

**Addendum to Declaration for Federal Employment, Child Care and Indian Child Care
Worker Positions (OMB No. 0917 – 0028)**

(25 U.S.C. §§ 3201-3211, 42 U.S.C. § 13041 and 42 C.F.R. §§ 136.401- 418)

Background:

This is a request for approval of an extension for an information collection required by section 408 of the Indian Child Protection and Family Violence Prevention Act (herein referred to as the “Act”), Public Law (Pub. L.) 101-630 [104 Statutes at Large (Stat.) 4544; 25 United States Code (U.S.C.) §§ 3201-3211], as amended by section 814 of Pub. L. 106-568, the Technical Amendment to the “Act”.

A. JUSTIFICATION

1. Circumstances making the collection of information necessary:

Title 42 U.S.C. §13041 requires each agency of the Federal Government, and every facility operated by the Federal Government (or operated under contract with the Federal Government), to ensure that all existing and newly-hired (or contracts for hire) employees involved with the provision of child care services to children under the age of 18 undergo a criminal history background check. The background investigation is to be initiated through the personnel program of the applicable Federal agency. This section requires employment applications for individuals who are seeking work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government, in positions involved with the provision of child care services to children, under the age of 18, to contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child.

More specific to Indian Country, 25 U.S.C. § 3207(a) requires the Indian Health Service (IHS) to compile a list of all authorized positions within the IHS where the duties and responsibilities involve regular contact with, or control over, Indian children; to conduct an investigation of the character of each individual who is employed, or is being considered for employment in a position having regular contact with, or control over, Indian children; and to prescribe by regulations the minimum standards of character an individual must meet in order to be appointed to positions having regular contact with, or control over, Indian children. Additionally, 25 U.S.C. 3207(b) and 42 C.F.R. 136.412(a) (2) prescribe the minimum standards of character to ensure that none of the individuals appointed to positions which involve regular contact with, or control over, Indian children, have been found guilty of, or entered a plea of nolo contendere or guilty to, any felonious offense, or any of two or more misdemeanor offenses under Federal, State, or Tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; crimes against persons; or offenses committed against children.

Title 42 C.F.R. §§ 136.401- 418 requires the individual to identify a conviction or a plea to any of the covered offenses, whether a felony or misdemeanor conviction or plea, because the Agency retains the discretion not to hire this individual to, or to remove this individual from a covered position if it determines that such an individual places Indian children at risk.

The Notice of Proposed Rule-making (NPRM) to implement the above was first published in the Federal Register (64 Fed. Reg. 14560) on March 25, 1999. As a result of the technical amendments to the Act, the Agency revised the questions and solicited comments which were published in the *Federal Register* (73 Fed. Reg. 55122 and 73 Fed. Reg. 78374) in 2008. The OMB did not receive any comments. This information collection request is an extension of this previously approved information collection.

2. Information Users:

In order to protect Indian children, the IHS prescribed by regulations that the minimum standards of character have been met only after individuals in positions involving regular contact with or control over Indian children have been the subject of a satisfactory background investigation, as required by 42 C.F.R. §§ 136.401- 418.

The collection of information for the background investigation includes inquiries with the individual's references, places of employment, and education to help determine an individual's trustworthiness and through a criminal history background check, which includes a fingerprint check through the Criminal Justice Information Services Division of the FBI, under procedures approved by the FBI, and inquiries to State and Tribal law enforcement agencies for residence for the previous 5 years listed on the individual's application.

To collect the information needed to determine whether a prospective or current employee has been arrested for or charged with a crime involving a child or, found guilty of, or entered a plea of nolo contendere or guilty to any felonious or misdemeanor offenses under Federal, State, or Tribal law involving crimes against person; or offenses committed against children the following “Agency Optional Questions” have been added as an addendum or form titled “Addendum to Declaration for Federal Employment, Child Care and Indian Child Care Worker Positions” (OMB No. 0917-0028), which specifically addresses item number 16, on the form “Declaration for Federal Employment” [Office of Personnel Management (OPM) Optional Form (OF) 306 (OMB No. 3206-0182)].

- (1) Have you ever been arrested or charged with a crime involving a child? [If “Yes”, provide the date, explanation of the violation, disposition of the arrest and charge, place of occurrence, and the name and address of the police department or court involved.]

- (2) Have you ever been found guilty of, or entered a plea of nolo contendere (no contest) or guilty to any felonious or misdemeanor offense under Federal, State, or Tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; crimes against persons; or offenses committed against children? [If “Yes”, provide the date, explanation of the violation, disposition of the arrest or crime, place of occurrence, and the name and address of the police department or court involved.]

In addition, each applicant must sign under penalty of perjury, a statement to verify the truth of all of the information provided in the employment application, to acknowledge that knowingly falsifying or concealing information is subject to fines or imprisonment or both, and to confirm that they have received notice that a criminal check will be conducted.

The information collected is used to help to determine the character of each individual employed or who is being considered for employment in a position that involves regular contact with or control over Indian children; and to employ only individuals who meet the minimum standards of character prescribed in law and regulations.

3. Improved Information Technology:

This form is available through electronic technology via the vacancy announcement for positions covered by Pub. L. 94-437, the Indian Health Care Improvement Act (IHCIA) and Pub. L. 93-638, the Indian Self-Determination and Education Act (ISDEA). This form is electronically available for IHS advertised positions which require it, on the USAJOBS website: <http://www.usajobs.gov/> or it may be found on the IHS website, under Supplemental Forms/Child Care Positions Form at:

<http://www.ihs.gov/Jobs/index.cfm?module=search&option=supplementalForms>

4. Duplication of Similar Information:

The information collected is not duplicated by any other Federal entity and no similar information is available to fulfill the required uses for this collection. The information collected is the minimum needed for the intended purpose.

