

1 Supporting Statement A

Tribal Self-Governance Program, 25 CFR 1000

OMB Control Number 1076-0143

ICR Reference No. 202410-1076-001: associated with Final Rule, RIN 1076-AF62, published December 11, 2024 at 89 FR 100228.

Terms of Clearance: *ICR Reference No: 202405-1076-004.* In accordance with 5 CFR 1320, OMB is filing comment and withholding approval at this time. The agency shall examine public comment in response to the proposed rulemaking and 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.

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.**

On October 21, 2020, the Practical Reforms and Other Goals to Reinforce the Effectiveness of Self Governance and Self Determination for Indian Tribes (PROGRESS) Act was signed into law. The PROGRESS Act amends subchapter 1 of the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. 5301 *et seq.*, which addresses Indian Self-Determination, and subchapter IV of the ISDEAA, which addresses Indian Self-Determination, and subchapter IV of the ISDEAA, which addresses the Department of the Interior's (Department or DOI) Tribal Self-Governance program. The PROGRESS Act called for a negotiated rulemaking committee (Committee) to be established. The Secretary charged the Committee with developing proposed regulations for the Secretary's implementation of the PROGRESS Act's provisions regarding DOI's Self-Governance Program (OSG).

Tribes interested in entering into Self-Governance must submit certain information required by 25 U.S.C. 5361-5368 to support their participation into Tribal Self-Governance and the selection process and eligibility criteria that the Secretary uses to decide that a Tribe/Consortium may participate. In addition, those Tribes and Tribal Consortia that have entered into Self-Governance compacts may be requested to submit certain information to justify budget requests on their behalf and to comport with Section 405 of the Act that calls for the Secretary to submit an annual report to the Congress.

- 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.**

OSG uses information provided by Tribes for a variety of purposes. The primary purpose is to ensure that qualified Tribal entities are eligible to participate in Self-Governance consistent with the requirements of the Act. In addition, OSG uses the information to determine whether the Tribes meet basic eligibility requirements (i.e., Tribal resolution indicating that the Tribe wants to plan for Self-Governance and proof that the last three years of audits do not have any uncorrected significant and material audit exceptions). The subparts summarized below contain information collection requirements:

Requested Revision to Information Collection 1076-0143

OSG is submitting this request to revise the information collection requirements and to reflect the Final Rule, RIN 1076-AF62, Part 1000 section numbers and subparts.

Subpart B – Selection of Additional Tribes for Participation in Tribal Self-Governance: contains provisions relating to the contents of the initial Tribal proposal to participate in Tribal Self-Governance as authorized by the Act. The proposal for participation in Tribal Self-Governance must contain the items described in 25 CFR 1000.125. At the option of the Tribe, a Tribe may identify BIA and non-BIA programs that the Tribe may wish to subsequently negotiate for inclusion in a funding agreement described in 25 CFR 1000.130.

Tribes seeking to participate in Self-Governance must also prepare and submit information as part of the planning phase, consisting of the contents as described in 25 CFR 1000.140 and 1000.145. Information request includes: name and address; authorizing resolution; date of submission of request; and three years of audit information showing no uncorrected significant and material audit exceptions. The DOI uses the information to determine eligibility of the Tribe, to protect the service population and to safeguard Federal funds and other resources. The information is collected at the time the Tribe or Tribal Consortium makes an initial request to participate in the Self-Governance program.

If a Tribe withdraw from a Consortium and be selected to participate in the Tribal Self-

Governance program, the Tribe must submit the information in 25 CFR 1000.135 (in addition to fulfilling the Tribal proposal information requirements).

When a Tribe wishes to withdraw from a Consortium's FA, it must submit the information set out in 25 CFR 1000.205. These requirements basically consist of the Tribe submitting a Tribal resolution documenting the Tribe's request. The Department uses these documents to ensure that the request is an official Tribal action, rather than an action by one member of the Tribe purporting to act on behalf of the Tribe.

Subpart C – Planning and Negotiation Grants: contains the information required to be submitted when Tribe/Consortium wish to apply for negotiation and planning grants for BIA programs as authorized by the Act. Section 1000.310 allow Tribes/Consortiums to receive funding to help cover the costs of preparing for and negotiating a compact and funding agreement, and to cover the costs of preparing the planning phase for Self-Governance. The information required for a negotiation grant, a Tribe/Consortium must first be selected to join self-governance and then submit a letter affirming the Tribe's readiness to negotiate and requesting a negotiation grant. This subpart also indicates that a Tribe/Consortium may elect to negotiate for self-governance agreement if selected without applying for or receiving a negotiation grant. It expected that a peer review group of tribes will now be used to review and rank the applications for planning and negotiation grants with recommendations to DOI on grant approval.

