

## 1. IDENTIFICATION OF THE INFORMATION COLLECTION

### (a) Title of the Information Collection

This information collection request is for the new Environmental Protection Agency (EPA), Performance Work Statement entitled **“Drug Testing for Contract Employees (Renewal),” EPA ICR Number 2183.03 and OMB Control Number 2030-0044**. The Performance Work Statement applies to a contractor who performs response services at sensitive sites with serious security concerns where the Agency and public interest would best be protected through drug testing of contractor employees. The Contracting Officer or On-Scene Coordinator will designate significant security concerns in the contractual tasking document when the situation warrants. The Performance Work Statement requires that the contractor provide qualified personnel that meet drug screening requirements. Only contractor employees who have been tested within the previous 90 calendar days may be directly engaged in on-site response work and/or on-site related activities at designated sites with significant security concerns.

### (b) Short Characterization

The EPA uses contractors to perform services throughout the nation in response to environmental emergencies involving the release, or threatened release, of oil, radioactive materials or hazardous chemicals that may potentially affect communities and the surrounding environment. Releases may be accidental, deliberate, or may be caused by natural disasters. Contractors responding to any of these types of incidents may be responsible for testing their employees for the use of marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), and any other controlled substances as directed on a project specific basis by the Contracting Officer. The testing for drugs must be completed prior to contract employee performance. The contractor shall maintain records associated with all drug tests.

### (c) Terms of OMB Clearance

EPA contractors performing emergency response services at non-Federal facilities are not subject to the requirements and standards of Homeland Security Presidential Directive 12 (HSPD-12), e.g., leased office buildings, emergency response sites, private residences, schools, sites of law enforcement activity. This type of location is not covered under HSPD-12. There are no requirements for drug testing of contractor employees working at either Federal or non-Federal facilities under HSPD-12.

## 2. NEED FOR AND USE OF THE COLLECTION

### (a) Need/authority for the Collection

The legal authority for this collection is Title 5, Code of Federal Regulations, Parts 731, 732, and 736. The EPA has a responsibility to protect the public and Agency and contractor employees working on an emergency response incident by ensuring employees are not under the

influence of marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), and any other controlled substances. This process is necessary to allow the EPA to meet its responsibilities and mitigate the threat to the public health, welfare and the environment.

(b) Uses/users of the Data

Information collected by response contractors for performing drug tests on contract employees before the individual employees perform contractual services for the EPA.

3. NONDUPLICATION, CONSULTATION, AND OTHER COLLECTION CRITERIA

(a) Nonduplication

Information requested from a contractor’s employee to determine suitability to perform on a response contract is unique to a specific individual; this information cannot be obtained from any other source.

(b) Public Notice Required Prior to ICR submission to Office of Management and Budget.

This information collection request was published as a Notice in the Federal Register on June 10, 2005; and no comments were received. This information collection request was been published for renewal as a Notice in the Federal Register on November 13, 2008 and no comments were received.

(c) Consultations

To determine contractor burden associated with the information collection identified in this request, the following vendors were contacted:

| <u>Representative</u> | <u>Firm</u>               | <u>Phone</u>   |
|-----------------------|---------------------------|----------------|
| Micaell Diazgranados  | WRS Infrastructure& Env.  | (813) 684-4400 |
| Tom Campbell          | Project Resources, Inc.   | (858) 505-1000 |
| Mark Ruck             | Environmental Restoration | (636) 227-7477 |

Each individual consulted indicated that he/she understood the need for the information collection and did not find the collection excessively burdensome. Estimated time to complete the information collection is described in section 6. Estimating the Burden and Cost of the Collection.”

(d) Effects of Less Frequent Collection

The information provided by the contractors’ employees is collected once prior to the employee performing under a response contract work on-site for the EPA. The requirement for drug testing cannot be met with a less frequent collection.

