

# **1Supporting Statement A**

## **Bureau of Indian Affairs Law and Order on Indian Reservations, Marriage and Dissolution Applications 25 CFR 11**

**OMB Control Number 1076-0094**

**Terms of Clearance:** None.

### **Justification**

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

The Bureau of Indian Affairs, Department of the Interior, must collect personal information, through Courts of Indian Offenses (also known as “CFR Courts”) to carry out the requirements of 25 CFR 11.600(c) – Marriage, and 25 CFR 11.606(c) – Dissolution proceedings. 25 U.S.C. 2, 9, and 13 provide the authority to Bureau of Indian Affairs (BIA) to collect this information. Courts of Indian Offenses have been established on certain Indian reservations under the authority vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2, 9, and 13, which authorize appropriations for “Indian judges.” The courts provide for the administration of justice for Indian tribes in those areas where the tribes retain jurisdiction over Indians, exclusive of State jurisdiction, but where tribal courts have not been established to exercise that jurisdiction and the tribe has, by resolution or constitutional amendment, chosen to use the Courts of Indian Offenses. Accordingly, Courts of Indian Offenses exercise jurisdiction under 25 CFR part 11. Domestic relations are governed by 25 CFR 11.600, which authorizes the Courts of Indian Offenses to conduct and dissolve marriages.

- 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.**

The information collected is relied upon the clerk of the court and magistrate of the Courts of Indian Offenses for the issuance of a marriage licenses or a decree in a dissolution of marriage, as specified in sections 11.601 – 11.604, and in sections 11.605, 11.607, and 11.608.

Marriage Application:

Each applicant for marriage license must comply with this requirement by responding to the following six questions listed in 25 CFR 11.600 (c):

- (1) Name, sex, occupation, address, social security number, and date and place of birth for each party to the proposed marriage;
- (2) If either party was previously married, former spouse's name, and the date place, and court in which the marriage was declared dissolved, or declared invalid, or the date and place of death of the former spouse;
- (3) Name and address of the parents or guardian of each party;
- (4) Whether the parties are related to each other and, if so, their relationship, and whether blood tests were performed and if the results are attached;
- (5) The name and date of birth of any child of which both parties are parents, born before the making of the application, unless their parental rights and the parent and child relationship with respect to the child have been terminated;
- (6) A certificate of the results of any medical examination required by either applicable tribal ordinances, or the laws of the State in which the Indian country under the jurisdiction of the Court of Indian Offenses is located.

Dissolution of Marriage:

A verified petition for dissolution of marriage or legal separation must allege that the marriage is irretrievably broken. To comply with the requirement for dissolution of marriage, an applicant must respond to the following six questions found at 25 CFR 11.606(c):

- (1) The petitioner and respondent's name, address, age, occupation, and length of residence within Indian country under the jurisdiction of the court of each party;
- (2) The date of the marriage and the place at which it was registered;
- (3) That jurisdictional requirements are met and that the marriage is irretrievably broken in that either:
  - (i) the parties have lived separate and apart for a period of more than 180 days next preceding the commencement of the proceeding, or;
  - (ii) there is a serious marital discord adversely affecting the attitude of one or both of the parties toward the marriage, and there is no reasonable prospect of reconciliation;
- (4) The names, age, and addresses of all living children of the marriage and whether the wife is pregnant;
- (5) Any arrangements as to support, custody, and visitation of the children and maintenance of a spouse, and;
- (6) The relief sought.

The use of these forms are required to confirm the identity of the individuals, determine the appropriate level of spousal support, and to allow the courts to meet the requirements set forth in the regulations.

- 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.**

The information is collected physically, allowing the individual to provide the information in a simplified format. The form is not available on the internet, as tribal ordinances or local rules may require that the parties appear in person for a marriage license for verification of identity, and in cases of dissolutions, an attorney or lay advocate (if authorized) may be able to work with the client to provide the requested information.

- 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 information collected is exclusively used by the Courts of Indian Offenses where an application for marriage or request for the dissolution of marriage is filed. There is no duplication by any other Federal agency or state court because only the Courts of Indian Offenses has jurisdiction. Similar information of this nature does not exist because it is unique to a determination as to whether or not a marriage license or a decree of dissolution will be issued.

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

The collection of this information does not impact small businesses or other 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, the Courts of Indian Offenses will not be able to issue marriage licenses or render a judgment of the state of the marriage; applicants would instead have to resort to seeking a marriage license or dissolution in state court, which would require them to meet applicable state residency requirements, which may not be possible for applicants living on Indian land.

