

# **Supporting Statement for Paperwork Reduction Act Submissions Verification of Indian Preference for Employment in BIA and IHS, 25 CFR 5**

**OMB Control Number 1076-0160**

**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 statistical methods are used, Section B “Collection of Information Employing Statistical Methods,” 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 Bureau of Indian Affairs (BIA) is authorized by 25 U.S.C. 43, 36 Stat. 472, inter alia, to provide a form which will verify that an individual is an enrolled member of a federally recognized Indian tribe or that an individual possesses a required degree of Indian or Alaska Native blood. The information is checked by the tribal officials or BIA officials to verify the person’s enrollment in a federally recognized tribe. With a valid application for employment, the form verifying membership is used to allow Indian preference in filling positions in the BIA and the Indian Health Service (IHS).

- 2. Indicate how, by whom, and for what purpose is the information 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 form will be used by an applicant to seek documentation of Indian descent or membership from either a tribal official or the BIA. The information will be used by the respective servicing personnel office at BIA or IHS to determine whether Indian preference applies. BIA and IHS are required to first consider qualified applicants who are Indian preference-eligible when filling vacancies. If the applicant fails to include all

the requested information, the application would then be incomplete and the applicant would not be eligible for Indian preference in employment.

The form is divided into four (4) sections referred to as “Categories”. Category A is for an enrolled member of a federally recognized tribe; it asks for identifying information (name, date of birth, tribal affiliation). If an individual is a member of a federally recognized tribe, he or she must request that his/or her tribe complete this category. One of the following procedures will apply and the applicant will be advised by his/or her tribe:

If the applicant’s tribe has contracted or compacted the maintenance of tribal enrollment records under the Indian Self-Determination and Education Assistance Act, Pub. L. 93-638, as amended, 25 U.S.C. 450, a verification signed by an authorized Tribal Representative(s) is sufficient. If the tribe does not maintain tribal enrollment records, the tribe must certify that the applicant is a member and the applicant must submit the form to the BIA official who maintains the official roll for the tribe.

Category B is for those who are descendents of members of a federally recognized tribe, band, or community who were residing on a reservation on June 1, 1934. It requires name, date of birth, reservation of residence, full name of ancestor and tribal affiliation, title and source of records upon which this is based.

If the claim for preference is based upon lineal descent from a member of a federally recognized tribe, band or community, there must also be documentation of residence within the present boundaries of the reservation on June 1, 1934.

Category C is for persons who possess at least one-half degree Indian blood derived from tribes indigenous to the United States. It requires full name, date of birth, degree of blood and tribal derivation, title and source of records upon which this is based.

The applicant must possess one-half degree Indian blood from a tribe indigenous to the United States, and must submit State or academic records that document this status, as well as official records that establish the degree of Indian blood, such as census records. The applicant must also complete and attach family history.

Category D is for Alaska Natives. It requires name, date of birth, Alaska native village or corporation roll, title and source of records upon which this is based.

An applicant may contact the BIA office servicing the village or corporation for completion of this category.

It is the responsibility of the individual to establish evidence of entitlement to Indian preference. Applicants must submit as much background information as possible to verify eligibility for Indian preference.

### **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].**

While the basic form could be available electronically, the Bureau of Indian Affairs is prohibited access to the internet by court order. The requirement to have signatures and safeguard information covered by the Privacy Act precludes processing the information completely by electronic means at this time.

**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.**

The information collection serves a particular purpose. The supplied information is verified by using other collections which have been gathered for the purpose of enrolling or identifying tribal members. It does not require that additional information be supplied. The information which the applicant provides is done voluntarily in order to receive preferential consideration in personnel actions relating to vacancies in positions in the BIA and IHS. Applications, including the verification of Indian preference, must remain in the appropriate application file. After employment, should the form be lost or misplaced, the employee may be required to file an additional form in the Official Personnel File for use in case of a reduction in force, or other personnel action.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

The collection of this information would not adversely impact even small tribes because they are required to maintain tribal rolls and would have the information available for verification. The form, divided into four (4) categories covering different situations, minimizes the paperwork to be completed. #2 above explains each category.

