1SUPPORTING STATEMENT A
FOR PAPERWORK REDUCTION ACT SUBMISSION

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

OMB Control Number 1076-0187

Terms of Clearance: OMB issued a Notice of Action on this information collection when it was submitted in 2020 with a comment stating that the agency must examine public comment in response to the proposed rulemaking and will include in the supporting statement of the next ICR--to be submitted to OMB at the final rule stage--a description of how the agency has responded to any public comments on the ICR, including comments on maximizing the practical utility of the collection and minimizing the burden.

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 authority for this program is Public Law 112-74, § 115 (Consolidated Appropriations Act, 2012), as amended by Public Laws 113-235 (Consolidated and Further Continuing Appropriations Act, 2015), and 114-113 (Consolidated Appropriations Act, 2016). The regulations at 25 CFR 48 carry out the provisions of the public laws.

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 (§§ 48.1 through 48.5) provides general provisions. Subpart B (§§ 48.101 through 48.119), 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 for penalties; information regarding violations of leases; and requests to assign, sublease, or mortgage a lease which 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 into a lease, and to monitor the results achieved by the use of funds received from leases.
48.117	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.
48.119	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 final 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 (DI-3680), 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 e-mail to reduce burden on respondents. We estimate that most (60%) respondents who provide information in written form will do so electronically (by email).

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.

There is no duplication. The information requested is site- and activity-specific and is not otherwise available in the agency.

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

Some lessees may be small entities, such as small businesses or non-profits seeking to hold events on school property; however, there is no significant economic impact on a substantial number of small entities. 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 48.117(a)(1) 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.

On June 21, 2016, we published a proposed rule (81 FR 40218) and requested comments on this information collection. We did not receive any comments in response to that request. We published a new proposed rule on October 14, 2020 (85 FR 65000) that contains the same information collection request but received no comments on the information collection in response to that request either.

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

We will not provide payments or gifts to respondents.

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

We do not provide any assurance of confidentiality. Information is collected and protected in accordance with the Privacy Act (5 U.S.C. § 552a) and the Freedom of Information Act (5 U.S.C. 552). We will maintain the information in a secure System of Records, which is in the process of being approved for publication through our Bureau Privacy Officer.

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.

We do not ask questions of a sensitive nature.

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.**

We estimate that there will be approximately 17 respondents and approximately 24 responses annually, totaling 68 annual burden hours. The completion time for each information collection varies as shown in Table 12.1 below.

We estimate the total dollar value of the annual burden hours for this collection to be $2,720 (rounded). We used the Bureau of Labor Statistics news release USDL-21-0437, March 18, 2021, Employer Costs for Employee Compensation—December 2020, to calculate the total annual burden. Table 1 of that release lists the hourly rates for all workers as:

- Individuals – $38.60, including benefits.
- Private Sector – $36.23, including benefits.
- Government – $53.47, including benefits.

Table 12.1

Respondent	Activity	Annual No. of Respondents	Number of Submissions Each	Total Annual Responses	Avg. Time per Response (hours)	Total Annual Burden Hours*	Hourly Labor Costs Incl. Benefits	Dollar Value of Annual Burden Hours
Leases								
Individuals	Reporting	2	1	2	3	6	$ 38.60	$ 231.60
Private Sector	Reporting	10	1	10	3	30	36.23	$ 1,086.90
Government	Reporting	5	1	5	3	15	53.47	$ 802.05
Covered improvements (subset of respondents above)								
Individuals	Reporting	--	--	--	--	--	$ 38.60	$ 0
Private Sector	Reporting	2	1	2	3	6	36.23	$ 217.38
Government	Reporting	1	1	1	3	3	53.47	$ 160.41
Response to Notice of Violation (subset of respondents above)								
Individuals	Reporting	1	1	1	1	1	$ 38.60	$ 38.60
Private Sector	Reporting	1	1	1	1	1	36.23	36.23
Government	Reporting	--	--	--	--	--	53.47	0
Assignments/Subleases/Mortgages (subset of respondents above)								
Individuals	Reporting	1	1	1	3	3	$ 38.60	$ 38.60
Private Sector	Reporting	1	1	1	3	3	36.23	108.69
Government	Reporting	--	--	--	--	--	53.47	0
Totals:		***17***		***24***		***68***		***$ 2,720.46***

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 (DI-3680), 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, 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.

We estimate that the annual cost to the Federal Government to administer this information collection is $4,493 (rounded). To determine average hourly rates, we used Office of Personnel Management Salary Table 2021-RUS as an average nationwide rate. Bureau of Labor Statistics news release, March 18, 2021, Employer Costs for Employee Compensation—December 2020 (USDL-21-0437), was used to calculate benefits.

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.

Activity	Grade/ Step	Hourly Rate	Hourly Rate w/ Benefits (x 1.57)	Total Responses	Time per Response (hours)	Total Annual Hours	Annual Cost
Review provisions of leases and the construction of permanent improvements under the lease (businesses)	GS-12/05	$ 42.08	$ 66.07	17	3	51	$3,370
Review provisions of leases and the construction of permanent	GS-12/05	$ 42.08	$ 66.07	3	3	9	$595

improvements under the lease (individuals)							
Address violations of leases	GS-12/05	$ 42.08	$ 66.07	2	3	6	$396
Address assignments, subleases, and mortgages of leases	GS-12/05	$ 42.08	$ 66.07	2	1	2	$132
Total							**$4,493**

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

This is a new collection. ROCIS is showing addition and subtraction of equal numbers for the two of the information collections (ICs) that were originally entered into ROCIS to match the supporting statement with ROCIS, but have no burden: Violations of leases (individuals); and Assignments, subleases, and mortgages of leases (individuals).

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 for publication of the results of these information collections.

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.

We will display the OMB Control Number and expiration date on appropriate materials.

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

There are no exceptions to the certification statement.