

SUPPORTING STATEMENT
(PART A AND B)

INFORMATION COLLECTION REQUEST

for the

Evaluation of the Conflict Assessment Services
(Control Number 3320-0003, Expiring 12/31/2011)

The U.S. Institute for Environmental Conflict Resolution

November 14, 2011

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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 and Stewart L. 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 for more information about the U.S. Institute.)

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 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.

The U.S. Institute has partnered with several agencies to allow the benefits of the program evaluation system to be realized more broadly. In 2008, the Department of Interior, Office of Collaborative Action and Dispute Resolution (CADR) was granted the approval of the Office of Management and Budget (OMB) to act as a named administrator of the U.S. Institute's currently approved information collections for evaluation. The CPRC, CADR, and the U.S. Institute are seeking approval as part of this proposed collection to continue this evaluation partnership. In addition, the U.S. Institute is seeking to add the United States Army Corps of Engineers, Conflict Resolution and Public Participation Center (CPC) as a third named administrator under this proposed collection. Other agencies have approached the U.S. Institute seeking (a) evaluation services and (b) assistance in establishing their own internal evaluation systems. Therefore, the U.S. Institute is requesting OMB approval to administer the evaluation questionnaires on behalf of other agencies. The U.S. Institute is seeking approval to make minor conforming revisions to questionnaires to allow for the broader application of the instruments (e.g., change return address on cover).

The burden estimates in this information collection request (ICR) take into consideration the multi-agency usage of the evaluation instruments. The broad interest in the U.S. Institute's evaluation system has fostered an evaluation collaborative among several state and federal agencies. The sharing of evaluation resources and expertise is advantageous on several fronts: (a) design and development efforts are not duplicated across agencies; (b) common methods for evaluating collaborative processes are established; (c) knowledge, expertise and resources are shared, realizing cost-efficiencies for the collaborating agencies; and (d) learning and improvement on a broader scale will be facilitated through the sharing of comparable multi-agency findings.

Situation/conflict assessment services are provided to help participants resolve specified types of environmental conflicts (e.g., those involving a federal agency or interest and affecting the environment, natural resources or public lands). Consensus building or dispute resolution services are typically provided following a conflict assessment, and include assistance with convening the appropriate parties and providing an appropriate neutral assessor (facilitator or mediator) to help the participants work toward and reach an agreement. These services are provided by agency staff alone or, more typically, in concert with third-party neutrals under contract to the agency. The evaluation of Situation/Conflict Assessment program area will provide the basis for improving and enhancing assessment services.

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

As part of the evaluation process for the Conflict Assessment services, two questionnaires will be administered. The questionnaires will go to: (1) the key initiating organizations/participants that initiated the request for the conflict assessment at the conclusion of the process (once), and (2) the assessor (neutral) who conducted the conflict assessment at the conclusion of the process (once). Design details of the program evaluation system are contained in Attachment B.

The information collected by the U.S. Institute to-date has been 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 have and will be included in its *Annual Performance Reports*. Simple summaries and tabulations of information will be used. In addition, the evaluation results have and will continue to be made available to wide audiences of program administrators, users, practitioners, and researchers who are interested in learning what factors most influence successful outcomes in specific situations. The U.S. Institute's evaluation partners will make similar use of the evaluation information collected.

3. Collection Technology

To the extent possible, the Situation/Conflict Assessment questionnaires will be administered in electronic form. The assessors who conduct the assessments and representatives of the initiating organizations/key participants 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 assessment services.

5. Impact on Small Businesses or Other Small Entities

Although some of the respondents will be small entities, most will be government employees and individuals. Moreover, the total number of expected respondents per year is estimated to be relatively small – less than 430 per year – and the financial burden to be modest – less than \$3.95 per respondent.

6. Consequences of Not Conducting Collection

Evaluation of the assessment services would not be possible without the information that can be obtained only by administering questionnaires to users. Only descriptive information about the assessment services is available from other sources (e.g., the number of assessments conducted 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 users and participants.

With respect to the frequency of information collection, the information will be collected only once for each event.

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 that 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 at the end of July 2011. 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 mid-October 2011, 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 and Stewart L. 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

The collection of information does not provide any payment or gift to respondents, other than enumeration of contractors or grantees.