Planning grants will be awarded to Tribe/Consortium requesting financial assistance in order to complete the planning phase requirements for joining self-governance.

Subpart D – Planning and Negotiation Grants for Non-BIA Programs: contains information requirements and criteria applicable to receiving financial assistance for planning and negotiating non-BIA programs available to any Tribe/Consortium that: 1) applied to participate in self-governance, 2) has been selected to participate in self-governance, or 3) has negotiated and entered into an existing funding agreement. The information required, as described in 25 CFR 1000.430, includes a written notification of intent, a description of the planning and negotiation activities, a timetable for the activities, and the amount of funding requested. This is the minimum information necessary to ensure that each Tribe/Consortium can be considered for the grants they need to plan and negotiate the assumption of non-BIA programs.

Subpart E – Compacts: in the previous version of Title IV included no such requirement and compacts were negotiated and executed at the option of the participating Tribe/Consortium. This subpart describes self-governance compacts and the minimum content requirements of a self-governance compact. Unlike a funding agreement, parts of a compact apply to all bureaus within the DOI rather than a single bureau. Therefore, a Tribe/Consortium needs only to negotiate and execute one self-governance compact to participate in self-governance, as described in 25 CFR 1000.505.

New IC

Subpart F – Funding Agreements for BIA Programs: In this subpart describes the components of a funding agreement for BIA programs. A funding agreement is a

legally binding and mutually enforceable written agreement between a Tribe/Consortium and the Secretary. Funding agreements must include at a minimum, but are not limited to, specifying the programs transferred to the Tribe/Consortium, providing for the Secretary to monitor the performance of trust functions administered by the Tribe/Consortium, providing the funding amount(s), providing a stable base budget, and specifying the funding agreement's effective date as described in 25 CFR 1000.650.

Parties to a funding agreement can mutually agree to include additional provisions and/or include and incorporate by reference additional documents such as funding tables or construction project agreements. Additionally, Tribes/Consortiums may elect to negotiate a funding agreement with a term that exceeds one year, subject to the availability of appropriations, as described in 25 CFR 1000.665.

The subpart states that a Tribe/Consortium may include BIA-administered programs in its funding agreement regardless of the BIA agency or office performing the program. The Secretary must provide to the Tribe/Consortium:

- (a) Funds equal to what the Tribe/Consortium would have received under contracts and grants under Title I of Pub. L. 93-638 (25 U.S.C. § 5321, et seq.);
- (b) Any funds specifically or functionally related to providing services to the Tribe/Consortium by the Secretary; and
- (c) Any funds that are otherwise available to Indian tribes for which appropriations are made to other agencies other than the DOI.

Funds transferred to a Tribe/Consortium is described in 25 CFR 1000.670.

New IC

Subpart G – Funding Agreements for non-BIA: This subpart describes program eligibility, funding for, and terms and conditions relating to Self-Governance funding agreements covering non-BIA programs that can help further Secretarial co-stewardship objectives as set forth in Joint Secretarial Order No. 3403. In 25 CFR 1000.875 describes negotiating a funding agreement to more than one Tribe/Consortium for a program of special geographic, historical, or cultural significance. And 25 CFR 1000.900 describes negotiating terms to be included in a funding agreement for non-BIA programs.

Subpart H – Negotiation Process: establishes the process and timelines for newly selected or participating Tribes/Consortium wishing to negotiate either an initial or a successor FA. The information provided is used to determine the interest and scope of programs a Tribe/Consortium may wish to include in an FA. Under this subpart, the negotiation process consists of two phases, an information phase, and a negotiation phase. In the information phase, Specifically, 25 CFR 1000.1020 requires any Tribe/Consortium that has been selected to participate in the self-governance program

may submit a written request clearly identified as a “Request to Initiate the Information Phase,” which notifies the Secretary of a Tribe/Consortium’s interest in negotiating for a program(s) and requesting information about the program(s) to a joint email address that includes the Director of OSG, other bureaus and legal Department staff. In 25 CFR 1000.1025, specifies that the letter shall include information regarding points of contact, programs of interest, an explanation of the special geographic, historical, or cultural significance the program has to the Tribe/Consortium, a request for information on available funding, and a request for technical assistance, if needed.

