

Draft Supporting Statement A

Use of Bureau-Operated Schools by Third Parties, 25 CFR 48

Terms of Clearance: None.

General Instructions

A completed Supporting Statement A 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 below. If an item is not applicable, provide a brief explanation. When the question “Does this ICR contain surveys, censuses, or employ statistical methods?” is checked "Yes," then a Supporting Statement B must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

The Bureau of Indian Education (BIE) is proposing to establish standards for the appropriate use of lands and facilities by third parties. These standards address the following: the execution of lease agreements; the establishment and administration of mechanisms for the acceptance of consideration for the use and benefit of a Bureau-operated school; the assurance of ethical conduct; and monitoring the amount and terms of consideration received, the manner in which the consideration is used, and any results achieved by such use. The paperwork burden associated with the proposed rule results from lease provisions; lease violations; and assignments, subleases, or mortgages of leases. The statutory authorities for this program are Public Laws 112-74, § 115, and 113-235. The regulations at 25 CFR 48 carry out the provisions of the public laws. Additionally, chapter 6 of part 374 of the Department of Interior Departmental Manual describes how donations are authorized.

- 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.**

BIE uses the information it collects to determine whether or not a lease may be approved or granted, the value of such lease(s), the appropriate consideration a Bureau-operated school can accept, the penalties, if any, that should be assessed for violations of leases, and whether or not a lessee may assign, sublease, or mortgage a lease. The information will also be used to monitor

the results achieved by the use of funds received from leases.

Subpart A of 25 CFR 48 (§§ 48.001 through 48.006) provides general provisions. Subpart B (§§ 48.101 through 48.118), addresses leasing of Bureau-operated facilities and contains substantive provisions that require information collection.

Most of the information is collected at the time a lease document is proposed for BIE approval, except that penalties; information regarding violations of leases; and requests to assign, sublease, or mortgage a lease are collected on an as needed basis. The following chart shows these information collection requirements and how BIE uses the information.

CFR Cite	Information Collection Requirement	BIE Use of Information
48.105 48.106	Provisions of leases and the construction of permanent improvements under the lease	BIE uses this information to determine if a facility may be leased, what standards the Director will use to determine whether to enter in to a lease, and to monitor the results achieved by the use of funds received from leases.
48.116	Violations of leases	BIE uses this information to determine if a violation has been cured, if the violation has been disputed, or if the lessee requests additional time to cure the violation.
48.118	Assignments, subleases, and mortgages of leases	BIE uses this information to determine whether a lease should be assigned, subleased, or mortgaged.

Additionally, subsection C of the proposed rule addresses fundraising activities and the acceptance of donations by Bureau personnel on behalf of Bureau-operated schools. The fundraising and donation acceptance allowed in 25 CFR 48.206 of the proposed rule is already covered in the Department of Interior’s Donor Certification Form, OMB# 1090-0009. This subpart limits the types of fundraising an employee may conduct to ensure fundraising maintains the school’s integrity, the Bureau’s impartiality, and public confidence in the school.

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.

To the extent respondents provide information in written form, BIE accepts the information via fax or e-mail to reduce burden on respondents.

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.

This information collected under 25 CFR 48 is not duplicated in any other data collection. In keeping with the Paperwork Reduction Act and other statutory requirements, the information collected is the minimum needed for the intended purpose.

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

Although the majority of the leases will be expected to be from small businesses, there is no significant economic impact on a substantial number of small businesses. The information collection burden under this program is limited further by the fact that information is generally collected only when it is needed.

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 information collection burden cannot be reduced any further without the integrity of the leasing program being jeopardized. Information is collected, as needed, when Bureau-operated schools want to enter into leases for the benefit of the respective school. If the collection is not conducted, or is conducted less frequently, the BIE will not be able to properly administer and monitor the use of Bureau-operated schools by third parties under lease agreements.

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.**

Section 48.116 requires an exception to 5 CFR 1320.5(d)(2). This section requires that violations of a lease must be responded to within 10 business days of the receipt of a notice of

violation. It is important for the program to address lease violations in an expeditious manner to ensure that the BIE facilities are being productively utilized by third-parties. Additionally, this time frame is similar to other unrelated lease violation requirements that Bureau of Indian Affairs regulates. There are no other exceptions in this information collection.

