

SUPPORTING STATEMENT  
(PART A AND B)

INFORMATION COLLECTION REQUEST

for the

Evaluation of the Program Support and System Design Services  
(Control Number 3320-0009, Expiring 09/30/2008)

The U.S. Institute for Environmental Conflict Resolution

July 22, 2008

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## **A. Justification**

### **1. Circumstances that Make the Collection of Information Necessary.**

The U.S. Institute for Environmental Conflict Resolution (the U.S. Institute) is a federal program established by the U. S. Congress to assist parties in resolving environmental, natural resource, and public lands conflicts. The U.S. Institute was created by the Environmental Policy and Conflict Resolution Act of 1998 (P.L. 105-156) and is part of the Morris K. Udall Foundation, an independent federal agency of the executive branch overseen by a board of trustees appointed by the President. (A copy of P.L. 105-106 is included Attachment A1.) The U.S. Institute serves as an impartial, non-partisan institution providing professional expertise, services, and resources to all parties involved in such disputes, regardless of who initiates or pays for assistance. The U.S. Institute helps parties determine whether collaborative problem solving is appropriate for specific environmental conflicts, how and when to bring all the parties to the table, and whether a third-party facilitator or mediator might be helpful in assisting the parties in their efforts to reach consensus or to resolve the conflict. In addition, the U.S. Institute maintains a roster of qualified facilitators and mediators with substantial experience in environmental conflict resolution, and can help parties in selecting an appropriate neutral. (See [www.ecr.gov](http://www.ecr.gov) for more information about the U.S. Institute.)

The U.S. Institute's mission is in accord with broad federal policy favoring alternative means of dispute resolution. The Administrative Dispute Resolution Act of 1996 (ADRA), 5 U.S.C. 571 et seq., directs all federal agencies to adopt policies addressing the use of alternative dispute resolution (ADR) and authorizes agencies to use ADR procedures if all parties agree. ADRA also provides for an interagency committee appointed by the President to encourage the use of ADR throughout the federal government.

Program evaluation is necessary for the achievement of the U.S. Institute's goals – to resolve federal environmental disputes in a timely and constructive manner; to increase the appropriate use of ECR; to improve the ability of federal agencies and other interested parties to engage in ECR effectively; and to promote collaborative problem solving and consensus building during the design and implementation of federal environmental policies so as to prevent and reduce the incidence of future environmental disputes. Effective program evaluation will provide information on how well these functions are performed, and will stimulate improvement in performance as needed. Furthermore, the Government Performance and Reporting Act (GPRA) requires all Federal agencies to report annually on their performance by, in essence, answering the following questions: What is your program or organization trying to achieve? How will its effectiveness be measured? How well is it meeting its objectives? (A copy of the relevant part of GPRA is included in Attachment A2.)

The U.S. Institute began the program evaluation process by articulating its mission in terms of desired outcomes for its programs. Standards are being established for each

outcome, and information will be collected and interpreted to measure performance in relation to the standards. Achievement of the standards can then be tied to activities and staff responsibilities. This is the framework envisioned by GPRA for all federal agencies. Properly designed and implemented, program evaluation will assist the U.S. Institute in continually improving the delivery of its services and products.

The U.S. Institute's evaluation plan focuses on measuring the articulated program outcomes. Information will be collected from a variety of sources for use in judging the degree to which the outcomes are achieved. Key sources of information are users of the U.S. Institute's services and others involved in U.S. Institute projects. Gathering information on observations and experiences of these people and their satisfaction with the U.S. Institute's services is accomplished by administering questionnaires. Some information about the U.S. Institute's programs can be obtained without administering questionnaires (e.g., the number of referrals to members of the National Roster of ECR practitioners and number of ECR cases handled by the U.S. Institute). However, to evaluate the quality of the U.S. Institute's services and the many aspects of success in building consensus or resolving disputes (reaching agreements being but one), administering questionnaires is essential.

