

**Supporting Statement A for Paperwork Reduction Act Submissions
Tribal Self-Governance Program, 25 CFR 1000
OMB Control Number 1076-0143**

Terms of Clearance: None

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 Office of Self-Governance (OSG) within the Department of the Interior (DOI) is submitting this information collection request to extend approval for the information collection requirements of the Tribal Self-Governance Act of 1994, Pub. L. 103-413 as amended (hereafter referred to as the Act).

Tribes interested in entering into Self-Governance must submit certain information required by Pub. L. 103-413 to support their admission into tribal Self-Governance. 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.

Regulations at 25 CFR part 1000 implement the Act. These regulations define the circumstances and establish procedures under which a tribe or tribal consortium can obtain admittance to the applicant pool and negotiate with the DOI to assume control over programs and activities where there is a special geographic, historical, or cultural significance to the tribe or consortium. The regulations were negotiated between the DOI and 11 tribal representatives through the negotiated rulemaking process. Because of the direct participation of tribal representatives in the development of the proposed joint rule for the DOI, the areas of the regulations requiring information collection have been agreed to by all parties. The Subparts summarized below contain the information collection requirements of the DOI as provided by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)).

The information requirements for this Act represent significant differences from other agencies in several respects:

1. The DOI and the tribes enter into multiple-year and annual funding agreements (FAs) for multiple programs funded by the Bureau of Indian

Affairs (BIA) (Section 403(b)(1), whereas other agencies usually make single grants to tribes;

2. The DOI may also enter into FAs for: (1) programs, services, functions, and activities (PSFAs) other than those provided for by the BIA and otherwise available to Indians; and (2) PSFAs for which there is a special geographic, historical, or cultural significance to the Self-Governance tribe [Section 403(b)(2) and Section 403(c)]. Other agencies usually make single grants to tribes based upon a set of competitive criteria which is part of the regulations.
3. For FAs containing programs funded by the BIA, the FAs are negotiated, whereas other agencies provide grants on a discretionary/competitive basis.
4. The Act only applies to the DOI. When BIA funds programs under Self-Governance, tribes are entitled to reallocate and consolidate as well as redesign PSFAs contained in their FA. Other agencies in the DOI grant funds for specific purposes with little discretion for variance. For non-BIA funded programs, the authority to redesign and consolidate programs may be negotiated into the annual funding agreement.

For the sake of simplification, the estimated burden hours and costs for the information collection and recordkeeping are contained in a table. The table includes a column for estimating the cost to the Federal government for use and maintenance of the information.

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 the tribes for a variety of purposes. The primary purpose is to ensure that qualified tribal applicants are admitted into the applicant pool 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 material audit exceptions). OSG uses the remaining information to meet the reporting requirements under Section 405 of the Act.

The subparts summarized below contain information collection requirements:

Subpart B contains provisions relating to the contents of the initial tribal proposal to enter Self-Governance as authorized by Sec. 402 of the Act (25 U.S.C. 458bb). The proposal for admission to the applicant pool must contain the items described in 25 CFR § 1000.17. All tribes seeking to participate in Self-Governance must also prepare and

submit a planning report, consisting of the contents as described in 25 CFR §§ 1000.19 through 1000.21. Information requested includes: name and address; authorizing resolution; date of submission of proposal; description of geographical service area; estimated number of Indian people to be served; brief statement of the PFSA's to be performed; description of the proposed program; financial, procurement, and property management standards; description of reports to be provided; staff qualifications, if any; budget information; and waiver information, if requested. The DOI uses the information to determine eligibility of the applicant, to protect the service population and to safeguard Federal funds and other resources. The information is collected at the time the tribe or tribal organization makes an initial application to become a Self-Governance tribe. To withdraw from an existing consortium and become a member of the applicant pool, the tribe must submit the information in 25 CFR § 1000.18 (in addition to fulfilling the tribal proposal information requirements). When a tribe wishes to withdraw from a consortium's annual funding agreement, it must submit the information set out in § 1000.32. 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 contains the information required to be submitted when Indian tribes or tribal organizations wish to apply for negotiation and planning grants for BIA programs as authorized by Sec. 402(d) of the Act (25 U.S.C. 458(b)). Sections 1000.47 and 1000.50 allow tribes/consortiums to receive funding to help cover the costs of preparing for and negotiating a compact and an FA, and to cover the costs of preparing the planning phase for Self-Governance. The information required for a negotiation grant includes a letter requesting negotiation funds and affirming the tribe's readiness to negotiate. For a planning grant, the information required includes a proposal which includes the tribe's/consortium's plans for conducting legal and budgetary research, internal organizational planning, timetables for conducting the planning phase, and a demonstration that the tribe/consortium is capable of successfully completing the proposal and the last three years of audit reports.