(e) General Guidelines

The information contained in this ICR is in accordance with the Office of Management and Budget's general guidelines for federal data collection, except that small entities have to follow the same collection procedures as other respondents.

(f) Confidentiality

The EPA contractor is responsible for collecting and maintaining information under this collection of information; therefore, each contractor will have his own procedures for ensuring confidentiality.

(g) Sensitive Questions

Information requested is commonly collected as a normal business practice and is not unduly sensitive. The contractor will collect and maintain employee information. The EPA will not collect contractor employee information nor maintain it. The Agency is responsible for receiving the notification from contractors.

4. THE RESPONDENTS AND THE INFORMATION RECEIVED

(a) Respondents/North American Industry Classification System Codes

Information is collected for employees of the contractor and subcontractor who perform services with regard to environmental emergencies involving the release, or threatened release, of oil, radioactive materials or hazardous chemicals that may potentially affect communities and the surrounding environment. All contractor employees who will perform on response actions are subject to drug testing prior to contract performance. Typically, these contractor respondents fall into the following North American Industry Classification System code: 562910 Remediation Services.

(b) Information Requested

The contractor's employees will be required to provide drug testing samples to be tested for the use of marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), and any other controlled substances as directed on a project specific basis by the Contracting Officer.

5. THE INFORMATION COLLECTED: AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT

(a) Agency Activities

The EPA contracting officers are responsible for ensuring that they have received notification from the contractor that all of its employees working under the contract at a response

site with security concerns have passed the drug test for the use of marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), and any other controlled substances as directed on a project specific basis by the Contracting Officer.

(b) Collection Methodology and Management

The information is collected by each contractor from each employee who will be working on a sensitive response site. Submissions are accepted in any format so long as they include the requested test sample. No information is submitted to the Agency, but compliance is mandatory and no employee may work on a response site with security concerns without passing the drug test for the use of marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), and any other controlled substances as directed on a project specific basis by the Contracting Officer. Only those contractor employees who have been tested within the previous 90 calendar days may be directly engaged in on-site response work and/or on-site related activities at designated sites with significant security concerns.

(c) Small Entity Flexibility

Separate or further simplified requirements for small entities are not practical because the stated objectives cannot be met under such alternatives. The requirements of the information collection apply to the awardees of the contract. Reasonable expense associated with the Drug Testing is reimbursable; therefore, small businesses are not expected to experience financial difficulties in fulfilling these requirements. There are numerous commercial sources that perform drug tests.

(d) Collection Schedule

Information will be collected periodically as individuals are requested to work on a response site location under new or existing contracts.

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

(a) Estimation of Respondent Burden

Respondent burden estimates for this collection are based upon interviews with the contractors identified in 3(b) above and discussions with Agency personnel. The Agency anticipates that the contractor burden for complying with this requirement includes the time it takes for employees to provide the required information, the administrative time to manage a drug testing subcontract, the time to notify the Agency, and the effort to maintain the records for 4 years.

(b) Estimation of Respondent Costs

(i) Estimating Labor Costs

| <b>Respondent Cost Estimate</b> |  |                   |                      |             |                |
|---------------------------------|--|-------------------|----------------------|-------------|----------------|
| <u>Step</u>                     | <u>Collection Activity</u>                       | <u>Labor Cat.</u> | <u>Burden Loaded</u> |             | <u>Cost</u>    |
|                                 |  |                   | <u>Hours</u>         | <u>Rate</u> |                |
| 1.                              | Time to provide sample                           | Employees         | .25 hour             | \$87.73     | \$21.93        |
| 2.                              | Cost of Drug Test<br>(subcontract)               |                   |                      |             | \$65.00        |
| 3.                              | Manage Drug Test<br>subcontract & review results | Manager           | .25 hour             | \$116.55    | \$29.14        |
| 4.                              | Submit notification                              | Manager           | .25 hour             | \$116.55    | \$29.14        |
| 5.                              | Maintain files                                   | Admin. Support    | <u>.25 hour</u>      | \$47.47     | <u>\$11.87</u> |
|                                 |  |                   | 1.0 hour             |             | \$157.08       |