## 2. How, by Whom, and for What Purpose the Information is to Be Used.

As part of the evaluation process for Program Support and System Design services, one questionnaire will be administered. The questionnaire will go to the key participants that initiated the request for the services.

The participants will be surveyed on the performance and impacts of the program support and system design services. Design details of the program evaluation system are contained in Attachment B.

The information collected by the U.S. Institute will be used to comply with the Government Performance and Results Act. The U.S. Institute is required to produce an *Annual Performance Plan (Performance Budget)*, linked directly to the goals and objectives outlined in the U.S. Institute's five-year *Strategic Plan*. The U.S. Institute is also required to produce an *Annual Performance and Accountability Report*, evaluating progress toward achieving its performance commitments. Results of evaluating each of the U.S. Institute's program areas will be included in its *Annual Performance Reports*. Simple summaries and tabulations of information will be used.

## 3. Collection Technology

To the extent possible, the program support and system design questionnaire will be administered in electronic form via e-mail. The recipients are all expected to have access to the Internet. In the few cases where these assumptions may not hold, transmission will be via U.S. Postal Service.

#### 4. Duplication

No other source currently exists that can be used to obtain information on the quality of program support and system design services.

#### 5. Impact on Small Businesses or Other Small Entities

Although some of the respondents to the program support and systems design questionnaire will be small entities, the majority will be government employees. Moreover, the total number of expected respondents per year is estimated to be relatively small – 60 per year – and the financial burden to be modest – approximately \$4.50 per respondent.

#### 6. Consequences of Not Conducting Collection

Evaluation of the program support and system design services would not be possible without the information that can be obtained only by administering questionnaires to users. Only descriptive information about the program support and system design services is available from other sources (e.g., the number of services provided and the number of participants). Such information cannot be used as a surrogate for program/service quality, and cannot substitute for information obtained through surveys of service recipients. With respect to the frequency of information collection, the information will be collected annually or at the conclusion of the process if the project is completed in less than 12 months.

#### 7. Special Circumstances of Information Collection

This ICR does not require respondents to:

- report information to the Agency more often than quarterly,
- prepare a written response to a collection of information in fewer than 30 days after receipt of a request,
- submit more than an original and two copies of any document, or
- retain records, other than health, medical, government contract, grant-in-aid or tax records, for more than three years.

Nor will information be collected in a manner:

- connected with a statistical survey, that is not designed to produce valid and reliable results than can be generalized to the universe of study,
- requiring use of a statistical data classification that has not been reviewed and approved by OMB,
- requiring 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 proprietary, trade secret or other confidential information unless the Agency can demonstrate that it has procedures to protect the information's confidentiality to the extent permitted by law.

## 8. Federal Register Notice

A comprehensive Federal Register Notice was published on March 20, 2008. It opened a 60-day public comment period. The notice described in detail the need for and use of the information. The notice also provided access to copies of the proposed questionnaires via the Institute's website:

<http://ecr.gov/Resources/EvaluationProgram.aspx>

In late July 2008, a second Federal Register Notice was published to announce that the U.S. Institute forwarded seven information collection requests to OMB. The second notice opened a 30-day public comment period.

One comment was received in response to the 60-day public comment notice. This comment expressed concern about the funding of the Morris K. Udall Foundation and the U.S. Institute generally (Appendix C). This comment did not provide any specific feedback on the evaluation instruments or the burden estimates pertaining to the instruments.

## 9. Payment/Gifts to Respondents

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

The collection of information does not provide any payment or gift to respondents.

## 10. Confidentiality Protocols

The information collected will be reported only in summary fashion. Social Security numbers and company tax identifiers will not be requested as part of the evaluation.

In the event of a Freedom of Information Act (FOIA) request, the U.S. Institute takes the general position that names and other information that could lead to identification of respondents, or the invasion of the personal privacy of individuals about whom evaluation information is collected, are exempt from disclosure under the personal privacy exemption (5. U.S.C. 552(b)(6)). The use of the personal privacy exception is subject to passing a balancing test to determine if the public interest in disclosure outweighs the personal privacy interest. FOIA requests will be evaluated on a case-by-case basis.

## 11. Justification of Questions of a Sensitive Nature

This information collection request (ICR) does not involve collecting any information of a sensitive nature or any information commonly considered private.

## 12. Hours Burden of the Collection of Information

Burden means the total time and financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a federal agency. This section focuses on the time to read instructions and answer questions on the appropriate questionnaire. Hour burdens are then monetized using fully burdened labor rates for appropriate occupations derived from Bureau of Labor Statistics tables (U.S. Department of Labor, Bureau of Labor Statistics, “Employer Costs for Employee Compensation”, Table 2: *Civilian Workers, by Occupational and Industry Group* – September, 2007. <http://www.bls.gov/news.release/ecec.t02.htm>).

The following table is based on several assumptions:

- 20 program support or system design service units will be evaluated each year on average.
- Each case will involve an average of three participants.
- The total number of responses will average 60 per year
- The average cost per respondent is \$4.50

The time estimates to complete each questionnaire are based on experience with prior information collections authorized under OMB control numbers 3320-0009 (Expiring 09/30/08).

U.S. Institute for Environmental Conflict Resolution Respondent Burden and Cost (Annualized)								
Program Support Services (3320-0009)								
Agency	Annual Number of Cases	Average Number of Respondents per Case	Annual Number of Responses	Average Minutes per Response	Annual Number of Minutes	Annual Number of Hours	Labor Rate Per Hour (\$)	Annual Cost (\$)
<b>U.S. Institute for Environmental Conflict Resolution</b>								
Agency Representative	20	3	60	6	360	6	45	270
<b>Total</b>	<b>20</b>		<b>60</b>			<b>6</b>		<b>270</b>

13. Estimate of Total Annual Cost Burden

There are no capital or start-up costs.

14. Annualized Costs to the Federal Government

*14a. Total Capital and Start-Up Costs*

Evaluation of the Program Support and System Design Services Agency Cost - Start-up (One-Time Costs)				
Position	Activity	Total Hours	Labor Rate per Hour	Cost
Management	Oversight	5	\$95	\$475
Program Manager	Design and Management	6	\$62.50	\$375
Administrative Staff	Administrative Support	8	\$18	\$144
TOTAL		19		\$994



14b. Total Operational and Maintenance and Purchase Of Services Component

<b>Evaluation of the Program Support and System Design Services - Agency Cost (Annualized)</b>					
Questionnaire/Activity	Minutes per Questionnaire	Number of Questionnaires	Total Hours	Labor Rate per Hour	Cost
<i>Administer Questionnaires</i>					
End of Process Questionnaire	4	60	4	\$18	\$72
<i>Data Entry Verification and Data Cleaning</i>					
End of Process Questionnaire	3	60	3	\$18	\$54
<i>Analysis and Reporting</i>					
Case-level Reporting	N/A	N/A	10	\$18	\$180
Program-level Reporting			5	\$62.5	\$313
<i>Oversight</i>					
Program Manager			5	\$62.5	\$313
Management	N/A	N/A	2	\$95	\$190
<i>Supplies</i>					\$20
<b>TOTAL</b>					<b>\$1,142</b>

The costs in the table above are average annual costs for the next three years once the evaluation system is operational.

15. Reasons for Program Changes/Adjustments

The program support services evaluation instrument has been revised from the earlier version approved under OMB control number 3320-0009 (expiring 09/30/2008). The revisions have not changed the collection burden.

16. Plans for Tabulation and Publication

To comply with the Government Performance and Results Act, agencies are required to produce an *Annual Performance Plan (Performance Budget)*, linked directly to the goals and objectives outlined in the agencies five-year *Strategic Plan*. The agencies are also required to produce an *Annual Performance and Accountability Report*, evaluating progress toward achieving its performance commitments. Results of evaluating program support and system design services will be included in the agencies *Annual Performance and Accountability Report*. Simple summaries and tabulations of information will be used.

