

1Supporting Statement A

Secretarial Elections

OMB Control Number 1076-0183

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.**

Under the Indian Reorganization Act, Indian tribes have the right to organize and adopt constitutions, bylaws, and any amendments thereto, and ratify charters of incorporation, through elections called by the Secretary of the Interior, according to rules prescribed by the Secretary. See 25 U.S.C. 473a – Application to Alaska, 25 U.S.C. 476 – Organization of Indian Tribes, 25 U.S.C. 477 – Incorporation of Indian Tribes, and 25 U.S.C. 503 – Organization of Tribes or Bands (Okla). The Secretary’s rules for conducting these elections, known as “Secretarial elections,” and approving their results are at 25 CFR 81. In most cases, the tribe requests a Secretarial election; however, an individual voting member of a tribe may also request a Secretarial election by petition. These rules also establish the procedures for an individual to petition for a Secretarial election.

While much of the information the tribe prepares for a Secretarial election (e.g., list of members eligible to vote) would be required if the tribe instead conducted its own tribal election, the Secretary’s rules establish specifics on what a tribal request or petition for election must contain. These specifics are necessary to ensure the integrity of Secretarial elections and allow Bureau of Indian Affairs (BIA) and tribal personnel the ability to consistently administer elections.

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 requires the tribe to submit a formal request for Secretarial election, including:

- A tribal resolution;
- The document or language to be voted on in the election;
- A list of all tribal members who are age 18 or older in the next 120 days (when the election will occur), including their last known addresses, voting districts (if any), and dates of birth, in an electronically sortable format.

See 25 CFR § 81.4 and § 81.17.

BIA uses the tribal resolution to ensure that the tribal governing body approved the request. BIA uses the document or language to be voted on in the election to prepare the ballot. BIA uses the list of tribal members and their addresses and voting districts to ensure that only those eligible to vote will be permitted to vote, to prepare the registered voters list, and to mail out registration forms and absentee ballots. Requiring the list in an electronically sortable format allows BIA to ensure that there are not duplicates, validate individuals' identities, and fulfill other needs for sorting the data.

BIA requires the petitioner spokesperson to submit a petition containing original signatures and addresses that includes numbered lines and the following on each page: a summary of the petition purpose, a declaration as to the status of the signatories as voting members of the tribe, and the collector's notarized signature. See 25 CFR § 81.57. BIA uses this information to ensure that voting members signed the petition and that the petition is valid.

BIA also requires each tribal member who wishes to vote in the election to register for the election. BIA uses this information to determine who is eligible to vote in the election. See 25 CFR 81.26 – 81.28.

To vote in the election, registered voters must submit a ballot. BIA uses this information to determine the results of the election. See 25 CFR § 81.36 – § 81.37.

Anyone wishing to challenge the results of an election must provide substantiating evidence for the challenge. BIA uses this information to review the challenge. See 25 CFR § 81.43.

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.

Tribal requests may be submitted electronically. Hard copies of petitions are necessary to show original signatures and notary seals. Hard copies of registration forms and ballots are necessary to show original signatures.

- 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 collection is unique to each election, and therefore is not duplicated by any other information collection.

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

This information collection affects only Indian tribes and tribal members, who are not considered small entities. Nevertheless, BIA has restricted the amount of information it is requesting to ensure that the burden of providing information is minimized.

- 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 BIA is unable to collect this information, BIA would not be able to comply with its statutory mandate to conduct Secretarial elections upon request or, the integrity of such elections would be compromised. Secretarial elections are Federal elections; therefore, BIA has a strong interest in ensuring their integrity.

- 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 a manner inconsistent with OMB guidelines.

- 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 *Federal Register* notice with a 60-day public comment period soliciting comments on this collection of information was published on September 7, 2021 (86 FR 50153). 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.

BIA spoke with three people who have been a part of or are familiar with the secretarial election process. All three are tribal members/voters providing input on the Secretarial Election Voter Registration Form and are members of the following tribes: Tunica-Biloxi Indian Tribe, Ponca Tribe of Indians of Oklahoma, and Nooksack Indian Tribe. All three reported that the forms/instructions are easy to follow, fill out, and provide to the Agency. They also reported that the forms are readily available, and none reported that the collection is overly burdensome.

