

**SUPPORTING STATEMENT FOR ICR NO. 2212.03
MINORITY BUSINESS ENTERPRISE/WOMAN BUSINESS ENTERPRISE (MBE/WBE)
UTILIZATION UNDER FEDERAL GRANTS, COOPERATIVE AGREEMENTS AND
INTERAGENCY AGREEMENTS**

1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title and Number of the Information Collection

Minority Business Enterprise/Woman Business Enterprise (MBE/WBE) Utilization
Under Federal Grants, Cooperative Agreements and Interagency Agreements, ICR
Number 2212.03 (Reinstatement)

1(b) Short Characterization

All EPA financial assistance agreement recipients are required to make good faith efforts to assure that small, minority and women owned businesses are used, when possible, as sources of construction, services, equipment, and supplies. All financial assistance agreement recipients must report on a quarterly basis, except for recipients of continuing environmental program grants, and institutions of higher education, hospitals and other non-profit organizations receiving financial assistance awards under 40 CFR part 30, who report on an annual basis. The information collected by EPA Form 5700-52A is used to compile data concerning the utilization of minority and women owned businesses as contractors and subcontractors under procurements funded by EPA financial assistance agreements. Moreover, the effectiveness of EPA's MBE/WBE Program and overall programmatic compliance is measured through this reporting requirement.

EPA Form 5700-52A is not a new form. This form has historically been approved under ICR Number 0938.11 (2030-0020), "General Administrative Requirements for Assistance Programs." Even though this form is now supported by its own ICR, the form continues to be required for grants management purposes. The completion and submission of EPA Form 5700-52A is mandatory. The modifications to EPA Form 5700-52A were made to simplify and shorten the form itself. The instructions in the modified form also provide more information about questions frequently asked by respondents.

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2. NEED/AUTHORITY FOR THE COLLECTION

(2)(a) Need/Authority for this Collection

The effectiveness of, and compliance with EPA's MBE/WBE Program is measured through its reporting requirements. These reports also measure EPA's progress in achieving the national objectives established by EPA's 8% and 10% statutes. The primary legal authorities for EPA's MBE/WBE Program and this associated ICR are as follows:

- Public Law 102-389, a 1993 appropriations act (42 U.S.C. §4370d) (EPA's 8% statute), which provides in pertinent part:

“The Administrator of the Environmental Protection Agency shall, hereafter, to the fullest extent possible, ensure that at least 8 percent of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans and contracts for wastewater treatment and leaking underground storage tanks grants, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of Section 8(a)(5) and (6) of the Small Business Act (15 U.S.C. §637 (a)(5) and(6)), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women...”

- Public Law 101-549, Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. §7601 note) (EPA's 10% statute), which provides in pertinent part:

“In providing for any research relating to the requirements of the amendments made by the Clean Air Act Amendments which use funds of the Environmental Protection Agency, the Administrator of the Environmental Protection Agency shall, to the extent practicable, require that not less than 10 percent of the total Federal funding for such research will be made available to disadvantaged business concerns.”

- Code of Federal Regulations (CFR), part 33 which states in pertinent part:

“Currently, all financial assistance agreement recipients must report on a quarterly basis, except for recipients of continuing environmental program grants, and institutions of higher education, hospitals and other non-profit organizations receiving financial assistance awards under 40 CFR part 30, who report on an annual basis. This rule will reduce the reporting frequency to semi-annually for all recipients who currently report on a quarterly basis.”

- Executive Order 11625 which states in pertinent part:

“The officials designated under the preceding paragraph, when so requested, shall review and report to the Secretary upon the policies and programs of the minority business enterprise program, and shall keep the Secretary informed of all proposed budgets, plans and programs of his department or agency affecting minority business enterprise.”

- Executive Order 12138 which states in pertinent part:

“Each department or agency empowered to extend Federal financial assistance

to any program or activity shall issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business enterprise and to prohibit actions or policies which discriminate against women's business enterprise on the ground of sex. For purposes of this subsection, Federal financial assistance means assistance extended by way of grant, cooperative agreement, loan or contract other than a contract of insurance or guaranty.... To the extent permitted by law, each department and agency upon request by the Chairperson shall furnish information, assistance and reports and otherwise cooperate with the Chairperson and the Committee in the performance of their functions hereunder. Each department or agency shall ensure that systematic data collection processes are capable of providing the Committee current data helpful in evaluating and promoting the efforts herein described.”