The negotiation phase establishes detailed timelines and procedures for conducting negotiations with Tribes that have been selected into the self-governance program, including the minimum issues that must be addressed at negotiation meetings.

In 25 CFR 1000.1040 requires that the Tribe/Consortium initiates this phase by submitting a Request to Initiate the Negotiation Phase for a funding agreement to a joint email address that includes the Director of OSG, other bureaus and legal Department staff. to create and maintain these records.

Further, this subpart establishes the process for finalizing and executing a compact and/or funding agreement when the parties are in agreement on such terms and conditions following the completion of negotiations. In 25 CFR 1000.1085, requests that the Tribe/consortium inform the DOI when it anticipates a significant change in an existing program in a successor funding agreement.

Subpart I – Final Offer: explains the final offer process provided by the Act for resolving disputes when the Secretary and a Tribe/Consortium are unable to agree, in whole or in part, on the terms of a compact or funding agreement (including funding levels) during a negotiation. Under this subpart, a Tribe/Consortium may submit a final offer to resolve these disputes. In 25 CFR 1000.1110, a final offer must be emailed to a joint email address that includes the Director of OSG, other bureaus and legal Department staff or mailed to the Director at OSG’s headquarters. In 25 CFR 1000.1115, a final offer must contain a description of the disagreement, the Tribe/Consortium final proposal to resolve the disagreement (including any proposed terms for a compact, funding agreement, or amendment), and the name and contact information for the Tribe’s/Consortium’s authorized official.

Subpart J – Waiver of Regulations: implements 25 U.S.C. 5363(i)(2)(A) that authorizes the Secretary to waive all DOI regulations governing programs included in a funding agreement, as identified by the Tribe/Consortium. This provides the Secretary the flexibility to make exceptions in the regulations promulgated to implement the Act or to waive such regulations under certain circumstances and explains how Tribes/Consortium apply for waiver requests as authorized by the Act to a joint email address that includes the Director of OSG, other bureaus and legal Department staff. The information is collected and reported when a Tribe submits a waiver request to the appropriate authority under 25 CFR 1000.1215.

Subpart K – Construction: addresses the process by which a Tribe/Consortium may

provide construction activities, or portions thereof, under an FA and sets forth minimum requirements for those activities as authorized by the Act. 25 CFR 1000.1355 requires the Tribe/Consortium to submit descriptions of standards when proposing to include a construction project in an FA. These standards include use of licensed and qualified architects and engineers; applicable health and safety standards; adherence to applicable Federal, State, local or Tribal building codes and engineering standards; accountability of funds; date of the commencement of work; necessary inspection and testing; and a process for changes when warranted. The parties that would have to submit information under these proposed regulations are Tribal governments or Tribal organizations authorized by Tribal governments. The DOI needs and uses the information to determine the appropriateness of including a specific construction project in the FA, to evaluate applicant capabilities, to protect the population's health and safety, and to safeguard Federal funds and other resources. Information is collected during negotiations and will be included in the funding agreement as a construction addendum to the funding agreement.

Under 25 CFR 1000.1470, the Tribe must provide notice of any proposed changes to the project, so that the Secretary knows if additional funding or time is necessary. Under 25 CFR 1000.1475 also provides that the Secretary may require progress reports and status reports to allow the Secretary to ensure proper use of funds (which references back to 25 CFR 1000.1355 requirements).

New IC

Subpart L – Federal Tort Claims: This subpart explains the applicability of the Federal Tort Claims Act. In 25 CFR 1000.1635 describes how Tribe/Consortium cooperates with the government in connection with a tort claim.

Subpart M – Reassumption: Reassumption is the Federally-initiated action of reassuming control of federal programs formerly performed by a Tribe/Consortium. This subpart explains the types of reassumption authorized under Title IV, as amended by the PROGRESS Act as described in 25 CFR 1000.1730, including the rights of a Consortium member. The types of circumstances necessitating reassumption as described in 25 CFR 1000.1755, and Secretarial responsibilities including prior notice requirements and other procedures.

