

Supporting Statement A for Paperwork Reduction Act Submission

OMB Control Number 1076-0100

Acquisition of Trust Land, 25 CFR 151

Terms of Clearance: None.

This is a request for renewal of a currently authorized information collection.

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

Section 5 of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 465) and the Indian Land Consolidation Act of January 12, 1983 (25 U.S.C. 2202) authorize the Secretary of the Interior (Secretary), in his discretion, to acquire lands through purchase, relinquishment, gift, exchange, or assignment within or without existing reservations for the purpose of providing land for Indians. Other specific laws also authorize the Secretary to acquire lands for individual Indians and tribes. Regulations implementing the acquisition authority are at 25 CFR 151. In order for the Secretary to acquire land on behalf of individual Indians and tribes, the Bureau of Indian Affairs (BIA) must collect certain information to identify the party(ies) involved and to describe the land in question. The Secretary also solicits additional information deemed necessary to make a determination to accept or reject an application to take land into trust for the individual Indian or tribe, as set out in 25 CFR 151. Specifically:

- Section 151.9 provides for an individual Indian or tribe desiring to acquire land in trust status to file a written request for approval of such acquisition with the Secretary;
- In order to properly evaluate the request and make a determination, the Secretary also solicits additional information necessary to satisfy the pertinent factors listed in section 151.10 for on-reservation acquisitions;
- Additional information, set out in section 151.11(c), is required for off-reservation acquisitions (when the lands are located outside of and non-contiguous to the tribe's reservation);
- Section 151.11 also requires that if the land is being acquired for commercial purposes, the applicant provide a plan that specifies the anticipated benefits and potential risks associated with the proposed use;
- Section 151.13 provides for additional information or justification if the Secretary considers it necessary to enable him to reach a decision; and
- Section 151.13 also requires the applicant to furnish title evidence meeting the Standards For The Preparation of Title Evidence In Land Acquisitions by the United States, issued by the U.S. Department of Justice.

The Secretary may solicit additional information to ensure that the title to such property is free of any liens, encumbrances, or infirmities prior to taking final approval action. The acquisition of land in trust for the use and benefit of Indian tribes and individual Indians is one of the prime responsibilities of the Federal government in its unique relationship with American Indians.

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.

BIA uses the information collected to:

- Identify the applicant to confirm eligibility and have a means of contacting the applicant;
- Identify the property to determine location, ownership and adherence to Federal policies concerning possible restrictions and limitations as to future uses and development;
- Review the acquisition request in light of any limitations on statutory authority;
- Understand the applicant's need for the land and purpose for which it will be used;
- Identify land the Secretary already holds in trust for the applicant;
- Ensure that title to the property is marketable and unencumbered;
- Identify the impact on State and political subdivisions caused by the removal of the land from the tax rolls;
- Identify jurisdictional problems and potential land use conflicts which may arise from the acquisition;
- Identify BIA's ability to discharge the additional responsibilities resulting from the acquisition;
- Identify the location of the land relative to State boundaries and its distance from the boundaries of the tribe's reservation; and
- Review the tribe's plan specifying anticipated economic benefits, where land is being acquired for business purposes.

Once an application is submitted, the Secretary may request additional or clarifying information during the evaluation process. This ongoing information collection effort is necessary to account for differences of conditions and issues on both a regional and local case-by-case basis. A short phrase or explanation may be satisfactory for lands proposed to be acquired in trust within an existing reservation, but more precise detail is necessary when such acquisitions involve lands located off-reservation.

- 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].**

For this collection we use limited automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. The growing use of computers continues to offset inflation for both the Federal government and the respondents. The use of computers reduces the time to prepare applications and decreases paperwork, thereby reducing the cost.

- 4. Describe efforts to identify duplication.**

Because of the uniqueness and diversity of applications, no similar information

pertaining to land acquisition in trust status for Indians is collected by the BIA or other Federal agencies. If BIA possesses any of the information needed for the application, BIA provides that information to the applicant.

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

The information collection will not have a significant impact on small businesses or other small entities. The information is collected only from individual Indians and tribes who wish to obtain the benefit of having a particular parcel of land taken into trust status. Applicants are also requested to supply information pertaining to the land and the effect on State and local governments of its being taken in trust and off tax rolls.

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 BIA's land acquisition program could not continue if the collection is not conducted. The Secretary uses the information to make a decision in determining whether or not to acquire land in trust status for an individual Indian or tribe. Applications are initiated by Indian tribes and individuals; the Secretary is obligated to evaluate such applications and respond accordingly.

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 circumstances that require BIA to collect the information in the manner stated above.

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.

On February 18, 2010, we published a notice in the Federal Register (75 FR 7285) announcing this proposed information collection. In that notice, we solicited comments for 60 days, ending on April 19, 2010. We received two comments in response to that notice:

- The National Association of Counties suggested reforming the fee-to-trust process to provide meaningful notice to local governments, facilitate good faith government-to-government consultation on proposed projects and impacts, encourage intergovernmental mitigation agreements to address off-reservation project impacts, and to compensate local government for tax loss equivalents related to the land's development. Because the fee-to-trust process is established by regulation (25 CFR 151), amendments to the regulation would be necessary to incorporate these suggestions and BIA has not made any changes to its estimates of burden in response.
- The Oneida Tribe of Indians of Wisconsin, Division of Land Management, suggested that BIA:
 - o Develop standard procedures for sending and receiving electronic documents to make sure documents are complete, legible, and have been received;
 - o Develop standard procedures to track documents so both the Tribe and BIA can identify the current version;
 - o Implement technological upgrades to allow exchange of larger electronic files;
 - o Clarify standards that the Land Title and Records Offices (LTROs) use to accept or reject documents for recording.

