

SUPPORTING STATEMENT

OMB FORM 1035-0005 TRIBAL TRUST EVALUATIONS FOR P.L. 93-639 COMPACT TRIBES

Terms of Clearance: ICR Reference No: 202106-1035-001 (02/25/2022). “When this collection is submitted for renewal, the Agency will include the statement that is read over the phone to respondents prior to the survey beginning that makes the burden estimate for the survey clear as part of the package in supplementary information.”

Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection:

As codified in 25 U.S.C. 4001 *et seq.*, the American Indian Trust Fund Management Reform Act of 1994 (the Reform Act), makes provisions for the Bureau of Trust Funds Administration (BTFA) (formerly known as the Office of the Special Trustee for American Indians (OST)) to administer trust funds accounts for individuals and Tribes. This collection of information is required to fulfill the mission of BTFA and the Secretary of the Interior’s responsibility for evaluating all P.L. 93-638 Compact Tribes administering and managing trust programs, functions, services, and/or activities on behalf of the Secretary of the Interior. While this collection is made up of 19 individual questionnaires, collections of information from most of the affected Tribes is less than 10 questionnaires and the information is readily available and would take no more than 40 minutes per questionnaire to complete.

This responsibility is federally mandated pursuant to 25 U.S.C. 458cc(d) and 25 CFR 1000.350. The BTFA Division of Trust Evaluation and Review (DTER) (formerly known as the Office of Trust Review and Audit (OTRA)) is responsible for performing trust examinations, evaluations and assessments of Indian trust programs and functions, pursuant to executive direction by the Secretary of the Interior. In addition, DTER has a congressional mandate to conduct Annual Tribal Trust Evaluations for Tribes that administer or manage trust programs, functions, services, and/or activities under P.L. 93-638 Self-Governance Compacts on behalf of the Secretary of the Interior. Trust programs, functions, and services generally consist of: Acquisition Disposal (A&D); Agricultural Appraisals; Beneficiary Process Program; Business Leasing; Forestry; Grazing; Land Title & Records; Oil & Gas; Probate; Residential Leases; Rights-of-way; Sand & Gravel; Supervised Accounts; Trust Management; and Wildland fire. These evaluations are conducted by performing desk reviews (via e-mail questionnaires) and/or teleconferences, as well as on-site visits.

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.

This information is used to support the completion of Tribal Trust Evaluations for Tribes that

administer or manage trust programs, functions, services, and/or activities as prescribed under P.L. 83-638 Self Governance Compacts on behalf of the Secretary of the Interior and in support of their responsibility for evaluating all P.L. 93-638 Compact Tribes administering and managing trust programs, functions, services, and/or activities. DTER conducts these tribal trust evaluations to support that responsibility. The collection of this data is through administering trust program questionnaires, collecting copies of source documentation, and accessing trust systems for downloading trust transaction reports. All questions are justified for the purposes of examining compliance with federal laws, Indian fiduciary trust standards, and ensuring that internal controls are established by Tribes and agencies to ensure the Secretary's trust responsibilities to Indians and Tribes in the management of trust programs is fulfilled. (See attached questionnaires).

Currently DTER conducts onsite-visits or remote desktop reviews (via-email) administering the attached trust program questionnaires at the agency and Tribal locations. Tribal evaluations are conducted annually for all Tribes that have a Compact Agreement with the federal government to perform trust functions and/or programs. BTFA collects data on tribal and agency trust program data, trust transaction data and trust source documentation.

The data is used to perform and complete the tribal trust evaluations to assess compliance with fiduciary trust standards and federal laws. Once the evaluations and trust examinations are completed, the results are reported in draft report sent to the auditee. The auditee has the opportunity to comment and provide corrective action responses. Once the responses are received from the auditee back to DTER, DTER incorporates the comments and corrective actions into a final report which is officially released to BTFA and copies are provided to the auditee and other interested parties.

Statement read prior to the Evaluation – The following statement is read over the phone to respondents, during the entrance conference.

