

Supporting Statement Questions

1. On March 7, 2013, President Obama signed into law the Violence Against Women Reauthorization Act of 2013, Public Law 113-4 (VAWA 2013). Title IX of VAWA 2013, entitled “Safety for Indian Women,” contains section 904 (“Tribal jurisdiction over crimes of domestic violence”) and section 908 (“Effective dates; pilot project”), both of which were initially drafted and proposed to Congress by the Department of Justice in July 2011. The purposes of these sections were to decrease the incidence of violent crimes against Indian women, to strengthen the capacity of Indian tribes to exercise their sovereign authority to respond to violent crimes committed against Indian women, and to ensure that perpetrators of violent crimes committed against Indian women are held accountable for their criminal behavior.

Section 904 recognizes the inherent power of “participating tribes” to exercise “special domestic violence criminal jurisdiction” (SDVCJ) over certain defendants, Indian or non-Indian, who commit acts of domestic violence or dating violence or violate certain protection orders in Indian country. Section 904 also specifies the rights that a participating tribe must provide to defendants in SDVCJ cases.

Section 908(b)(1) provides that tribes generally cannot exercise SDVCJ until at least two years after the date of VAWA 2013’s enactment — that is, on or after March 7, 2015. However, section 908(b)(2) establishes a “Pilot Project” that authorizes the Attorney General, in the exercise of his discretion, to grant a tribe’s request to be designated as a “participating tribe” on an accelerated basis and to commence exercising SDVCJ on a date (prior to March 7, 2015) set by the Attorney General, in consultation with the tribe. The Department of Justice will need to collect certain information to assess tribal requests for authority to exercise special domestic violence criminal jurisdiction on an accelerated basis.

2. The collection, which will take the form of a questionnaire made available to interested tribes, will focus on the tribe’s criminal justice system in general and its safeguards for criminal defendants’ rights in particular. Under VAWA 2013’s section 908(b)(2)(B), the Attorney General’s ultimate decision to grant or deny a tribe’s request turns on his conclusion about whether the requesting tribe’s criminal justice system has adequate safeguards in place to protect defendants’ rights consistent with 25 U.S.C. § 1304.

Completed questionnaires will be submitted to the Office of Tribal Justice. Completed requests will be reviewed by Department of Justice officials and the final determination will be issued by the Associate Attorney General.

3. The questionnaire will be developed electronically and made available via email to interested tribes. Requests will primarily be submitted electronically. Tribes will be strongly encouraged to submit electronically, but will have the option of mailing in hard copy materials.

4. This is a new requirement regarding very specific circumstances based on recent legislation. There is no similar collection in place.

5. This collection of information does not impact small businesses. The Department has developed a simple process in order to minimize the burden on tribes requesting authority to exercise special domestic violence criminal jurisdiction on an accelerated basis.

6. Without approval of this collection by the date requested, the Department will not be able to meet its statutory responsibility to provide tribes an opportunity to exercise special domestic violence criminal jurisdiction on an accelerated basis. As noted previously, this pilot project provides a unique opportunity for Tribes; the pilot project will end in March 2015. The Department will not be able to effectively assess tribal requests without reviewing certain information that is not readily accessible to Department officials.

7. The Department anticipates no circumstances under which a request to exercise special domestic violence criminal jurisdiction on an accelerated basis would be subject to any of the above conditions.

8. The Department has not yet solicited comments on the information collection itself, but has published a notice entitled *Pilot Project for Tribal Jurisdiction Over Crimes of Domestic Violence*, 78 Fed. Reg. 39561-35974 (June 14, 2013), indicating that a collection of information will be necessary. The Department received eight responses to this notice, seven of which included feedback on the proposed information collection. Feedback on the intended collection and the Department's responses are summarized as follows:

Five respondents requested that the process include the ability for Tribes to self-certify. The Department has worked to balance this feedback with the statutory responsibility to review submissions from Tribes and issue a decision for or against special accelerated authority. The proposed information collection is designed to meet the self-certification request put forth by Tribes and Tribal organizations. The list of questions will allow each interested Tribe to provide important information about the existing justice system, efforts to combat domestic violence, victim services and support, and safeguards that have been put in place to protect victims' and defendants' rights. However, the statute does require that the Associate Attorney General, by delegation, issue a decision, which will require some analysis and assessment. In order to meet the statutory responsibility to render a decision, the Department will have to evaluate the materials that interested Tribes submit.