17. Display of Expiration Date for OMB Approval

The OMB approval number and expiration date will be displayed on each evaluation questionnaires.

18. Explanations to "Certification for Paperwork Reduction Act Submissions"

This collection of information is in full compliance with the provisions of the "Certificate for Paperwork Reduction Act Submissions"

**B. Collections of Information Employing Statistical Methods**

1. Respondent Universe and Sample Size/Selection Methods

All program support and system design services provided with the assistance of the U.S. Institute will be evaluated. Since all (100%) of the U.S. Institute program support and system design services will be evaluated, sample selection methods are not applicable. Professor Don Dillman's "Total Tailored Design Method"<sup>1</sup> will be used to maximize response rates. (For collections conducted previously under control number 3320-0009, an overall response rate above 70% was experienced.)

2. Procedures for the Collection of Information

*2a. Statistical Methodology for Stratification and Sample Selection*

*2b. Estimation Procedure*

*2c. Degree of Accuracy Needed for the Purpose Described in the Justification*

*2d. Unusual Problems Requiring Specialized Sampling Procedures*

*2e. Periodic Data Collection to Reduce Burden*

This section is not applicable as detailed in Section B(1) above.

3. Testing Procedures

Experience with the previously approved collection (3320-0009 expiring 09/30/2008) provided the opportunity to test a similar questionnaire design, administration, data entry and data processing procedures.

4. Statistical Consultants

Agency Contact:

Patricia Orr

Program Evaluation Coordinator

U.S. Institute for Environmental Conflict Resolution

520-670-5658

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<sup>1</sup> Don A. Dillman, *Mail and Internet Surveys: The Tailored Design Method (2<sup>nd</sup> Edition)*, John Wiley & Sons, Inc., NY, 2000.



## **List of Appendices**

Appendix A. Statutes and Regulations Authorizing the Collection of Information

Appendix B. Program Support and System Design Services Evaluation Design Overview

Appendix C. Public Comments in Response to the First Federal Register Notice

**Appendix A. Statutes and Regulations Authorizing the Collection of Information**

**(1) Environmental Policy and Conflict Resolution Act**

**(2) Government Performance and Reporting Act**

ENVIRONMENTAL POLICY AND CONFLICT RESOLUTION ACT OF 1998

Public Law 105-156  
105th Congress

An Act

To amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish

the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes. <<NOTE: Feb. 11, 1998 - [H.R. 3042]>>

Be it enacted by the Senate and House of Representatives of the United States of America in Congress <<NOTE: Environmental Policy and Conflict Resolution Act of 1998.>> assembled,

SECTION 1. SHORT <<NOTE: 20 USC 5601 note.>> TITLE.

This Act may be cited as the ``Environmental Policy and Conflict Resolution Act of 1998''.

SEC. 2. DEFINITIONS.

Section 4 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5602) is amended--

(1) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (9), (7), and (8), respectively;

(2) by inserting after paragraph (3) the following:

``(4) the term `environmental dispute' means a dispute or conflict relating to the environment, public lands, or natural resources;'';

(3) by inserting after paragraph (5) (as redesignated by paragraph (1)) the following:

``(6) the term `Institute' means the United States

Institute

for Environmental Conflict Resolution established pursuant to section 7(a)(1)(D);'';

(4) in paragraph (7) (as redesignated by paragraph (1)), by striking ``and' at the end;

(5) in paragraph (8) (as redesignated by paragraph (1)), by striking the period at the end and inserting ``; and''; and

(6) in paragraph (9) (as redesignated by paragraph (1))--

(A) by striking ``fund' and inserting ``Trust Fund''; and

(B) by striking the semicolon at the end and

inserting a period.

SEC. 3. BOARD OF TRUSTEES.