Subpart D contains information requirements tribes/consortiums must submit to OSG to apply for planning and negotiation grants for non-BIA programs as authorized by Sec. 402(d) of the Act (25 U.S.C. 458(b)). The information required, as described in § 1000.66, 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 assumption of non-BIA programs.

Subpart G provides the process and timelines for newly selected or participating tribes/consortia 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. Specifically, § 1000.169 requires tribes/consortia to submit a letter indicating their interest in negotiating for one or more bureau programs.

Section 1000.170 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. Section 1000.173 requires that the tribe/consortium submit a request to initiate the negotiation phase for a FA. This information allows the DOI to know what information it needs to provide to the tribe and whether or not any technical assistance is required. Section 1000.181 requests that the tribe/consortium inform the DOI when it anticipates a significant change in an existing program in a successor FA.

Subpart J 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 Indian tribes or tribal organizations apply for waiver requests as authorized by Sec. 403(i)(2) of the Act. The information is collected and reported when a tribe submits a waiver request to the appropriate authority under section 1000.222.

Subpart K addresses the process by which an Indian tribe or tribal organization may provide construction activities, or portions thereof, under an FA and sets forth minimum requirements for those activities as authorized by Sec. 403(e). Section 1000.243 requires the Indian tribe or tribal organization 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 may be included in the FA. Section 1000.243 also provides that the Secretary may require progress reports and status reports to allow the Secretary to ensure proper execution of funds. Under § 1000.248, the tribe must provide notice of any proposed changes to the project, so that the Secretary knows if additional funding or time is necessary.

Subpart N requires a tribe/consortium, which voluntarily wishes to return a program to a bureau, to prepare and submit a written notice of the retrocession to the appropriate bureau. This action, called a retrocession, is authorized by Sec. 403(b)(7) of the Act. Section 1000.333 requires that written notice be provided to ensure the transfer of a program from a tribe/consortium to the appropriate bureau.

Subpart P contains the requirements for tribes/consortia to submit annual reports on Self-Governance as required by Sec. 405 of the Act. Section 1000.382 requires respondents to submit a report which includes a list of tribal needs, 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. The DOI needs and uses the information to meet its Congressional reporting responsibility.

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/consortia may submit information electronically using e-mail; generally, approximately 40% do submit their information via e-mail.

OSG has also considered collection of information by automated methods (such as a database applicants and participants could access and enter data into). Such automated methods would not be practical for applications because the collections are non-repetitive: specifically, the requested information varies with time and is unique to each tribe or consortium. Automated methods for the reports may be practical; OSG is in discussions with tribes to have information used in the Secretary's annual report to Congress provided electronically through automated methods.

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.

OSG is the only Federal agency charged with implementation of the Act. No other offices/agencies collect the information required under the Act.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

This information is collected from tribal governments, who are not considered to be 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/consortia 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 (§§ 1000.173 and 1000.181) are conducted annually, in accordance with the applicable statute, to receive DOI appropriations. Tribal information used in the Secretary's annual report to Congress (§ 1000.382) 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 confidentiality of the information 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.

DOI published the 60-day notice soliciting comments in the Federal Register on January 9, 2009 (74 FR 917). No comments were received in response to this notice. Attached as a supplementary document is a list of the names, titles, addresses, and phone numbers of persons with whom OSG works continuously to ensure that the

information collections are no more burdensome than necessary.

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

Not applicable. No payments or gifts are provided to respondents beyond funding authorized by Pub. L. 103-413.

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

Not applicable. No confidential information is solicited.

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. There are no questions of a sensitive nature.

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 in Item 13 of OMB Form 83-I.
- * Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.

