

¹Supporting Statement A

Tribal Reassumption of Jurisdiction over Child Custody Proceedings, 25 CFR 13

OMB Control Number 1076-0112

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 Indian Child Welfare Act, 25 U.S.C 1918, provides that an Indian tribe subject to State jurisdiction may obtain Secretarial approval to reassume jurisdiction over child custody proceedings by presenting the Secretary of the Interior (Secretary) with a petition to reassume and a suitable plan to exercise such jurisdiction.

- 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 Bureau of Indian Affairs (BIA) collects this information from tribes to determine whether it is feasible for a tribe to reassume jurisdiction of child custody cases. The implementing regulation, 25 CFR 13.11, specifies the contents of reassumption petitions for those tribes requesting approval to reassume jurisdiction over child custody proceedings. The contents are:

- Full name, address and telephone number of the petitioning tribe(s);
- Tribal resolution supporting the petition and plan;

- Proposed date on which the tribe will reassume jurisdiction;
- Estimated number of members in the petitioning tribe(s);
- Criteria for tribal membership;
- Procedure by which a participant in an Indian child custody proceeding may determine whether a particular individual is a member of the petitioning tribe;
- Citation to tribal governing document that authorizes the exercise of jurisdiction;
- Description of the tribal court that will exercise jurisdiction over Indian child custody matters;
- Copy of any tribal ordinances or court rules establishing the procedures or rules for the exercise of jurisdiction;
- Description of child and family support services that will be available to the tribe(s) when jurisdiction is reassumed;
- Estimate of the number of child custody cases expected each year;
- Copy of any tribal agreements with States, other tribes, or local governments relating to child custody matters;
- Citation of statute and description of territory where the jurisdiction is, other than transferal jurisdiction under 25 U.S.C. 1911(b); as well as estimated total number of Indian children residing in the affected territory and explanation how the number was estimated.

Each of the items tribes must submit as part of the petition is necessary for the Secretary to ensure that the petitioning tribe is authorized and has the judicial, procedural, and child care services in place to reassume jurisdiction over child custody matters. If the information is not collected, the BIA could not make those determinations.

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.

The BIA accepts reassumption petitions via U.S. Mail or a commercial carrier and e-mail.

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 information included in the reassumption petition is unique to each tribe and circumstances surrounding the tribe's reassumption of jurisdiction. While the tribe may have submitted parts of the 13 items required as part of a reassumption petition to BIA or other agencies for other purposes, such information must be compiled together to provide a case for reassumption. Tribes have ready access to the information that they have submitted to another Federal agency, such as HHS, or State or local governments, and would be able to make any necessary updates before submitting it as part of the reassumption petition. In addition, the tribal government must consider this particular information when authorizing reassumption before the petition is

submitted to BIA.

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

To the extent allowable by the regulations, the BIA has attempted to reduce the burden on small entities.

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 tribe need only submit the request one time unless changes have to be made. If this information is not collected, tribes could not make jurisdictional determinations on child custody proceedings.

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 will apply to this 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.

A 60-day notice for public comments was published in the Federal Register on August 29, 2018, 83 FR 44061. There were no comments received in response to this notice.

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.

This information collection has not been submitted by any tribes since 2008. The BIA made several attempts to contact tribes who have previously submitted reassumption petitions, but was not able to establish contact with tribal employees who worked on the petitions.

The following person has experience working with tribes to submit reassumption petitions and provided her 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: Contact was made with two BIA, Regional Social Workers, from the Rocky Mountain Region and the Eastern Oklahoma Region. Both contacts stated that this information collection is correct and concurred with the burden hours provided and the frequency in which this information is collected. Additionally, a Social Service Representative, from the BIA's Northern Cheyenne Agency agreed that the information provided for this collection is accurate. All three contacts have experience working with respondents on this collection, and none of these contacts had additional comments or suggested changes.

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

No payment or gifts are provided to respondents for completing this form.

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 as the information is considered public and does not contain information about individual clients.

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 included in the information collected. The information collected serves to ensure that the welfare of the child will be adequately supported by the reassumption of jurisdiction.

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.**

While no requests have been made since 2008, BIA estimates that one reassumption petition will be filed with the BIA per year. We estimated the annualized cost would include 8 hours for the reporting and record keeping for each reassumption petition, based on our conversation with field offices we consulted regarding this information collection.

We estimate the salary for tribal personnel compiling the information to be \$36.22 per hour¹. With a total burden of eight hours, this results in a total salary cost to tribal respondents of approximately \$290 per year.

$$8 \text{ hours} \times \$36.22 \text{ per hour} = \$290 \text{ per year}$$

¹ To obtain the hourly rate, the BIA used \$36.22, the wages and salaries figure for civilian works from BLS Release USDL-18-1499, Employer Costs for Employee Compensation – June 2018, Table 1, Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Civilian works, by major occupational and industry group, at <https://www.bls.gov/news.release/pdf/ecec.pdf>. This wage includes a multiplier for benefits.

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.

There is no non-hour cost burden associated with this information collection.

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 BIA estimates that one reassumption petition will be filed per year. The annualized cost to the Federal Government remains very limited. This would include staff time of one social worker and one secretary. At a GS 10/1 salary of approximately \$23.14 per hour, including a 1.6 multiplier for benefits², the social worker salary cost would be \$37.02 per hour. The social worker would require four hours of time for a total of approximately \$148.

$$\text{\$23.14 per hour} \times 1.6 \text{ benefits} = \text{\$37.02 per hour} \times 4 \text{ hours} = \text{\$148 total salary cost per year}$$

At a GS 4/1 salary of approximately \$12.40 per hour, including a 1.6 multiplier for benefits, the secretary salary cost would be \$19.84 per hour. The secretary would require four hours of time for a total of approximately \$79.

$$\text{\$12.40 per hour} \times 1.6 \text{ benefits} = \text{\$19.84 per hour} \times 4 \text{ hours} = \text{\$79.}$$

The total annual cost to the Federal government therefore would be approximately \$227.

²The salary associated with this grade and step is based on the General Schedule 2018. The hourly salary is multiplied by 1.6 to cover benefits. See https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/18Tables/html/GS_h.aspx.

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

The change in cost burden for respondents was due to a more accurate calculation of the hourly salary and benefits multiplier. Adjustments in Federal government costs were made to address salary increases.

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. However, a summary may be used for budget justification.

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.

No form is used; the CFR lists information required to assume jurisdiction.

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

There are no exceptions.