

1 Supporting Statement A for Paperwork Reduction Act Submission

OMB Control Number 1076-NEW

Tax Credit Bonds for Bureau of Indian Affairs-Funded Schools

Terms of Clearance. None.

*****This is a request for an emergency clearance
under the American Recovery and Reinvestment Act.*****

JUSTIFICATION FOR EMERGENCY REQUEST:

This information collection is necessary to implement a section of the ARRA that allocates \$200,000,000 in qualified school construction bonds for calendar year 2009 and \$200,000,000 for calendar year 2010. **We must obtain applications for the portion available only in calendar year 2009 as soon as possible to ensure that the amounts are allocated within the calendar year.**

1. Explain the circumstances that make the collection of information necessary.

The American Reinvestment and Recovery Act (ARRA) of 2009 grants bonding authority to the Secretary of the Interior (Secretary) for the purpose of the construction, rehabilitation and repair of schools funded by the Bureau of Indian Affairs (BIA). See, Pub. L. No. 111-5, PART III --Tax Credit Bonds For Schools, Allocations for Indian Schools, Section 1521. The tax credit bonds will help tribal governments reduce the cost of loans or bonds for the construction, rehabilitation, and repair of schools funded by the BIA. In general, the Act allows Tribal governments to issue up to \$400,000,000 in "qualified tax bonds" to finance a BIA funded elementary or secondary school or dormitory construction project. The bonding authorization is not an appropriation of Federal money or a loan guarantee. The tribe will be responsible for paying their bonded obligations. The benefit to the tribes under the bonding provision of the Act is that they can borrow money at a lower interest rate than they would have had to pay on non-tax-advantaged bonds. In order to implement these ARRA provisions, the Secretary must solicit applications from tribes for an allocation of the Tax Credit Bonding Authority and ensure that the tribal government and project meet the requirements of the Act.

2. Indicate how, by whom, how frequently, and for what purpose the information is to be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, explain how the collection complies with all applicable Information Quality Guidelines.

The Secretary will collect this information once, to identify the applicant as a federally recognized tribe and describe the project. Specifically, the application requires the following information:

- An application must identify the Indian tribal government, including the Indian tribal government's Federal tax identification number. The Secretary uses this information to ensure that the applicant is a qualified issuer. An Application must be submitted by an Indian tribal government. Section § 7701(a)(40)(A) defines an Indian tribal government

as the governing body of any tribe, band, community, village, or group of Indians, or Alaska Natives which is determined by the IRS, in consultation with the Secretary, to exercise governmental functions. Section 2.01 of Revenue Procedure 2008-55, 2008-39 I.R.B. 768, provides that an Indian tribal entity that appears on the most recent list published by the Department of the Interior in the Federal Register pursuant to the Federally Recognized Indian Tribe List Act of 1994, Pub. L. 103-454, 108 Stat. 4791 ("List Act"), is designated an Indian tribal government for purposes of § 7701(a)(40). Section 2.03 of Rev. Proc. 2008-55 further provides that a tribe that does not appear on the most recent list published by the Department of the Interior in the Federal Register pursuant to the requirements of the List Act nonetheless will be treated as an Indian tribal government for purposes of § 7701(a)(40) if the tribe has been acknowledged as a federally recognized Indian tribe, as stated in a letter from the Department of the Interior.

- Signatures. An Application must be signed and dated by, and must include the printed name and title of, an authorized official of the Indian tribal government and must be supported by a tribal resolution indicating the tribe's intent to apply for an allocation. The Secretary uses this information to ensure that the officer, board member, employee, or other official of the Indian tribal government is duly authorized to execute legal documents on behalf of the Indian tribal government in connection with incurring debt of the Indian tribal government (e.g., a tribal chairperson, chief executive officer, or chief financial officer).
- Contact person. An Application must designate one or more persons with knowledge of the project that the qualified issuer duly authorizes to discuss with Indian Affairs any information specifically relating to the Application. The designation must include the designee's name, title, telephone number, fax number, and mailing address. The Secretary uses this information to contact the person listed regarding the tax credit bonds.
- Project description. Each Application must contain the information regarding the project, including:
 - o Qualified project. Each Application must describe in reasonable detail the project to be financed with the tax-credit bonds. The Application must indicate the expected date that the acquisition and construction of the project will commence and the expected date that the project will be placed in service. The Secretary will only allocate bonding authority for projects that comply with building codes and construction requirements required by Indian Affairs for all bureau-funded education facility construction. Further, the Secretary will only approve bonding allocation for projects that were developed using Indian Affairs education specifications, space criteria allowances, and enrollment projection methodology, and which comply with current statutory or regulatory requirements regarding school grade structure, curriculum requirements and educational standards.
 - o Location of project. The Application must include a certification that the project's location is within the Indian tribal government's reservation. The Secretary uses this information for identification purposes
 - o Regulatory approvals. The Application must state whether all necessary Federal, State and local regulatory approvals for the project have been obtained and, if those approvals have not yet been obtained, the Application must describe the Indian tribal government's plan for obtaining them and the time frame during which the Indian tribal government expects to receive them.
 - o Plan of financing. The Application must contain: (1) a reasonably detailed description of the plan of financing for the project, including all reasonably expected sources (e.g., a public offering through a named underwriter or a private placement to a named institution) and uses of financing, including

financing from the tax-credit bonds and from other sources; (2) the status of all financing, including the name and addresses of all entities expected to provide any financing; (3) the anticipated date of issuance of the tax-credit bonds and any expected purchasers of the tax-credit bonds; (4) the sources of security and repayment for the tax-credit bonds; (5) the aggregate face amount of tax-credit bonds expected to be issued for the project; and (6) the issuer's reasonably expected schedule for spending proceeds of the tax-credit bonds.