- 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.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three 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.

The BIE is soliciting input on a proposed leasing rule and will incorporate suggestions for minimizing burden in the final rule.

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

The respondents do not receive payments or gifts.

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

As this information collection is currently part of a proposed rule, the BIA is working to determine what personally identifiable information will be collected. Additionally, the BIA Privacy Officer is currently developing a system of records notice for this information collection.

- 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 is a potential that some information collected will be of a sensitive nature. In accordance with § 48.105, the lessee must maintain sufficient insurance and may be required to post a surety bond to secure performance under the lease. This is necessary if BIE is to properly administer the leasing program for Bureau-operated schools.

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.**
- * 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.**

The estimated total annual number of respondents is 24, 19 of which are expected to be small businesses and three of which are expected to be individuals. The estimated total annual hour burden is 68 hours. We estimate the salary of respondents at \$33.58 per hour*. Including a multiplier of 1.4 for benefits, the total salary of respondents is estimated to be \$47.01 per hour. The total hour burden is therefore estimated to be \$3,197.

CFR Cite	Description	No. Respondents	Annual Responses	Burden Hours per Response	Total Annual Burden Hours	Salary Burden
48.105 48.106	Provisions of leases and the construction of permanent improvements under the lease (businesses)	17	17	3	51	\$2,398
48.105 48.106	Provisions of leases and the construction of permanent improvements under the lease	3	3	3	9	\$423

	(individuals)					
48.116	Violations of leases (businesses)	1	1	1	1	\$47
48.116	Violations of leases (individuals)	1	1	1	1	\$47
48.118	Assignments, subleases, and mortgages of leases (businesses)	1	1	3	3	\$141
48.118	Assignments, subleases, and mortgages of leases (individuals)	1	1	3	3	\$141
	Total	24	24		68	\$3,197

* BLS news release USDL: 16-0463, Employer Costs for Employee Compensation – December 2016 (Table 1 – All Workers – Compensation): <http://www.bls.gov/news.release/pdf/ecec.pdf>.

The fundraising and donation acceptance allowed in 25 CFR 48.206 of the proposed rule is already covered in the Department of Interior’s Donor Certification Form, OMB# 1090-0009. The program anticipates approximately 25 donations as a part of this proposed rule. The burden associated with this proposed rule is incorporated in to the burden for the currently approved OMB 1090-0009 collection.

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 already reflected in item 12.)

- * **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 for form processing). 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 information collection will not require the purchase of any capital equipment nor create any start-up costs because no equipment purchase is contemplated. Any computers and software used to complete this information collection are part of the respondent’s customary and usual business practices.

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.

The estimated total annual number of responses reviewed by the Federal government, the estimated total annual hour burden, and total salary cost to the Federal government are shown in the table below. This hour burden includes careful checking of all records to ensure that none of the information has changed because of new liens, updated title, land records, possible probates.

CFR Cite	Description	Annual Responses	Federal Burden per Response	Total Federal Burden Hours	Federal Salary Cost
48.105 48.106	Provisions of leases and the construction of permanent improvements under the lease (businesses)	17	3	51	\$1,270
48.105 48.106	Provisions of leases and the construction of permanent improvements under the lease (individuals)	3	3	9	\$224
48.116	Violations of leases (businesses)	1	3	3	\$75
48.116	Violations of leases (individuals)	1	3	3	\$75
48.118	Assignments, subleases, and mortgages of leases (businesses)	1	1	1	\$25

48.118	Assignments, subleases, and mortgages of leases (businesses)	1	1	1	\$25
	Total	24		68	\$1,694

We used an average salary of **\$24.90** per hour (\$16.60 x 1.5 for benefits). See, 2016 General Schedule (Base) – Hourly Rate (GS 6, Step 4) at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/16Tables/html/GS_h.aspx.

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

This is a new information collection requirement for the program.

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.

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 form associated with 25 CFR 48.206 of the proposed rule, OMB# 1090-0009, displays the current expiration date and OMB control number. No other forms are associated with this information collection. However, the OMB control number for the collections associated with 25 CFR 48.105, 48.106, and 48.116, will be reflected in the language of section 48.007 in the proposed rule.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions.