

**Supporting Statement for Paperwork Reduction Act Submissions  
Probate of Indian Estates, Except for Members of the Five Civilized  
Tribes, 25 CFR 15  
OMB Control Number 1076-0156**

**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 request for approval of information collection requirements inherent in the revisions to 25 CFR part 15, Probate of Indian Decedents' Estates, Except for Members of the Five Civilized Tribes. The Secretary of the Interior follows certain procedures to initiate probate of the trust estate of a deceased individual Indian who owned trust or restricted property. This part explains the procedures that the Bureau follows to process probates.

- 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 parties that submit information under the regulation are individual Indians and any persons having claims against an Indian decedent's estate. Subparts of the rule that contain information collection requirements are summarized below.

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The information provided through information collection requirements is used by the-BIA, to determine heirs and divide any funds held by the BIA for an Indian Decedent and to divide the decedent's trust and restricted real property. The information is particularly used in instructing an individual in starting the probate process, interviews of parties, and preparing a probate package for review, filing claims, disbursing assets, and filing appeals for adverse decisions.

**Subpart A** contains provisions generally explaining the probate process. These items include a reference to the probate package and a reporting requirement referring to the notice of an individual Indian's death; and completed package sent to OHA Deciding Official who decides how to distribute property and/or funds deposited in an IIM account; then distribution is complete.

**Subpart B** contains provisions relating to initiating the probate process, who prepares the case, and to identify the decedents "home" Agency. These items include a reporting requirement to the BIA notifying the agency of the circumstance of an Indian decedent, including providing documentation of his death; a reporting requirement for funeral expenses; the production of certain records that identify the decedent, his heirs, his creditors, and any other documentation that will assist in compilation of a probate package, for submission to OHA deciding Official; listing of documents necessary in preparing a probate case, and provisions for disclaiming interest in restricted lands or trust funds.

**Subpart C** contains provisions relating to the preparation of the probate package. One item describes the format for completing a probate package, including an heirship and family history declaration form (OHA Form 7). It contains provisions relating to claims against an Indian decedent's estate. These items include filing of creditors' claims against the decedent's estates; and priority claims for funeral expenses, medical and doctor expenses, and nursing home or other care facility expenses, and other general claims against the estate.

**Subpart D** contains provisions relating to appeals of a determination made by an attorney decision maker. These items include the basic form of appeal; and extraordinary appeal requirements that may apply after the appeal period has expired.

**Subpart E** contains provisions relating to who owns the records of a probate case; who may request information of a particular probate case; and how records of probate cases must be preserved.

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**

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**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. Hence, IA cannot implement GPEA until reconnection to the internet is completed.

Although the plan was to have the suggested formats, if any, available by the 2003 deadline, no suggested formats are available. Individual Indians and others who have claims to an Indian decedent's estate submit required information in non-standard written formats to meet the needs of the probate proceedings and the attorney decision-maker that may hear such proceedings. There are no barriers to the use of electronic technology to collect the information and reduce the burden of this collection. More particularly, each claimant must submit documentation proving the claim to the Administrative Law Judge (ALJ) of OHA, and the decision maker rules on the acceptance of the claim.

**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.**

This information is not duplicated in any other data collection. This information is unique to the probate of Indian decedents' estates and no similar information is found in any other collection. In keeping with the Paperwork Reduction Act and other statutory requirements, the information collected is the minimum needed for the intended purpose.

**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 determine what information collection was necessary to ensure the fair and equitable administration of Indian decedents' estates. Through this consultation the information collection burden has been minimized.

**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 information collection burden cannot be reduced any further without the integrity of the probate Indian decedent's estate being compromised. Information is collected, as needed, when

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individual Indians and others having claims to an Indian decedent's estate wish to make proper claims against such estate. If the collection is not conducted, or is conducted less frequently, the BIA will not be able to properly administer Indian decedents' estates and the federal government's trust responsibility for managing monies held in trust for federally- recognized tribes will be further compromised. One major technical obstacle to reducing the probate backlog burden is the BIA's lack of Internet access; research of particular probate cases could be completed faster, if the internet was available.

**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;*

Probate cases do not conform with gathering information quarterly. Probate cases must be started when a death is noted, and submitted to OHA, then closed timely.

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

Probate cases are done as known; case information is gathered when needed.

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

The present regulations do not require copies;

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

Presently probate records are retained according to records retention policy.

- \* *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;*

Presently, data is obtained from ProTrac, the Probate Tracking System, on a request basis, and generalized data is produced to reflect progress in the Quota process.

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

The ProTrac system is not used to gather statistics but to track progress and status of probate cases and does not need to be reviewed and approved by OMB for statistical purposes.

- \* *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.*

There is one circumstance that requires an exception to 5 CFR 1320.5(d)(2). The regulations at 15.301 refer to the transmittal of the completed probate package to OHA for assignment of the case to a deciding official. Probate cases are transmitted to OHA as soon as completed. This procedure is measured in the Quota system, implemented last year. OHA determines if an Administrative Law Judge (ALJ) or Indian Probate Judge will be assigned a specific case.

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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. Not applicable to probate caseload. 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.**

Mr. Nasir Qudsi, Mr. Robert Steele, and Mr. Gene Dell, all of G&B Solutions, Inc. – 1749 Old Meadow Rd., Suite 120, McLean, VA 22102, 703-883-1140. These individuals are the contractors for ProTrac and produce Quotas for 12 Regional Offices, along with Progress Reports, weekly to measure progress. Instructions are given to produce reports of cases in ProTrac, with interpretation of needs sometimes vague and needing further explanation. Since the original clearance of this information collection, there has been a concerted effort to handle the numerous estates that need to be probated, which has involved communication with heirs. During this renewal process, we published a Federal Register notice with a 60 day comment period on November 1, 2006 (71 FR 64291). No comments were received.

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

The respondents will not receive payment or gifts.

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

There is no assurance of confidentiality provided to respondents concerning this information collection.

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 solicited in this information collection.

**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.**

See Attachment A which explains the numbers of respondents to various parts of the probate process.

**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*

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*(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 no equipment is involved with the administration of Indian decedents' estates. The probate of Indian decedents' estates is a service that already exists within the BIA and, therefore, no start-up costs would be intended through this collection. Any computers and software used to complete this information collection are part of the respondent's customary and usual business practices and, therefore, are not included in the estimate.

**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.**

See Attachment A for the burden and cost to the federal government.

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

There has been an increase of 34,644 hours in the burden because of more accurate data being collected although there was no increase in the number of responses. The increase is from 1,094,514 hours to 1,129,158 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.**

There is no intention to publish this information collection.

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**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 with the OMB Control Number.

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

We are not seeking any exceptions.