

1Supporting Statement A

Trust Land Mortgage Lender Checklists

OMB Control Number 1076-NEW

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 information collection is necessary for the Bureau of Indian Affairs (BIA) to continue to approve mortgages on trust or restricted land by simplifying the process for respondents. In accordance with 25 CFR 152.34 any individual Indian owner of trust or restricted lands, may with the approval of the Secretary execute a mortgage or deed of trust to his land for the purpose of home acquisition and construction, home improvements, and economic development. Such lands shall be subject to foreclosure or sale pursuant to the terms of the mortgage or deed of trust in accordance with the State in which the lands are located. 25 U.S.C. 5135 authorizes land be subject to foreclosure or sale pursuant to the terms of such mortgage or deed of trust in accordance with the laws of the tribe which has jurisdiction over such land or, in the case where no tribal foreclosure law exists, in accordance with the State.

- 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.**

BIA uses the information it collects from the Lender utilizing both the Land Mortgage Lender Loan Checklist and Leasehold Mortgage Lender Checklist to review the trust mortgage

application for conformity to statutes, policies, and regulations. BIA is responsible for conducting a review of the mortgage application documents to ensure completeness for recommendation of approval or disapproval. The documents on the following checklists are required from the Lender, these documents the Lender already has prepared.

The Land Mortgage Lender Loan Checklist (25 CFR 152.34) requests the following documents needed for a thorough review: commitment letter; satisfaction, if a refinance; borrower's application; lenders' appraisal; authorization to share information with BIA; National Environmental Policy Act (NEPA) documentation; survey/site report; Rights-of-Way (ROW) for ingress/egress; certified Title Status Report (TSR); draft mortgage documents; statement Borrower is not delinquent on federal debt; proof of employment.

The Leasehold Mortgage Lender Checklist (162.244, 162.357, 162.457, 162.582, 169.210) requests the following documents needed for a thorough review for approval or disapproval: approved BIA lease; TSR; original mortgage documents, including deed of trust, promissory note, and program rider; survey plat of the homesite location; consent of the landowners; satisfaction, if a refinance.

Both forms were developed in order to expedite and streamline the mortgage process. Each checklist guides the respondent through submitting documents to BIA for a mortgage request review. Additionally, both checklists provide the respondent with general guidance for documents required for a complete package. Both of these forms are in use without OMB approval.

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, rather than orally, BIA accepts the information via fax or e-mail to reduce burden on respondents. Contact information for Regional and Agency Offices can be found at <https://www.bia.gov/regional-offices>.

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 on these checklists 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 to operate the program.

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

There is no significant economic impact on a substantial number of small businesses. The

information collection burden under the 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 Secretary uses the information to make a decision in determining whether to approve or disapprove a Trust Land mortgage. Information is collected from the lender, as needed, when individual Indians want to enter into a mortgage on their land. Applications are initiated by individual Indians; the Secretary is obligated to evaluate such applications and respond accordingly.

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 circumstances that require BIA to collect the information in the manner stated above.

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 March 1, 2019 (84 FR 7110). No comments were received.

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 BIA received feedback from three lenders from whom this information is to be obtained. The responses are summarized below.

Sioux Falls, South Dakota

Loan Officer, 1st Tribal Lending.

The Loan Officer stated the items on the Trust Land Mortgage Lender Checklist are not difficult to send once the loan process has started. Before starting the loan process the lender is requesting a certified Title Status Report, the Lease, National Environmental Policy Act (NEPA) documentation, and credit documents from the borrower. The issue is getting a Certified Title Status Report (CTSR) in a timely manner from some areas. The lender stated they have areas in Montana where it can take months to obtain a CTSR before starting a loan, whereas in other areas around the country it will only take a few weeks on average. The lender stated the biggest difficulty is getting a CTSR when getting a loan started and through the process.

The instructions are clear enough to provide the documents to BIA. The documents the BIA are asking for in the Checklist are appropriate and reasonable. The BIA is making sure that the lender is doing their due diligence and setting up the borrower for success and not failure. The lender stated that it is appropriate that the BIA gets income, credit and asset documents to make sure the lender is doing what is best for the borrower. The only concern is some BIA offices are requiring them to mail the package as the BIA office cannot/will not print the documents. The lender suggested for timing and ease, the BIA to accept a PDF/scanned version of the documents.

