1Supporting Statement A

Acquisition of Trust Land, 25 CFR 151

OMB Control Number 1076-0100

Terms of Clearance: The elements of the Bureau of Indian Affairs' Fee-to-Trust Handbook that provide guidance regarding the collection of information are subject to review under the Paperwork Reduction Act. Any changes to these documents must be submitted to OIRA for approval and may be processed as a change request.

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.**

Section 5 of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 465) and the Indian Land Consolidation Act of January 12, 1983 (25 U.S.C. 2202) authorize the Secretary of the Interior (Secretary), in his/her discretion, to acquire lands through purchase, relinquishment, gift, exchange, or assignment within or without existing reservations for the purpose of providing land for Indian Tribes. Other specific laws also authorize the Secretary to acquire lands for individual Indians and Tribes. Regulations implementing the acquisition authority are at 25 CFR 151. In order for the Secretary to acquire land on behalf of individual Indians and Tribes, the Bureau of Indian Affairs (BIA) must collect certain information to identify the party(ies) involved and to describe the land in question. The Secretary also solicits additional information deemed necessary to make a determination to accept or reject an application to take land into trust for the individual Indian or Tribe, as set out in 25 CFR 151.

The following table details the IC requirements in 25 CFR 151.

Table 1 – Information Collections Associated with Acquisition of Trust Land		
Citation 25 CFR 151	**Section Title**	**Information Collection Requirement**
25 CFR 151 – Land Acquisitions		
151.9	Requests for approval of acquisitions.	Provides for an individual Indian or Tribe desiring to acquire land in trust status to file a written request for approval of such acquisition with the Secretary.
151.10	On-reservation acquisitions.	In order to properly evaluate the request and make a determination, the Secretary also solicits additional information necessary to satisfy the pertinent factors listed in this section.
151.11	Off-reservation acquisitions.	Requires that if the land is being acquired for commercial purposes, the applicant provide a plan that specifies the anticipated benefits and potential risks associated with the proposed use. Additional information set out in 151.11(c), is required for off-reservation acquisitions (when the lands are located outside of and non-contiguous to the Tribe's reservation.
151.13	Title examination.	Provides for additional information or justification if the Secretary considers it necessary to enable him to reach a decision. Also requires the applicant to furnish title evidence meeting the <u>Standards for the Preparation of Title Evidence in Land Acquisition by the United States</u>, issued by the U.S. Department of Justice.

The Secretary may solicit additional information to ensure that the title to such property is free of any liens, encumbrances, or infirmities prior to taking final approval action. The acquisition of land in trust for the use and benefit of Indian Tribes and individual Indians is one of the prime responsibilities of the Federal government in its unique relationship with American Indians.

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 collected to:

- Identify the applicant to confirm eligibility and have a means of contacting the applicant;
- Identify the property to determine location, ownership and adherence to Federal policies concerning possible restrictions and limitations as to future uses and development;
- Review the acquisition request in light of any limitations on statutory authority;
- Understand the applicant's need for the land and purpose for which it will be used;
- Identify land the Secretary already holds in trust for the applicant;
- Ensure that title to the property is marketable and unencumbered;
- Identify the impact on State and political subdivisions caused by the removal of the land from the tax rolls;
- Identify jurisdictional problems and potential land use conflicts which may arise from the acquisition;
- Identify BIA's ability to discharge the additional responsibilities resulting from the acquisition;

- Identify the location of the land relative to State boundaries and its distance from the boundaries of the Tribe's reservation; and
- Review the Tribe's plan specifying anticipated economic benefits, where land is being acquired for business purposes.

Once an application is submitted, the Secretary may request additional or clarifying information during the evaluation process. This ongoing information collection effort is necessary to account for differences of conditions and issues on both a regional and local case-by-case basis. A short phrase or explanation may be satisfactory for lands proposed to be acquired in trust within an existing reservation, but more precise detail is necessary when such acquisitions involve lands located off-reservation.

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.

This collection of information uses limited automated, electronic, mechanical, or other technological collection techniques. Respondents may submit this information in person, by fax, and by regular mail. Individual Indians and Tribes submit required information in standard written formats and considered as an official written request to initiate the application process. This is necessary because much of the information collected is considered official documentation for the purpose of the acquisition of land by the United States in trust status for individual Indians and Tribes. The Fee-to-Trust Handbook is still in development. The program projects that it will be available to the public in FY 2021.

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.

Because of the uniqueness and diversity of applications, no similar information pertaining to land acquisition in trust status for Indians is collected by the BIA or other Federal agencies. If BIA possesses any of the information needed for the application, BIA provides that information to the applicant.

