

**Supporting Statement: LEGAL COLLECTIONS**  
**OMB Control Number 1910-0800**

This supporting statement provides additional information regarding the Department of Energy (DOE) request for processing of the proposed information collection, LEGAL COLLECTION. The numbered questions correspond to the order shown on the Office of Management and Budget (OMB) Form 83-I, "Instructions for Completing OMB Form 83-I."

**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 information collection.**

This package contains information collections that are used by Departmental management to exercise oversight and control over management and operating (M&O) contractors of DOE's Government-owned contractor-operated (GOCO) facilities, and off-site contractors. The contractor management oversight and control function concerns the ways in which DOE contractors provide goods and services for DOE organizations and activities in accordance with the terms of their contract; the applicable statutory, regulatory, and mission support requirements of the Department; and regulations in the intellectual property area covered by this package.

The basic authority for these collections is the statute establishing the DOE ("Department of Energy Organization Act," Public Law 95-91, of August 4, 1977) which vests the Secretary of Energy with the executive direction and management functions, authority and responsibilities for the Department, including contract management. The provisions of 42 USC 7254 state that "...the Secretary is authorized to prescribe such procedural and administrative rules as he may deem necessary or appropriate to administer and manage the functions now or hereafter vested in him", and 42 USC 7256(a) "... the Secretary is authorized to enter into and perform such contracts, leases, cooperative agreements, or other similar transactions with public agencies and private organizations and persons, and to make such payments (in lump sum or installments, and by way of advance or reimbursement) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary".

More specifically, 42 USC 5908 (b) requires that "Each contract entered into by the Secretary with any person contain effective provisions under which such person shall furnish promptly to the Secretary a written report containing full and complete technical information concerning any invention... which may be made... under such contract." 42 USC 5908 (c) provides for patent waivers under regulations prescribed by the Secretary, which require waiver petitions. 35 USC 207-209 provide for patent licensing upon application therefore.

It should be noted that the costs incurred by DOE contractors in providing the information collections in this package 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. In addition, M&O contractors provide input concerning information collection requirements during contract negotiation. In this regard, they have agreed that the patent collections of information are required for the administration of these contracts and are accepted as a normal business practice. Finally, DOE is most interested in keeping the reporting burden at a minimum to reduce expenditures.

**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**

As noted above, the information obtained from DOE contractors by these information collections is used by Department management at the appropriate levels to manage the patent interests of the Department and the Federal Government. It is obvious that to adequately accomplish this function, certain management and program-type information must be collected from contractors and license applicants.

If these collections were not made, it would become very difficult, if not impossible, to properly manage the Department's patent interests and carry out the statutory and other missions of the Department requiring contractor support.

**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.**

Within existing budget and resource constraints, Department program managers and contractors continually work to apply the latest appropriate-level information technology (hardware and software) to reduce information collection burden and improve the timeliness and usefulness of the patent information being collected. This includes automation of previously manual processes where appropriate.

**4. Describe efforts to identify duplication.**

Since the collections contained in this package are either only applicable to patent management in DOE, meaningful duplication of these collections in other agencies is unlikely. Also, there is no similar information already available for use by the Department.

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

The impact of the collection of information from small business is considered to the extent permitted by applicable statutory requirements and other legal and management constraints.

**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 frequency of collection is dictated by sound management practice, external laws and regulations, requirements of interagency reports, and Departmental orders and requirements. When any of these conditions change to permit reduction of the frequency of information collections, the reduction is made and the contract documents are changed accordingly.

7. **Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines. (a) requiring respondents to report information to the agency more often than quarterly; (b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; (c) requiring respondents to submit more than an original and two copies of any document; (d) requiring respondents to retain records, other than health, medical government contract, grant-in-aid, or tax records, for more than three years; (e) in connection with a statistical survey, that is not designed to product valid and reliable results that can be generalized to the universe of study; (f) requiring the use of statistical data classification that has not been reviewed and approved by OMB; (g) that includes a pledge of confidentiality that is not supported by authority established in stature of 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; (h) 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.**

No such circumstances exist. The Information Collections Request has been reviewed and justified by Departmental management requirements, statutes, external regulations or interagency reporting requirements, Departmental orders or other internal DOE requirements and are collected in a manner consistent with 5 CFR 1320 guidelines.

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 5CFR 320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken in response to the comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside DOE 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 report.**

A copy of the Federal Register Notice and request for comments was published in the Federal Register on Tuesday, March 25, 2008, Volume 73, No. 58, page 15750. Thus far, there have been no public comments received in response to the Notice.

As previously noted, these information collections differ from collections placed on the general public in that they are placed on DOE contractors and are set forth in contractual documents. There are no statistical-type collections included in this package and the use of statistical techniques is precluded by the management necessity for specific information regarding the

contractors and their performances. Consultation with outside agencies or persons as to these information collections would not be meaningful and is not done. It should be noted that, as often as appropriate, the Package Manager requests 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 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.**

There are no plans to pay additional amounts to respondents to provide required information.

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

Where confidential information is involved in an information collection, the provisions for dealing with this confidential information are set forth in the contract documents and the related Departmental regulations and are normal to the handling of management and program information by the Department.

**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 DOE 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.**

There are no collections in this package that involve questions of a sensitive, personal, or private 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, DOE should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample fewer than 10 potential respondents is desirable.**

The estimated burden, expressed in burden hours, is the sum of the burden reported by Departmental elements and Field organizations as compiled from their respective contractors or estimated by expert personnel familiar with these collections. Computations are based on the number of respondents, times the annual reporting frequency, times the hours per each response. Annual recordkeeping burden is determined by multiplying the number of record keepers by the estimated hours per record-keeper used to maintain the records on an annual basis. Please note that all calculations have been rounded to the nearest whole.

Using these calculations, the annual burden of this package is:

Collection burden .....16,745 hours (See attached Table)

*Cost to Respondents:* The estimated annualized costs to the contractor/public respondents for the data in this package are based on an assumed standard cost of \$75.00 per burden hour.

Business cost, \$75/burden hour ((16,745): \$1,255,875 (See attached Table)

**13. Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information.**

There are no additional capital and start-up, or operation and maintenance and purchase of service costs associated with these data collections.

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

DOE uses standard cost data for calculation of the estimated annualized cost of its information collections.

The estimated annualized cost to DOE for the data in this package is based on an assumed standard cost of \$48/burden hour, the standard cost based on the General Services Administration (GSA) formula in determination of Government paperwork and report costs.

Government cost @ \$48/burden hour (2160): \$103,680

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

This package indicates more respondents and more burden hours than those currently reflected in the OMB inventory, in view of more invention disclosures.

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

This package contains no collections whose results will be published for statistical use.

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

There is no reason not to display the expiration dates.

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

There are no exceptions to the Certification Statement.