respondents	Frequency of Responses	Total Annual Responses	Annual Burden @ 2 Hours each	Cost per Hour	Cost to Respondents
103.11	5-4753	20	1	20	40	\$20	\$ 800
103.12, 103.13, 103.14, 103.21	5-4755	65	1	65	130	\$20	\$ 2,600

103.17	No	64	1	64	128	\$20	\$ 2,560
103.18	5-4754a	20	10	200	400	\$20	\$ 8,000
103.23	5-4749	45	4	180	360	\$20	\$ 7,200
103.26	No	64	1	64	128	\$20	\$ 2,560
103.32	No	64	1	64	128	\$20	\$ 2,560
103.33	No	200	4	800	1,600	\$20	\$32,000
103.34	No	10	1	10	20	\$20	\$ 400
103.35	5-4760a	20	1	20	40	\$20	\$ 800
103.36	No	20	1	20	40	\$20	\$ 800
103.37	5-4760b	10	1	10	20	\$20	\$ 400
103.38	5-4759	10	1	10	20	\$20	\$ 400
<b>Totals</b>		<b>612</b>		<b>1527</b>	<b>3,054</b>		<b>\$60,280</b>

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.



Please see the table in response to item 12. There are no separate capital and start up costs because the information needed is fundamentally the same sort that lenders collect and maintain whether or not they use the Program. Program information is gathered, stored, and processed using the same kinds of equipment lenders already possess. BIA supplies the forms if lenders wish to use them. No special personnel or expertise is required to meet the Program information collection and storage requirements; lender personnel simply meet Program requirements in the ordinary course of their daily work.

*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 annual cost to the government for salaries and supplies relating to processing loan guaranty, insurance, and interest subsidy forms is \$25,053.00, assuming an average wage of \$25.00 per hour and an average cost of \$1.00 in supplies per form submitted for review.

BIA form #	# of annual respondents per form	frequency of annual responses per year	Federal annual burden hours	federal cost of burden		regulatory citation
				salary	supplies	
5-4749	62	248	@ 15min 62	\$1,550.00	\$14.00	103.23
5-4753	68	68	@30 min 34	\$850.00	\$08.00	103.11
5-4754	20	20	@ 1 hr 20	\$500.00	\$04.00	103.11
5-4754a	20	20	@30 min 10	\$250.00	\$20.00	103.18
5-4755	62	62	@ 1 hr 62	\$1,550.00	\$84.00	103.12, 103.13, 103.21
5-4756	62	62	@ 1 hr 62	\$1,550.00	\$64.00	103.18
5-4759	5	5	@ 1 hr 5	\$125.00	\$07.00	103.38
5-4760a	4	4	@ 1 hr 4	\$100.00	\$20.00	103.35
5-4760b	4	4	@ 3 hrs 12	\$300.00	\$07.00	103.37
Total	307	493	262	\$6,775.00	\$228.00	

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

There is a burden increase of 2,535 hours because of an adjustment due to increased responses and more detailed burden estimates in the subparts.

*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.*

There are no plans to publish any of this 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.*

We intend to display the expiration date for OMB approval on the forms.

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

There are no exceptions to the certification statements in Item 19 of OMB Form 83-I.