- 9. Explain any decision to provide any payment or gift to respondents, other than**

remuneration of contractors or grantees.

BIA does not provide gifts or payments to respondents.

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

BIA provides assurance of confidentiality with regard to some of the information on the Registration Form. The information that BIA collects is subject to the requirements of the Privacy Act and the Freedom of Information Act.

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.

BIA does not ask questions of a sensitive nature - but requires individuals' addresses and dates of birth to be included in the eligible voters list, to allow for verification of identity and mailing of election materials. This information collection is covered by the Systems of Records Notice *INTERIOR/BIA-7, Tribal Enrollment Reporting and Payment System* published September 27, 2011 (76 FR 59733).

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.**

BIA estimates that it receives the following number of information collections each year.

Information Collection	Annual Number of Responses	Completion Time (hours) Per Response	Annual Burden Hours	\$ Value of Annual Burden Hours (rounded)
Tribal request for election	32	40	1,280	\$50,624
Petition request for election	4	5	20	\$791
Registration to vote	126,000*	0.25	31,500	\$1,245,825
Voting ballot	126,000*	0.25	31,500	\$1,245,825
Challenge to an election	5	1	5	\$198
Totals	252,041		64,305	\$2,543,263

To obtain the hourly rate, the BIA used \$39.55, the wages and salaries figure for civilian works from BLS Release USDL-21-2146, Employer Costs for Employee Compensation – issued December 16, 2021, Table 1, Employer costs per hour worked for employee compensation and costs as a percent of total compensation: *Civilian workers*, at <https://www.bls.gov/news.release/pdf/ecec.pdf>. This wage includes a multiplier for benefits.

*Estimates an average of 5,000 members of each tribe, with a 70% response rate for registration and voting (5,000 x 70% x 36 elections = 126,000).

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 regulations require that registration and ballots each be mailed, unless otherwise provided by the tribal constitution. These costs vary with the number of tribal members. Assuming an average of 5,000 tribal members and 70% response rate (3,500 respondents), and two mailings of standard-size envelopes containing a registration form and ballot, respectively (7,000 responses total), at a cost of a First-Class U.S. Mail stamp at \$0.58 each, the total non-hour cost burden for the approximately 36 elections held each year is **\$146,160**. While petitioners must have each petition page notarized, most will have access to free notary services through a tribe, banking, or other institution.

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 total estimated annualized cost is **\$4,813,942**.

BIA estimates the annual cost to the Federal Government to administer this information, in the time it takes BIA to collect the requests and ensure that all the required information is included, as follows:

Regulation/ Activity	No. of Responses	Completion Time (hours)	Annual Burden Hours	\$ Value of Annual Burden Hours
Process tribal request	32	40	1,280	\$83,354
Process petition	4	5	20	\$1,302
Process registration	126,000	0.25	31,500	\$2,051,280
Process ballot	126,000	0.25	31,500	\$2,051,280

Process challenge	5	1	5	\$326
Total	252,041		64,305	\$4,187,542

*Using the Office of Personnel Management Salary Table 2022 the salary rate for a GS-11/step 5 is \$40.70. To account for benefits, we then multiplied this rate by 1.6, the salary associated with this grade and step is based on the General Schedule 2018. See https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/DCB_h.pdf. This puts the hourly salary at \$65.12.

Other Costs (paper and mailing) vary with the number of tribal members. Assuming an average of 5,000 tribal members, and two mailings of large envelopes each containing a registration form and ballot and other information for each of the 36 requests totals 360,000 mailings. At an average weight of 3 oz. and cost of \$1.74 each, this totals **\$626,400**.

Therefore, the total estimated annualized cost is **\$4,813,942**.

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

Changes in burden estimates were due to salary increases from the Bureau of Labor and Statistics and the Federal government. Changes to the total estimated annual non-hour burden is due to an increase in mailing costs.

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.

BIA will not publish the tribal request or petition; however, it will post the registered voters list that is derived from the tribal request (minus personal data) and will post the results of the election.

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.

BIA will display the OMB control number and expiration date on any request for information.

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.