BIA has not made any changes to its estimates of burden in response to these suggestions, but will investigate the apparent difficulties the Tribe has experienced to prevent such difficulties in the future.

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.]

We contacted the following person, who has submitted an application to take land into trust under 25 CFR 151, for her views on recordkeeping, disclosure, and the data elements:

Lisa Johnson, Director of Real Estate
Mille Lacs Band of Ojibwe
43408 Oodena Drive
Onamia, MN 56359
(320) 532-4181

Ms. Johnson stated that the directions for what to submit as part of an application to take land into trust were clear for the most part, but that directions were not clear on how to satisfy

objections noted in the preliminary title opinion. Ms. Johnson stated that the information requested is readily available most of the time, but that she has had to provide the same information more than once, in the past, due to staff turnover. Ms. Johnson stated that the burden of time is not due to what is required, but the time it takes to address opposition (e.g., non-Federal stakeholders raising concerns). She stated that the tribe may spend 2 to 3 hours on providing the information required by paragraphs 151.10 or 151.11(a) through (e), while the number of hours stated for NEPA is fairly accurate but may be understated due to the travel to the subject properties.

BIA has considered this input and continues to closely examine its fee-to-trust processes to identify areas for improvement. BIA has also re-examined its burden estimates and determined that they are accurate on average, given that they incorporate follow-up requests for information generated as a result of questions raised by opposition, as noted in Ms. Johnson's comments. Also, while travel is sometimes appropriate to obtain the required information for NEPA compliance, BIA has determined that travel is often minimal and the burdens on average are accurate.

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

No payment or gifts will be given to respondents.

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

No confidential information is solicited.

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.

No sensitive questions are asked or needed for this application.

12. Provide estimates of the hour burden of the collection of information. The statement should:

The BIA receives an average of 1,000 applications per year, which breaks down to 850 on-reservation applications and 150 off-reservation applications. Experience indicates that the number varies from year to year. However this average figure is expected to be maintained for the next several years. Our estimates of burden include time spent in organizing and preparing necessary information, completing the application (including clerical time), and preparing a resolution for tribal council vote to accompany the application. Most of the information is readily available to the tribe or individual making the application. The total hourly burden is shown in the following table.

Citation 25 CFR 151	INFORMATION	Average No. of Hours	Average No. per Year	Annual Burden Hours	Burden cost per hour :
151.9, 151.10(On-Res), and 151.13	Applicants must submit: (a) Copy of authority (b) Explanation of need (c) Explanation of ownership status (Tribe) (d) Explanation of ownership status (Individual) (e) Title evidence	50	850 (800 tribal + 50 individual)	42,500	\$1,874,250
	(f) Documentation for NEPA – tribe and individual furnish documentation	40	120	4,800	\$211,680
	(f) Documentation for NEPA – Tiering	20	200	4,000	\$176,400
151.9, 151.11 (Off-Res), and 151.13	Applicants must submit: (a) Copy of Authority (b) Explanation of need (c) Description of proposed use (d) Description of location of land (e) Description of effect on State & political subdivisions (f) Description of jurisdictional issues (g) Title evidence	70	150 (100 tribal + 50 individual)	10,500	\$463,050
	(h) Documentation for NEPA – tribe provides documentation	40	150	6,000	\$264,600
Totals			1,000	67,800	\$2,989,980

*To obtain the hourly rate for tribal government employees, we used \$29.40, the wages and salaries figure for all workers from BLS Release USDL 09-1098, *Employer Costs for Employee Compensation—September 2009*, Table 1, *Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Civilian workers, by major occupational and industry group, September 2009*. To account for benefits, we then multiplied this rate by 1.5, for a total of \$44.10. For purposes of this collection, we also used this rate for individuals.

These hour burdens include time spent in organizing and preparing necessary information, completing the application (including clerical time), and preparing a resolution for tribal council vote to accompany the application. In addition almost 25% of the 850 tribes will spend 20 hours preparing the tiering information needed for NEPA and another 15% will spend an additional 40 hours to furnish the NEPA documentation. A total of 51,300 hours is expended by the 850 respondents for an average hourly burden of 60.4 hours. The 150 off-reservation applicants spend an average of 110 hours each to prepare their request.

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).

There is no annual non-hour cost burden to respondents or record keepers resulting from the collection of information. No special start-up cost component or equipment is necessary for the collection of 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.**

We estimate the annual cost to the Federal government for processing land acquisition applications as **\$5,764,000**. For each of 1,000 applications, approximately \$4,764 represents 80 hours for a GS-12; and an additional \$1,000 per application covers overhead expenses, e.g., paperwork, travel, surveys and appraisals. Each application at a cost of \$5,764 x 1,000 applications = **\$5,764,000**. This does not include any funding appropriation by Congress for new land purchases.

*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 09-1098, September 2009.

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

No changes or adjustments were made as part of this renewal.

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

Results are not tabulated and 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.**

We will display the OMB Control Number and the expiration date, as appropriate.

- 18. Certification.**

There are no exceptions to the certification statement.