

**Supporting Statement for Reporting and Recordkeeping
AML Contractor Information Form
Requirements for 30 CFR 874.16**

Introduction

The Office of Surface Mining Reclamation and Enforcement (OSM) submits this request for renewed approval to collect information necessary to implement 30 CFR 874.16, Contractor Eligibility, under Part 874, General Reclamation Requirements. Part 874 contain the regulatory requirements that implement OSM's Abandoned Mine Land (AML) program.

OSM's regulation at 30 CFR 874.16 requires that every successful bidder for an AML contract must be eligible at the time of contract award under the permit eligibility rules at 30 CFR 773.12, 773.13, and 773.14. This connection to our permit eligibility rules means a successful bidder for an AML contract is subject to the same eligibility rules as an applicant for a surface coal mining permit. This requirement applies to all AML contractors and any subcontractor a contractor might employ. It is under the permit eligibility requirements that successful bidders for AML contracts and State AML contracting officers and program staff incur information collection burdens.

The Office of Management and Budget (OMB) previously approved our request for continued information collection in 2003 and to continue to use the two-page form, the AML Contractor Information Form, as the instrument to collect information from successful bidders. OMB has assigned clearance number OMB 1029-0119 for approved information collection under 30 CFR 874.16. This approval is set to expire December 31, 2006. We now seek OMB's approval to continue this information collection and to continue to use the AML Contractor Information Form.

The statutory authority governing information disclosure requirements for applicants for permits, and therefore, AML contractors, is section 507(b) of the Act. The statutory authority for permit eligibility determinations is section 510(c) of the Act.

This request for continued approval of information means a total request of 161 burden hours. This burden hour estimate represents a reduction of 295 hours, predominantly due to a transcription error in our previous submission.

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 Item 17 of the OMB Form 83-I is checked "Yes", Section B of the Supporting Statement 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.*

On May 31, 1994, OSM published final rules in the *Federal Register* concerning its AML program (59 FR 28172). The final rules included a new provision at section 874.16 that requires every successful bidder for an AML contract must be eligible under sections 773.12, 773.13, and 773.14, OSM's rules for permit eligibility, at the time of contract award. OSM relies upon this provision to ensure that a successful bidder for an AML contract is not awarded if the successful bidder is found to be associated with an unabated or uncorrected violation of Title IV or V of SMCRA. Insofar as successful bidders must be eligible for a permit, they must also disclose information comparable to that required from applicants for permits. Designated AML contracting officers and AML staff in State programs and in OSM's Field Offices are required to obtain an eligibility evaluation for each successful bidder before an AML contract is awarded. OSM's Applicant/Violator System (AVS) Office performs the AML eligibility evaluations and maintains the majority of the automated records. OSM's internal procedures for performing evaluations, assisting States in implementing the requirements for contractor eligibility, creating and maintaining information in AVS, and assisting potential contractors with their information collection activities are found in the AVS Office's Standard Operating Procedures handbook. The statutory authorities for these eligibility and information collection requirements are sections 507 and 510 of the Act.

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.]*

Since 2000, we have used the AML Contractor Information Form, approved by OMB, to collect the information required from every successful bidder in order to assess its eligibility for an AML contract. The information required in the form, except for information specific to coal mining operations, is based on the minimum requirements for legal, financial, compliance and related information required from applicants for surface coal mining permits. The information is used, in addition to other available information to determine if a successful bidder for an AML contract is first eligible under OSM's rules for permit eligibility. Following is a description of the requirements of each of the four parts of the AML Contractor Information Form. We wish to revise the AML Contractor Information Form. Following are descriptions of the revisions we wish to make in Parts C and D and in the note between parts C and D.

Part A collects General Information from the successful bidder. The successful bidder must disclose the contractor's name, address, telephone number, Tax Payer Identification Number, telefacsimile number, and electronic mail address.

Part B collects Legal Structure information from the successful bidder. The successful bidder must identify whether its legal business structure is a corporation, sole proprietorship, partnership, or limited liability company. If the legal business structure is other than the given choices, the successful bidder must provide its description.

Part C requires the successful bidder to certify as to the accuracy and completeness of its information that already may be in the Applicant/Violator System (AVS). AVS is OSM's automated nationwide database of entity, business structure, affiliation, permit history, and violation information. The requirement in Part C allows successful bidders the same benefit of certifying to existing information by way of certified reference to AVS. The first choice for a successful bidder is to certify that all of the information currently in AVS is accurate, complete, and up-to-date. The second choice for a successful bidder is to certify that part of the information currently in AVS is accurate, complete, and up-to-date. The third choice is for the successful bidder to certify that there is currently no information in AVS for it. In Part C, we wish to revise the certification statements. The purpose of these revisions is to clarify for the successful bidders the exact name and nature of the report from AVS which they must: (1) request from the AVS Office, (2) base their certification in Part C, and (3) attach to the AML Contractor Information Form when returning it to their contracting officer or other designated State or Federal AML program staff.