“This entrance conference will summarize the evaluation process and answer any questions related to the process you may have. The questionnaires required to complete for each of your trust programs may take up to 3 hours. We are aware that depending on the accessibility of documents, clarification requests to DTER, staff availability, and tribal approvals, the total time could take up to 2 hours for reporting and 1 hour for record keeping.”

Table 2.1 (See Attached Excel Spreadsheet uploaded to ROCIS) – Table 2.1 itemizes the questions asked for each questionnaire and provides details on why the information is needed.

NOTE: *Additional follow-up questions may need to be asked (directly related to questions outlined in the spreadsheet) by the auditors to clarify the responses provided to them. The auditor will not know in advance which specific follow-up/clarifying questions need to be asked, but they will be related to the topic questions outlined in the spreadsheet.*

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collection is submitted for renewal, the Agency will include the statement that is read over the phone to respondents prior to the evaluation to that make the burden estimate for the evaluation clear as part of the package in supplementary information.”

Agency Response: Phone statement added above, within Section 2 of this Supporting Statement A.

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.

DTER conducts remote desktop reviews (via-email) administering the attached trust program questionnaires at the Tribal locations. DTER accepts email responses to the questionnaires and also will conduct meetings using teleconference or the Microsoft Teams application if necessary. When the relevant mandates and restrictions are modified or lifted, DTER will also conduct on-site visits where it is deemed necessary, which is part of their normal operational processes.

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.

BTFA/DTER has a unique mission and is the only federal government entity charged with the responsibility to administer and manage trust programs, functions, services, and/or activities for the P.L. 93-638 Compact Tribes. BTFA/DTER has been collecting this information for the past 15 years and there is no other bureau/office/agency that collects, evaluates, or reports on Tribal/agency data on trust program performance.

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

This collection does not impact small business or other small entities. The information is specific to the one hundred and twenty-six (126) P.L. 93-638 Compact Tribes which are all sovereign nations. The information collected is the minimal information required to fully audit, review and evaluate the Tribes’ trust program performance.

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.

Under 25 C.F.R, §1000.355. BTFA is required to conduct annual trust evaluations on compacted tribes performing or managing Indian trust programs. BTFA is also bound by law and by Executive Direction to ensure Indian trust policies and procedures are consistently implemented department-wide. *See also* 25 U.S.C 4041. There may be legal consequences to federal program

or policy if this collection is not conducted.

- 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 us 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.

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 November 6, 2024, we published in the Federal Register (89 FR 88057) a notice of our intent to request that OMB approve this information collection. We did not receive any comments in response.

In addition to the Federal Register notice, we consulted with the nine (9) tribes. No additional comments were received.

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

However, under 25 U.S.C. 5363(g) (“Payment”), the Tribes do receive funding from the Secretary of the Interior as part of the terms for carrying out the trust program agreements. Furthermore, under 25 U.S.C. 53633(g)(3), the Secretary shall provide funds to the Tribe under an agreement under this subchapter for programs, services, functions, and activities, or portions thereof, in an amount equal to the amount that the Tribe would have been eligible to receive under contracts or grants under this chapter, including amounts for direct program and contract support costs and, in addition, any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the Tribe or its members, without regard to the organizational level within the Department where such functions are carried out.

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

We maintain the information in a secure System of Records: Interior/OS-02, Individual Indian Money (IIM) Trust Funds, published August 23, 2019 at 84 FR 44321.

On August 31, 2020, Secretary’s Order 3384 directed the realignment of the OST within the Office of the Secretary (OS) into the new Bureau of Trust Funds Administration (BTFA) under the Assistant Secretary—Indian Affairs, effective October 1, 2020. BTFA assumed the responsibility for INTERIOR/OS-02, Individual Indian Money (IIM) Trust Funds system of records notice (SORN). BTFA will publish a separate revised notice for the INTERIOR/OS-02 in the Federal Register; and provide a non-substantive change to the information collection with the updated SORN.

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 sensitive questions.

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 **1,024 annual responses** (64 respondents x 16 questionnaires) as we progress through the audit cycle. The decrease from 80 respondents to 64 respondents was made based on historical knowledge over the last renewal period. Not all 16 questionnaires are administered to each Tribe. Only those questionnaires that are applicable to the trust functions or programs the Tribe manages will require a response.