- Executive Order 12432 which states in pertinent part:

“Each Federal agency shall encourage recipients of Federal grants and cooperative agreements to achieve a reasonable minority business participation in contracts let as a result of its grants and agreements....Each Federal agency shall provide the Cabinet Council on Commerce and Trade such information as it shall request from time to time concerning the agency's progress in implementing these programs”

(2)(b) Practical Utility/Uses of the Data

The data collected by EPA Form 5700-52A is needed to measure the accomplishments of EPA financial assistance recipients with the requirements of EPA’s MBE/WBE program. The data collected is also needed to show EPA’s overall performance in achieving the Agency’s national 8% and 10% objectives for the utilization of MBEs and WBEs under the program, and to evaluate the effectiveness of EPA’s MBE/WBE Program.

The data collected by EPA Form 5700-52A will be used by EPA to compile required and requested reports on the effectiveness of, and accomplishments under EPA’s MBE/WBE Program, and to ensure recipient compliance. EPA Form 5700-52A will be received by the EPA Office of Grants and Debarment, Grants Administration Division, and by the EPA Office of Small and Disadvantaged Business Utilization. The results of these reports will be used to insure that the program is meeting its statutorily required objectives.

3. NON DUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) Non Duplication

All of the information collected pursuant to this ICR is specific to the associated legal authorities for EPA's MBE/WBE Program, and is required by statute. The information collected under this ICR is asked of recipients of EPA financial assistance agreements, concerning procurement activities funded by those agreements. EPA is only requesting information from a clearly defined body of responders, for a clearly defined purpose. Information concerning the utilization of MBEs and WBEs under EPA financial assistance agreements is not available from other sources. There is no duplication of effort involved.

3(b) Public Notice Required Prior to ICR Submission to OMB

On September 22, 2009, a notice was published in the Federal Register concerning this ICR. The notice solicited public comment on EPA Form 5700-52A, and included the required 60 day comment period. EPA received no comments on the Federal Register notice.

3(c) Consultations

EPA contacted the following grant recipients to solicit their comments, ideas, and opinions concerning the revision of Form 5700-52A:

- 1) Patricia Sasaki
Hawaii Department of Health
808-586-4579
- 2) Annette Sharp
Central State Air Resources Agency
405-378-7377
- 3) Brenda Desselle
University of New Orleans Research & Tech Foundation
504-280-2845
- 4) Shawn Howard
Citizen Potawatomi Nation
405-878-4672
- 5) Tabitha King
Miami Tribe of Oklahoma
918-541-1373
- 6) Laura Cagle
Texas Commission on Environmental Quality
512-239-1293

- 7) Lynn Kelemen
The Metropolitan Water District of Southern California
909-392-5396
- 8) Doris Roberson
State of Indiana, State Revolving Fund Loan Programs
317-234-1266
- 9) Doris Winslow
Grand Traverse Band (Tribe)
231-534-7965

3(d) Effects of Less Frequent Collection

Currently, all financial assistance agreement recipients must report on a quarterly basis, except for recipients of continuing environmental program grants, and institutions of higher education, hospitals and other non-profit organizations receiving financial assistance awards under 40 CFR part 30, who report on an annual basis. Under the MBE/WBE Program, recipients are required to undertake affirmative steps to include MBEs and WBEs in their competitive procurement processes. Some of those steps include: general outreach efforts; soliciting MBEs and WBEs to bid or quote on procurements; and using databases and other resources to locate MBEs and WBEs. Financial assistance recipients are also required to negotiate fair share objectives for the use of MBEs and WBEs. We found through the rulemaking that semi-annual reporting affords EPA the opportunity to monitor recipients' accomplishments under the MBE/WBE program to determine whether or not the program is effective in meeting its objective of increasing MBE/WBE participation in procurements funded by EPA financial assistance agreements. When we monitor those accomplishments semi-annually, we have the opportunity to see if the application of the affirmative steps is translating into increased MBE/WBE participation, before the term of the grant or term of the project is complete. Once the grant or project is complete, the opportunity to increase MBE/WBE participation is lost. Many of the grants that must report quarterly are grants with shorter completion terms.

3(e) General Guidelines

This data collection is consistent with OMB’s General Guidelines.

3(f) Confidentiality

Any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B-Confidentiality of Business Information (CBI) (see 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

3(f) Sensitive Questions

None of the reporting or recordkeeping requirements contain sensitive questions.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a) Respondents/SIC/NAICS Codes

The respondents to this data collection are recipients of EPA financial assistance agreements. These recipients include Tribal, state, and local governments, institutions of higher education, hospitals, and other non-profit organizations. SIC and NAICS Codes do not apply.