Subpart N – Retrocession: is the Tribally initiated voluntary action of returning control of certain programs to a bureau. In 25 CFR 1000.1815, the Tribe/Consortium must prepare and submit a written notice of the retrocession to the appropriate bureau.

New IC

Subpart O – Trust Evaluation: establishes a procedural framework for the Secretary's annual trust evaluation mandated by the Act. The purpose of the Secretary's annual trust evaluation is to ensure that trust functions assumed by Tribes/Consortia are performed in a manner that does not place trust assets in imminent jeopardy as described in 25 CFR 1000.1930. This subpart requires the Secretary's designated representative to prepare a written report for each funding agreement under

which trust functions are performed by a Tribe as described in 25 CFR 1000.1970. The name of Subpart O has been changed from Trust Evaluation Review to Trust Evaluation. It was redundant to have both evaluation and review in the title.

Subpart P – Reports: contains the requirements for Tribes/Consortium to submit annual reports on Self-Governance as required by the Act. In 25 CFR 1000.2020, includes the requirements for the annual report that Tribe/Consortium submit to the Secretary, which includes a list of Tribal need, the Tribe’s year-end Tribal budget for programs and services funded under the FA, identification of any program redesign or reallocation of trust related programs. In Section 1000.2025 and 1000.2030, are other data requirements the Secretary may request of the Tribe/Consortium, which include data for the Secretary to determine allocation of funds to be awarded under a FA, and the Single Audit Act reports. The DOI needs and uses the information to meet its Congressional reporting responsibility. OSG uses a form to collect this information.

New IC

Subpart Q – Operational Provisions: incorporates proposed changes to address many facets of self-governance not covered in the other subparts. Issues covered include the applicability of various laws such as the Freedom of Information Act (FOIA), the Privacy Act, the Prompt Payment Act, and the Single Agency Audit Act, applicable provisions of OMB circulars, how funds are handled in various situations, including carryover of funds, savings from programs, and the use of funds to meet matching or cost participant requirements under other laws. In 25 CFR 1000.2120 describes what audit requirements must a Tribe/Consortium follow.

The current rule at 25 CFR Part 1000 includes “Subpart Q–Miscellaneous Provisions”. The Committee proposes to amend the title of the subpart to “Operational Provisions” to be more descriptive and instructive to the reader and to bring consistency with regulations promulgated at 42 CFR Subchapter M Part 137-Tribal Self-Governance under the Indian Health Service as authorized by Title V of the Act, as amended.

New IC

Subpart R – Appeals: describes the process Tribes/Consortia may use to resolve disputes with the DOI arising before or after execution of a funding agreement or compact and certain other disputes related to self-governance. In 25 CFR 1000.2335 describes how a Tribe/Consortium appeal decision is made after a funding agreement/compact is signed. In 25 CFR 1000.2340 described what statutes and regulations govern resolution of disputes of a signed funding agreement. And 25 CFR 1000.2351 describes a Tribe/Consortium appeal a decision before a signed funding agreement.

New IC

Subpart T – Tribal Consultation Process describes the process for engaging in consultations related to self-governance with Tribes/Consortia. The current rule at 25 CFR Part 1000 includes “Subpart I–Public Consultation Process. The Committee proposes to move and rename the subpart to reflect that the subpart applies to Tribal

consultation, and to conform to more recent Federal and Department policy on Tribal consultation. Under this subpart, consultations related to self-governance commenced after this rule's effective date will comply with the Tribal consultation process outlined in the revised version of this subpart, and such previous regulations governing public consultation shall be superseded. This subpart also establishes guiding principles applicable to Tribal consultation related to self-governance as described in 25 CFR 1000.2610. Additionally, this subpart requires the Secretary to provide notice of upcoming consultations to Tribes and Consortia described in 25 CFR 1000.2615, allow written comments, and develop a record reflecting a Tribal consultation as described in 25 CFR 1000.2625.

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.

Tribes/Consortium may submit information electronically using e-mail.

Subpart H – in 25 CFR 1000.1020, Tribe/Consortium initiates the information phase by sending to the Secretary a written request clearly identified as a "Request to Initiate the Information Phase". This request notifies the Secretary of the Tribe's/Consortium's interest in negotiating for a program(s) and request for information about the program(s). This request must be sent in electronic form (PDF), which is the preferred method, to SGINFORMATION-REQUEST@bia.gov.

