

**Supporting Statement for Paperwork Reduction Act Submissions
Tribal Reassumption of Jurisdiction over Child Custody Proceedings, 25 CFR 13
OMB Control Number 1076-0112**

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.

The Indian Child Welfare Act, 25 U.S.C 1918, provides that an Indian tribe subject to State jurisdiction may obtain Secretarial approval to reassume jurisdiction over child custody proceedings by presenting the Secretary of the Interior with a petition to reassume and a suitable plan to exercise such jurisdiction. The implementing regulation, 25 CFR 13.11, specifies the contents of reassumption petitions for those tribes requesting approval to reassume jurisdiction over child custody proceedings. The contents are:

- Contact information for the petitioning tribe(s);
- Tribal resolution supporting the petition and plan;
- Proposed date on which the tribe will reassume jurisdiction;
- Estimated number of members in the petitioning tribe(s);
- Criteria for tribal membership;
- Procedure by which a participant in an Indian child custody proceeding may determine whether a particular individual is a member of the petitioning tribe;
- Citation to tribal governing document that authorizes the exercise of jurisdiction;
- Description of the tribal court that will exercise jurisdiction over Indian child custody matters;
- Copy of any tribal ordinances or court rules establishing the procedures or rules for the exercise of jurisdiction;
- Description of child and family support services that will be available to the tribe(s) when jurisdiction is reassumed;

- Estimate of the number of child custody cases expected each year;
- Copy of any tribal agreements with States, other tribes, or local governments relating to child custody matters; and
- Citation of statute and description of territory where the jurisdiction is other than transferral jurisdiction under 25 U.S.C. 1911(b).

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.)

This information, found in 25 CFR 13.11, is used by the Bureau of Indian Affairs (Bureau, BIA) to determine whether it is feasible for a tribe to reassume jurisdiction of child custody cases. Each of the items tribes must submit as part of the petition is necessary for the Secretary to ensure that the petitioning tribe is authorized and has the judicial, procedural, and child care services in place to reassume jurisdiction over child custody matters. If the information is not collected, the Bureau could not make those determinations.

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.

Tribes submit their reassumption petitions via U.S. Mail or a commercial carrier. In addition, because the Bureau of Indian Affairs (BIA) is now reconnected to the internet, communication between tribal entities and the Bureau occurs much more easily, greatly improving the ease with which respondents can communicate with BIA personnel regarding any questions they may have. The Bureau does not currently receive petitions via email. The Bureau has examined the possibility of allowing for electronic submissions but has determined that mailing hard copies is currently the best way to ensure immediate action, given the volume of emails the Bureau office receives. Additionally, emailing would require that tribes convert certain documents from hard copy to electronic copy (e.g., signed tribal resolutions). Some tribes may not have the necessary software to make such conversions, and requiring such conversions would add another step to the submission process. Therefore, the Bureau does not believe electronic submission is appropriate at this time, but will continue to examine options for reducing burden through electronic submission.

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 included in the reassumption petition is unique to each tribe and circumstances surrounding the tribe's reassumption of jurisdiction. While the tribe may have submitted parts of the 13 items required as part of a reassumption petition to BIA or other agencies for other

purposes, such information must be compiled together to provide a case for reassumption. Tribes have ready access to the information that they have submitted to another Federal agency, such as HHS, or State or local governments, and would be able to identify it as stale or otherwise in need of update before submitting it as part of the reassumption petition. In addition, the tribal government must act specifically upon this information to authorize reassumption before it is submitted to BIA.

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

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. There is no mandate for tribes to supply this information collection unless they are seeking reassumption authority.

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 tribe need only submit the request one time unless changes have to be made. If this information is not collected, tribes could not make jurisdictional determinations on child custody proceedings. We promote the Bureau of Indian Affairs mission for Self-Determination activities for tribes.

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;

Respondents need only report this information on occasions when they are requesting reassumption of child custody proceedings, which is likely to happen only once over a span of several years.

