

A. JUSTIFICATION

1. This is a request for establishment of a new information collection requirement. DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add a contract clause requiring contractors to notify DoD if their activities are subject to reporting and potential inspection under the U.S.-International Atomic Energy Agency Additional Protocol (IAEA AP). The clause will be included in contracts for research and development or major defense acquisition programs involving fissionable materials, other radiological source materials, or technologies directly related to nuclear power production.

2. DoD needs this information to provide for protection of information or activities with national security significance. DoD program managers will use the information to determine if IAEA inspectors may be granted access to a contractor's facility, or if a national security exclusion should be applied.

3. The rule requires a contractor to provide written notification to the applicable DoD program manager if the contractor is required to report its activities under the U.S.-IAEA AP. In accordance with the definition of "written" in section 2.101 of the Federal Acquisition Regulation (FAR), electronic submission of the notification is permitted.

4. As a matter of policy, DoD reviews the FAR to determine if adequate language already exists. This information collection does not duplicate any other requirement.

5. The information collection associated with small businesses is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

6. Less frequent collection of this information could result in compromise of sensitive defense information.

7. Collection is consistent with the guidelines in 5 CFR 1320.5(d), except the collection deviates from 1320.5(d)(2)(ii), which specifies a minimum of 30 days for respondents to prepare a written response to a collection of information after receipt of the information. Instead, the DFARS rule requires a contractor to immediately notify DoD if its

activities are subject to reporting under the U.S.-IAEA AP. Immediate notification is needed to ensure that all relevant activities are reviewed for direct national security significance in sufficient time to prevent inappropriate disclosure of sensitive information.

8. Public comments were solicited in the Federal Register, at 73 FR 48185 on August 18, 2008, as required by 5 CFR 1320.8(d). DoD received no comments on the proposed information collection requirement.

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

10. The information collected will be disclosed only to the extent consistent with prudent business practice, current regulations, and statutory requirements. No assurance of confidentiality is provided to respondents.

11. No sensitive questions are involved.

12. Based on information provided by the DoD Treaty Manager, approximately 300 notifications are expected annually. DoD estimates that it will take a contractor approximately one hour to prepare and submit each notification. The estimated annual cost to the public is as follows:

Number of respondents: 300.

Responses per respondent: 1.

Total responses: 300.

Hours per response: 1.

Total hours: 300.

Average wages: \$60.*

Total public cost: \$18,000.

* Based on a GS-14, step 5 (equivalent) salary, plus 36.25 percent burden.

13. DoD does not estimate any annual cost burden apart from the hour burden in Item 12.

14. DoD estimates that it will take the Government approximately 3 hours to review and process the information in each response. The estimated annual cost to the Government is as follows:

Total responses: 300.

Hours per response: 3.

Total hours: 900.

Average wages: \$60.*

Total Government cost: \$54,000.

* Based on a GS-14, step 5 salary, plus 36.25 percent burden.

15. This is a new information collection requirement.

16. Results of this information collection will not be tabulated or published.

17. DoD does not seek approval to not display the expiration date for OMB approval of the information collection.

18. There are no exceptions to the certification accompanying this Paperwork Reduction Act submission.

B. Collections of Information Employing Statistical Methods

Statistical methods will not be employed.