Section 5(b) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20

U.S.C. 5603(b)) is amended--

(1) in the matter preceding paragraph (1) of the second sentence, by striking ``twelve'' and inserting ``thirteen''; and

(2) by adding at the end the following:

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``(7) The chairperson of the President's Council on Environmental Quality, who shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.''.

SEC. 4. PURPOSE.

Section 6 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20

U.S.C. 5604) is amended--

(1) in paragraph (4), by striking ``an Environmental Conflict Resolution'' and inserting ``Environmental Conflict Resolution and Training'';

(2) in paragraph (6), by striking ``and'' at the end;

(3) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

``(8) establish as part of the Foundation the United States Institute for Environmental Conflict Resolution to assist the Federal Government in implementing section 101 of the National Environmental Policy Act of 1969 (42 U.S.C. 4331) by providing assessment, mediation, and other related services to resolve environmental disputes involving agencies and instrumentalities of the United States; and

``(9) complement the direction established by the President in Executive Order No. 12988 (61 Fed. Reg. 4729; relating to civil justice reform).''.

SEC. 5. AUTHORITY.

Section 7(a) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20

U.S.C. 5605(a)) is amended--

(1) in paragraph (1), by adding at the end the following:

``(D) Institute for environmental conflict resolution.--

``(i) In general.--The Foundation shall--

``(I) establish the United States Institute for Environmental Conflict Resolution as part of the Foundation;

and  
``(II) identify and conduct such programs, activities, and services as the Foundation determines appropriate

to

permit the Foundation to provide assessment, mediation, training, and other related services to resolve environmental disputes.

``(ii) Geographic proximity of conflict resolution provision.--In providing assessment, mediation, training, and other related services under clause (i)(II) to resolve environmental disputes, the Foundation shall consider, to the maximum extent practicable, conflict resolution providers within the geographic proximity of the conflict.''; and

(2) in paragraph (7), by inserting ``and Training '' after ``Conflict Resolution''.

#### SEC. 6. ENVIRONMENTAL DISPUTE RESOLUTION FUND.

(a) Redesignation.--Sections 10 and 11 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5608, 5609) are redesignated as sections 12 and 13 of the Act, respectively.

[[Page 112 STAT. 11]]

(b) Environmental Dispute Resolution Fund.--The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended by subsection (a)) is amended by inserting after section 9 the following:

``SEC. 10. ENVIRONMENTAL DISPUTE RESOLUTION <<NOTE: 20 USC 5608a.>>  
FUND.

``(a) Establishment.--There is established in the Treasury of the United States an Environmental Dispute Resolution Fund to be administered by the Foundation. The Fund shall consist of amounts appropriated to the Fund under section 13(b) and amounts paid into the Fund under section 11.

``(b) Expenditures.--The Foundation shall expend from the Fund such sums as the Board determines are necessary to establish and operate the Institute, including such amounts as are necessary for salaries, administration, the provision of mediation and other services, and such other expenses as the Board determines are necessary.

``(c) Distinction From Trust Fund.--The Fund shall be maintained separately from the Trust Fund established under section 8.

``(d) Investment of Amounts.--

``(1) In general.--The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

``(2) Interest-bearing obligations.--Investments may be

made



only in interest-bearing obligations of the United States.

``(3) Acquisition of obligations.--For the purpose of investments under paragraph (1), obligations may be acquired--

``(A) on original issue at the issue price; or

``(B) by purchase of outstanding obligations at the market price.

``(4) Sale of obligations.--Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

``(5) Credits to fund.--The interest on, and the proceeds from the sale or redemption of, any obligations held in the

Fund

shall be credited to and form a part of the Fund.''.

#### SEC. 7. USE OF THE INSTITUTE BY A FEDERAL AGENCY.

The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Policy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended by section 6) is amended by inserting after section 10

the following:

``SEC. 11. USE OF THE INSTITUTE BY A FEDERAL <<NOTE: 20 USC 5608b.>> AGENCY.

``(a) Authorization.--A Federal agency may use the Foundation and the Institute to provide assessment, mediation, or other related services in connection with a dispute or conflict related to the environment, public lands, or natural resources.

