

OMB 83-I SUPPORTING STATEMENT for 1910-5115
Contractor Legal Management Requirements

This supporting statement provides information regarding the Department of Energy (DOE) Paperwork Reduction Act Submission request pertaining to DOE contractors' practices for managing legal costs and matters for which it procures the services of legal counsel.

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.**

DOE's Contractor Legal Management Requirements, 10 CFR Part 719, which became effective on April 23, 2001, include provisions that impose a collection of information. These regulations were promulgated under authority in section 161 of the Atomic Energy Act of 1954, 42 U.S.C. 2201, the Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*, and the National Nuclear Security Administration Act, 50 U.S.C. 2401, *et seq.*

- 2. Indicate how, by whom, and for what purpose the information is to be used.**

The regulation (Subpart B, § 719.10, *et seq.*) requires covered DOE contractors and subcontractors to submit to DOE counsel a legal management plan within 60 days following execution of a contract if covered costs are to be reimbursed by DOE. (The requirement would not apply to fixed price contracts, cost reimbursement contracts for less than \$100,000,000, and contracts not involving work performed at DOE owned or leased facilities.) The legal management plan must include provision for contractor submission of an annual legal budget that includes cost projections for the matters for which legal costs will exceed \$100,000 and for which a request for DOE reimbursement may be made. The budget detail will depend on the nature of the activities and complexity of the matters included in the budget. Once approved by DOE, the legal management plan, as well as applicable regulations and contract provisions, will form the basis for DOE actions on requests for reimbursement of litigation and other legal expenses.

- 3. Describe whether, at 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.**

The regulation does not specifically preclude or provide for the use of particular automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. The legal management plans submitted by DOE contractors must address the items specified in § 719.11, but otherwise the content of the plans is expected to vary because contractors' use of outside legal services will vary.

- 4. Describe efforts to identify duplication.**

This information collection applies to management of programs in DOE and does not duplicate any existing data of other agencies.

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

The collection of information does not adversely impact small businesses or other small entities. DOE facility contractors are large entities. Some small subcontractors may be affected, but the modest compliance costs would be an allowable cost under their contracts.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently.

The initial submission of a legal management plan, the annual legal budget, and certification of costs submitted for reimbursement are the minimum requirements for an effective program to oversee and make decisions regarding reimbursement of legal costs.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

This collection of information has been reviewed and justified by Departmental management requirements, statutes, external regulations, Departmental directives, and is collected in a manner consistent with 5 CFR 1320 guidelines.

8. 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 3 years. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

This information collection differs from collections placed on the general public in that it is placed on DOE contractors. DOE does solicit input from DOE contractors regarding the burden implications of new or revised collections and also solicits their input on ways to reduce the burden of existing collections and still provide DOE contractor management with sufficient information to fulfill their managerial and statutory responsibilities.

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

No payment or gift will be provided to respondents, other than remuneration of contractors.

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

No assurance of confidentiality is provided in the regulation. In the unlikely event that confidential information would be involved in any information collection, the provisions for dealing with this confidential information are set forth in the contract documents and the related Departmental regulations, and the matter would be handled under established procedures.

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.

No information of a sensitive or personal nature will be collected.

12. Provide estimates of the hour burden of the collection of information.

Respondents & Responses

DOE estimates that the total annual number of respondents and responses will be seven (7). This estimate is based on the estimate that approximately thirty-six (36) contractors will be subject to the requirement to submit a legal management plan; that these contracts are for a five (5) year period; and that in any one year twenty percent (20%) of the total number of covered contractors may be required to submit a plan in any given year. There is also an annual legal budget submission required of all 36 contractors.

Thus, the total number of annual responses is estimated to be 7 for the legal management plan and 36 for the annual legal budget portion of the legal management plan.

Burden Hours

The burden hours for this collection are estimated to be approximately 515 hours on an annual basis. The basis for this estimate is on the estimate that preparation time of the initial plan is 15-30 hours and that 20% of the 36 contractors will need to submit a legal management plan in any given year. The estimate total for the year also includes an estimate of approximately 10 hours for an annual budgetary update, which would be submitted by all of the contractors.

13. Provide an estimate of the total annual 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).

There are no additional: (1) capital and start-up costs or (2) operation and purchase of service costs associated with these data collections. It should also be noted that costs incurred by DOE contractors in providing the information collections in this information collection request are recovered in their contract fees and payments. In this sense, they differ from information collections imposed on the general public for which no cost reimbursement is provided.

14. Provide estimates of annualized cost to the Federal government.

As noted above in question 1, the Department is not involved in the collection or maintenance of this data. Accordingly, there is no cost to the Department.

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

There are no changes or adjustments.

16. For collections of information whose results will be published, outline plans for tabulation, and publication.

DOE does not plan to publish the information obtained by this information collection.

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

DOE is not seeking approval to not display the expiration date for OMB approval of this information collection.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

This collection of information has been reviewed and justified by Departmental management requirements, statutes, external regulations, and Departmental directives, and meets the requirements listed in the "Certification for Paperwork Reduction Act Submissions."

B. COLLECTION OF INFORMATION AND EMPLOYMENT STATISTICAL METHODS

This is not applicable since there is no requirement for the collection of information employing statistical methods.