

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION:

**“Payments in Lieu of Taxes (PILT Act),
Statement of Federal Lands Payments, (43 CFR 44)”
OMB Control No. 1093-0005**

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.**

“Payments in Lieu of Taxes” (or PILT) are Federal payments made by the Department of the Interior to local governments that help offset losses in property taxes due to nontaxable Federal lands located within their boundaries. The key law that implements the payments, the Payments in Lieu of Taxes or (PILT) Act, is Public Law 94-565, enacted on October 20, 1976. The PILT Act was rewritten and amended by Public Law 97-258 on September 13, 1982, and codified at Chapter 69, Title 31 of the United States Code.

The PILT Act recognizes that the inability of local governments to collect property taxes on Federally-owned land located within their boundaries can have an adverse impact on their financial ability to provide basic services to their constituents. To ease the financial impact of paying for such vital services as fire and police protection, construction of roads and schools, and other such services that would generally be funded primarily by property taxes, the PILT Act provides that, on an annual basis, Congress shall appropriate funds for the Department of the Interior to distribute to these local governments to offset the loss in revenue caused by Federal ownership of lands within their respective jurisdictions.

PILT Act payments are computed according to a formula contained in the law. This formula is based on population, receipt sharing payments, and the amount of Federal land within an affected county. However, the PILT Act also provides that local governments that receive funds directly from the Federal government as a result of the provisions of one or more of 12 different statutes do not receive full PILT payments. (See Table 1, attached, for a listing of these statutes, and an itemization of the agency making payment, the types of receipts involved, and the disposition of the receipts.) The amounts these local governments receive from the Department of the Interior under the PILT Act are reduced by the total amount of payments received under one or more of these 12 statutes. For this reason, the Office of the Secretary must collect the information covered by this information collection from the states. The Office of the Secretary needs to know how much money each of the local governments that is eligible to receive PILT payments has collected over the course of the past year in order not to pay these jurisdictions more than they are otherwise entitled to receive, under law. For example, if a particular county government has received, over the course of the past fiscal year, a sum that would represent 60% of its total PILT payment for the year from the U.S. Forest Service, as a result of a provision of the Secure Rural Schools and Community Self-Determination Act of 2000 (P.L. 106-393), the Department of the Interior would only send it a payment of 50% of the amount that it would otherwise receive, based on the formula in the PILT Act, for that fiscal year.

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.]

Under the PILT Act, the Governor of each state, or his/her designee, must furnish the Department of the Interior with a listing of payments disbursed to local governments by the state on behalf of the Federal Government under each of 12 statutes. (See Table 1, attached, for a listing of these statutes, and an itemization of the agency making payment, the types of receipts involved, and the disposition of the receipts.) The Office of the Secretary uses the amounts reported by the state to reduce the PILT payments to units of general local governments from that which they might otherwise receive. If such a listing were not furnished by the Governor, the Office of the Secretary would not be able to compute the PILT payment to units of general local government within the state, as required by law.

Because the information that the Office of the Secretary requests from the states directly affects the dollar value of the PILT payments made to units of general local government, the General Accounting Office and the Department of the Interior's Office of Inspector General determined that the information furnished by the states must be audited by an independent Certified Public Accountant or a state auditor prior to sending the information to the Office of the Secretary.

The Office of the Secretary's information collection form, known as the "State of Federal Land Payments" form, is designed to facilitate the recording of the information requested. It lists each qualifying unit of general local government down the left-hand side of the page. (Note: The form for each state is tailored to its specific needs; it lists only those units of local government

that are eligible to receive PILT payments within that particular state.) Across the top of the form are columns which indicate each of the land revenue acts described in Section 6903 of the PILT Act. Each year, the form is amended to indicate the correct fiscal year for which the information is being collected.

The Governor of each eligible state designates which office within the state is responsible for completing the “Statement of Federal Land Payments” form for that state, respectively. In most states, the Treasurer’s Office has records of payments made to units of general local government under Section 6903 of the PILT Act, and is responsible for complying with this information collection. Once the responsible state office completes the “Statement of Federal Land Payments” form, it is forwarded to the auditor designated by the state for certification.

The auditor verifies that the payment information is correctly recorded by the responsible state office under the requirements of the PILT Act and applicable state laws. The auditor then discusses any discrepancies with state officials. If state officials agree with the auditor’s discrepancies, the auditor will show the total adjustment for each unit of general local government in the column entitled “Recommended Adjustments” on the “Statement of Federal Land Payments” form.

The Office of the Secretary will use this data to compute the payments to units of general local government under 31 U.S.C. 6901-6907.

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].