5. Small Businesses:

Tribes and Tribal organizations are considered small governmental jurisdictions or small entities as defined under the Regulatory Flexibility Act. Tribes and Tribal organizations receiving funds under the authority of the Indian Self-Determination and Education Assistance Act, Pub.L. 93-638, as amended, must conduct an investigation of the character of each individual who is employed or is being considered for employment in a position that involves regular contact with or control over Indian children, and employ individuals in positions involving regular contact with or control over Indian children only if the individuals meet standards of character no less stringent than those prescribed under the afore mentioned regulations.

6. Less Frequent Collection:

If the collection is not conducted or is conducted less frequently, the Agency would be unable to conduct the background investigations required by 25 U.S.C. § 3207. There are no technical or legal obstacles to reducing burden.

7. **Special Circumstances:**

There are special circumstances that require exceptions to 5 CFR § 1320.5(d) (2).

8. **Federal Register Notice/Outside Consultation:**

The Agency's 60-day notice (___ Fed. Reg. _____) soliciting comments on the information collection was published in the *Federal Register* on _____, 2018, in compliance with the Paperwork Reduction Act (PRA) of 1995 [44 U.S.C. § 3507(a)(1)(D)]. No comments were received. The Agency's 30-day notice (___ Fed. Reg. _____) was published in the *Federal Register* on _____, 2018, in compliance with the PRA [44 U.S.C. § 3507(a)(1)(D)].

9. **Payment/Gift to Respondents:**

The respondents will not receive any payment or gift for providing the information.

10. **Confidentiality:**

The information collected is subject to the Privacy Act of 1974 and may be disclosed in accordance with its provisions and Privacy Act notice OPM/GOVT-1 General Personnel Records.

11. Sensitive Questions:

The questions of a sensitive nature described in Item 2 above are required by 25 U.S.C. § 3207, 42 U.S.C. § 13041, and 42 C.F.R. § 136.412. The information is needed to determine whether a prospective or current employee, who will have or has regular contact with, or control over, Indian children meets the minimum standards of character prescribed in these laws and regulations, and to employ only individuals who meet these legal mandates.

Each applicant must sign the document under penalty of perjury, to acknowledge that:

(a) knowingly falsifying or concealing information is subject to fines or imprisonment or both; (b) a criminal check will be conducted; and (c) they understand their right to obtain a copy of any criminal history report made available to the IHS and their right to challenge the accuracy and completeness of any information contained in the report. The information is collected as part of the “Declaration for Federal Employment” (OPM OF 306; OMB No. 3206-0182) and is safeguarded in accordance with Privacy Act provisions.

12. Burden Estimate (Total Hours and Wages):

Burden hour estimate: The IHS will collect this information from each individual who applies for employment in a position that has been determined to involve regular contact with or control over Indian children. The information collected will be used to help determine that minimum standards of character are met by individuals seeking

employment as described in the laws and regulations cited. The estimated burden hour for respondents is 12 minutes. The estimated number of respondents is 3000 annually. The estimated total burden hours for the collection of this information for the respondents or public is 600 hours annually.

12A. Estimated Annualized Burden Hours:

| Type of Respondent | Form Name | Estimated No. of Respondents | No. Responses per Respondent | Average Burden per Response (in hours) | Total Annual Burden Hours |
|---------------------------|--|-------------------------------------|-------------------------------------|---|----------------------------------|
| Applicant | Addendum to Declaration for Federal Employment (OMB No. 0917-0028) | 3000 | 1 | 12/60 | 600 |

B. Annualized cost to respondents: There is no cost burden to respondents other than their time to complete the collection information requested.

C. Annualized cost to the Federal government: There is no cost burden to the Federal government other than their time to review the responses and determine if the respondents meet the standards of character required.

13. Capital Costs (Maintenance of Capital Costs):

There are no direct costs to respondents other than time to provide the information for consideration. There are no capital or start-up costs to respondents for this information collection. Nor are there costs for the operation and maintenance, and purchase of services components for this information collection.

14. Cost to Federal Government:

The annual cost to the Federal Government for collection of this information is the time spent by the human resource staff to review the responses to the two questions on the form. The form is attached to the individual's application for an advertised position covered under Pub. L. 101-630, the Act, and Pub. L. 101-647, The Crime Control Act of 1990. The staff time to review the form is approximately 1 minute. It is estimated that 100 IHS personnel will review applications, including the form. Using an average salary of \$76,378 per year (GS-12), the breakdown of 1 minute of time costs \$36.59 per hour, or about \$ 0.60 per minute. Approximately 3000 applications are submitted to IHS per year, with the "Addendum to Declaration for Federal Employment, Child Care and Indian

Child Care Worker Positions” (OMB No. 0917-0028), which requires review of this form. This estimated cost on an annualized basis is \$1800 per year.

| <u>Item</u> | <u>Minutes/Hours</u> | <u>Cost</u> |
|--|------------------------|-------------|
| Review/evaluate 3000 responses (\$0.60/minute) | 3,000 min. or 50 hours | \$ 1800.00 |
| Total annual cost to the government | | \$ 1800.00 |

Program or Burden Changes:

The actual burden has not changed from the burden shown in the current inventory (no increase and no decrease). There are no changes to the current version of the form "Addendum to Declaration for Federal Employment, Child Care and Indian Child Care Worker Positions" (OMB 0917-0028). There is an increase in cost to the Federal Government (\$1800, rather than \$600) which reflects a correction under section “14. Cost to Federal Government,” to a previous error in number of respondents (3,000 respondents or applications, rather than 1,000).

15. Publication and Tabulation Dates:

There is no intention to publish this information collection.

16. Expiration Date:

IHS is not seeking approval to not show expiration date.

17. Certification Statement:

There are no exceptions to the certification.