

Supporting Statement for Paperwork Reduction Act Submissions
Acquisition of Title of Land into Trust, 25 CFR 151
OMB Control Number 1076-0100

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.**

Section 5 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 985, 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), copy attached, authorizes the Secretary of the Interior (Secretary), in his discretion, to acquire lands through purchase, relinquishment, gift, exchange, or assignment within or without existing reservations for the purpose of providing land for Indians. Other specific laws also authorize the Secretary to acquire lands for individual Indians and tribes. In order for the Secretary to administer his trust responsibility, certain information must be collected for land acquisitions on behalf of individual Indians and tribes. The Secretary requests information in order to identify the party(ies) involved and to describe the land in question. The Secretary also solicits additional information deemed necessary to make a determination to accept or reject an application to take land into trust for the individual Indian or tribe. Title 25, Code of Federal Regulations, Part 151 sets forth the policy and requirements for applicants to follow when submitting an application. A copy of the regulation is attached.

Section 151.9 provides for an individual Indian or tribe desiring to acquire land in trust status to file a written request for approval of such acquisition with the Secretary. In order to properly evaluate the request and make a determination, the Secretary also solicits additional information necessary to satisfy the pertinent factors listed in section 151.10 for on-reservation acquisitions. When the lands are located outside of and non-contiguous to the tribe's reservation, more information is necessary to make a decision. Therefore, section 151.11(c) provides for additional criteria and requirements to supplement requirements found in section 151.10. It also requires that if the land is being acquired for commercial purposes, the applicant provide a plan which specifies the anticipated benefits and potential risks associated

with the proposed use. Section 151.13 also provides for additional information or justification if the Secretary considers it necessary to enable him to reach a decision. Section 151.13 requires the applicant to furnish title evidence meeting the Standards For The Preparation of Title Evidence In Land Acquisitions by the United States, issued by the U.S. Department of Justice. The Secretary may solicit additional information to ensure that the title to such property is free of any liens, encumbrances, or infirmities prior to taking final approval action. The acquisition of land in trust for the use and benefit of Indian tribes and individual Indians is one of the prime responsibilities of the federal government in its unique relationship with American Indians.

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 information will be used by the Secretary to determine whether or not to approve an applicant's request. The information identifies:

- the applicant,
- the property,
- the statutory authority to acquire lands for the individual Indian or tribe and any limitations of such authority,
- the need for such land,
- the purposes for which the land will be used,
- the amount of trust/restricted land already owned,
- the degree an individual needs assistance to handle realty affairs,
- the impact on state and political subdivisions caused by the removal of the land from the tax rolls,
- jurisdictional problems and potential land use conflicts which may arise from the acquisition,
- the ability of the Bureau of Indian Affairs (BIA) to discharge the additional responsibilities resulting from the acquisition,
- the location of the land relative to state boundaries and its distance from the boundaries of the tribe's reservation, and
- where land is being acquired for business purposes, the tribe shall provide a plan which specifies the anticipated economic benefits associated with the proposed use.

The information also allows the Secretary to comply with 516 DM 6, Appendix 4, the National Environmental Policy Act Revised Implementing Procedures, and 602 DM 2, Land Acquisitions: Hazardous Substances Determinations. The identity of the party(ies) is necessary to confirm eligibility of the applicant(s) as well as to communicate with them. A description of the land to be acquired is necessary to determine the location, ownership, and adherence to Federal policies concerning possible restrictions and limitations as to future uses and development, as well as, the factors listed above.

Once an application is submitted, the Secretary may request additional or clarifying information during the evaluation process. This on-going information collection effort is necessary to account for differences of conditions and issues on both a regional and local

case-by-case basis. A short phrase or explanation may be satisfactory for lands proposed to be acquired in trust within an existing reservation, but more precise detail is necessary when such acquisitions involve lands located off-reservation.

Information collected under section 151.11(c) is used by the Secretary to determine if such off-reservation acquisition is feasible. As the distance from the reservation land base increases, particularly toward or into urbanized areas, the value of reasonable alternative uses of the land must be examined and a relatively stronger justification for trust status will be required.

Collection of information under section 151.13 is used by the Secretary to determine if title to said property is good and marketable and unencumbered. Additional information may be required to ensure clear title.

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

For this collection we use limited automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. The growing use of computers continues to offset inflation for both the federal government and the respondents. The use of computers reduces the time to prepare applications and decreases paperwork, thereby reducing the cost.

- 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.**

Because of the uniqueness and diversity of applications, no similar information pertaining to land acquisition in trust status for Indians is collected by the BIA or other federal agencies.

- 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.**

The information collection will not have a significant impact on small businesses or other small entities. The information is only collected from individual Indians and tribes who wish to obtain a benefit and pertains to land. State and local governments are requested to supply information pertaining to the land and the effect of its being taken in trust and off tax rolls.