Currently, the Office of the Secretary does not collect the information electronically because PILT regulations (at 43 CFR Part 44.23) stipulate that the data provided by the states be “(1) . . . signed by the Governor or a designated official of the State in which the local government is located; and (2) . . . accompanied by a certification, signed by a State Auditor, as Independent Certified Accountant, or an independent public accountant, that the statement has been audited” in accordance with the auditing standards cited in the regulations. Because all states must provide these signed certifications, they all submit paper copies of their forms. However, some states do submit corrections to the data via email, when required, rather than re-mailing the entire form via the U.S. Postal Service.

The Office of the Secretary has looked into the feasibility of electronically collecting the data that must be certified as accurate by the parties designated in the PILT regulations, and has determined that to do so would require a major redesign of the financial system that calculates PILT payments. The Office of the Secretary is continuing to explore ways to automate portions of the process.

- 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.**

There is no duplication between this information collection and other collections. The information is not available from any other source.

- 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.**

This information collection has no significant impact on small entities. State governments are the only entities required to respond to this collection. The information to be collected is limited to only that information needed to comply with the requirements of the PILT Act and its regulations (43 CFR 44).

- 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.**

If the Office of the Secretary does not collect the information, it cannot meet the requirements of the PILT Act and its regulations (43 CFR 44). Less frequent collection would mean no collection at all. Reducing the burden would prevent the collection of sufficient information needed to compute PILT payments to units of general local governments.

- 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;**
- * **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- * **requiring respondents to submit more than an original and two copies of any document;**
- * **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- * **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;**
- * **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- * **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 are no special circumstances that require collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.5.

- 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. [Please list the names, titles, addresses, and phone numbers of persons contacted.]

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.

On June 17, 2009 (74 Fed. Reg. 28717), the Office of the Secretary published a 60-day notice in the Federal Register, soliciting comments from the public and other interested parties, on whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of the burden of the collection and the validity of the methodology and assumptions used; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other collection techniques or other forms of information technology. No public comments were received.

During the time period August 21, 2009 through August 26, 2009, the Office of the Secretary contacted 3 of the states in which were located local governments eligible to receive PILT payments, seeking the amount of time it takes to gather the data, compile it onto the form, and review it for accuracy, for an annual submission. Additionally, those polled were asked the hourly rate of the employees charged with accomplishing these efforts, and were invited to provide any additional comments.

Personnel from the 3 states provided the following information:

Richard J. Hermann, Auditor, Office of Internal Audit Services, Department of Management and

Budget, State of Michigan, 530 West Allegan, P.O. Box 30028, Lansing, Michigan 48909-7528, telephone (517) 241-2053, reported that it took 30 hours to prepare the report.

Pamela Robinson, Administrator, Public Funds Division, Department of Audit, Herschler Building, 3rd Floor, East, Cheyenne, Wyoming 82002, telephone (307) 777-7367, reported that it took 75 hours to prepare the report.

Cindy Johnson, Accountant, Colorado State Treasury, 140 State Capitol, Denver, Colorado 80203, telephone (303) 866-4948, and Benjamin Stevenson, Legislative Financial Auditor, Colorado Office of the State Auditor, 200 E. 14th Avenue, Denver Colorado 80203, telephone (303) 869-2856, reported that it took an estimate 176 hours to provide the information.

These hourly totals combined all aspects of the submission, including planning and research, transcription, auditing, and preparation of the final submission form.

There is considerable variation from one state to another, which is to be expected because some states have more units of local government that must be taken into account than others, states vary in the experience of the personnel compiling and reviewing the information, and they vary on the degree to which their fiscal reporting systems support the ready identification of the information requested. Two of the states were much lower than the third state in total estimated hours, and we believe that they are more indicative of the time likely to be required by the typical state. However, the trend for all 3 of the estimates is upward from the estimates obtained 3 years ago, which were 15, 27, and 140 hours. As a result, we are revising upward our estimate from the former 50 hours per state to 75 hours per state as likely to be more currently accurate.

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

The Office of the Secretary does not provide payments or gifts to respondents.

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

The Office of the Secretary protects respondents' confidentiality to the extent consistent with the Freedom of Information Act (5 U.S.C. 552).

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.

This information collection does not require respondents to answer questions 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.**
- * 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.**

Currently, local governments eligible to receive annual PILT payments are located in 43 states. There are, therefore, 43 respondents reporting once annually to this information collection. Because we are estimating an average 75 hours per response, that brings the total expected annual burden hours to 3,225 hours.

Those same persons listed in Item 8 above also provided an average hourly salary, including benefits, for those persons within the state working on this collection. Michigan personnel reported \$42.00 per hour, Wyoming reported \$41.00 per hour, and Colorado reported \$48.00 per hour, all sums including benefits. This yields a rounded hourly burden of \$44.00 per hour, including benefits. The \$44.00 multiplied by the total burden of 3,225 hours = \$141,900.

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 (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.

