

**1 Supporting Statement for Paperwork Reduction Act Submissions
Application to Share in the Western Shoshone Funds as a Lineal
Descendant of the Western Shoshone Identifiable Group, 25 CFR 61
OMB Control Number 1076-0165**

Terms of Clearance: None.

General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, 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 in Section A below. If an item is not applicable, provide a brief explanation. When statistical methods are used, Section B “Collection of Information Employing Statistical Methods” must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.***

The Department of the Interior, Office of the Special Trustee for American Indians is holding a trust fund for the Western Shoshone Indians that needs a per capita distribution. We need to identify the individuals that are eligible to share in the per capita distribution. Many of the individuals are not enrolled with a federally recognized tribe.

The Act of July 7, 2004, Pub. L. 108-270, requires the Secretary of the Interior to prepare a Western Shoshone judgment roll and to distribute the judgment funds 100 percent per capita to the individuals listed on the roll.

A copy of the Act is attached.

- 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.***

The information will be used by the Bureau of Indian Affairs (BIA) to determine if the applicant is eligible to share in the judgment fund per capita distribution. BIA needs to document, through the use of family history charts, if the applicant has at least ¼ degree of Western Shoshone Indian

blood; if the applicant is a citizen of the United States; and if the individual was living on July 7, 2004. The information will also be used to determine if the individual is enrolled with another tribe. If the respondent should die before the date of distribution, proof of death is required so that the individual's estate can be submitted for probate. The information will be used to determine if the individual has ever received a judgment fund per capita. The information will also be used to determine if the individual was adopted and does not possess Western Shoshone blood.

The form used has 10 pages.

PAGE ONE: will be numbered and date received will be entered at top by BIA. Parts A through F collect all the personal data from the applicant: name, DOB, address, DOD if applicable, citizenship. Parts G through K collect more information about applicant: adopted, tribal membership or lineal descent from what tribal member, receipt of judgment funds previously – when, what tribe, signature and date.

PAGE TWO: 1. person who is completing application and relationship to applicant. 2. mailing address and telephone number if different than that on page 1. Applicant Certification to be filled out by all applicants or sponsors.

PAGE THREE: family history chart of applicant with BD, DOD, tribe for applicant, parents, both sets of grandparents, all sets of great-grandparents.

PAGE FOUR: family history chart of great-grandmother or great-grandfather of applicant; asks for BD, DOD, tribe back for 3 additional generations.

PAGE FIVE: Contains the Paperwork Reduction Act Statement and the Privacy Act Statement.

PAGES SIX – TEN: Instructions for Completing the Application Form and the Family History Chart and Addendum.

- 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].***

We would automate where we could, but are not currently able to do so with litigation restrictions. Eventually, BIA believes that the federal agency and individuals would be able to exchange some of the documents electronically, but that is not possible now. The information collection is limited to individuals, most of whom do not have access to the internet or home computers.

- 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 is a one-time application process involving the distribution of trust assets. Each applicant needs to sign a certification concerning the accuracy of the information provided. Currently, we do not know who wants to share in the judgment fund distribution, and we don't have the required documentation to establish an individual's eligibility to receive a share of the judgment funds held in trust.

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 businesses or other small entities since it involves individuals only.

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 this collection is not conducted, the Secretary will be in non-compliance with Pub. L. 108-270 and the Western Shoshone could sue the Secretary for breach of trust. The Secretary was successfully sued by the lineal descendants of the Sisseton and Wahpeton Mississippi Sioux. The Sisseton and Wahpeton enrollment process was monitored by the court from 1999 to 2004. The Department of the Interior will be paying a substantial amount for attorney fees and expenses.

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;***

This is a one-time collection.

- * *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;***

The respondents will have more than a year to research and prepare a written response to this collection of information.

- * *requiring respondents to submit more than an original and two copies of any document;***

The respondent is only required to submit the original application and one copy of the supporting documentation. If the respondent is submitting applications for multiple individuals in the same family, the applications can be grouped together so that documents, such as birth records for undocumented ancestors can be submitted once. BIA will make copies and return the originals.

- * **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**

This is a one-time collection with no such requirement.

- * **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;**

Not applicable. This is not a statistical survey.

- * **requiring the use of a statistical data classification that has not been reviewed and approved by OMB**

Not applicable. This data collection does not involve statistical data.

- * **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; o**

The information is of a personal nature and not available to other agencies. The information supplied is protected by the Privacy Act.

- * **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.**

The enrollment applications will be maintained in locked file cabinets and will not be available for disclosure without written permission from the applicant.

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 soliciting comments was published on Wednesday, February 27, 2008 (73 FR 10461).

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.

Previously, we held an information meeting at Elko, Nevada, on Saturday, July 31, 2004. Approximately 1,300 Western Shoshone attended the meeting. We provided them with an information package that contained a copy of Pub. L. 108-270 and a Question and Answer sheet. They were advised then that they would be notified of future meetings to discuss the proposed rule and the proposed application form. Since July 31, we have compiled a mailing list of approximately 2,000 individuals. We send copies of the proposed rule and the proposed information collection to the individuals on the mailing list. We also send them a notice of future public meetings. This is standard procedure when we revise a rule to add a section on judgment fund distribution as required by law. The final rule was published March 5, 2007.

Public meetings were held in Reno, Nevada, and Elko, Nevada, for the purpose of informing the Western Shoshone of the proposed rule and the application form that will be used for data collection.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 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 should be explained.

This is a one-time collection. Information collected will be covered under the Privacy Act. The contact person for this section will be **Sharlot Johnson**, Tribal Government Officer, Western Regional Office. Her telephone number is (602) 379-6786.

