

# **<sup>1</sup>Supporting Statement A**

## **Appraisals & Valuations of Indian Property, 43 CFR 100**

### **OMB Control Number 1076-0188 New Collection**

**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.**

This is a request for a new information collection associated with new statutory and regulatory requirements. The new regulation implements provisions of the Indian Trust Asset Reform Act (ITARA), 25 U.S.C. 5601, *et seq.*, which was passed on June 22, 2016. Title III of ITARA requires the Secretary of the Interior to publish minimum qualifications for appraisers of Indian property and allows the Secretary to accept appraisals performed by those appraisers without further review or approval. The Secretary has developed a regulation at 43 CFR 100 to implement these provisions. The regulation requires appraisers to submit certain information so that the Secretary can verify that the appraiser meets the minimum qualifications.

- 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.**

The Department will use the information submitted by appraisers to verify whether they meet the minimum requirements for the appraiser to be considered a “qualified appraiser” under the regulations.

The regulation requires the appraiser to submit:

- A copy of the appraiser's current Certified General Appraiser license;
- A copy of the appraiser's qualifications statement;
- The appraiser's self-certification that the appraiser meets the criteria in § 100.200; and
- If the property contains natural resource elements that contribute to the value of the property, such as timber or minerals, a list of the appraiser's additional qualifications for the specific type of property being valued in the appraisal report.

This information will allow the Department to verify that the appraiser is licensed and professionally qualified to perform the appraisal and has the competency to perform appraisals for the specific type of property being appraised.

The Indian Tribe or individual Indian must also submit an acknowledgment of their intent to waive Departmental review and approval. No burden hours are included for the acknowledgment because it is a simple certification under 5 CFR § 1320.3(h)(1).

Submission of the appraisal or valuation itself by the property owner is already authorized by other OMB Control Numbers under the associated 43 CFR or 25 CFR part (for example, the submission of appraisals for leasing of Indian land is included in the lease information collection authorized by OMB Control Number 1076-0181).

**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.**

Appraisers may submit their information electronically by email. We estimate that nearly all (90%) will chose to submit their information this way and the remaining 10% will provide hard copies. There are no barriers for the use of electronic technology to collect the information and reduce the burden of this collection.

**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.**

The regulation relies on State licensing of appraisers to help reduce duplication. Rather than requiring the appraiser to submit all the information it would have to submit to a State to obtain an appraiser license, the regulation instead merely requires the appraiser to submit a copy of the State license.

There may be some duplication in that the same appraiser could be used for multiple appraisals, but the rule requires submission of the appraiser's qualifications with each appraisal to ensure that the appraiser's qualifications are intact at the time the appraisal is submitted.

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.**

Appraisers conducting appraisals or valuations on Indian land may be small businesses, but the information collection burden has been minimized to allow them to submit documents by email and to rely on existing documentation easily accessible to the appraiser.

**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 this collection is not conducted, the Department cannot verify that the appraiser meets the minimum qualifications, and may ultimately approve a transaction of Indian property that relies on an insufficient or inaccurate appraisal. The proposed rule requires collection of the appraiser's qualifications with each appraisal, but the Department solicits comments in the preamble specifically as to whether there is a way to allow for less frequent submissions while still ensuring the appraisers' qualifications are intact.

**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 exceptions to 5 CFR 1320.5(d)(2) in this regulation except it is possible that a respondent appraiser may conduct more than one appraisal per quarter, and would therefore have to provide the qualifications information more than once a quarter. The burden of providing the qualifications information is necessary to ensure the

appraiser's qualifications are intact at the time of the appraiser.

**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.**

A notice requesting comment on this information collection was published with the proposed rule on September 22, 2016 (81 FR 65319). In response to this request for comment, two commenters provided comments on the information collection:

- The Indian Land Tenure Foundation agreed with the proposed rule's approach of requiring the waiver of Departmental review after completion of the appraisal, rather than with submission of the appraisal request. The Foundation also stated that the practice of requiring the appraiser to attach a certificate of qualifications to each appraisal is not a burden and should be required. Because these comments supported the approach in the proposed rule, the final rule also requires submission of a certificate of the appraiser's qualifications.
- A Tribe suggested having appraisers register online for searchability by those who would like to hire them to do appraisals and valuations. The Department responded that the Appraisal Subcommittee of the Federal Financial Institutions Examination Council has an online, searchable database of appraisers, and most State appraisal boards have searchable databases of appraisers licensed by that State. As such, the Department is not establishing its own register because such a register would be duplicative of those existing registers maintained by States and the Appraisal Subcommittee.

No changes to the cost or hour burden estimates were made 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.**

Because this is a new rule, there are no parties outside the agency with experience in implementing the rule to date; however, the Department solicited input through Tribal consultation and the public comment period on the information collection, as described above.