Subpart H – in 25 CFR 1000.1040, A Tribe/Consortium initiates the negotiation phase by sending to the Secretary a written request clearly identified as a Request to Initiate the Negotiation Phase. This request notifies the Secretary of the Tribe's/Consortium's interest in negotiating for a program(s). This request must be sent in electronic form (PDF), which is the preferred method, to SGNEGOTIATION-REQUEST@bia.gov.

Subpart I – in 25 CFR 1000.1110, a Tribe/Consortium must submit its written final offer for a compact or funding agreement, or amendment in electronic form (PDF), which is the preferred method, to SGFINAL-OFFER@bia.gov.

Subpart J – in 25 CFR 1000.1215, a Tribe/Consortium must submit its written waiver request for any DOI compact, funding agreement, or amendment thereof, in electronic form (PDF), which is the preferred method, by email to SGWAIVER-REQUEST@bia.gov.

OSG has also considered collection of information by automated methods (such as a database applicants and participants could access and enter data into). Automated methods for the reports may be practical, however, the development and implementation of an electronic system would need to be deemed a priority and funded by the Department.

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.

The intended effect of the PROGRESS Act is to transfer to participating Tribes, control of, funding for, and decision making concerning certain Federal programs for the Department of the Interior. Separately, self-governance at the Department of Health and Human Services (HHS) is authorized by Title V of the ISDEAA, and the Department of Transportation (DOT) is authorized by 23 U.S.C. 207.

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

Although Tribes are not considered small businesses, to the extent allowable by the regulations, the BIA has attempted to reduce the burden on small entities.

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.

Without this information collection, Tribes/Consortium could not participate in Tribal Self-Governance and would be severely restricted in funding decisions for their programs. Information collection occurs at the time requests to participate are made. Information collection activities associated with the FAs (25 CFR 1000.1025 and 1000.1040) are conducted annually, in accordance with the applicable statute, to receive DOI appropriations. Tribal information used in the Secretary's annual report to Congress (25 CFR 1000.2020) is provided on an annual basis as required by law. The remaining information is collected on occasion. The frequency of collection therefore cannot be reduced.

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.

As discussed in the previous section, some of the information is statutorily required to be collected and reported annually, and the rest is collected on occasion. No collection of information under this part is inconsistent with the guidelines at 5 CFR 1320.5(d)(2) as summarized in the instructions for this item of the supporting statement.

- 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.

Committee Feedback

OSG communicates with the Self-Governance Advisory Committee (SGAC) on a regular basis. SGAC represents all self-governance Tribes. SGAC has been included in the Tribal negotiations of the changes to the rule and has been posting information for Tribal Nations to be aware of the PROGRESS Act regulations. At the next annual conference scheduled in April 2025, OSG will continue to reach out to the SGAC to obtain the views of self-governance Tribes on the availability of data, the frequency in which this collection is collected, the clarity of the instructions, and concurrence with the burden hours to collect this information.

Final Rule, RIN 1076-AF62

A request for public comments was published December 11, 2024, at 89 FR 100228, in final rule 1076-AF62, for submission to OIRA via <https://www.reginfo.gov/public/do/PRAMain>.

Proposed Rule, RIN 1076-AF62

DOI reached out to Tribal leaders and Tribal representatives at each of the three in-person consultation sessions and one virtual session held on: July 15, 2024 (Seattle, WA), July 17, 2024

(Minneapolis, MN), July 19, 2024 (Phoenix, AZ), and July 22, 2024 (virtual session). DOI received related comments, summarized below.

Docket BIA-2024-0001: available at <https://www.regulations.gov/document/BIA-2021-0001-0016>.

SUMMARIZED COMMENTS

Comment: recommend attestation to streamline negotiation of compacts and funding agreements.

Several Tribal comments objected to Subpart E (1000.510(e) and 1000.515), and recommended those provisions be deleted. These comments consider detailed compliance provisions in a compact or funding agreement to be overburdensome, unnecessary, excessive, unproductive to the good-faith negotiation process, would cause delays, and would potentially lead to dispute resolution or litigation. Instead, the Tribal comments recommended that compacts or funding agreements contain an attestation affirming compliance in accordance with the requirements of the PROGRESS Act. The Tribal comments recommended such attestation to streamline negotiation and administrative processes and to comply with the PROGRESS Act's rules of construction and liberal interpretation, and with the Paperwork Reduction Act.