We wish to revise the note between Parts C and D to better explain the basis of the certification and how to obtain the report.

Part D requires the successful bidder to provide additional and complete information if it has certified that part of the information in AVS is missing or incomplete. The successful bidder that certifies that there is no information for it in AVS, the successful bidder must provide all information in Part D. We also wish to revise Part D to echo the same specificity we propose in Part C. In addition, we wish to revise the list of affiliations and relationships to a contractor's business entity. These revisions would better describe the affiliations we ask the successful bidder to disclose and include removing the requirement for a successful bidder to identify affiliations that meet our regulatory definition of control or controller. We believe these revisions will decrease errors made when completing the form.

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].*

Successful bidders for AML contracts may obtain the AML Contractor Information Form from the AVS Office's Internet web site (http://www.avs.osmre.gov/%5Caml_contractor_index.htm). They may also obtain the form from their contracting officer or the AVS Office.

More importantly, successful bidders must: (1) obtain a report from AVS of their business

affiliations, (2) base their certification in Part C on this report, and (3) attach it to their submission of the AML Contractor Information Form. Successful bidders may obtain the report of affiliations from direct access to AVS, their contracting officer, or the AVS Office. Generally, AML contractors submit their information by fax. OSM anticipates that when the Department of the Interior's new electronic financial management system (FBMS) becomes operational over the next year or two, AML contractors will be more inclined to submit their AML contractor information with their cost requirements to conduct emergency AML activities through electronic means.

State and OSM contracting officers may transmit a request for an AML eligibility evaluation of a successful bidder or contractor from the AVS Office using electronic mail or fax.

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.*

No similar information specific to successful bidders for AML contracts is collected by other State or Federal agencies. Only OSM's AVS Office uses the information to perform eligibility evaluations for successful bidders on AML contracts.

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.*

The Small Business Administration defines a small business as having 500 or fewer employees. OSM neither collects nor maintains data on the number of employees an AML contractor or its subcontractor may have. Data available from contractor eligibility evaluations provided to State and Federal programs seem to indicate that all successful bidders for AML contracts during fiscal year 2005 were small businesses.

The AML Contractor Information Form itself has been designed to minimize the time needed for completion, obtain the required attachment(s), and provide any necessary corrections to existing data. The form consists of only two pages. If the successful bidder can certify that the current information in AVS is accurate and complete, the successful bidder need only complete page one of the form.

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.*

The information is only collected as required and only from successful bidders. Therefore, the frequency of collection cannot be reduced. Less frequent collection of the information would result in non-compliance with section 874.16 of our regulations.

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.*

Guidelines in 5 CFR 1320.5(d)(2) are not exceeded.

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. [Please list the names, titles, addresses, and phone numbers of persons contacted.]

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 circumstances should be explained.

We have consulted with the following Federal, State, and industry officials concerning the information collection burdens described for AML successful bidders, contractors, and State AML contracting officers and program staff.

Colleen Baughman
Indiana Department of Natural Resources
Division of Reclamation
RR 2, Box 129
Jasonville, Indiana 47438
812.665.2207

Sherry Hale
West Virginia Department of Environmental Protection
Office of Abandoned Mine Land and Reclamation
601 57th Street, SE – Box 20
Charleston, West Virginia 25304-2345
304.926.0499, Extension 1471

Richard Balogh
Office of Surface Mining Reclamation and Enforcement
Appalachian Region
Three Parkway Center
Pittsburgh, Pennsylvania 15220
412.937.2136

Maureen Tkach
Suchko Enterprises, LLC
300 Sandbank Road
Belle Vernon, Pennsylvania 15012
724.929.6009

Homer Vandergriff
Estes Brothers Construction, Inc.
Route 3, Box 740
Jonesville, Virginia 24263
276.346.1227

The Federal official said the AML Contractor Information Form is fairly straightforward. No successful bidder or contractor with whom he has had contact has ever complained about it or suggested any changes. He said the time estimates for completion are reasonable.

