

Supporting Statement for Paperwork Reduction Act Submissions

Law and Order on Indian Reservations, 25 CFR 11.600(c), 606(c) OMB Control Number 1076-0094

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, Department of the Interior, must collect personal information to carry out the requirements of 25 CFR 11.600(c) – Marriage, and 25 CFR 11.606(c) – Dissolution proceedings. This is in support of 25 U.S.C. statutory authority for this regulation found at 25 U.S.Code §§ 2, 9, and 13.

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 collected is relied upon by the clerk of the court and magistrate of the Court of Indian Offenses for the issuance of a marriage license or a decree in a dissolution of marriage as specified in § 11.601 through § 11.604, and in §11.605, §11.607, and §11.608.

Marriage application:

Each applicant for marriage license must comply with this requirement by responding to the following six questions found at 25 CFR 600(c):

(c) A marriage license application shall include the following information:

- (1) Name, sex, occupation, address, social security number, and date and place of birth of each party to the proposed marriage;
- (2) If either party was previously married, his or her name, and the date place, and court in which the marriage was declared dissolved, or declared invalid, or the date and place of death of the former spouse;
- (3) The name and address of each applicant's parents or guardian of each party;
- (4) Whether the parties are related to each other and if so, their relationship; and
- (5) The name, date of birth of any child of which both parties are the parents, born before the making of the application, unless their parental rights and the parent and child relationship with respect to the child have been terminated.
- (6) A certificate of results of any medical examination required by either applicable tribal ordinances, or the laws of the State in which the Indian Country under the jurisdiction of the Court of Indian Offenses is located.

For the purposes of § 11.600, the information requested in question 1 is necessary to confirm identity. Previous marriage information is requested in question 2 to avoid multiple simultaneous marriages, and to ensure that any pre-existing legal relationships are dissolved. Information on consanguinity is requested in questions 3, 4 and 5 to avoid conflict with state or tribal laws against marriages between parties who are related by blood as defined in such laws of the state in which the Court of Indian Offenses is located.

Dissolution of Marriage:

A verified petition for dissolution of marriage or legal separation shall allege that the marriage is irretrievably broken. To comply with the requirement for dissolution of marriage, an applicant must respond to the following six questions found at 25 CFR 606 (c):

- (1) The age, occupation, and length of residence within Indian Country under the jurisdiction of the court of each party;
- (2) The date of marriage and place at which it was registered.
- (3) That jurisdictional requirements are met and that the marriage is irretrievably broken in that either (i) the parties have lived separate and apart for a period of more than 180 days before beginning the proceedings or (ii) there is a serious marital discord adversely affecting the attitude of one or both parties toward the

marriage, and there is no reasonable prospect of reconciliation;

- (4) The names, age, and addresses of all living children of the marriage and whether the wife is pregnant;
- (5) Any arrangement as to support, custody, visitation of the children and maintenance of a spouse, and
- (6) the relief sought.

For the purposes of § 11.606, Dissolution proceedings, information on occupation and residency is necessary in questions 1 and 2 to establish Court of Indian Offenses jurisdiction. Information on the status of the parties, whether they have lived apart 180 days or if there is serious marital discord warranting dissolution, in question 3 is necessary for the court to determine if dissolution is appropriate. Information on the children of the marriage, their ages and whether the wife is pregnant in question 4 is necessary for the Court to determine the appropriate level of support that may be required from the non-custodial parent. A statement from the applicant as to the relief sought in question 6 is necessary for the Court to render proper court orders and judgment.

Use of Forms:

The forms attached meet the requirements described above and are submitted for clearance by the Office of Information and Regulatory Affairs, Office of Management and Budget. Use of these forms will allow the courts to meet the requirements of the Paperwork Reduction Act.

The form is used to obtain minimal information from an applicant for a marriage license or dissolution of a marriage without violating the privacy rights of the applicant.

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.].

The information is collected manually, allowing the individual to provide the information in simplified format. Considering GPEA, there is no consideration at this time, of moving the process to an electronic format for several reasons.

First is the limited scope of the use of information which is (1) to issue a marriage license and (2) is used by only the 24 Courts of Indian Offenses in Indian Country. Secondly, Indian clients that use the Court are quite likely in the poorest economic quadrant of American society today, with little likelihood of having a home

computer or connectivity to an Internet service provider. Even if such service were available, the telephone long distance toll charges for remote location connection to an ISP for routine use can be prohibitive, e.g., \$600. a month. Even where electronic means are available, tribal ordinance or local rules may require that the parties appear in person for a marriage license for verification of identity. In the case of dissolution, an attorney or lay advocate (if authorized) may be able to work with the client to provide the requested information.

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 exclusively used by the Court of Indian Offenses where an application for marriage or request for the dissolution of marriage is filed. There is no duplication by any other Federal agency or state court. Similar information of this nature does not exist because it is unique to a determination as to whether or not a marriage license or a decree of dissolution will be issued.

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

The collection of information does not impact small businesses or other small entities. In any case, only the minimum amount of information is required, and that information is readily available to the respondent.

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.

There are no technical or legal obstacles to reduce this burden, but the consequences of not collecting this information, which is only a one time requirement, is that the Court of Indian Offenses will not be able to issue a marriage license or render a judgment of the state of the marriage. This information is only collected once for each request for a marriage license and only once for each application for dissolution of marriage. Absent the collection of the requested information, the applicant will need to meet applicable state residency and other requirements for applying for a marriage license or for dissolution of marriage.

