

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
9000-0147, POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION**

A. Justification.

1. **Administrative requirements.** Federal Acquisition Regulation (FAR) Subpart 23.10, implements Executive Order (E.O.) 13148 of April 21, 2000, *Greening the Government through Leadership in Environmental Management*, and it also provides a means for agencies to obtain contractor information for the implementation of environmental management systems (EMSs) and the completion of facility compliance audits (FCAs) at certain Federal facilities. This information collection will be accomplished by means of Alternates I and II to FAR clause 52.223-5. Alternate I of 52.223-5 require contractors to provide information needed by a Federal facility to implement an EMS and Alternate II of 52.223-5 requires contractors to complete an FCA. FAR Subpart 23.10 and its associated contract clause at FAR 52.223-5 also implement the requirements of E.O. 13148 to require that Federal facilities comply with the planning and reporting requirements of the Pollution Prevention Act (PPA) of 1990 (42 U.S.C. 13101-13109), and the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 (42 U.S.C. 11001-11050). The E.O. requires that contracts to be performed on a Federal facility provide for the contractor to supply to the Federal agency all information the Federal agency deems necessary to comply with these reporting requirements.

2. **Uses of information.** The information is used by Federal facilities managers and emergency planning and environmental engineering personnel to prepare emergency response plans, Toxic Release Inventory (TRI) reports, material safety data for hazardous chemicals, hazardous substance release emergency notifications, emergency and hazardous chemical inventory forms, toxic chemical release forms, and toxic chemical source reduction and recycling reports. The information is also used to implement environmental management systems and to complete facility compliance audits. A variety of data must be collected from Federal contractors in order for each facility to comply with PPA and EPCRA reporting requirements. The information to be collected in each case will depend on the chemicals being used in the performance of the contract, and the circumstances of their use.

3. **Consideration of information technology.** The information collection addressed herein is merely the aggregation of already-

cleared data under EPA-generated information collection clearances. The burden on contractors depicted in this supporting statement is, therefore, attributable only to locating and retrieving the required information.

Improved information technology is being used to the maximum extent practicable. Where both the Government agency and contractors are capable of electronic interchange, the contractors may submit this information collection requirement electronically. This means the information may be e-mailed or could be faxed - depending on the contractor and the facility. The technology to collect and distribute this information is not impacted in any way by the Integrated Acquisition Environment initiative.

4. Efforts to identify duplication. This requirement is issued under the Federal Acquisition Regulation (FAR) which has been developed to standardize Federal procurement practices and eliminate unnecessary duplication. Similar information is not readily available from any other source.

5. If the collection of information impacts small businesses or other entities, describe methods used to minimize burden. The burden applied to small businesses is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices. The impact will be minimal unless the contractor uses hazardous substances in performance of a contract on a Federal facility. The collection of information will only impact small businesses that perform under contracts at Federal facilities that E.O. 13148 mandate comply with PPA and EPCRA reporting and implementation requirements. The information required to prepare such reports will be collected, as needed, from both large and small businesses. The nature of the reporting requirements precludes reducing the information collection burden for small businesses. Comments are requested from large and small business concerns and other interested parties on this issue.

6. Describe consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently. Failure to collect all relevant information on the production, use, or storage of hazardous substances on Federal facilities, as well as information needed to complete an FCA or to implement an EMS, will result in noncompliance with the requirements imposed on such facilities by EPCRA, PPA and Executive Order 13148. Such noncompliance may result in inadequate emergency planning, incomplete public disclosures, or

inadequate emergency responses. This would create the potential for jeopardy to public health and safety.

7. Special circumstances for collection. Collection of information on a basis other than by individual contractors is not practical. The contractor is the only one who has the records necessary for the collection. There are no special circumstances that require the collection to be conducted in any manner listed in 5 CFR 1320.5(d)(2).

8. Efforts to consult with persons outside the agency. Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), a notice published in the *Federal Register* at 74 FR 32163, July 7, 2009, made this requirement available to the public and no comments were received.

9. Explanation of any decision to provide any payment or gift to respondents, other than reenumeration of contractors or guarantees. Not applicable.

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

11. Additional justification for questions of a sensitive nature. No sensitive questions are involved.

12. Estimated total annual public hour/ cost burden -- Toxic Release Inventory (TRI) and PPA Reporting, other reports required by the EPCRA, and other reporting required for EMS and FCA information collection. The information collection requirements are estimated in three parts based on the types of reports which will be filed by Federal facilities using the information collected under this rule: (1) Toxic Release Inventory and PPA reports; (2) other reports required by the EPCRA; and (3) information required for implementation of environmental management systems (EMSs) or completion of facility compliance audits (FCAs) at Federal facilities.

Toxic Release Inventory (TRI) and PPA reports (sections 313 of EPCRA and 6607 of PPA): The Environmental Protection Agency reports that 313 Federal facilities submitted reports in 2004 (the last year for which data are available). Of these, approximately 220 facilities use contractors. Based information submitted by the Office of the Federal Environmental Executive in

coordination with EPA, on average, we estimate that there are 8 contractors per facility that may use substances for which TRI reports are required. Therefore, we estimate a total of (220 x 8 =) 1,760 responses per year. The information collection would be accomplished by contractor employees' equivalent to a GS-12 Federal employee using records that the contractor is required to maintain under existing law and regulation. We estimate a burden of 4 hours per response, for a total burden on respondents of 7,040 hours, or \$300,748.80, as follows:

Number of responses.....	1,760
Average hours per response.....x	<u>4</u>
Total hours.....	7,040
Cost per hour.....x	<u>\$42.72*</u>
Total annual burden.....	\$300,748.80

* Based on GS-12, step 5 salary (\$30.06) plus 32.45 percent burden.