10. Confidentiality Protocols

It is U.S. Institute policy to disclose information collected from process participants only in summary fashion (e.g., project-level reports); neither individual respondents nor their answers to questions will be identified. Social Security numbers and company tax identifiers will not be requested as part of the evaluation.

It is U.S. Institute policy to disclose project-level evaluation information provided by and pertaining to project contractors (e.g., mediators or facilitators). The information will be reported without directly identifying the name of the contractor(s). However, project participants and others familiar with a particular project will know the identity of the contractors to whom the evaluation information pertains. To this end, the U.S. Institute does not perceive project-level indirect identification of contracted mediators/facilitators neutrals as an unwarranted invasion of the person privacy of individuals.

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 project participants, 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* – March, 2011. <http://www.bls.gov/news.release/ecec.t02.htm>).

The following table is based on several assumptions:

- 75 assessments will be evaluated each year on average.
- Each case will involve an average of five participants.
- Each case will involve approximately one assessor.
- The total number of responses will average 430 per year
- The average cost per respondent is less than \$4.00.

The time estimates to complete each questionnaire are based on experience with prior information collection authorized under OMB control number 3320-0003 (Expiring 12/31/11).

U.S. Institute for Environmental Conflict Resolution Respondent Burden and Cost (Annualized)								
Conflict Assessment Services (3320-0003)								
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 (\$)
U.S. Institute for Environmental Conflict Resolution								
Initiating Organization Representative	35	5	175	5	875	15	47	685
Assessors		1	35	5	175	3	47	137
U.S. EPA Conflict Prevention and Resolution Center								

Initiating Organization Representative	20	5	100	5	500	8	47	392
Assessors		n/a	n/a	n/a	n/a	n/a	n/a	n/a
U.S. DOI Office of Collaborative Action and Dispute Resolution								
Initiating Organization Representative	10	5	50	5	250	4	47	196
Assessors		1	10	5	50	1	47	47
U.S. Army Corps of Engineers, Conflict Resolution and Public Participation Center								
Initiating Organization Representative	10	5	50	5	250	4	47	196
Assessors		1	10	5	50	1	47	47
Total	75		430			36		\$1,700

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 Situation/Conflict Assessment Services Agency Cost - Start-up (One-Time Costs)				
Position	Activity	Total Hours	Labor Rate per Hour	Cost
Management	Oversight	5	\$75	\$375
Program Coordinator	Design and Management	20	\$42.50	\$850
Administrative Staff	Administrative support	6	\$32.50	\$195
TOTAL		31		\$1,420

The costs above reflect total start-up costs for the U.S. Institute and its evaluation partners (i.e., agencies acting as named administrators of the U.S. Institute's evaluation instruments and agencies contracting with the U.S. Institute for evaluation services).

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

Evaluation of the Situation/Conflict Assessment Services - Agency Cost (Annualized)					
Questionnaire/Activity	Minutes per Questionnaire	Number of Questionnaires	Total Hours	Labor Rate per Hour	Cost
<i>Administer Questionnaires</i>					
Organization Representatives/Key Participants - End of Process	4	375	25.00	\$32.50	\$813
Assessor End of Process Questionnaire	4	55	3.67	\$32.50	\$119
<i>Data Entry Verification and Data Cleaning</i>					
Organization Representatives/Key Participants - End of Process	3	375	18.75	\$32.50	\$609
Assessor End of Process Questionnaire	3	55	2.75	\$32.50	\$89
<i>Analysis and Reporting</i>					
Case-level Reporting	N/A	N/A	75	\$32.50	\$2,438
Program-level Reporting			10	\$62.50	\$625
<i>Oversight</i>					
Program Manager	N/A	N/A	2	\$62.50	\$125
Management	N/A	N/A	2	\$75	\$150
<i>Supplies</i>					
TOTAL					\$5,068

The costs in the table above are average annual operational and maintenance costs for the next three years once the evaluation system is operational. The estimate includes costs for the U.S. Institute and its evaluation partners (i.e., agencies acting as named administrators of the U.S. Institute's evaluation instruments or agencies contracting with the U.S. Institute for evaluation services).

15. Reasons for Program Changes/Adjustments

Burden change due to change in agency estimate based on the factors below.

For the assessor instrument the time estimate was revised downward. The total number of questions remains the same, and the total number of responses remains the same.

For the requestor instrument the time estimate was revised downward, and the total number of responses was revised downward. Revisions to the instrument did not change the overall total number of questions.