4(b) Information Requested

(i) Data Items, Including Recordkeeping Requirements

The data items requested in EPA Form 5700-52A are as follows:

Data Item	Recordkeeping	Reporting
Recipient contact information	X	X
Type of report (quarterly, annual, or a revision of a prior report)	X	X
The grant number and grant program	X	X
The total dollar amount of the grant	X	X
The total dollar amount		

of the grant spent on procurements		X	X
The total dollar amount of those procurements spent with MBEs or WBEs		X	X
The total dollar amount a sub-recipient, loan recipient, or a recipient's prime contractor spent with MBEs or WBEs		X	X
The name and contact information of the MBEs and WBEs with whom procurement dollars were spent		X	X
The dollar value of the procurements with the MBEs and WBEs, and the type of services or products provided		X	X
The date of the award of the procurement with the MBE or WBE.		X	X

The recordkeeping requirements associated with this form are those required by the applicable retention and access requirements for a recipient's financial assistance agreement, *e.g.*, 40 CFR 30.53 (for institutions of higher education, hospitals and other non-profit organizations); 40 CFR 31.42 (for Indian Tribal, State and local Government recipients); and 40 CFR 35.6705, 35.6710 (for Superfund Response Action Cooperative Agreements). This form imposes no special recordkeeping requirements outside of those already required under the financial assistance agreement.

Since the last clearance for EPA Form 5700-52A, changes to the data items reflect an effort to simplify the information requested in some parts of the form.

- Block 1a has been modified to include the dates of the federal fiscal year.
- Block 1b has been modified to include boxes for semi-annual reporting periods.
- Block 5c has become blocks 5c, 5d, and 5e. This information remained the same, but separate blocks were created for clarity.

- Page 2, Column 4 - “date of award” has been changed to “date of procurement”.
- The instructions to the form have been revised to instruct respondents on where to find some of the general information required on the form, and to clarify the definitions of some of the terms used on the form.

(ii) Respondent Activities

The respondents will engage in the following activities to assemble, submit, and store the data items listed in the previous section. These activities reflect the items of burden mandated by the 1995 Paperwork Reduction Act.

1. *Review Instructions* - The instructions to the form are straight forward and were revised to provide more clarity. The form will remain the same from year to year.
2. *Acquire, Install, and Utilize Technology and Systems* - The information requested in the ICR is typical of information gathered as part of good business practices. No special technology or systems would be required for this collection. Neither email nor internet access is currently required for the completion or submission of this form.
3. *Adjust the Existing Ways to Comply with Any Previously Applicable Instructions or Requirements* - As stated above, the form will remain the same from year to year. While we have simplified the form by consolidating some of the data and revising the instructions, the substance of the form has not changed. No adjustment to existing ways to comply with any previously applicable instructions or requirements is needed.
4. *Search Data Sources* - Gathering and updating the information required on this form is either a quarterly or annual task. EPA financial assistance recipients have been reporting on their activities under the MBE/WBE program for over a decade. The information required on the form is information that recipients already collect as a customary business practice.

5. *Complete and Review the Collection Information* – All information requested by this form should be readily available. Completing and reviewing this form should be straightforward and procedural.
6. *Transmit or Otherwise Disclose the Information* – EPA Form 5700-52A is available through EPA's website. The form can also be obtained by email and by hard copy through regular mail. Respondents to this form can transmit the form to EPA by email (followed by signed, hard copy by mail), by fax (followed by signed, hard copy by mail), or by regular mail. Currently this form cannot be submitted online.
7. *Store, File, and Maintain* – The recordkeeping requirements associated with this form are those required by the applicable retention and access requirements for a recipient's financial assistance agreement, e.g., 40 CFR 30.53 (for institutions of higher education, hospitals and other non-profit organizations); 40 CFR 31.42 (for Indian Tribal, State and local Government recipients); and 40 CFR 35.6705, 35.6710 (for Superfund Response Action Cooperative Agreements). This form imposes no special recordkeeping requirements outside of those already required under the financial assistance agreement.

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

5(a) Agency Activities

- EPA Form 5700-52A will be available to all respondents at any time, via our website, or by request through email or regular mail. When requested by email or regular mail, EPA staff will send the form to the respondents.
- EPA personnel will answer respondent questions regarding the form.
- A master database has already been setup to receive, store, and aid in the analysis of the data being collected.
- EPA staff will record or enter submissions into the database.
- The data will be analyzed by EPA staff and be reformatted to compile reports on the Agency's accomplishments under the MBE/WBE Program.
- EPA staff may audit or review data submissions.