The two State officials said almost all of their successful bidders and contractors find the AML Contractor Information Form easy to understand and use. They both also said their contractors have not suggested any changes to the form. One of the State officials, who creates and maintains information in AVS for successful bidders and contractors, says this task is not burdensome. She said it allows her to become more familiar with the contractors, especially when pursuing other aspects of her job such as investigations. This official has received a few

complaints about the form. The complainants said the form is confusing, it should be done away with, or should be required only once a year. The State official believes the complaints are the result of successful bidders becoming AML contractors for the first time, and therefore are unfamiliar with the information requirements for AML contractors.

Both representatives of AML contractors agreed the AML Contractor Information Form is a good idea and easy to use. They expressed no complaints or suggestions and both agreed the time estimates for completing the form are accurate and reasonable.

All five persons contacted agreed the estimates for preparing the AML Contractor Information Form are accurate and reasonable.

On August 11, 2006, OSM published in the Federal Register (71 FR 46240) a notice requesting comments from the public regarding the need for the collection of information, the accuracy of the burden estimate, ways to enhance the information collection, and ways to minimize the burden on respondents. This notice gave the public 60 days in which to comment. However, no comments were received.

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 that authorized under the approval to conduct AML reclamation work.

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

Not applicable. No assurance of confidentiality is provided and none is required.

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. Sensitive questions are not 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 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 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.

a. Burden Hour Estimates for Respondents

The following table shows the estimated information collection burden hours for all respondents. The total annual number of successful bidder responses is estimated to be 420. This estimate is based on the actual number of responses for the 2005 fiscal year. It represents an increase in responses from our previous submission due to an estimated increase in use. Data in the table is discussed below. Some calculations have been rounded.

	Successful Bidder Responses	State Responses	Successful Bidder Burden Hours	State Burden Hours	Total Burden Hours Requested
Accurate, Complete and Up-to-date information	315	0	.25	0	79
Part of the information is missing or incomplete	63	0	.50	0	32
No information currently in AVS	42	0	1	0	42
States that create and maintain bidder and contractor information	0	8	0	1	8
TOTALS	420	8	1.75	1	161

We estimate that 90 percent of respondents will be able to benefit from the same burden-saving provisions that minimize the time required to meet these requirements as are used by applicants for permits at 30 CFR 778.9. Section 773.9 allows an applicant for a coal mining permit to certify by reference to AVS that the entity, business, and affiliation information they provide in an application for a permit is either fully accurate and complete, or that the information is only partially accurate and complete. Also like applicants for permits, successful bidders and contractors must provide the missing or inaccurate information or all of the information, as it applies, in order to be compliant with the information collection rules.

We estimate 75 percent of successful bidder responses, or 315, will be able to certify that all information for them in AVS is accurate, complete, and up-to-date. The percentage is moderately changed from our previous submission and is based upon the data collected for the 2005 fiscal year. We estimate it will require .25 hour for each respondent to complete the AML Contractor Information Form. This estimate is unchanged from our previous submission. The information collection burden for these 315 responses is estimate to be 79 hours.

We estimate 15 percent of successful bidder responses, or 63, will certify that part of the information in AVS is accurate, complete, and up-to-date and part of the information is missing or inaccurate in AVS. The percentage is moderately changed from our previous submission and is based upon data collected for the 2005 fiscal year. We estimate it will require .50 hour for each respondent to complete the AML Contractor Information Form. This estimate is unchanged from our previous submission. The information collection burden for these 63 respondents is estimated to be 32 hours.

We estimate 10 percent of successful bidder responses, or 42, will certify there is no current information for them in AVS. This percentage is unchanged from our previous submission and is based upon data collected for the 2005 fiscal year. We estimate it will require 1 hour for each respondent to complete the AML Contractor Information Form. This estimate is unchanged from our previous submission. The information collection burden for these 42 respondents is 42 hours.

Therefore the total information collection burden for all successful bidder responses is estimated to be 153 hours (79 hours for no additional information + 32 hours for partial information + 42 hours for complete information).

We estimate 8 requests for AML eligibility evaluation will come from States that request AML eligibility evaluations from OSM but create and maintain their own successful bidder and contractor information AVS. This estimate is based on the actual number of States that create and maintain their own information in AVS during fiscal year 2005. This is a decrease from our previous estimate. The decrease is due to AML personnel changes and subsequent changes in access to AVS. Therefore, OSM's role is increased. See #14, below. We estimate each State response will require 1 hour to create and maintain data in AVS for successful bidders and contractors. This hourly burden is unchanged from our previous estimate. As a result, we estimate the information collection burden for State AML program staff to be 8 hours (8 bidder/contractor information maintained in AVS by States x 1 hour per bidder/contractor).