Other reports required by the EPCRA (sections 311 and 312, hazardous chemical reporting): The Environmental Protection Agency estimates that 1,600 Federal facilities use toxic or hazardous chemicals subject to EPCRA reporting and emergency planning requirements. On average, we estimate that each of these Federal facilities has two contracts which will be subject to this collection of information (2 x 1,600 =) 3,200 covered contractors. We estimate that each contractor will be required to submit information annually, for a total of 3,200 responses per year. The information collection would be accomplished by contractor employees' equivalent to a GS-12 Federal employee using records that the contractor is required to maintain under existing law and regulation. We estimate a burden of 0.5 hrs. per response, for a total burden on respondents of 1600 hours, or \$68,352, as follows:

Number of responses.....	3,200
Average hours per response.....x	<u>0.5</u>
Total hours.....	1,600
Cost per hour.....x	<u>\$42.72*</u>
Total annual burden.....	\$ 68,352

* Based on GS-12, step 5 salary (\$32.25) plus 32.45 percent burden.

Other reporting required by E.O. 13148: The Environmental Protection Agency estimates that 2,500 Federal facilities would be likely to collect information for EMS self-assessments

(Section 201 of the E.O.) or environmental compliance (FCAs to achieve the goal of Section 202 of the E.O.). On average, we estimate that each of these Federal facilities has one contract which will be subject to this collection of information (1 x 2,500 =) 2,500 covered contractors. We estimate that each contractor will be required to submit information annually, for a total of 2,500 responses per year. The information collection would be accomplished by contractor employees' equivalent to a GS-12 Federal employee using records that the contractor is required to maintain under existing law and regulation. Based on information submitted by the Office of the Federal Environmental Executive in coordination with EPA, we estimate a burden of 5 hrs. per response, for a total burden on respondents of 12,500 hours, or \$534,000, as follows:

Number of responses.....	2,500
Average hours per response.....	x <u>5</u>
Total hours.....	12,500
Cost per hour.....	x <u>\$42.72*</u>
Total annual burden.....	\$534,000

* Based on GS-12, step 5 salary (\$32.25) plus 32.45 percent burden.

The total annual cost to respondents is, therefore, (7,040 + 1,600 + 12,500 =) 21,140 hours, or (\$300,748.80 + \$68,352 + \$534,000 =) \$903,100.80.

14. **Estimated cost to the Government.** The time required for Government review of the information collected varies with the information collected. For information collected to support preparation of Toxic Release Inventory and PPA reports, we estimate 3 hours of review by GS-11 Government employees per submission. For information collected to support preparation of other reports required by EPCRA, we estimate 1 hour of review by GS-11 Government employees per submission. For information collected to support Sections 201 and 202 of E.O. 13148, we estimate 1 hour of review by GS-11 Government employees per submission. The estimated cost to the Government to review responses to this information is calculated as follows:

	<u>TRI Reports</u>	<u>Other Reports</u>	<u>EMS/FCA</u>
<u>Reports</u>			
Number of responses	1,760	3,200	2,500
Avg. hours per response	x <u>4</u>	x <u>.5</u>	x <u>5</u>
Total hours	7,040	1,600	12,500
Cost per hour	\$ <u>42.72*</u>	\$ <u>42.72*</u>	\$ <u>42.72*</u>

Total annual cost \$300,748.80 \$ 68,352 \$534,000

* Based on GS-12, step 5 salary (\$32.25) plus 32.45 percent burden.

<u>Summary</u>	<u>Totals</u>
Number of responses	7,460
Total hours	21,140
Total annual cost	\$903,100.80

15. Explain reasons for program changes or adjustment reported in Item 12 or 13. This request updates a currently approved information collection requirement. Adjustments were made number of facilities reporting for section 313 of EPCRA based information obtained from EPA. The previous supporting statement, and subsequent approval, was only based upon 2000 Environmental Protection Agency TRI, PPA, and other EPCRA reporting data. This supporting statement is based on year 2000 and 2004 (most recent available information) Environmental Protection Agency data. Adjustments were made to the estimated burden hours associated with reporting for section 313 of EPCRA and reporting required by E.O. 13148, based on information submitted by the Office of the Federal Environmental Executive in coordination with EPA. An economic adjustment was made to the information collection accomplished by contractor employees and the information review accomplished by the Government employee. The estimated cost pay scale for both the contractor employee equivalent and the Government employee changed from a GS-11 to GS-12 Federal employee.

16. Outline plans for published results of information collections. Results of this information collection will not be published.

17. Approval not to display expiration date. Not applicable.

18. Explanation of exception to certification statement. Not applicable.

B. Collections of Information Employing Statistical Methods.

Results will not be tabulated. Statistical methods will not be employed.