The burden hours and associated costs estimated for the Tribal Self-Governance information collection requirements are as follows:

Estimates of Tribal and Federal Burden Hours and Costs for Tribal Self-Governance

Final CFR Section	Sections of the Act	Number of Respondents	Frequency of Response	Total Annual Responses	Burden Hours per Response	Annual Burden Hours Tribal	Cost to Respondents		Annual Burden Hours Federal	Cost (\$) to Federal Gov't. (Salary & Benefits @ \$70.82/hr)
							Wages & Benefits @ \$36.08/hr	Start-up O&M		
Subpart B 1000.17	402(c)	10	1	10	3	30	\$1,082.40		10	\$708.20
1000.18	402(c)	3	1	3	.25	1*	\$ 36.08		25	\$1,770.50
1000.19 1000.20 1000.21	402(d)	10	1	10	400	4,000	\$144,320.00	\$10,000	24	\$1,699.68
1000.32	402(b)(2)	3	1	3	3	9	\$324.72		1	\$70.82
Subpart C 1000.47	402(d)	10	1	10	.50	5	\$180.40		2	\$141.64
1000.50	402(d)	10	1	10	43.25	433*	\$15,622.64		99	\$7,011.18
Subpart D 1000.66	402(d)	10	1	10	40	400	\$14,432.00	\$400	200	\$14,164.00
Subpart G 1000.169 1000.170	402(b)(2) 403(c)	10	1	10	2	20	\$721.60		200	\$14,164.00
1000.173	402(b)(2) 403(c)	10	1	10	3	30	\$1,082.40	\$100	415	\$29,390.30
1000.181	402(b)(2) 403(c)	1	1	1	3	3	\$108.24		4	\$283.28
Subpart J 1000.222	403(i)(2)	5	1	5	10	50	\$1,804.00		40	\$2,832.80
Subpart K 1000.243	403(e)	5	4	20	3	60	\$2,164.80		15	\$1,062.30
1000.248	403(e)	5	1	5	3	15	\$541.20		4	\$283.28
Subpart N 1000.333	403(e)	1	1	1	3	3	\$108.24		2	\$141.64
Subpart P 1000.382	403(a)(b)	96	1	96	64	6,144	\$221,675.52		136	\$9,631.52
Totals for New Existing Sum Total		70 119 <u>289</u>		70 <u>134</u> <u>204</u>		4,918 <u>6,285</u> <u>11,203</u>	177,441.44 <u>226,762.80</u> <u>\$404,204.24</u>	\$10,500	1,177	\$83,355*

NOTE: **Bolded rows indicate new applicants.** Unbolded rows indicate existing self-governance tribes.

*Rounded to agree with ROCIS.

The average hourly wage rate used to estimate tribal costs is based on the Bureau of Labor Statistics, News Release (USDL 08-1892), December 10, 2008, Table 3: *Employer costs per hour worked for employable compensation and costs as a percent of total compensation: State and local government workers by major occupational and industry group, September 2008.* The amount of hourly wages and salaries for all workers (\$25.77) was multiplied by a benefits factor of 1.4 to derive the estimate of total tribal hourly salary (\$36.08).

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 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.
- * Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices.

The total annualized capital and start-up costs of \$10,500 associated with this information collection activity is depicted in the table in item 12. The main component of this cost (\$10,000) is attributed to tribes and tribal consortia who are first entering the Self-Governance Program. These tribes and tribal consortia must obtain the equipment and materials necessary to assume the programs and activities for which they are entering the Self-Governance Program. Equipment includes personal computers, software and other materials. Other start-up costs may be necessary for tribes applying for grants and requesting to negotiate funding agreements. In those cases, the start-up costs are smaller because likely the tribes will already have the necessary hardware, and likely will only need additional software or other incidental materials.

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.

The table in item 12 provides the estimated Federal costs associated with each section of the existing regulations. The average hourly wage rate used to estimate Federal costs is based on the hourly basic rate for a grade 13/step 5 worker in Washington DC as indicated in the Office of Personnel Management Salary Table 2009-DCB incorporating the 2.90% general schedule increase which was effective January 2009. The average hourly wage rate (\$47.21) was multiplied by a benefits factor of 1.5 to

derive the estimate of total Federal hourly salary (\$70.82). See http://www.opm.gov/oca/09tables/pdf/dcb_h.pdf

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

There were a few adjustments made to the number of responses, burden hours, and cost burden. These adjustments resulted from a thorough review of each individual information collection and reflect more accurate individual estimates rather than aggregated total estimates.

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 data that is provided will be used internally for decisionmaking purposes. Tribes will also be submitting data 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.

Not applicable. DOI is not seeking a waiver from the requirement to display the expiration date of the OMB approval of the information collection. The OMB Control Number and expiration date will be included in the call for applications.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

Not applicable. There are no exceptions to the certification statement.