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 BIA's land acquisition program could not continue if the collection is not conducted. The Secretary uses the information to make an expedient and responsible decision in determining whether or not to acquire land in trust status for an individual Indian or tribe. Applications are initiated by Indian tribes and individuals; the Secretary is obligated to evaluate such applications and respond accordingly.

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. Applications are initiated by Indian tribes and individuals desiring to acquire lands in trust status. If the Bureau has any data needed for the application, it is supplied to the applicant. Each application is unique to the land proposed to be acquired.

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

There are no special circumstances that would cause an information collection to be conducted in a manner that requires:

- Respondents to report information to the agency more often than quarterly. Information is a one-time collection of information that pertains to a specific request by a tribe or an individual Indian.
- Respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.
- Respondents to submit more than an original and two copies of any document.
- Respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years.
- Statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study.
- Use of a statistical data classification that has not been reviewed and approved by OMB.
- A pledge of confidentiality that is not supported by authority established in statute or regulations, 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 use.
- Respondents to submit proprietary trade secret, 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.

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.

The rule has been under revision with ample input from the public; however, the proposed rule was withdrawn and will be revised at a later time. The Federal Register notice requesting comments on renewal of this information collection was December 13, 2006 (71 FR 74932). We received no comments. As part of our consideration of the previously withdrawn rule, we re-estimated the burden of this information collection. Based on our review, of the 1,000 fee-to-trust annual land acquisitions that 850 were on-reservation requests and 150 off-reservation requests. Please contact Ben Burshia at 202-219-1195 to request the contact information of a member of the public.

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

No payment or gifts will be given to respondents.

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

No confidential information is solicited.

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.

No sensitive questions are asked or needed for this application.

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

The Bureau of Indian Affairs receives an average of 1,000 applications per year, which breaks down to 850 on-reservation applications and 150 off-reservation applications.

Experience indicates that the number varies from year to year. However this average figure is expected to be maintained for the next several years. Our estimates of burden include time spent in organizing and preparing necessary information, completing the application (including clerical time), and preparing a resolution for tribal council vote to accompany the application. Most of the information is readily available to the tribe or individual making the application. The total hourly burden is shown in the following table.

Citation 25 CFR 151	INFORMATION	Average No. of Hours	Average No. per Year	Annual Burden Hours	Burden cost per hour : \$25.
151.10	Applicants must submit: (a) Copy of authority (b) Explanation of need (c) Explanation of ownership status (Tribe) (d) Explanation of ownership status (Individual) (e) Title evidence	50	850	42,500	\$1,062,500
	(f) Documentation for NEPA – tribe and individual furnish documentation	40	120	4,800	\$120,000
	(f) Documentation for NEPA – Tiering	20	200	4,000	\$100,000
151.11	Applicants must submit: (a) Copy of Authority (b) Explanation of need (c) Description of proposed use (d) Description of location of land (e) Description of effect on state & political subdivisions (f) Description of jurisdictional issues (g) Title evidence	70	150	10,500	\$262,500
	(h) Documentation for NEPA – tribe provides documentation	40	150	6,000	\$150,000
	Totals		1,000	67,800	\$1,695,000

We estimate that the respondents will spend about 50 hours at a cost of \$25/hour to prepare applications. This includes time spent in organizing and preparing necessary information, completing the application (including clerical time), and preparing a resolution for tribal council vote to accompany the application. In addition almost 25% of the 850 tribes will spend 20 hours preparing the tiering information needed for NEPA and another 15% will spend an additional 40 hours to furnish the NEPA documentation. A total of 51,300 hours is expended by the 850 respondents for an average hourly burden of 60.4 hours. The 150 off-reservation applicants spend an average of 110 hours each to prepare their request.

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

There is no additional annual non-hour cost burden to respondents or record keepers resulting from the collection of information. No special start-up cost component or equipment is necessary for the collection of information. Respondents are not required to maintain

records, although they may choose to do so for other reasons. The Bureau of Indian Affairs maintains the official records, including all source documents.

- 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.**

We estimate the annual cost to the Federal government for processing land acquisition applications as \$3,000,000. For each of 1,000 applications, approximately \$2,000 represents 80 hours for a GS-12; and an additional \$1,000 per application covers overhead expenses, e.g., paperwork, travel, surveys and appraisals. Each application at a cost of \$3,000 x 1,000 applications = \$3,000,000. This does not include any funding appropriation by Congress for new land purchases.

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

After review, we have changed the burden hours as an adjustment. While we have not changed the rule, we have re-estimated the burden based on data gathered in support of the withdrawn proposed rule. The BIA receives 1,000 responses; the burden hours were 36,800 with an adjustment of an additional 31,000 hours to make the new burden 67,800 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.**

Results are not tabulated and published.

- 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 OMB Control Number and the expiration date.

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

5 CFR 1320.9 (i) is not applicable because we do not use any statistical survey methods.