**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 collection, on an individual basis, is the means to verify and implement Indian preference in employment for those agencies required by law to first hire Indian preference applicants. An applicant can choose not to exercise this right and may still be hired because of his or her qualifications.

**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 requirement for annual, quarterly reports.

- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days:**

An individual who seeks Indian preference must submit one copy of the original form with each job application even if multiple vacancies are applied for in one day or one week or one month. Applications, including the verification of Indian preference, must remain in the appropriate application file. After employment, should the form be lost or misplaced, the employee may be required to file an additional form in the Official Personnel File in case of a reduction in force, or other personnel action.

The other parts of this question do not apply.

- 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 60-day notice for public comments was published in the *Federal Register* on January 29, 2008 [73 FR 5207]; we have attached a copy. No comments were received on the workload burden or the form itself (OMB Control No. 1076-0160) during this public comment period.

**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.**

Ms. Suzanne, Community Services Officer, Tribal Services, Southern Plains Region, Bureau of Indian Affairs, P.O. Box 368, Anadarko, Oklahoma 73005, telephone no. (405) 247-6673, helped with the cost and hour burden estimation.

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

No payment or gift or other remuneration is given.

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

This information collection contains information covered by the Privacy Act, and the persons using this form are advised of how the protected information will be handled to safeguard it according to the law.

- 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.**

Other than information covered in #10, no other questions of a sensitive nature are included.

- 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 then aggregate the hour burdens.**

- **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.**

It should take the applicant about 30 minutes to complete the form. Estimated 5,000 applications received annually (.5 each x 5000=2,500 burden hours). If we project the cost of the time for the applicant as \$26.13/hour, the cost burden for the applicant's time is \$13.065 per applicant, or a total of \$65,325.00. Information gathered for identifying the burden hourly rate was reviewed in connection with Bureau of Labor Statistics National Compensation Survey: Occupational Wages in the United States, June 2007, showing an average hourly wage per person in private industry (Table 5) which shows the wages and salaries to be \$18.52 with total benefits of \$7.61. The table can be found in the U.S. D.O.L. News of Thursday, September 20, 2007.

- 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).**

- **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.**

There are no costs to consider, except postage and the cost of duplicating the original verification form; the applicant must send a copy of the original Indian Preference form since it must be submitted each time applicant seeks to use it for employment purposes. The information collection form is developed and supplied by the Federal Government. Cost of burden includes duplicating completed collection form \$3,900 + \$2,500 for postage = \$6,400.

- 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 salary cost to the government for processing the Indian Preference Form is **\$82,950**. It will take the Bureau's enrollment clerk about .5 hours to review each request. It will take the certifying Bureau Official about .25 hours to certify the form. The Bureau enrollment clerk's average hourly rate is \$13.77 (GS-2) including benefits and the certifying official's hourly rate is \$35.70 (GS-10/5) including benefits. We used the Salary Table 2008-GS Incorporating the 2.50% General Schedule Increase.

The cost for clerical time is  $6.885 \times 5,000 = \$34,425.00$ . The cost for the

Certifying Official is  $\$8.925 \times 5,000 = \$44,625.00$ . The total processing cost is  $\$34,425.00 + \$44,625.00 = \$79,050$ . The cost of supplies for reproducing copies is about \$.78 (6 pages @\$.13). For approximately 5,000 applications the total is \$3,900. The total cost to the federal government is \$82,950.

**15. Explain the reasons for any program changes or adjustments reported in reporting and recordkeeping burdens and any in capital/start-up or O&M costs.**

There are no changes.

**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 the information collection. The effect of applying this information collection might appear as sums; e.g., a bureau or field office may report the percentage of Indian preference employees, but no information covered by the Privacy Act would be released.

**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 BIA intends to place the approval/clearance control number and the expiration date on the form.

**18. Explain each exception to the certification statement identified in 5 CFR 1320.9 (hourly and cost burdens) and 5 CFR 1320.8(b)(3) (the questions we ask commenters to address).**

We are not seeking any exceptions to the certification statement.