``(b) Payment.--

``(1) In general.--A Federal agency may enter into a contract and expend funds to obtain the services of the Institute.

``(2) Payment into environmental dispute resolution fund.--

A

payment from an executive agency on a contract entered into under paragraph (1) shall be paid into the Environmental

Dispute

Resolution Fund established under section 10.

``(c) Notification and Concurrence.--

[[Page 112 STAT. 12]]

``(1) Notification.--An agency or instrumentality of the Federal Government shall notify the chairperson of the President's Council on Environmental Quality when using the Foundation or the Institute to provide the services described

in

subsection (a).

``(2) Notification descriptions.--In a matter involving two or more agencies or instrumentalities of the Federal

Government,

notification under paragraph (1) shall include a written description of--

``(A) the issues and parties involved;

``(B) prior efforts, if any, undertaken by the

agency to resolve or address the issue or issues;  
 `` (C) all Federal agencies or instrumentalities

with  
 a direct interest or involvement in the matter and a  
 statement that all Federal agencies or  
 instrumentalities  
 agree to dispute resolution; and  
 `` (D) other relevant information.

`` (3) Concurrence.--  
 `` (A) In general.--In a matter that involves two or  
 more agencies or instrumentalities of the Federal  
 Government (including branches or divisions of a single  
 agency or instrumentality), the agencies or  
 instrumentalities of the Federal Government shall

obtain  
 the concurrence of the chairperson of the President's  
 Council on Environmental Quality before using the  
 Foundation or Institute to provide the services  
 described in subsection (a).  
 `` (B) Indication of concurrence or nonconcurrence.--

-  
 The chairperson of the President's Council on  
 Environmental Quality shall indicate concurrence or  
 nonconcurrence under subparagraph (A) not later than 20  
 days after receiving notice under paragraph (2).

`` (d) Exceptions.--  
 `` (1) Legal issues and enforcement.--  
 `` (A) In general.--A dispute or conflict involving  
 agencies or instrumentalities of the Federal Government  
 (including branches or divisions of a single agency or  
 instrumentality) that concern purely legal issues or  
 matters, interpretation or determination of law, or  
 enforcement of law by one agency against another agency  
 shall not be submitted to the Foundation or Institute.  
 `` (B) Applicability.--Subparagraph (A) does not  
 apply to a dispute or conflict concerning--  
 `` (i) agency implementation of a program or  
 project;  
 `` (ii) a matter involving two or more

agencies  
 with parallel authority requiring facilitation  
 and  
 coordination of the various Government agencies;  
 or  
 `` (iii) a nonlegal policy or decisionmaking  
 matter that involves two or more agencies that

are  
 jointly operating a project.

`` (2) Other mandated mechanisms or avenues.--A dispute or  
 conflict involving agencies or instrumentalities of the Federal  
 Government (including branches or divisions of a single agency  
 or instrumentality) for which Congress by law has mandated  
 another dispute resolution mechanism or avenue to address or  
 resolve shall not be submitted to the Foundation or  
 Institute.''.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.--Section 13 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (as redesignated by section 6(a)) is amended--

(1) by striking ``There are authorized to be appropriated to the Fund'' and inserting the following:

``(a) Trust Fund.--There is authorized to be appropriated to the Trust Fund''; and

(2) by adding at the end the following:

``(b) Environmental Dispute Resolution Fund.--There are authorized to be appropriated to the Environmental Dispute Resolution Fund established under section 10--

``(1) \$4,250,000 for fiscal year 1998, of which--

``(A) \$3,000,000 shall be for capitalization; and

``(B) \$1,250,000 shall be for operation costs; and

``(2) \$1,250,000 for each of the fiscal years 1999 through 2002 for operation costs.''.

SEC. 9. CONFORMING AMENDMENTS.