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

There will be no gifts to the respondents. Those determined eligible under the provisions of Pub. L. 108-270 will receive a judgment fund per capita payment.

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

The information provided by the respondents is personal in nature and protected by the Privacy 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.

Not applicable. No information of a sensitive nature is required that is not covered by the Privacy Act.

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.**

We anticipate 6,000 respondents to file enrollment applications during the next three-year application period for a total of 2,000 applicants annually. It is a one-time collection. The hour burden on respondents will vary widely. The applicants will be required to prepare a family history chart to document their Western Shoshone ancestry. The applicants will need to trace their ancestry using historic census rolls that were prepared between the years of 1885 and 1940. Some of the applicants will be listed on the rolls and it will be unnecessary for them to provide additional records to support their Western Shoshone ancestry. In those cases, the applicant could fill out the form in 30 to 60 minutes. Other applicants may need to trace their ancestry back six generations in order to document ¼ degree Western Shoshone blood. Also, it will take longer to gather documentation if an applicant and their ancestors were never enrolled with a federally recognized tribe. They would need to obtain documentation for several generations, such as copies of birth certificates, death certificate, probates, marriage certificates and in some instances, proof of paternity. Under such circumstances, the applicant might need 20 hours to read the instructions, gather the documentation and fill out the form.

- * If this request for approval covers more than one form, provide separate hour burden estimates for each form and then aggregate the hour burdens.**

One form is covered under this request.

- * 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. Instead, this cost should be included in Item 14.**

The estimated hour burdens vary widely from applicant to applicant. The following table contains our estimated hour burdens and cost to applicants for this one-time collection. We have received approximately 7,000 applications since the application period opened in April 2007. We expect to receive an additional 6,000 applications over a three-year period. The average number of hours to file an application is about 11 hours @ \$23.45/hour, at a cost of \$257.95 per respondent.

Information gathered for identifying the burden hourly rate was reviewed in connection with Bureau of Labor Statistics (June 2007) report on private industry rates, using sales & office and service categories. We used the average of the two hourly rates: $\frac{1}{2}(\$20.61 + 12.88) = \16.75 . We then multiplied that by 1.4 to arrive at a cost that includes salary and benefits: \$23.45. This method is based on BLS news release USDL: 07-1883 of December 11, 2007.

| Est Number of Applicants X Est hour burdens | Total hours | Total hours | Hourly Rate | Total |
|---|---------------|-------------|-------------|------------------|
| 1,000 applicants X 1 hour = | 1,000 | 1,000 X | \$23.45/hr | \$23,450 |
| 1,000 applicants X 5 hours = | 5,000 | 5,000 X | \$23.45/hr | \$117,250 |
| 2,000 applicants X 10 hours = | 20,000 | 20,000 X | \$23.45/hr | \$469,000 |
| 2,000 applicants X 20 hours = | 40,000 | 40,000 X | \$23.45/hr | \$938,000 |
| Three year total | 66,000 | | Total | \$1,547,000 |
| Annual total | 22,000 | | | \$515,900 |

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 shown in Items 12 and 14).***

**** 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]. 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.***

The costs incurred by the applicants will mostly be associated with the cost of obtaining copies of birth certificates, marriage certificates, proof of paternity, death records, and other official documents from State or local government vital statistics offices. The cost of such documents will vary from State to State. While some applicants will have to document their ancestry for several generations, others will not have to because the documents may be obtained from BIA files. The following table shows our calculations that form the basis for our estimates.

| No. of Applicants X Average Cost per Individual | | Totals |
|---|---|-----------|
| 500 applicants X \$0 | = | \$0 |
| 1,500 applicants X \$15 | = | \$22,500 |
| 2,000 applicants X \$20 | = | \$40,000 |
| 2,000 applicants X \$40 | = | \$80,000 |
| Three year total | | \$142,500 |
| Annual total | | \$47,500 |

The average cost per respondent is \$23.75.

- * ***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.***

Not Applicable.

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. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.***

We estimate the Federal government cost to be approximately \$390,489 the first year and \$310,000 in the following years until the review process is complete. The review process could take between 3 – 5 years. We used GS-5/1 and GS-7/1 salaries, multiplied by 1.5 to arrive at the cost per each. DOI has decided that we would uniformly use 1.5 as multiplier for federal salaries and benefits. This method is based on BLS news release USDL: 07-1883 of December 11, 2007. The salary table used was the Salary Table 2008-GS Incorporating the 2/50% General Schedule Increase Effective January 2008.

| Description | Cost |
|--|-----------|
| 5 researchers @ GS-5 or \$39,396.00 each | \$196,980 |
| 1 supv researcher @ GS-7 or \$48,801.00 | \$48,801 |
| Overtime | \$42,500 |
| Equipment – computers, printers, file cabinets | \$35,000 |
| Supplies | \$7,000 |
| Postage | \$5,700 |
| Travel & meetings | \$10,000 |
| Overhead | \$44,508 |
| Total | \$390,489 |

15. Explain the reasons for any program changes or adjustments.

There have been no program changes. We received fewer applications than anticipated during the initial three year approval of this collection. Consequently, we reviewed our process and estimates. We expect 2,000 applications per year instead of 5,000 and a reduction in the associated costs to the respondents. Salary costs increased only slightly as did the other costs. This adjustment resulted in fewer annual burden hours. These changes are adjustments based on experience gained during the first three years of the collection.

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.

The results of the information collection will not be published.

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.

Not seeking such approval.

18. Explain each exception to the certification statement identified in 5 CFR 1320.9 and 5CFR 1320.8 (b)(3).

Not applicable. This is a one-time collection. The respondents are provided the purpose of documenting their Western Shoshone ancestry and their eligibility in order to share in the Western Shoshone judgment fund per capita payment.