Agency Response: the Department believes that these Subpart E provisions are needed as evidence of, or to monitor, compliance with regulatory standards; and the information is not within an exclusion category provided for in 5 CFR 1320.3(h)(1).

The Department view is that relevant provisions of the PROGRESS Act indicate certain provisions or language must be included in a funding agreement or a compact. The Department view is informed by experience when encountering a problem in the execution of a compact or funding agreement. In such situation, a primary question involves clarifying the agreed upon terms of the compact or funding agreement as to a particular outcome. Also, non-parties with an interest to the compact or funding agreement, such as auditors, inspectors, courts of jurisdiction, other federal agencies, etc., would benefit from clearly stated provisions rather than from a general attestation. The Department believes that clearly specifying terms in a compact and funding agreement best addresses the expectations and interests of both parties.

Proposed Rule, Comment submitted via www.reginfo.gov

A request for public comments was published July 15, 2024, at 89 FR 57524, in proposed rule 1076-AF62, for submission to OIRA via <https://www.reginfo.gov/public/do/PRAMain>. One (1) non-substantive comment was received.

Comment Document	Date Comment Received
PC_202405-1076-004_072324_014933_1.pdf available at https://www.regulations.gov/comment/BIA-2021-0001-0022	07/23/2024

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.

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

No assurance of confidentiality is provided. The information that is collected is subject to the requirements of 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.

No questions of a sensitive nature are asked.

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.**

Note: Proposed revisions to information collection are in red font below.

The total annual reporting and recordkeeping burden for this collection is estimated to be **11,276** hours or the amount equivalent to **\$682,875**. To obtain the hourly rate for Tribal government employees, the wages and salaries figure for all workers from Bureau of Labor Statistics Release, USDL-24-1863 – issued March 2024, Table 3, *Employer costs per hour worked: State and local government workers, December 2023*. See <http://www.bls.gov/news.release/pdf/ecec.pdf>. Table 3 lists the hourly rate for State and local government workers as \$60.56, including benefits.

Final CFR Section	IC Title	Sections of the Act	Number of Respondents	Frequency of Response	Total Annual Responses	Estimated Hours per Response	Estimated Total Annual Burden Hours	Wages & Benefits
1000.125 1000.130	Subpart B: Admission to applicant pool	402(c)	4	1	4	3	12	\$727
1000.135	Subpart B: Withdrawal from consortium to become member of applicant pool	402(c)	3	1	3	0.25	1	\$61
1000.140 1000.145	Subpart B: Planning report	402(d)	5	1	5	400	2,000	\$121,120
1000.205	Subpart B: Withdrawal from consortium FA	402(b)(2)	3	1	3	3	9	\$545

1000.310	Subpart C: Request for a negotiation grant	402(d)	7	1	7	46	322	\$19,500
1000.430	Subpart D: Financial Assistance for Planning and Negotiations	402(d)	7	1	7	4	28	\$1,696
1000.505 1000.510	Subpart E: Compacts		47	1	47	8	376	\$22,771
1000.650 1000.665 1000.670	Subpart F: Funding Agreements for BIA Programs		135	1	135	24	3,240	\$196,214
1000.875 1000.885 1000.900	Subpart G: Funding Agreements for Non-BIA Programs		10	1	10	14	140	\$8,478
1000.1020 1000.1025	Subpart H: Letter of interest and supporting documents for FA	402(b)(2) 403(c)	5	1	5	2	10	\$606
1000.1040	Subpart H: Letter of interest and supporting documents for FA	402(b)(2) 403(c)	5	1	5	3	15	\$908
1000.1085	Subpart H: Request to negotiate a FA	402(b)(2) 403(c)	1	1	1	2	2	\$121
1000.1110 1000.1115	Subpart I: Final Offer	406(c)(1)	25	1	25	5	125	\$7,570
1000.1215	Subpart J: Request for waiver	403(i)(2)	3	1	3	10	30	\$1,817
1000.13551 000.1470	Subpart K: Construction	403(e)	30	4	120	3	360	\$21,802
1000.1635	Subpart L: Federal Tort Claims		6	1	6	1	6	\$363
1000.1730 1000.1755 1000.1815	Subparts M and N: Notice to retrocede; and Reassumption	403(e)	3	1	3	3	9	\$545
1000.1930	Subpart O: Trust		15	1	15	9	135	\$8,176

1000.1970	Evaluation							
1000.1020 1000.2025 1000.2030	Subpart P: Reports	403(a)(b)	33	1	33	64	2,112	\$127,903
1000.2120	Subpart Q: Operational Provisions		141	1	141	16	2,256	\$136,623
1000.2335 1000.2340 1000.2351	Subpart R: Appeals		1	1	1	16	16	\$969
1000.2610 1000.2615 1000.2625	Subpart T: Tribal Consultation Process		3	3	9	8	72	\$4,390
TOTAL			492		588		11,276	\$682,875

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.