(a) The second sentence of section 8(a) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5606) is amended--

(1) by striking ``fund'' and inserting ``Trust Fund''; and

(2) by striking ``section 11'' and inserting ``section 13(a)''.

(b) Sections 7(a)(6), 8(b), and 9(a) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5605(a)(6), 5606(b), and 5607(a)) are each amended by striking ``Fund'' and inserting ``Trust Fund'' each place it appears.

Approved February 11, 1998.

LEGISLATIVE HISTORY--H.R. 3042 (S. 399):

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CONGRESSIONAL RECORD:

(1997):	Vol. 143
	Nov. 13, considered and passed House.
(1998):	Vol. 144
	Jan. 29, considered and passed Senate.

<all>

# Government Performance and Reporting Act

## (Relevant Portions)

- [United States Code](#)
  - [TITLE 31 - MONEY AND FINANCE](#)
    - [SUBTITLE II - THE BUDGET PROCESS](#)
      - [CHAPTER 11 - THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION](#)

*U.S. Code as of: 01/05/99*

### **Section 1115. Performance plans**

(a) In carrying out the provisions of section 1105(a)(29), (FOOTNOTE 1) the Director of the Office of Management and Budget shall require each agency to prepare an annual performance plan covering each program activity set forth in the budget of such agency. Such plan shall -

(FOOTNOTE 1) See References in Text note below.

- (1) establish performance goals to define the level of performance to be achieved by a program activity;
- (2) express such goals in an objective, quantifiable, and measurable form unless authorized to be in an alternative form under subsection (b);
- (3) briefly describe the operational processes, skills and technology, and the human, capital, information, or other resources required to meet the performance goals;
- (4) establish performance indicators to be used in measuring or assessing the relevant outputs, service levels, and outcomes of each program activity;
- (5) provide a basis for comparing actual program results with the established performance goals; and
- (6) describe the means to be used to verify and validate measured values.

(b) If an agency, in consultation with the Director of the Office of Management and Budget, determines that it is not feasible to express the performance goals for a particular program activity in an objective, quantifiable, and measurable form, the Director of the Office of Management and Budget may authorize an alternative form. Such alternative form shall -

(1) include separate descriptive statements of -

- (A)(i) a minimally effective program, and
- (ii) a successful program, or

(B) such alternative as authorized by the Director of the Office of Management and Budget,

with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity's performance meets the criteria of the description; or

(2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

(c) For the purpose of complying with this section, an agency may

aggregate, disaggregate, or consolidate program activities, except that any aggregation or consolidation may not omit or minimize the significance of any program activity constituting a major function or operation for the agency.

(d) An agency may submit with its annual performance plan an appendix covering any portion of the plan that -

(1) is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and

(2) is properly classified pursuant to such Executive order.

(e) The functions and activities of this section shall be considered to be inherently Governmental functions. The drafting of performance plans under this section shall be performed only by Federal employees.

(f) For purposes of this section and sections 1116 through 1119, and sections 9703 (FOOTNOTE 2) and 9704 the term -

(FOOTNOTE 2) See References in Text note below.

(1) 'agency' has the same meaning as such term is defined under section 306(f) of title 5;

(2) 'outcome measure' means an assessment of the results of a program activity compared to its intended purpose;

(3) 'output measure' means the tabulation, calculation, or recording of activity or effort and can be expressed in a quantitative or qualitative manner;

(4) 'performance goal' means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate;

(5) 'performance indicator' means a particular value or characteristic used to measure output or outcome;

(6) 'program activity' means a specific activity or project as listed in the program and financing schedules of the annual budget of the United States Government; and

(7) 'program evaluation' means an assessment, through objective measurement and systematic analysis, of the manner and extent to which Federal programs achieve intended objectives.

*U.S. Code as of: 01/05/99*

## **Section 1116. Program performance reports**

(a) No later than March 31, 2000, and no later than March 31 of each year thereafter, the head of each agency shall prepare and submit to the President and the Congress, a report on program performance for the previous fiscal year.