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

The information collection will not have a significant impact on small businesses or other small entities. The information is collected only from individual Indians and Tribes who wish to obtain the benefit of having a particular parcel of land taken into trust status.

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 BIA's land acquisition program could not continue if the collection is not conducted. The Secretary uses the information to make a decision in determining whether or not to acquire land in trust status for an individual Indian or Tribe. Applications are initiated by Indian Tribes and individuals; 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 Federal Register notice with a 60-day public comment period soliciting comments on this collection of information was published on January 5, 2023 (88 FR 879). 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.

In October 2021, BIA held consultations on the protection and restoration of tribal homelands.

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

No payments or gifts are provided to respondents.

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 in connection with this information 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 500 applications per year, which breaks down to 400 on-reservation applications and 100 off-reservation applications. Our estimates of burden include time spent in organizing and preparing necessary information, completing the application (including clerical time), and preparing a resolution for Tribal council vote to accompany the application. Most of the information is readily available to the Tribe or individual making the application. This results in a total hour burden of **55,000** hours per year or the amount equivalent to **$2,379,300.** The total hourly burden is shown in the following table.

We are estimating salary using Bureau of Labor Statistics, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—June 2023 (released September 12, 2023), USDL-23-1971, Table 2 Employer Costs for Employee Compensation for civilian workers by occupational and industry group, for all civilians, totaling $ 43.26/hour, which includes a multiplier for benefits. *See* https://www.bls.gov/news.release/pdf/ecec.pdf. For purposes of this collection, we also used this rate for individuals.

These burden hours include time spent in organizing and preparing necessary information, completing the application (including clerical time), and preparing a resolution for tribal council vote to accompany the application. In addition almost 25% of the 450 tribes will spend 20 hours preparing the tiering information needed for NEPA and another 15% will spend an additional 40 hours to furnish the NEPA documentation. The average burden estimate in the above table reflects this time spent by Tribes. The 100 off-reservation applicants spend an average of 150 hours each to prepare their request.

25 CFR 151	Description	Information Collection Requirement	No. of Respondents	No. of Responses per	Average No. of Hours	Total Annual Burden Hours	Total Annual Cost (Salary & Benefits)
151.9 151.10 151.13	Applicants must submit: a) Copy of authority b) Explanation of need c) Explanation of ownership status (Tribe) d) Title evidence e) Documentation for NEPA – Tribe furnish documentation f) Documentation for NEPA - Tiering	Tribal application to take on-reservation land into trust	350	1	100	35,000	$1,514,100
151.9 151.11 151.13	Applicants must submit: a) Copy of authority b) Explanation of need	Tribal application to take off-reservation land	100	1	150	15,000	$648,900

	c) Description of proposed use d) Description of location of land e) Description of effect on State & political subdivisions f) Description of jurisdictional issues g) Title evidence h) Documentation for NEPA – Tribe provides documentation	into trust					
151.10	Applicants must submit: a) Copy of authority b) Explanation of need c) Explanation of ownership status (Individual) d) Title evidence e) Documentation for NEPA – individual furnish documentation f) Documentation for NEPA - Tiering	Individual application to take on-reservation land into trust	50	1	100	5,000	$216,300
Totals			**500**			**55,000**	**$2,379,300**

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.

Each application takes 80 hours for the BIA to process. A GS-12, Step-1 processes the applications at a rate of $60.85 per hour. An additional $1,000 per application covers overhead expenses, e.g., paperwork, travel, surveys and appraisals. Since the BIA receives 500 applications per year, the total cost to the federal government for the information collection is **$2,935,710**. This does not include any funding appropriation by Congress for new land purchases.

- We used **$60.85** per hour ($38.03 x 1.6) for GS-12.
- We used **$85.50** per hour ($53.44 x 1.6) for GS-14.

See, 2023 General Schedule at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/RUS_h.pdf and a multiplier of 1.6 for benefits.

Program	Grade, Step	Loaded Rate	Total Annual Responses	Completion Time per Response (Hours)	Total Annual Burden Hours	Value of Annual Burden Hours
Information Collection Clearance						
DOI staff	GS-14, Step 1	$85.50	N/A	N/A	20	$1,710
BIA Staff						
OTS	GS-12, Step 1	$60.85	500	80	40,000	$2,434,000
Overhead	$1,000	N/A	500	N/A	N/A	$500,000
TOTAL						**$2,935,710**

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

Updates were made to the Bureau of Labor Statistics (BLS) and Office of Personnel Management (OPM) compensation data contained in Sections 12 and 14.

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.

There are no forms used for this information collection. BIA is not seeking an exception.

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

There are no exceptions.