

# 1 Supporting Statement for Paperwork Reduction Act Submissions

## OMB Control Number 1076-0111

**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.**
  1. The attached regulation, 25 CFR 23.13(a), specifies what information a state court must supply when it appoints counsel for an indigent Indian party in an involuntary Indian child custody proceeding when the appointment of counsel is not authorized under state law. This information is necessary to decide whether to certify that the client in the notice is eligible to have his counsel compensated by the Bureau in accordance with the Indian Child Welfare Act, Public Law 95-608, 92 Stat. 3069, 25 U.S.C. 1918. A copy of the relevant law and regulation are attached.
  - 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.]**
2. This information is used by the Bureau to determine the following: (a) If an individual Indian involved in an Indian child custody proceeding is eligible for payment of appointed counsel's attorney fees, (b) The name of the attorney, and his actual voucher certified by the court for the work completed on a pre-approved case. This information is necessary to approve that payments are being made to the appointed state court counsel as required in P. L. 95-608.

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].**
3. Electronic technology has not been considered to reduce the burden of the collection on the public because in December 2001, Indian Affairs (IA) was forced to disconnect from the internet by a court order issued by the judge in the Cobell litigation. Hence, IA cannot implement GPEA until reconnection to the internet is complete. Notwithstanding, when IA is reconnected the regulations will be made available on the IA website, tribes will be able to access the information electronically if that is available to them. Paper copies will continue to be made available to requesters.
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.**
4. There is no duplication of effort regarding this information and will only be used if no other state resources are available to pay attorney costs in Indian child custody proceedings. The information requested specifically identifies eligibility and standards for payment on a case-by-case basis, as certified by the court. Since circumstances vary with each situation in which payment of appointed counsel fees are requested, there is no available information which can be used in lieu of that supplied on each individual case situation.
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.**
5. There has been no attempt to reduce the impact on small businesses or other small entities because tribes are not considered to be small businesses or entities. Only minimum information is required for determining eligibility for services under 25 CFR 23.13.
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.**
6. If this information is not collected reimbursement requests cannot be considered.

The information collection requirement involves minimum information necessary to verify an individual Indian's eligibility for payment of these fees and a state court's certification of the appointed attorney and the amount of payment. The information cannot be collected less

frequently, because doing so would delay pending payment of potentially pre-approved attorney fees.

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;*
  - \* *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
  - \* *requiring 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;*
  - \* *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;*
  - \* *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
  - \* *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*
  - \* *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.*

7. This is not applicable to this collection.

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.]**

8. The Bureau published a Notice in the Federal Register on Tuesday, July 11, 2006, (71 FR 39126), seeking comments for a 60-day period. No comments were received. This information collection for purposes of obtaining reimbursement of attorney fees in ICWA dependency proceedings is not frequently accessed by the public. To obtain information from a member of the public who has pursued this process, contact Ms. Stephanie E.

Birdwell, Chief, Human Services, Bureau of Indian Affairs, Office of Human Services, 1951 Constitution Avenue N. W. , MS-4513-MIB, Washington, D. C. 20240, telephone: 202-513-7621; she is available to answer questions about the collection.

9. **Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**
9. No payments or gifts are provided to respondents, only payments to court-appointed attorneys in the amounts certified by the state court.
10. **Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**
10. This is not applicable.
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.**
11. There are no questions of a sensitive nature included in the information collected. The information collected serves to ensure that no other state resources are available to pay attorney costs in Indian child custody proceedings.
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.**

12. It is estimated that it would take a total of nine burden hours per respondent to assemble information and request reimbursement of payments for a state appointed attorney. One respondent, at a rate of \$15.00 per hour, eight hours for reporting, and an additional hour for record keeping for a total cost of \$135.00.

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.**

13. The estimated total annual burden cost to respondents or record keepers for capital and start up costs components (annualized over its 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. Computers and software used to complete this information are part of the respondents' customary and usual business practices, and therefore are not included in the estimate.

The information collection will not create costs associated with generating, maintaining, and disclosing, or providing information that is not already identified in Item 12 of this supporting document.

- 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.**
14. The average estimated annual cost to the Federal Government remains \$30.00/hr per petitions per year filed with the Bureau. The annualized cost to the Federal Government remains very limited. This would include staff time of one social worker and one secretary. The social worker would require 8 hours of time at \$34.00 per hour (salary & benefits) for a total of \$272.00. The secretary would require 8 hours of time at \$17.00 per hour (salary & benefits) for a total of \$136.00. The total annual expense would be multiplied by the number of responses.
- 15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.**
15. There is a change to this renewal. After reviewing this collection, we decided one request per year was appropriate; the time required for one request was also reviewed and changed from 3 hours to 9 hours.
- 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.**
16. The Bureau intends to display the expiration date.
- 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.**
17. The Bureau is not requesting exceptions to the certification statement in item 19 or Form OMB 83-1.
- 18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.**

**B. Collections of Information Employing Statistical Methods**

**The agency should be prepared to justify its decision not to use statistical methods in any case where such methods might reduce burden or improve accuracy of results. When Item 17 on the OMB Form 83-I is checked "Yes", the following documentation should be included in the Supporting Statement to the extent that it applies to the methods proposed:**

This collection of information does not employ statistical methods.