(b)(1) Each program performance report shall set forth the performance indicators established in the agency performance plan under section 1115, along with the actual program performance achieved compared with the performance goals expressed in the plan for that fiscal year.

(2) If performance goals are specified in an alternative form under section 1115(b), the results of such program shall be described in relation to such specifications, including whether the performance failed to meet the criteria of a minimally effective or successful program.

(c) The report for fiscal year 2000 shall include actual results

for the preceding fiscal year, the report for fiscal year 2001 shall include actual results for the two preceding fiscal years, and the report for fiscal year 2002 and all subsequent reports shall include actual results for the three preceding fiscal years.

(d) Each report shall -

(1) review the success of achieving the performance goals of the fiscal year;

(2) evaluate the performance plan for the current fiscal year relative to the performance achieved toward the performance goals in the fiscal year covered by the report;

(3) explain and describe, where a performance goal has not been met (including when a program activity's performance is determined not to have met the criteria of a successful program activity under section 1115(b)(1)(A)(ii) or a corresponding level of achievement if another alternative form is used) -

(A) why the goal was not met;

(B) those plans and schedules for achieving the established performance goal; and

(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended;

(4) describe the use and assess the effectiveness in achieving performance goals of any waiver under section 9703 (FOOTNOTE 1) of this title; and

(FOOTNOTE 1) See References in Text note below.

(5) include the summary findings of those program evaluations completed during the fiscal year covered by the report.

(e) An agency head may include all program performance information required annually under this section in an annual financial statement required under section 3515 if any such statement is submitted to the Congress no later than March 31 of the applicable fiscal year.

(f) The functions and activities of this section shall be considered to be inherently Governmental functions. The drafting of program performance reports under this section shall be performed only by Federal employees.

## **Appendix B. Program Support and System Design - Evaluation Design Overview**



## **Evaluating Program Support and System Design Services: Design Overview**

The U.S. Institute for Environmental Conflict Resolution (U.S. Institute) provides leadership and assistance to agencies/organizations developing collaborative problem solving and dispute resolution programs and systems. Program development and system design services include assistance with planning, developing, designing, implementing, evaluating, and/or refining federal environmental conflict resolution programs, systems for handling administrative disputes, or approaches for managing environmental decision making (e.g., with processes under the National Environmental Policy Act (NEPA)).

The U.S. Institute has designed an evaluation system to (a) measure and report on the performance of program development and system design services and (b) to facilitate continual learning and improvement when evaluation information is gathered, analyzed, and shared with program managers/administrators, users, and other appropriate audiences.

### **Design Elements and Data Collection**

Agency representatives and key project participants who request and receive U.S. Institute program support and system design services will be asked to complete a voluntary questionnaire containing seven questions. The questionnaire has seven questions and will require fill-in-the blank and open-ended responses. *Affected Entities:* Entities potentially affected by this action are individuals who benefit from program support and system design services from the U.S. Institute.

**Data Use and Audiences**

Information from the questionnaire will permit the (a) measurement and reporting of performance for specific program development and system design services, (b) measurement and reporting of program performance when the data are aggregated across all evaluated program support and system design services, and (c) will be used to improve the design and execution of future program development and system design initiatives. The evaluation audiences include the agency representatives, prospective users, project managers/administrators, and the Office of Management and Budget.

**For more information contact:**

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**The U.S. Institute for Environmental Conflict Resolution**  
**130 South Scott Avenue**  
**Tucson, Arizona 85701**  
**Telephone (520) 901-8548 or Fax (520) 670-5530**

## **Appendix C. Public Comments in Response to the First Federal Register Notice**

morris udall scholarship bureaucracy - the taxpayers simply cannot afford the endless bureaucracy of all of these agencies. this agency can be shut down. if it has worth, it should be able to operate on donations.

the taxpayers are tapped. out. shut down all of this bureaucracy now.

b. sachau

15 elm st

florhampark nj07932

> Subject: shut it down - taxpayes cant afford