Step 1 of the information collection is completed by an employee at any level working on a government designated security sensitive site. Data from the Agency's Independent Government Cost Estimate (IGCE) developed in 2005 for the acquisition of new response contracts for all regions were averaged to arrive at one loaded rate. The loaded rate includes the contractors' overhead rate, general and administrative, and fringe benefit costs. Since the loaded labor rate used in this estimate is from 2005, an escalation factor of 3.1% (based upon Defense Contract Audit Agency recommendations) was applied for the outlying years through 2009 to determine an average annualized loaded labor rate for the time the ICR renewal goes into effect.

The following is the calculation of the annualized loaded labor rate for step 1:

Loaded Rate:

|                           |                      |
|---------------------------|----------------------|
| 2005 =                    | \$82.48              |
| 2006 = (\$82.48 x 3.1%) = | \$85.04              |
| 2007 = (\$85.04 x 3.1%) = | \$87.68              |
| 2008 = (\$87.68 x 3.1%) = | \$90.33              |
| 2009 = (\$90.33 x 3.1%) = | <u>\$93.13</u>       |
|                           | \$271.14/5 = \$87.73 |

The cost estimate for this ICR is based on the same or similar labor categories as those reflected in the background check ICR. Therefore, the cost associated with this effort was estimated using a loaded hourly rate within the National Compensation Survey: Occupational Wages in the United States, 2007 published by the U.S. Department of Labor, Bureau of Labor Statistics in April of 2007, and represents the most current survey data available. Steps 3 and 4 of the collection activity are performed by a human resource type manager and/or a security manager responsible for personnel management. Administrative support personnel are responsible for completing step 5.

The following are the loaded labor rates used in the calculations in the table above for steps 3 through 5:

Administrative Manager:

2007 = \$35.15

2008 = (\$35.15 x 1.04) \$36.56

2009 = (\$36.56 x 1.04) \$38.02 x 2.95 = \$ 112.16

2010 = (\$38.02 x 1.04) \$39.54 x 2.95 = \$ 116.45

2011 = (\$39.54 x 1.04) \$41.03 x 2.95 = \$ 121.04

\$ 349.65/3 = \$116.55

Administrative Support:

2007 = \$14.29

2008 = (\$14.29 x 1.04) \$14.86

2009 = (\$14.86 x 1.04) \$15.45 x 2.95 = \$ 45.58

2010 = (\$15.45 x 1.04) \$16.09 x 2.95 = \$ 47.47

2011 = (\$16.09 x 1.04) \$16.73 x 2.95 = \$ 49.35

\$142.40/3 = \$47.47

\* 2.95 is a factor recommended by EPA cost analyst as representative of labor related burdens

These loaded rates, therefore, represent the most realistic cost of compliance with the Drug Testing requirement for the response contracts.

## (ii) Capital/ Start-up Costs

Respondents will not be required to acquire capital goods to provide the requested information; therefore, capital start-up costs have not been included in this estimate.

## (iii) Operating and Maintenance Costs

Operating and maintenance costs, which include such items as file storage, photocopying, and postage, will be nominal.

## (c) Estimating Agency Burden and Cost

Agency burden for responses to background check and suitability determinations.

| <b>Agency Burden Cost Estimate</b> |                       |                     |                    |             |
|------------------------------------|-----------------------|---------------------|--------------------|-------------|
| <u>Collection Activity</u>         | <u>Labor Category</u> | <u>Burden Hours</u> | <u>Loaded Rate</u> | <u>Cost</u> |
| 1. Ensure Compliance               | GS-13                 | .25 hour            | \$75.55            | \$18.89     |