- 7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- \* requiring respondents to report information to the agency more often than quarterly;**
- \* requiring respondents to prepare a written response to a collection of information in**

- fewer than 30 days after receipt of it;
- \* requiring respondents to submit more than an original and two copies of any document;
  - \* requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
  - \* in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;
  - \* requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
  - \* that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
  - \* requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances that will apply to this collection.

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 60-day notice for public comments was published in the Federal Register on March 30, 2018 (83 FR 13773). There were no comments received in response to this notice.

**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.**

Regulations at 25 CFR 11.207(a) state that “no employee of the BIA may obstruct, interfere with, or control the functions of a Court of Indian Offenses, or influence such function in any manner...” Therefore, it would be inappropriate for the BIA to question applicants about the

proceedings in a Court of Indian Offenses and considered an unwarranted invasion of their privacy. However, the Deputy Director of the BIA Office of Justice Services meets regularly with staff at the Courts of Indian Offenses who have assisted applicants in providing this information; based on their experience, the burden estimates are appropriate, the forms are straightforward, and applicants generally have the required information readily available.

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

Respondents will not receive any payment, gift, or other remuneration for providing the information collection requirements.

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

All records of Courts of Indian Offenses are generally matters of public record, including the marriage licenses or a decree in a dissolution, but the applications for marriage and dissolution are not considered public record (see 25 CFR 11.206(c)). BIA is currently developing a Privacy Act system of record notice to describe routine disclosures of the information provided but has experienced delays due to staff changes within the Privacy Act Office.

**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.**

We request information regarding the parties' pregnancy status on the Dissolution Application as this information is needed to arrange for support, custody, visitation of the children, and maintenance of a spouse, and any relief sought.

**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. Instead, this cost should be included under “Annual Cost to Federal Government.”**

Annual reporting and record keeping for this collection of information is estimated to average 15 minutes for approximately 260 respondents, annually. This estimate includes the time for completing the application and gathering any supporting documentation. This is a one-time submission by the respondent and will not need renewal. Therefore, the total annual estimated burden is 65 hours or the amount equivalent to \$2,332.

The estimated total salary cost for each applicant is 15 minutes (.25 hours) x \$35.87 per hour, which is an average of the hourly wages for civilian, as shown below.

	Number of Annual Respondents	Frequency of Response	Time to Provide Response	Total Annual Burden Hours	Hourly Rate*	<b>Total</b>
Civilian*	260	Once per year	.25 (15 minutes)	65	\$35.87	<b>\$2,332</b>

\* To obtain the hourly rate, the BIA used \$35.87, the wages and salaries figure for civilian works from BLS Release USDL-18-0451, Employer Costs for Employee Compensation – December 2017, Table 1, Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Civilian works, by major occupational and industry group, at <https://www.bls.gov/news.release/pdf/ecec.pdf>. This wage includes a multiplier for benefits. See <https://www.bls.gov/news.release/pdf/ecec.pdf>.

**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.**

Each tribe operating a Court of Indian Offenses may enact ordinances or codes which may allow for costs for Marriage and Dissolution Applications. The Office of Justice Services (OJS) estimates an average \$25 filing fee, making the total non-hour cost burden for 260 respondents to be \$6,500.

**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.**

The estimated hourly salary cost to the tribal contractors, on behalf of the Federal Government, is \$5,205. The applications for marriage and dissolution reviewed by employees will require 1 hour for each application.

Position	Annual Number of Responses Processed	Time to Complete	Total
Federal Clerk (GS-3, Step 5) <sup>1</sup>	260	1 hour	260 hours

<sup>1</sup>The estimated average salary for Federal government and tribal compacting employees performing these duties is at the GS-3, Step 5 (\$12.51/hour) level. The salary associated with this grade and step is based on the General Schedule 2018, incorporating the 1% General Schedule Increase. See [http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/GS\\_h.pdf](http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/GS_h.pdf). This salary, multiplied by 1.6 to cover benefits, equals a rate of \$20.02/hour.

In addition, there is a cost estimate of \$100 per court, annually, for materials and supplies used by the staff of the CFR court. There are currently 24 courts; therefore, \$2,400 is included in the total estimated cost.

The total estimated annualized cost to the Federal government is **\$7,605**.

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

There are no changes or adjustments made to this information 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 information provided is a matter of public record within the confines of the legal system. There are no plans for publication of this information.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

We intend to display the OMB Control Number and the expiration date on both forms.

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

We are not seeking any exceptions to the certification statement.