There fore, we estimate the total information collection burden for this activity to be 161 hours (153 hours for successful bidder and contractor respondents + 8 hours for State respondents).

b. Estimated Wage Cost to Respondents

The annual average salary used to estimate the wage cost to successful bidder and contractor respondents is \$60 per hour. The estimated cost to successful bidder and contractor respondents is \$9,180 (\$60 per hour x 153 hours for successful bidder and contractor respondents). The

average cost of each response is \$60.

The annual average salary used to estimate the wage cost to State AML program staff respondents is \$45 per hour. The estimated cost to State AML program respondents is \$360 (\$45 per hour x 8 hours for States that create and maintain their own successful bidder and contractor information in AVS). The average cost of each response is \$45.

Therefore, the estimated annual cost for all respondents is \$9,540 (\$9,180 for successful bidder and contractor respondents) + (\$360 for State AML program staff respondents).

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.*
 - * 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.*

a. Annual Capital and Start-up Costs

The information collection requirements of this activity does not involve any capital or start-up costs apart from expenditures associated with customary business practices.

b. Operation and Maintenance Costs

There are no significant or distinct non-wage operations or maintenance costs associated with compliance with the information requirements for this section.

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 OSM will receive 98 percent, or 412, of the total responses for processing eligibility evaluations that also require creating and maintaining data in AVS. This percentage is an estimated increase from our previous request for continued information collection. The estimated increase in OSM's role is due to State personnel changes and subsequent changes in their access to AVS. We estimate OSM will require 1 hour to review the AML Contractor Information Form, perform any necessary updates or corrections in AVS, and perform the eligibility evaluation in AVS on each request for an AML eligibility evaluation. This hourly estimate is unchanged from our previous request to OMB for continued information collection approval. Therefore, we estimate OSM will devote 412 hours to this activity.

The average annual salary used to estimate Federal wage costs is \$45 per hour. Therefore, we estimate the cost to OSM to be \$18,540 (412 responses x \$45 per hour x 1 hour per response).

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

This is a request for continued approval of information collection activities and revision of our AML Contractor Information Form. In our last submittal for this collection we inadvertently requested 456 burden hours, although we should have requested 142 hours. This collection rectifies that error. In addition, we estimate an adjustment in the burden hours for successful bidders and contractors due to an increase in use. We also estimate a decrease in the information collection burden for State respondents due to personnel changes and changes in access to AVS. The total estimated information collection burden is estimated to be 161 hours. The estimated change in burden hours is shown below.

	456 hours currently approved
+	34 hours due to an estimated increase in use
-	15 hours due to an estimated decrease in State burden
-	<u>314</u> hours due to a clerical error
	161 hours requested on OMB 83-I

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.*

OSM has no plans to publish 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.

OSM will display the OMB control number and expiration date on the AML Contractor Information Form upon approval by OMB and will continue using the form.

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

We claim no exemption to item 19 on OMB Form 83-I.

B. Collections of Information Employing Statistical Methods

The agency should be prepared to justify its decision not to use statistical methods in any case where such methods might reduce burden or improve accuracy of results. When Item 17 on the OMB Form 83-I is checked "Yes", the following documentation should be included in the Supporting Statement to the extent that it applies to the methods proposed:

1. *Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used. Data on the number of entities (e.g., establishments, State and local government units, households, or persons) in the universe covered by the collection and in the corresponding sample are to be provided in tabular form for the universe as a whole and for each of the strata in the proposed sample. Indicate expected response rates for the collection as a whole. If the collection had been conducted previously, include the actual response rate achieved during the last collection.*
2. *Describe the procedures for the collection of information including:*
 - * *Statistical methodology for stratification and sample selection,*
 - * *Estimation procedure,*
 - * *Degree of accuracy needed for the purpose described in the justification,*
 - * *Unusual problems requiring specialized sampling procedures, and*
 - * *Any use of periodic (less frequent than annual) data collection cycles to reduce burden.*
3. *Describe methods to maximize response rates and to deal with issues of non-response. The accuracy and reliability of information collected must be shown to be adequate for intended uses. For collections based on sampling, a special justification must be provided for any collection that will not yield "reliable" data that can be generalized to the universe studied.*
4. *Describe any tests of procedures or methods to be undertaken. Testing is encouraged as an effective means of refining collections of information to minimize burden and improve utility. Tests must be approved if they call for answers to identical questions from 10 or more respondents. A proposed test or set of tests may be submitted for approval separately or in combination with the main collection of information.*

5. *Provide the name and telephone number of individuals consulted on statistical aspects of the design and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.*

Statistical methods are not appropriate for this information collection and are not used. The information collected is unique to each respondent and is required in order to obtain a benefit.