Note: Proposed revisions to information collection are in red font below.

The total annualized capital and start-up costs of **\$20,800** associated with this information collection activity is depicted in the table below. The main component of this cost (\$20,000) is attributed to Tribes and Tribal consortia first entering the Self-Governance Program. These Tribes and Tribal consortia may hire consultants, hold Tribal community meetings, attend self-governance conferences to learn about the differences between self-determination and self-governance, take training courses in audit, contract support and other BIA fund explanation classes, may reorganize the workload, work force and point of contact for self-governance.

CFR Section	Sections of the Act	Start Up O&M
Subpart B 1000.140 1000.145	402(d)	\$20,000
Subpart D 1000.430	402(d)	\$700
Subpart H 1000.1040	402(b)(2) 403(c)	\$100
TOTAL		\$20,800

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.

Note: Proposed revisions to information collection are in red font below.

We estimate the annual cost to the Federal Government to administer this information collection to be **\$1,725,535**.

Salary estimates were based on the General Schedule 2024, located at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/24Tables/html/DCB_h.aspx.

- *DOI Staff*: The estimated average salary for Federal government performing duties at the GS-14, Step 6 level. The salary associated with this grade and step is \$77.92/hour. This salary was further multiplied by 1.6 to cover benefits, for a total loaded rate of \$124.67/hour.
- *OSG Staff*: The estimated average salary for Federal government employees performing these duties is at the GS-13, Step 5 (\$64.06/hour) level. This salary was further multiplied by 1.6 to cover benefits, for a total loaded rate of \$102.50/hour.

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 6	\$124.67	N/A	N/A	30	\$3,740
					<i>Subtotal \$3,740</i>	
OSG Administration of Information Collection						
OSG Staff – Existing Participants	GS-13, Step 5	\$102.50	141	118	16,638	\$1,705,395
OSG Staff – New Participants	GS-13, Step 5	\$102.50	4	40	160	\$16,400
					<i>Subtotal \$1,721,795</i>	
TOTAL					16,828	\$1,725,535

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

The prior ICR was submitted on July 15, 2024, as ICR Reference 202405-1076-004; and was associated with Proposed Rule, RIN 1076-AF62.

For this ICR Reference No. 202410-1076-001, associated with Final Rule, RIN 1076-AF62, OSG made modifications to the burden estimates within six (6) ICs. In addition, OSG added seven (7) ICs to this information collection. Finally, there were nine (9) ICs within this information collection that remained unchanged.

Modified ICs

- Subpart B: Planning report
- Subpart C: Planning and Negotiation Grants
- Subpart D: Financial Assistance for Planning and Negotiations
- Subpart E: Compacts
- Subpart K: Construction
- Subparts M and N: Notice to retrocede; and Reassumption

New ICs

- Subpart F: Funding Agreements for BIA Programs
- Subpart G: Funding Agreements for Non-BIA Programs
- Subpart L: Federal Tort Claims
- Subpart O: Trust Evaluation
- Subpart Q: Operational Provisions
- Subpart R: Appeals
- Subpart T: Tribal Consultation Process

Unchanged ICs

- Subpart B: Admission to applicant pool
- Subpart B: Withdrawal from consortium FA
- Subpart B: Withdrawal from consortium to become member of applicant pool
- Subpart H: Letter of interest and supporting documents for FA
- Subpart H: Request to negotiate a FA
- Subpart H: Request to negotiate successor FA
- Subpart I: Final Offer
- Subpart J: Request for waiver
- Subpart P: Annual self-governance report

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.

Not applicable. Most information will be used internally for decision-making purposes. Tribes will also be submitting information that will be summarized in justifying budgets and in preparing the Secretary's annual report. DOI has no plans to publish the information collected.

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 displayed on all 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.