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 areas, such as situation/conflict assessments, 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 assessment services provided with the assistance of the U.S. Institute will be evaluated. Since all (100%) of the U.S. Institute assessment services will be evaluated, sample selection methods are not applicable. With respect to other agencies acting as a named administrator of the U.S. Institute's information collections (e.g., the EPA's Conflict Prevention and Resolution Center and DOI's Office of Collaborative Action and Dispute Resolution) no attempt will be made to generalize the initial evaluation results. Professor Don Dillman's "Total Tailored Design Method"¹ will be used to maximize response rates. An overall response rate above 70% is expected.

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

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 (3320-0003 expiring 12/31/2011) provided the opportunity to extensively assess and improve on the previous version of the evaluation design, instruments, administration, data entry and data processing procedures.

4. Statistical Consultants

Agency Contact:

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U.S. Institute for Environmental Conflict Resolution

520-901-8548

List of Appendices

Appendix A. Statutes and Regulations Authorizing the Collection of Information

Appendix B. Situation/Conflict Assessment 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

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ENVIRONMENTAL POLICY AND CONFLICT RESOLUTION ACT OF 1998

[[Page 112 STAT. 9]]

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.

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(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.--

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``(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.--

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 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):

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. Situation/Conflict Assessment Evaluation Design Overview

Evaluating Conflict Assessment Services: Design Document

Conflict assessments are conducted by a neutral party and include a series of confidential, often structured interviews in person or on the telephone with individuals or groups of parties. Through such assessments, assessors (neutral practitioners) identify and clarify key issues and parties, and assess the appropriateness of a mediation/facilitation process and its potential for helping the parties reach agreement. Assessment reports seek to clarify and communicate in a neutral manner the issues and concerns of all parties, and commonly conclude with process design recommendations intended to provide the parties with one or more options for effectively collaborating to find a solution to their conflict.

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

Design Elements and Data Collection

Following the conclusion of a conflict assessment process, the initiating agencies/organization(s) and key participants will be surveyed once via questionnaire to determine their views on a variety of issues. Topics to be investigated include: were all the key issues explored; was input sought from key parties; would the respondents recommend a conflict assessment again for similar situations; did the assessment services help the respondent determine how best to proceed to solve the problem/resolve the

conflict? The voluntary questionnaire contains seven questions requiring respondents to provide fill-in-the blank and open-ended responses. Information from the questionnaire provides the opportunity to: (a) evaluate the performance for specific cases/projects; (b) evaluate the performance of assessment programs; and (c) use the evaluation feedback as a learning tool to improve the design of future assessment cases/projects. *Affected*

Entities: Entities potentially affected by this action are individuals in organizations that participate in a conflict assessment.

Immediately following conclusion of a situation/conflict assessment, the selected assessor(s) will be surveyed once via questionnaire to determine their views on a variety of issues. Topics to be investigated include: was the conflict assessment approach well suited to the nature of the issues in conflict; was assisted negotiation recommended; and, was the recommendation followed? In most cases, it will be specified in the assessor's contract that the assessor will be required to complete the questionnaire. The assessor's questionnaire contains seven questions requiring respondents to provide fill-in-the blank and open-ended responses. Information from the questionnaire will permit the agency staff to evaluate the assessment process and outcomes, and learn from and improve the design of future assessment projects. *Affected Entities:* Entities potentially affected by this action are assessors who either are staff from or have been contracted by the agency.

Data Use and Audiences

Information from the questionnaire will permit the (a) measurement and reporting of performance for specific situation/conflict assessments, (b) measurement and reporting of program performance when the data are aggregated across all evaluated assessments, and (c) learning and improvement when the feedback is used to design and execute future

assessments. The evaluation audiences include the project managers/administrators and the Office of Management and Budget.

For more information contact:

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

IT IS TIME TO DOWNSIZE GOVT. I THINK IT IS TIME TO SUNSET THIS BUDGET OF THIS FOUNDATION, ETC. TO ZERO. IT SEEMS LIKE A HUGE BUREAUCRACY THAT IS NTO NEEDED. THIS IS A 1950 CREATION, THIS IS 2011. IT NEEDS TO BE SUNSET.

JEANPUBLIC ADDRESS IF REQUIRED

>Subject: PUBLIC COMMENT ON FEDERAL REGISTER W: cut budget of udall bureaucracy to zero