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;

Applicants are not required to report this information on a quarterly basis. This is a one time only requirement when the applicant requests a judgment from the

Court of Indian Offenses.

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

Respondents are not required to prepare a written response to the collection of information of a reoccurring nature. This information is required only when an applicant requests a Court of Indian Offenses to assume jurisdiction over this matter.

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

In the marriage proceedings outlined in 25 CFR Subpart 11.600(c), there would be two sets or copies, one for the applicant and one for the clerk of court's record file.

For dissolution proceedings under Subpart 11.606(c), there would be three sets or copies, one for the petitioner, a set or copy for the respondent, and an original for the court's case file. The information would be open for public inspection except where restricted in accordance with 25 CFR § 11.206 and 44 U.S.C. § 3102.

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

There is no Court of Indian Offenses requirement that the applicant retain the record for any length of time. But, it is customary for the parties to retain these records through their lifetime.

- * 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;

This information is not connected with any statistical survey.

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

This information is not connected with any statistical survey.

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

The pledge of confidentiality involved in the collection of this information is covered by the Privacy Act.

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.

Other than the above reference information covered by the Privacy Act, no confidential information is collected. Proprietary trade secrets would not be compromised.

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 Federal Register Notice was published April 9, 2008 (73 FR 19240), and we have attached a copy. Consultation on the form occurred with the Regional Offices where the form is used. There was no effort to consult with the Indian tribes, public, or obtain a representative sample of respondents, with exception of contacts made within the Courts of Indian Offenses, this would be construed as an unwarranted invasion of an individual applicant's privacy. No comments were received as a result of the publication of the 60 day notice in the Federal Register

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 Code of Federal Regulations at 25 CFR 11.207(a) states that "No employee of the BIA may obstruct, interfere with, or control the functions of a Court of Indian Offenses, or influence such function in any manner..." It would be inappropriate for the BIA to question applicants about the proceedings in a Court of Indian Offenses and considered an unwarranted invasion of their privacy. However, field office Tribal Government Operation Officers were contacted who, in turn, contacted Courts of Indian Offenses within their Region to verify this information. The results of this contact are as follows:

Contact	Location, Phone	User Response
Suzanne Chaney, Komaly Court Clerk	Anadarko/405-247-1537	10-15 min.
Judge Phillip Lujan	Anadarko/405-919-0773	15 min.

9. Explain any decision to provide any payment or gift to respondents, other than

remuneration of contractors or grantees.

No payment or gifts are necessary.

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

All records of Courts of Indian Offenses are generally matters of public record, including the lists of applications for marriage licenses or applications for dissolutions. See 25 CFR 11.206(c) – Courts of Records. To the extent that information is to be restricted, authority would be the limitations in § 11.206 (d) and the protection afforded by 44 U.S.C. § 1302.

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.

The information collected under 25CFR 11.600(c) –Marriage, and 11606(c) – Dissolution of Marriage does not request any information of a sensitive nature.

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.

The estimated number of annual responses is 260. Each response takes 15 minutes. The annual hourly burden is estimated to be 65 hours.

- If this request for approval covers more than one form, provide separate hour burden estimates for each form and then aggregate the hour burdens.

The numbers are evenly divided between marriage and dissolution applications. There are 130 applications each for marriage or dissolution. The annual hourly burden for each is 32.5 hours.

- 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.

Because work on reservations where the Courts are located is often scarce and does not pay well, we are using the hourly wage for a GS1 step 5 as the basis of our cost burden. Therefore, the estimate is as follows:

From the table that incorporates the 2.50% General Schedule Increase 2008:

GS – 1 step 5 - \$9.25 (salary) x 1.4 (benefits) - \$12.75 hr x 65 hrs = \$841.75.

This method is based on BLS news release USDL:07-1883 dated December 11, 2007.

https://www.opm.gov/oca/08tables/html/gs_h.asp

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.

The information requested is on a simple one-page form which requires no capital or start-up cost (except for a pen) to respond to the request.

- * 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.

In requesting information for the issuance of a marriage license or for the dissolution of a marriage, the information requested is controlled by the listing in the Code of Federal Regulations Part 11. In each case, only 6 questions are

required to be answered. In each case no start-up or capital costs are involved.

- * 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 record keeping costs are federally funded for the courts. The information that the applicants would supply is information they would retain anyway, so that cost is not considered.

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 time spent by the federal clerk is 1 hour per application. Therefore, 260 hours are spent on processing the applications.

From the table that incorporates the 2.50% General Schedule Increase 2008:
GS – 3 step 5 - \$11.36 (salary) x 1.5 (benefits) = \$17.04 hr x 260 hrs = \$4,430.40.

This method is based on BLS news release USDL:07-1883 dated December 11, 2007.

<https://www.opm.gov/oca/08tables/html/gsh.asp>

Also included in this cost estimate is \$100 per court, annually, for materials and supplies used by the staff of the CFR court. There are 24 courts; therefore \$2400.00 is an annual cost to the government aside from salaries.

15. Explain the reasons for any program changes or adjustments reported.

There are no changes to this information collection renewal.

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.

No results will be published, although the listing is a matter of public record within the confines of the legal system.

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 will not seek a waiver to the display of the OMB Control Number and the expiration date.

18. Explain each exception to the certification statement identified in 5 CFR 1320.8(b)(3) and 5 CFR 1320.9.

No exceptions are requested.