5(b) Collection Methodology and Management

The data collection for this ICR is a form. EPA Form 5700-52A has been in use for over a decade, and is therefore well-tested. As previously stated, the revisions to the form did not affect the substance of the requested data, it only consolidated and simplified the form.

- *How will you check data quality?* – All EPA financial assistance agreements are subject to random, periodic audits. Data quality will be checked during those audits. Also, EPA staff who are directly responsible for the implementation of the MBE/WBE Program, including the receipt of the form, will be involved in checking data quality.
- *What machines and processing technology will you employ?* – Computers and the internet will be used to aid in the dissemination of the form. Also, the database that will be used to store the information collected by the form, will be used to analyze the data and generate reports from the data.
- *How will you enter and store the data?* – As mentioned above, EPA has developed a database to enter and store the data.
- *How may the public access the data?* – The public will be able to access the data through reports that will be generated from the data. The raw data collected from the form, and the database in which the data will be kept will not be available to the public.

5(c) Small Entity Flexibility

The completion and submission of this form will have an effect on small organizations and small governmental jurisdictions to the extent that entities under these classifications are recipients of EPA financial assistance agreements. Currently, all EPA financial assistance recipients are required to submit Form 5700-52A on a semi-annual basis, except recipients of continuing environmental program grants, and institutions of higher education, hospitals and other non-profit organizations receiving financial assistance awards under 40 CFR part 30, who report on an annual basis. By having recipients of continuing environmental program grants,

institutions of higher education, hospitals, and other non-profit organizations report on an annual basis, we have “establish [ed] differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond,” in accordance with the Regulatory Flexibility Act (5 U.S.C 601(6)).

5(d) Collection Schedule

Respondents are required to submit EPA Form 5700-52A thirty (30 days after the end of each federal fiscal quarter or annually, per the terms and conditions of the financial assistance agreement. Submission dates are January 30, April 30, July 30, and October 30. The submission date for annual reports is October 30.

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

6(a) and 6(b) Estimating Respondent Burden and Cost

Respondent burden estimates can be found in Table 1 below. There are approximately 3600 respondents to this form based on the number of grants awarded by the Agency. Approximately 1/3 of those respondents report on a semi-annual basis. The remaining respondents report annually, although there will be a percentage of respondents who will continue to report quarterly until phase out occurs. The estimates in Table 1 reflect burden hour and cost estimates based on quarterly, semi-annual and annual reporting.

The wage rates used to determine cost were calculated as follows:

$$\text{Applicant Wage Rate: } \$48.17 \times 1.40 = \$67.44$$

\$48.17 represents the average wage rate of several occupations expected to manage financial assistance agreements. 1.40 represents a 40% rate for benefits. This figure was derived from Table 1. Civilian Workers, by Major Occupation Group; Management, Professional, and Related – found in the Bureau of Labor Statistics New Release, “Employer Costs for Employee Compensation – December 2009.”

TABLE 1. ANNUAL RESPONDENT BURDEN/COST ESTIMATE

Collection Activity	Burden Hours	Response Hours Per Year			Total Hours Per Year			Total Labor Costs Per Year (hrs. x \$67.44)			Capital Costs	O & M Costs	Total Cost Per Year
		Annl.	SemAnn.	Qtr.	Annl. 2400 Resp.	Semi 600 Resp.	Qtr. 600 Resp.	Annl.	Semi	Qtr.			
Review instructions	.25	.25	.50	1	600	300	600	\$40,464	\$20,232	\$40,464	0	0	\$101,160
Acquire, install, and utilize technology and systems	0	0	0	0	0	0	0	\$0	\$0	\$0	0	0	\$0
Adjust existing ways to comply with previously applicable instructions and requirements	0	0	0	0	0	0	0	\$0	\$0	\$0	0	0	\$0
Gather information	.50	.50	1	2	1200	600	1200	\$80,928	\$40,464	\$80,928	0	0	\$202,320

Search data sources	0	0	0	0	0	0	0	\$0	\$0	\$0	0	0	\$0
Complete and review the collection of information	.50	.50	1	2	1200	600	1200	\$80,928	\$40,464	\$80,928	0	0	\$202,320
Transmit or otherwise disclose the information	.25	.25	.50	1	600	300	600	\$40,464	\$20,232	\$40,464	0	0	\$101,160
Store, file, or maintain the information	0	0	0	0	0	0	0	\$0	\$0	\$0	0	0	\$0
TOTALS	1.50	1.50	3	6	3600	1800	3600	\$242,784	\$121,392	\$242,784	0	0	\$606,960

Respondent Total Burden Hours Per Year: 9,000 hrs
Respondent Total Costs Per Year: \$606,960 Labor Costs

NOTE: Table 1 reflects a decrease in respondent total burden hours per year, and an increase in respondent total costs per year. The increase in the respondent total costs per year amount from the first Federal Register Notice is the result of the use of a more current applicant wage rate. The previous wage rate (\$36.28) was derived from the Bureau of Labor Statistics “Employer Costs for Employee Compensation – March 2005” table, while the current wage rate was taken from the same table for December 2009.