- o If the Indian tribal government intends to use the proceeds of tax-credit bonds to reimburse amounts paid with respect to a qualified project, the Application must demonstrate compliance with all statutory IRS tax requirements and regulations.
- Dollar amount of allocation requested. The Application must specify the dollar amount of tax-credit bonds requested for the project.
- Statement of readiness to issue. An Application for an allocation of the tax credit bonding authority from the First or Second Allocation must contain the statement that the issuer reasonably expects to issue any tax-credit bonds, pursuant to the requested allocation, within six months of authorization.

The information collected will not be disseminated to the public or used to support information that will be disseminated to the public.

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].

This collection of information is directed only to a discrete universe of federally recognized tribes (those with schools funded by the BIA). The solicitation notice and application will be posted on www.doi.gov/bia. The application will be accepted by hard copy with an electronic copy supplied on compact disc. Given the short turnaround required for compiling the solicitation notice and application, we were not able to create an electronically fill-able and submit-able form.

4. Describe efforts to identify duplication.

The information that we collect is not available from any other source. Other than the general identifying information (name, address, telephone number, email address), the information collected is unique for each tribal applicant and project.

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

Tribes are not considered small entities; nevertheless, we collect only the minimum information necessary to help us effectively review and ensure that the project for which the tax credit bond allocation is provided is eligible under the ARRA.

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.

Not conducting this information collection would eliminate the Secretary's ability to fulfill the section of the ARRA authorizing this allocation, and thereby undermine the reinvestment goals of the Act with regard to Indian schools.

- 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.

Depending on when we obtain emergency approval for this information collection and can publish the Federal Register notice soliciting applications, respondents may be required to respond in less than 30 days. We need to establish a deadline of November 15 in order to allow time to allocate the funding before the expiration of the calendar year. There are no other circumstances that require us to collect the information in a manner inconsistent with OMB guidelines.

- 8. Provide 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 (or in response to a PRA statement) and describe actions taken by the agency in response to these comments.**

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.]

This is an emergency request for approval; therefore, we are seeking a waiver from the requirement that we solicit comments on the information collection prior to submission to OMB.

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

We do not provide gifts or payments to respondents.

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

We do not provide any assurance of confidentiality. The information that we collect is subject to the requirements of the Privacy Act and the Freedom of Information Act.

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.

We do not ask questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information.

We anticipate receiving approximately 30 responses totaling 1,200 annual burden hours for this information collection. Completion times vary substantially depending on the activity. We estimate the total dollar value of the burden hours to be \$50,208 (rounded).

Activity	Annual Number of Responses	Completion Time (hours) Per Response	Total Annual Burden Hours	Hourly Rate w/ Benefits*	\$ Value of Annual Burden Hours
Completing and filing application - Tribal Govts	30	40	1,200	\$41.84	\$ 5,0208

*To obtain the hourly rate tribal government staff, we used \$27.89, the Bureau of Labor Statistics hourly salary for a civilian worker in business and financial operations occupations. (See www.bls.gov/news.release/ocwage.t01.htm) To account for benefits, we multiplied the rate for State/local/tribal governments by 1.5, for a total hourly rate of \$41.84. We calculated the benefits in accordance with BLS news release USDL: 08-1802, December 10, 2008.

13. Provide an estimate of the total annual [nonhour] cost burden to respondents or recordkeepers resulting from the collection of information.

We have not identified any nonhour costs associated with this information collection. Tribal governments use copiers, CD burners, and computers in their normal business operations, so no capital costs are involved.

14. Provide estimates of annualized costs to the Federal Government.

We estimate the annual cost to the Federal Government to administer this information collection to be \$178,650.

Salary Costs - \$178,650 (\$59.55 X 100 hours X 30 applications)

We estimate Federal staff will spend 100 hours reviewing each of the 30 applications. Using the Office of Personnel Management Salary Table 2009-DCB, the salary rate for a

GS-12/step 5 is \$59.55 including benefits (\$39.70 hourly rate multiplied by 1.5 to account for benefits). We calculated the benefits in accordance with BLS news release USDL: 08-1802, December 10, 2008.

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

This information collection is a program change resulting from the ARRA. The tax credit bond allocation is available only for calendar years 2009 and 2010.

16. For collections of information whose results will be published, outline plans for tabulation and publication.

We will not publish the results of this information collection.

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 display the OMB control number and expiration date.

18. Certification.

There are no exceptions to the certification statement.