The BIA now allows respondents to submit information electronically. Contact information for Regional and Agency Offices can be found at <https://www.bia.gov/regional-offices>.

Oklahoma City, Oklahoma

Mortgage Production Manager, Bank2.

The lender stated that the Checklist contains most of the documents they currently submit. The

main difficulty in providing the information is the availability of some of the items, survey, and/or different reports between Housing and Urban Development (HUD) and BIA (e.g. National Environmental Policy Act (NEPA) vs. Categorical Exclusions). The lender stated they have no way to provide NEPA unless supplied by BIA. The lender stated they supply this information each time they submit a file for BIA pre-approval when land status is an Individual Allotment. The items on the checklist would be more appropriate for a Post-Closing Endorsement checklist, possibly editing the checklist to add a column to make two checklists.

The lender also stated that there are no concerns with electronic submission as long as standard methods of submission are available. With the exception of previously mentioned issues, the lender believes all items to be appropriate and reasonable.

In the future the checklist may be updated to include any changes that need to be addressed by the BIA if it looks like there is significant support for those changes. As this is a new collection, the BIA will address any substantive input on the appearance and organization of the checklist that arises out of its actual and practical use.

Chinook, Montana

Farm Loan Manager, Farm Service Agency.

The lender stated that the information that is being collected is easy to provide to the BIA, with the exception of certified Title Status Reports (TSR). The instructions are very clear and easy to understand. The information is only requested once, and is sent with the lender's request to pre-approve a mortgage. The only concerns the lender stated is the difficulty of obtaining certified TSR's, and does not understand why the lender has to provide these.

BIA has addressed the timeframes on issuing certified TSR's by issuing policy and handbooks regarding leasehold and land mortgages. The BIA requests the TSR for informational purposes that are crucial to the review of the package.

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.

The information collected in this collection is covered by the BIA's Privacy Act System of Records Notice BIA-12: Indian Trust Land Mortgages. Additionally, BIA agency policy seeks to protect confidential information submitted as a part of this 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 are no questions of a sensitive nature included in the information collected.

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 BIA receives an average of 131 submissions per year. The estimated total annual number of respondents is 56 because some lenders provide multiple checklists each year. The estimated total annual hour burden is 3,840 hours. The dollar equivalent burden is **\$142,195**.

Name of Checklist	Respondent Type	No. Respondents	Annual Responses	Burden Hours per Response	Total Annual Burden Hours	Salary Burden
Land Mortgage Lender Loan Checklist	Lenders	25	70	20	1,400	\$ 51,842
Leasehold Mortgage Lender Checklist	Lenders	31	61	40	2,440	\$90,353
TOTAL		56	131		3,840	\$142,195

We are estimating salary using Bureau of Labor Statistics, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—September 2019 (released December 18, 2019), USDL-19-2195, Table 2 *Employer Costs for Employee Compensation for civilian workers by occupational and industry group*, for all civilians, totaling \$ 37.03/hour, which includes a 1.5 multiplier for benefits. See <https://www.bls.gov/news.release/pdf/ecec.pdf>.

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 estimated total annual number of responses reviewed by the program is 131. The estimated total annual hour burden to the program is 1,048 hours at a total salary cost of **\$53,154**. 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.

Name of Checklist	Annual Responses	Federal Burden per Response	Total Federal Burden Hours	Federal Salary Cost at \$50.72/hr
Land Mortgage Lender Loan Checklist	70	8	560	\$ 28,403
Leasehold Mortgage Lender Checklist	61	8	488	\$ 24,751
TOTAL	131		1,048	\$53,154

We used an average salary of **\$50.72** per hour (\$31.70 x 1.6 for benefits). See, 2020 General Schedule (Base) – Hourly Rate (GS 12) at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/20Tables/html/GS_h.aspx.

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

This is a new collection.

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.

OMB control number will be used on both checklists and on any information relating to this collection.

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

There are no exceptions.