Two respondents requested that the questions included in the proposed information collection be precisely worded to avoid ambiguous interpretation and be largely limited to addressing requirements set forth in the Violence Against Women Act or the Tribal Law and Order Act. The Department is in agreement with these respondents and will draft the final questionnaire accordingly.

9. The Department has made no decision to provide any payment or gift to respondents.

10. No assurance of confidentiality can appropriately be provided to respondents.

11. The Department does not expect tribes' submissions to include information of a personal nature, nor will the Department request such information.

12. The Department of Justice anticipates a one-time response from between 5 and 40 Tribes. The Department is unable to determine the precise number of respondents as participation in this pilot project is entirely voluntary. The Department approximates response time (hour burden) for each Tribe to be between 8 and 24 hours, for a total hour burden between 40 (5 * 8, the lowest expected burden) and 960 (40 * 24, the highest expected burden) hours. The variance in estimated response time (hour burden) allows for differing levels of complexity in Tribes' responses, and also allows for different internal

approval processes. Each Tribe will have a unique response to the questionnaire and a unique process for obtaining the necessary certification prior to submission.

13. There is no cost burden beyond the hours estimated in Item 12. No special equipment, system, or unique technology will be used in association with this proposed collection.

14. As this is a one-time information collection, the following costs reflect single-year expenses, with the exception of expenses related to records maintenance. Records maintenance expenses will incur annually, and are estimated to be between \$67.20 and \$537.60. Following is a description of the costs to the Federal government.

Affected Component(s)	Item	Cost Range
OTJ	Staff time to process and document requests, 5-40 submissions total	\$241.75 - \$1934.00
DOI/ASIA, DOI/SOL, BIA/OJS, OASG, OTJ, OVW, EOUSA, Relevant USAOs, A2J, CRM, ENRD, OJP	Staff time to review and comment, 5-40 submissions total	\$28,228.80 - \$225,830.40
DOI/ASIA, DOI/OSG, BIA/OJS, OASG, OTJ, OVW, EOUSA, Relevant USAOs, A2J, CRM, ENRD, OJP	Consultation costs, 5-40 submissions total	\$17,693.00 - \$141,544.00
OASG	Staff time to review and provide final decision, 5-40 submissions total	\$1,057.50 - \$8,460.00
OTJ	Publication of final favorable decisions in the Federal Register, 5-40 submissions total	\$2,960.00 - \$23,680.00
OTJ	Record maintenance and storage, 5-40 submissions total	\$67.20 - \$537.60
Grand Total		\$50,248.25 - \$401,985.40

Methods to estimating costs:

- A range of costs was calculated due to the voluntary nature of this collection of information. The number of expected submissions is between 5 and 40. For Federal Register costs, which will incur each time a favorable decision is rendered, an average page count of 4 pages was used for the calculation.

- Office of Tribal Justice (OTJ) staff time to process and document requests: 1 GS-13 (\$48.35/hour) devoting 1 hour to processing/reviewing each submission * 5 or 40 submissions.
- Component/agency staff (12 components, 25 staff total) time to review and comment: 12 GS-14s (\$50.41/hour) at each staff devoting 4 hours to reviewing/commenting on the submission + 12 GS-15s (\$67.21/hour) devoting 4 hours to reviewing/commenting on the submission * 5 or 40 submissions.
- Consultation costs: an average of 2 staff members per component estimated to attend each consultation (12 components, 24 staff members). Consultations will be held telephonically, lasting approximately 2 hours. 12 GS-14s (\$50.41/hour) at each staff devoting 2.5 hours to a telephonic consultation per submission + 12 GS-15s (\$67.21/hour) devoting 2.5 hours to a telephonic consultation per submission * 5 or 40 submissions. Added to the total is \$10.00 * 5 or 40, to account for the cost of the call itself.
- Office of the Associate Attorney General (OASG) staff time to review and comment: 1 GS-15 (\$67.21/hour) devoting 3 hours to reviewing/commenting on the submission + 1 SES (\$70.50) devoting 1 hour to reviewing/commenting on the submission * 5 or 40 submissions.
- Publication in the Federal Register: \$148 per manuscript page * 4 pages * 5 or 40 submissions.
- Record maintenance and storage: 1 GS-8 (\$26.88/hour) devoting 2.5 to 20 hours each year (.5 hours per submission) to creating, maintaining, and disposing of records, and pulling previous records for reference.

15. N/A

16. N/A

17. N/A

18. N/A