2009 = 33.84 x 2.16\* = \$73.09

$$\begin{aligned}
 2010 &= (\$33.84 \times 3.0\%) \$34.86 \times 2.16 = \$75.98 \\
 2011 &= (\$34.86 \times 3.0\%) \$35.91 \times 2.16 = \underline{\$77.57} \\
 &\quad \$226.64/3 = \$75.55
 \end{aligned}$$

Drug testing is the responsibility of the EPA contractor. The Agency is primarily responsible for ensuring that contractors notify the Agency that its employees have passed the drug test. The Agency's effort is estimated to be at the GS-13 level. The GS-13 per hour salary for 2009 is \$33.84. This per hour wage was escalated by an estimated factor of 3.0% based upon historical cost of living increases for federal workers. These wage rates were then multiplied by a factor of \*\*2.16 to reflect Federal employee benefits and then divided by three for an annualized loaded rate of \$75.55, for the three years the ICR is in effect (see above)

\*2.16 is a factor recommended by EPA cost analyst as representative of employee related benefits. (see above).

#### (d) Estimating the Respondent Universe and Total Burden

All EPA contractor personnel performing at an EPA designated sensitive site with significant security concerns must be tested for the presence of marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), and any other controlled substances. A site with significant security concerns is determined by the Agency and could be sites that involve law enforcement activities, any indoor cleanups (including household residences), drug lab cleanups, and response actions at geographically sensitive locations such as military installations and government buildings. The number of contractor employees expected to submit to drug testing is 1,350 for the life of this ICR (3 years). This number was determined by input provided from the respondents estimating the number of drug tests that they provide in a year because they would be considered to have security concerns for the Agency. Annually, the Agency responds to roughly 450 incidences with an estimated 5% of these responses, 23, that may be designated as having security concerns for the Agency.

There are both small and large businesses working in the field with diverse response site situations that require large variations in the number of employees. Contractors may be on-site for a few days or many years depending on the situation. There are currently 78 contracts that respond to environmental emergencies involving the release, or threatened release, of oil, radioactive materials or hazardous chemicals that may potentially affect communities and the surrounding environment. The number of these contracts changes depending on program needs and environmental circumstances. For these reasons, this initial request represents our best estimate given current information. Future estimates will be more accurate and based on historical data on the use of the subject clause.

#### (e) Bottom Line Burden Hours and Costs

##### (i) Respondent Tally

Total annual respondent hours for this collection request are 450 hours. This is derived by taking the total number of contractor employees expected to submit to drug testing, 1,350, divided by 3 (the number of years the ICR is effective) for a total of 450 occurrences per year. Then the number of annual occurrences, 450, is multiplied by the respondent burden effort of , approximately 1 hour to collect information to arrive at the total of 450 hours per year.

Total annual respondent cost for this collection request is \$70,686.00. This is calculated by multiplying the number of annual occurrences, 450, by the respondent cost of one collection, \$157.08.

(ii) The Agency Tally

The total annual Agency burden hours for this collection request are 112.5 hours. This is derived by taking the total number of contractor employees expected to submit to drug testing, 1,350, divided by 3 (the number of years the ICR is effective) for a total of 450 occurrences per year. Then, the total number of occurrences per year, 450, is multiplied by the estimated burden hours, .25, to arrive at a total estimated burden of 112.5 hours.

The total annual Agency burden cost is estimated at \$8,500.50. This is calculated by multiplying the estimated burden hours, .25, by the estimated hourly rate of \$75.55 for a total of \$18.89 for one collection request. Then, the \$18.89 is multiplied by the estimated number of annual occurrences, 450, for a total of \$8,500.50.

(f) Burden Statement

The annual public reporting and record keeping burden for this collection of information is estimated to average 1 hour per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OARM-2008-0829, which is available for public viewing at the Office of Environmental Information Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.



Attachment A

The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Office of Environmental Information Docket is (202) 566-1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Office for EPA. Please include the EPA Docket ID No. EPA-HQ-OARM-2008-0829 and OMB Control Number 2030-0044 in any correspondence.