We estimate the annual burden hours to be **3,072 annual burden hours** (2,048 hours for reporting and 1,024 hours for recordkeeping). It takes up to 2 hours to respond to each program questionnaire (64 respondents X 2 hrs. x 16 questionnaires = 2,048 hours). We estimate recordkeeping burden to be 1 hour for each questionnaire (64 respondents X 1 hr. x 16 questionnaires = 1,024 hours). We based our estimates on the number of average annual DTER engagements for Tribes and actual time data compiled by experienced DTER auditors currently administering the questionnaires.

We estimate the total dollar value of the annual burden hours for this collection to be **\$188,528**. We used Table 3 of the Bureau of Labor Statistics news release [USDL-24-1863](https://www.bls.gov/news.release/usdl-24-1863), September 10, 2024, Employer Costs for Employee Compensation June 2024, Table 3, which lists the hourly rate as \$61.37, including benefits. See <https://www.bls.gov/news.release/pdf/ecec.pdf>.

Table 12.1 – Tribal Respondents ONLY

Requirement	Annual Number of Respondents	Total Annual Responses	Completion Time per Response (Hours)	Total Annual Burden Hours*	Hourly Labor Costs (Incl. Benefits)	Total Dollar Value of Burden Hours
Acquisition and Disposals (A&D) Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928
Agriculture Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928
Appraisals Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928

Beneficiary Process Program (BPP) Evaluation Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928
Business Leases Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928
Forestry Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928
Grazing Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928
Land Title and Records Office Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928
Oil & Gas Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928
Probate Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928
Residential Leases Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928
Rights-of-Way Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928
Sand & Gravel Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928
Supervised Accounts Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928
Trust Management Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928
Wildland Fire Questionnaire						
Reporting	64	1	2	128	\$61.37	\$7,855
Recordkeeping			1	64	\$61.37	\$3,928
Total	1,024			3,072		\$188,528

13. Provide an estimate of the total annual non-hour cost burden to respondents or record keepers 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 are no non-hour burden costs associated with the collection of this data. The respondents do not have to purchase equipment to respond to this collection that they wouldn't normally already been required to have in the normal course of conducting government or tribal government business.

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 the projected annualized cost to the Federal Government for this collection of information to be **\$1,568,037**.

Table 14.1 shows the breakdown of these costs. We used the Office of Personnel Management's Salary Table as an average wage rate for employees "Rest of United States" locality, see https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2024/RUS_h.pdf. To calculate benefits, we multiplied the hourly rate by 1.6. The time required for Federal Government employees to process and analyze the information contained in the notification will vary, but we estimate it will take an average of 1 hour per response.

Table 14.1 – Projected Annual Labor Costs

Position/Grade	Hourly Rate	Fully Burdened Hourly Rate (x 1.6)	Projected Hours on Collection	Estimated Annualized Costs
Director (GS-15/05)	\$78.05	\$124.88	1,040	\$129,875

Supervisory Auditor (GS-14/05)	\$66.36	\$106.18	2,064	\$219,156
Supervisory Auditor (GS-14/05)	\$66.36	\$106.18	1,000	\$106,180
Auditor (GS-13/05)	\$56.16	\$89.86	2,064	\$185,471
Auditor (GS-13/05)	\$56.16	\$89.86	2,064	\$185,471
Auditor (GS-13/05)	\$56.16	\$89.86	2,064	\$185,471
Auditor (GS-13/05)	\$56.16	\$89.86	2,064	\$185,471
Auditor (GS-13/05)	\$56.16	\$89.86	2,064	\$185,471
Auditor (GS-13/05)	\$56.16	\$89.86	2,064	\$185,471
Subtotal – Labor Costs:			16,488	\$1,568,037

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.

Reports and results are distributed, via e-mail, to Tribal officials, government officials, and Tribal and government employees for purposes of addressing the results of the report for improvements in Indian trust operations. By statute, these evaluations are ongoing and conducted annually and bi-annually based on risk and the results of our last review. Each evaluation can take 2-3 months to complete depending on its complexity and number of findings.

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.

The OMB control number and expiration date will be published with this information collection.

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

No exceptions identified.