In addition, Eldred Lesensee, Office of Appraisal Services, Office of the Special Trustee for American Indians, provided his 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. Based on his experience with appraisal services and appraisers, Mr. Lesensee stated that licensed appraisers will have all of the information except for the self-certification (copy of license, qualifications statement, additional qualifications) readily available as part of their normal business practices, in those instances in

which the appraiser submits the documents directly to the Department.

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

Respondents will not receive any payment, gift, or other remuneration for providing the information collection requirements.

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

There is no assurance of confidentiality provided to respondents concerning this information collection. None is needed because the information collected concerns appraiser qualifications that are provided in the course of business.

**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 are no questions of a sensitive nature solicited in this information collection.

**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. Instead, this cost should be included under "Annual Cost to Federal Government."**

The total annual estimated burden is 465 hours, equivalent to \$26,059. The cost of reporting and recordkeeping by the public is estimated to be approximately \$56.04/hour. We calculated this

cost using the Bureau of Labor Statistics, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—March 2016 (released June 9, 2016), USDL 16-1150, as a guide for our estimates. See <http://www.bls.gov/news.release/pdf/eccec.pdf>. The hourly salary for “professional and related” (the category in which appraisers would likely fall) including benefits is \$56.04.

In FY2015, the Department completed 3,099 requests for appraisals of Indian property. The Department estimates that 10 to 20% of the total appraisal services required for Indian property transactions will exercise the ITARA authority to use an outside appraiser (and waive Departmental review of the appraisal). The estimated range of appraisals for which the appraiser information must be submitted would therefore range from 310 (rounded) to 620 (rounded), so the Department estimates that, on average, there will be 465 appraisals for which the appraiser information must be submitted.

The Department estimates that many of the respondents who choose to submit this information will be repeat requesters, and estimates that, on average, each respondent will submit information for three different transactions in a year. We estimate that, in most cases, the property owner, rather than the appraiser, will submit the information to the Department because the property owner will be providing other documentation (authorized by other OMB Control Numbers) in support of a request for Departmental approval of the underlying transaction.

The Department estimates an hourly burden of 1 hour per response, taking into account that most of the information will already be readily accessible to the appraiser as a course of business, and adding the time it takes to pull together the information, make copies, and submit to the Department for each appraisal.

CFR Section	No of Respondents	Responses per Respondent	Hourly Burden per Response	Total Annual Hourly Burden	@\$56.04 total Burden Cost (rounded to nearest dollar)
100.203	155	3	1	465	\$26,059

**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 estimated total annual cost burden to respondents or record keepers for capital and start-up costs components (annualized over the expected useful life) for this information collection is \$0. The information collection will not require the purchase of any capital equipment nor create any start-up costs because no equipment is involved in the implementation of these provisions. Appraisers must obtain a State license as a part of doing business, and no start-up costs would be required to provide the information. Any computers and equipment (such as copiers) used to complete this information collection are part of the respondent's customary and usual business practices and, therefore, are not included in the estimate.

**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 annualized cost to the Federal Government for this information collection is \$16,725. This represents the cost of reviewing the submissions from appraisers to verify that they meet the minimum qualifications.

We calculated the cost by using GS-14/1 from the Salary Table 2016 - GS. The hourly salary (\$41.81) is multiplied by 1.6 to calculate the salary & benefits: \$66.90/hour. It is estimated that it will take one employee at this level approximately 250 hours to review the submitted information. Therefore:

$$\begin{aligned} \$41.81/\text{hour salary} \times 1.6 \text{ benefits} &= \$66.90/\text{hour} \\ \$66.90 \times 250 \text{ hours} &= \$16,725 \end{aligned}$$

\*The salary associated with this grade and step is based on the General Schedule 2016. The hourly salary is multiplied by 1.6 to cover benefits. This benefits multiplier is inferred from the Bureau of Labor Statistics, Employer Costs for Employee Compensation – June 2016.

Because submission of the appraisal or valuation itself by the property owner is already

authorized by other OMB Control Numbers under the associated 43 CFR or 25 CFR part, we anticipate that there will cost savings to the Federal government reflected in information collections for those other OMB Control Numbers because it should take less time for the Federal Government to review the certifications of a qualified appraiser than to review the appraisal itself. These cost savings will be examined as each underlying information collection is reviewed for renewal.

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

Program changes resulted in the addition of the information collection requirement, as a result of a statutory change (ITARA), increasing the hourly burden to 465 hours. The statute requires the Department to publish minimum qualifications for appraisers, necessitating a verification of whether the appraisers meet those published minimum qualifications.

**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 is no intention to publish results of this information collection at this time.

**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 Department intends to display the expiration date with the OMB Control Number on any materials asking for information that may be sent to appraisers. Section 100.103 of the rule displays the OMB control number. We intend to notify the respondent of the OMB Control Number and the expiration date.

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

No exceptions are necessary to the certification statement.