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

Respondents are not bound by a timeframe to provide the information.

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

Only one original is required.

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

Tribes maintain their own records with no requirements for retention of records.

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;

No statistical surveys are used in association with this information collection.

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

No statistical data classification is used in association with this information collection.

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,

No pledge of confidentiality is included.

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.

No proprietary information is necessary for the application.

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 notice requesting comments on the proposed renewal of this information collection was published seeking comments for a 60-day period beginning February 27, 2009 through April 28, 2009. (74 FR 8981). No responses were received during this time.

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 the names, titles, addresses, and phone numbers of persons contacted.]

Ms. Evelyn Roanhorse, Regional Social Worker, Bureau of Indian Affairs, Western Regional Office, P.O. Box 10, Phoenix, AZ 85001, Telephone (606) 708-0614, is available to answer questions about the collection.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

BIA officials perform ongoing consultation with tribal and agency program representatives when the reassumption petition is completed and at various social service meetings conducted during the course of each fiscal year by each of the twelve regional offices.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees. The respondents of this information collection will not receive any payments or gifts for providing this information.

We do not provide payment or a gift to respondents for completing this form.

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 as the information is considered public and does not contain information about individual clients.

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 included in the information collected. The information collected serves to ensure that the welfare of the child will be adequately supported by the reassumption of jurisdiction.

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.**

On average, two tribal respondents file one reassumption petition each with the Bureau of Indian Affairs per year. We estimate the annualized cost would include eight hours for the reporting and record keeping hourly burden for each reassumption petition, based on our conversations with field personnel. This results in a total hour burden of 16 hours per year.

We estimate the salary for tribal personnel compiling the information to be \$33.83 per hour. This estimate is based on the Bureau of Labor Statistics' Employer Costs for Employee Compensation – September 2008, for the category of Management, Professional, and Related staff. Including a multiplier of 1.4 for benefits results in a total salary of \$47.36 per hour. With a total hour burden of 16 hours, this results in a total salary cost to tribal respondents of approximately \$758 per year.

$$16 \text{ hours} \times \$47.36 \text{ per hour} = \$758 \text{ per year}$$

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.

The annual cost burden to respondents from total capital and startup costs is estimated to be zero; no computer equipment or other special equipment is required to prepare a reassumption petition, nor are there filing fees or other costs associated with collecting the information.

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 average of two reassumption petitions per year have been 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. At a GS 10/1 salary of approximately \$23.74 per hour, including a 1.5 multiplier for benefits, the social worker salary cost would be \$35.61 per hour. The social worker would require eight hours of time (four hours per petition) for a total of approximately \$285.

$\$23.74 \text{ per hour} \times 1.5 \text{ benefits} = \$35.61 \text{ per hour} \times 8 \text{ hours} = \$285 \text{ total salary cost per year}$

At a GS 4/1 salary of approximately \$11.57 per hour, including a 1.5 multiplier for benefits, the secretary salary cost would be \$17.36 per hour. The secretary would require eight hours of time (four hours per petition) for a total of approximately \$139.

$\$11.57 \text{ per hour} \times 1.5 \text{ benefits} = \$17.36 \text{ per hour} \times 8 \text{ hours} = \139

The total annual cost to the Federal government therefore would be approximately \$424.

$\$285 \text{ salary cost per year for social worker} + \$139 \text{ salary cost per year for secretary} = \424

See the Salary Table 2009- GS Incorporating the 2.9% General Schedule Increase, http://www.opm.gov/flsa/oca/09tables/pdf/g_s_h.pdf

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

There was no modification made to the report, this is a straight 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.

There are no plans to publish the results of this collection of information. However, a summary may be used for budget justification.

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.

No form is used; the CFR lists information required to assume jurisdiction. Any communications with the tribes with regard to this collection will cite the OMB Control Number and expiration date.

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

There are no exceptions.