Start-up/Capital Costs and Operation and Maintenance Costs - Start-up costs for EPA grant applications and associated forms are minimal and are part of customary and usual recipient business expenses. There are no capital costs related to EPA grant related reporting requirements. Therefore, total start-up and capital costs are zero (0). There are no O&M costs required.

6(c) Estimating Agency Burden and Cost

Agency burden hours and costs are estimated below:

TABLE 2. ANNUAL AGENCY BURDEN/COST ESTIMATE

Collection Activity	Burden Hours	Response Hours Per Year			Total Hours Per Year			Total Labor Costs Per Year (hrs. x \$52.39)			Capital Costs	O & M Costs	Total Cost Per Year
		Annl.	Semi	Qtr.	Annl. 2400	Semi 600	Qtr. 600	Annl.	Semi	Qtr.			
Review instructions	0	0	0	0	0	0	0	\$0	\$0	\$0	0	0	\$0
Acquire, install, and utilize technology and systems	.25	.25	.50	1	600	300	600	\$31,434	\$15,717	\$31,434	0	0	\$78,585
Adjust existing ways to comply with previously applicable instructions and requirements	0	0	0	0	0	0	0	\$0	\$0	\$0	0	0	\$0
Gather information	.25	.25	.50	1	600	300	600	\$31,434	\$15,717	\$31,434	0	0	\$78,585
Search data sources	0	0	0	0	0	0	0	\$0	\$0	\$0	0	0	\$0
Complete and review the collection of information	.50	.50	1	2	1200	600	1200	\$62,868	\$31,434	\$62,868	0	0	\$157,170
Transmit or otherwise	.25	.25	.50	1	600	300	600	\$31,434	\$15,717	\$31,434	0	0	\$78,585

disclose the information												
Store, file, or maintain the information	.25	.25	50	1	600	300	600	\$31,434	\$15,717	\$31,434	0	\$78,585
TOTALS	1.50	1.50	3.00	6	3600	1800	3600	\$188,604	\$94,302	\$188,604	0	\$471,510

Agency Total Burden Hours Per Year: 9,000
Agency Total Costs Per Year: \$471,510

The hourly labor rate was derived from using a GS 12, Step 5 hourly rate of \$32.73, with a 1.6 benefit factor.

6(d) Estimating the Respondent Universe and Total Burden Costs

The estimates are reflected in the analysis in Section 6(b).

6(e) Bottom Line Burden Hours and Cost

Respondent Total Burden Hours Per Year: 9,000 hrs
Respondent Total Costs Per Year : \$606,960
Agency Total Burden Hours Per Year: 9,000
Agency Total Costs Per Year: \$471,510

6(f) Reason for Change in Burden

The estimates reflect a decrease in Respondent and Agency burden hours due to a transition from quarterly reporting to semi-annual reporting. There was an increase in Respondent total costs per year due to the use of an updated wage rate for employee compensation. The current rate (\$48.17) was taken from the December 2009 Bureau of Labor Statistics release, while the prior estimate utilized the March 2005 wage rate (\$36.28). In addition, the estimates reflect a decrease in Agency burden hours and costs due to a transition from quarterly reporting to semi-annual reporting. While there is still a percentage of Respondents that will continue to report quarterly, this group will diminish over time because only those agreements awarded prior to May 27, 2008 may still report quarterly. The burden estimate was also revised to include annual, semi-annual, and quarterly reporting. The most recent ICR only reflected annual and quarterly reporting. These changes are categorized as adjustments.

6(g) Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.5 hours per respondent. 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.

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 Number EPA-HQ-OA-2006-0278, which is available for online viewing at www.regulations.gov, or in person viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, 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. 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 www.regulations.gov. This site can be used 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. When in the system, select "search," then key in the Docket ID number identified above. You can also send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention Desk Officer for EPA. Please include the EPA Docket Number: EPA-HQ-OA-2006-0278, and OMB Control Number 2090-0025 in any correspondence.