Respondents incur no annual capital or start-up costs to prepare for or respond to the information collection. Respondents do not need to purchase any computer software or hardware to comply with this information collection. The Office of the Secretary does not require respondents to pay any filing fees.

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 Office of the Secretary estimates that it takes approximately 1 ½ hours per report to analyze the data received from the states, enter it into the computer system that processes it, and verify it. Since there are 43 expected annual responses, this yields a total of 54 hours, rounded. Currently, the work is being performed by contractor personnel earning \$58.00 per hour. Using the standard 17% figure for the contractor overhead charge, the hourly rate is \$68.00 per hour, rounded. This sum, multiplied by 43 responses and by 1 ½ hours per response, yields a total cost to the Government of \$4,386.

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

There are no program changes in the administration of this information collection. There is an increase upward due to an adjustment in the current estimate of time provided by the states.

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.

The information collected as a result of this information collection will not be 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.

The Office of the Secretary plans to continue display of the appropriate expiration date for this information collection.

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

There are no exceptions requested to Item 19, Certification for Paperwork Reduction Act submissions.

TABLE 1

**CHAPTER 69, 31 U.S. CODE
PAYMENTS IN LIEU OF TAXES
FEDERAL LAND PAYMENTS (SECTION 6903(A)(1))**

| <u>Provision of Law</u> | <u>Agency Making Payment</u> | <u>Types of Receipts</u> | <u>Disposition of Receipts</u> |
|--|--|---|--|
| (1) Act of 5/23/08; Dept. of Agriculture Approp. Act; 35 Stat. 251; 16 U.S.C. 500 | U.S. Forest Service | Monies received from each National Forest | 65% to U.S. Treasury 25% of gross to State for counties 10% to Forest Roads Approp. |
| (2) Act of 6/20/10 (Sec 35); Act of Arizona and New Mexico; 36 Stat. 557 | U.S. Forest Service | Proceeds from all Nat'l Forest as area of land for schools bears to area of all Nat'l Forest in State | 100% to States for Schools |
| (3) Act of 2/25/20 (Sec 35); Mineral Lands Leasing Act; 41 Stat. 450; 30 U.S.C. 191 | Bureau of Land Management | Monies received from Mineral Leasing | 50% to States 40% to Bur. of Reclamation 10% to U.S. Treasury |
| (4) Federal Power Act (Section 17); 41 Stat. 1072; 16 U.S.C. 810 | Federal Energy Regulatory Commission | Occupancy and use of Nat. Forest and Public Lands | 50% to Bur. of Reclamation 37.5% to States 12.5% U.S. Treasury |
| (5) Taylor Grazing Act (Sec 10); 43 U.S.C. 315i | Bureau of Land Management | Proceeds from section 3 grazing receipts Proceeds from section 15 | 50% to Range Improvement Fund 37.5% to U.S. Treasury 12.5% to States for counties 50% to States for counties |
| (6) Bankhead-Jones Farm Tenant Act (Section 33); 50 Stat. 526; 7 U.S.C. 1012 | Bureau of Land Management | Revenues from use of the lands | 50% to Range Improvement Fund 25% to counties 25% to U.S. Treasury |
| (7) Act of 6/22/48; Superior Nat'l Forest State of Minn.; 62 Stat. 570; 16 U.S.C. 577g | U.S. Forest Service | Percentage of fair appraised value | 75% of appraised value paid in addition to Act of 5/23/08 ((1) above) |
| (8) Act of 6/22/56; Superior Act of 6/22/48; 70 Stat. 328; 16 U.S.C. 577g-1 | U.S. Forest Service | Same as (7) above | Same as (7) above |
| (9) Mineral Leasing Act for Acquired Lands (Sec. 6); 61 Stat. 915; 30 U.S.C. 355 | Bureau of Land Management U.S. Forest Service | Monies received from mineral leasing | 50% to States 40% to Bureau of Reclamation 10% to U.S. Treasury |
| (10) Material Disposal Act (Section 3); 61 Stat. 681 | Bureau of Land Management U.S. Forest Service | Net revenues from sale of land and materials | varies depending upon type of receipt and agency |
| (11) Refuge Revenue Sharing Act, as amended; 92 Stat 1321; 16 U.S.C. 715s(c)(2) | U.S. Fish and Wildlife Service | Revenues from sale of timber, grazing and minerals on reserve area lands and sale of carcasses of certain animals | 25% of net receipts to counties 75% to Revenue Sharing Fund |
| (12) Secure Rural Schools and Community Self-Determination Act of 2000 (P.L. 106-393) | U.S. Forest Service | Monies received from each National Forest | 80 – 85% under Title I to States for counties 15 – 20% under Title II (to Secretary of Agriculture for county projects) and/or Title III (to counties for county projects). |