

SUPPORTING STATEMENT
(PART A AND B)

INFORMATION COLLECTION REQUEST

for the

Evaluation of the Roster Program
(Control Number 3320-0005, Expiring 12/31/2011)

of

The U.S. Institute for Environmental Conflict Resolution

November 14, 2011

Table of Contents

A. Justification	3
1. Circumstances that Make the Collection of Information Necessary.	3
2. How, by Whom, and for What Purpose the Information is to Be Used.	4
3. Collection Technology	4
4. Duplication.....	5
5. Impact on Small Businesses or Other Small Entities.....	5
6. Consequences of Not Conducting Collection	5
8. Federal Register Notice.....	6
9. Payment/Gifts to Respondents.....	6
10. Confidentiality Protocols	6
11. Justification of Questions of a Sensitive Nature	7
12. Hours Burden of the Collection of Information.....	7
13. Estimate of Total Annual Cost Burden.....	8
14. Annualized Costs to the Federal Government	8
14a. Total Capital and Start-Up Costs	8
14b. Total Operational and Maintenance and Purchase of Services Component.....	9
15. Reasons for Program Changes/Adjustments.....	10
16. Plans for Tabulation and Publication.....	10
17. Display of Expiration Date for OMB Approval	11
18. Explanations to "Certification for Paperwork Reduction Act Submissions".....	11
B. Collections of Information Employing Statistical Methods.....	11
1. Respondent Universe and Sample Size/Selection Methods.....	11
2. Procedures for the Collection of Information	11
3. Testing Procedures	11
4. Statistical Consultants.....	12
Appendix A. Statutes and Regulations Authorizing the Collection of Information	14
Appendix B. Roster Program Evaluation Design Overview	25
Appendix C. Public Comments in Response to the First Federal Register Notice.....	27

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.)

The U.S. Institute for Environmental Conflict Resolution (U.S. Institute) evaluates all of its program and services to facilitate performance reporting and improvement through reflective practice. The Roster Program is one of the key program areas managed through the U.S. Institute.

The U.S. Institute has a Roster Manager who supervises a Roster Program consisting of two main components: development and management of the Roster and overseeing the associated referral and advising system. The information collected in the application for the National Roster of Environmental Conflict Resolution (ECR) Practitioners (OMB No. 2010-0030) is the basis for an on-line database, searchable by a combination of criteria designed to locate appropriate practitioners by matching desired characteristics with the information in the application. The National Roster of ECR Practitioners became operational in February 2000 and currently includes over 300 members.

The U.S. Institute uses the roster as a resource when locating appropriate ECR practitioners with whom to partner via contract for projects in which the U.S. Institute is involved, particularly in the locale of the project or dispute (as required by the U.S. Institute's enabling legislation). The U.S. Institute also uses the roster as a resource when making referrals to those searching for ECR practitioners with specific experience, backgrounds or expertise. The roster search and referral service is available directly to the public through the Internet and direct assistance is also available by contacting the Roster staff at the U.S. Institute.

Effective program evaluation will provide information on how well the roster 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 Appendix A2)

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

As part of the comprehensive evaluation process for the U.S. Institute's National Roster of ECR Practitioners, two questionnaires will be administered primarily electronically. Roster staff in consultation with the U.S. Institute's Evaluation Coordinator will administer the questionnaires.

The questionnaires will go to: (1) Roster members - once per year, and (2) Roster users - once at the end of a search to evaluate the users experience with the service. Response to each of the questionnaires is voluntary.

The U.S. Institute's evaluation of its National Roster of ECR Practitioners has and will continue to provide the basis for evaluating performance and improving and enhancing the Roster and associated services. The information collected by the U.S. Institute to-date has been used to comply with the Government Performance and Results Act and to report to roster members and user on the performance of the Roster.

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 continue to 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 practitioners, users, program managers and other interested parties.

3. Collection Technology

The evaluation system for the National Roster of ECR Practitioners is designed to maximize use of available electronic collection techniques. Roster questionnaires will be administered on-line. Since the National Roster of ECR Practitioners is accessible at the U.S. Institute's website, all members and self-searchers must have Internet access. Hard copies will be provided to any users without access to the web or e-mail. Experience with the current system indicates that on-line and e-mail administration of the questionnaires is feasible, convenient and efficient.

4. Duplication

No other source currently exists that can be used to obtain information on the quality of the U.S. Institute's Roster program.

5. Impact on Small Businesses or Other Small Entities

Although some of the members and users of the National Roster of ECR Practitioners may be small entities, many will be government staff and individuals. Moreover, the total number of expected responses per year is estimated to be relatively small – approximately 550 per year, and the financial burden is estimated to be modest – less than \$3.00 per respondent.

6. Consequences of Not Conducting Collection

Evaluation would not be possible without the information that can be only obtained by administering questionnaires to members and users of the National Roster of ECR Practitioners. Only descriptive information about the Roster Program is available from other sources (e.g., the number of referrals). Such information cannot be used as a surrogate for program/service quality, and cannot substitute for information obtained through surveys of members and users.

With respect to the frequency of information collection, the information will be collected only once a year for members. For users, collection will occur once immediately after a roster search.

This is the minimum collection activity needed to capture the information necessary to evaluate the various aspects of the Roster program.

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 than 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.

10. Confidentiality Protocols

The information collected will be reported only in summary fashion; 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.

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 roster members and users, 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 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:

- The total number of members will average 300 per year.
- The number of users requesting referrals will average 250 per year.
- The average cost per response is less than \$3.00.

The time estimates to complete each questionnaire are based on the results of experience with prior information collection authorized under OMB control number 3320-0005 (Expiring 12/31/2011).

The costs in the table below are average annual costs for the next three years. The total annualized respondent burden is 1,488.

U.S. Institute for Environmental Conflict Resolution Respondent Burden and Cost (Annualized)								
Roster Services (3320-0005)								
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								
Annual Survey of Roster Members	-	-	300	3	900	15	47	705

Roster System Survey - Users End of Search	-	-	250	4	1,000	17	47	783
Total			550			32		1,488

13. Estimate of Total Annual Cost Burden

There are no capital or start-up costs. Although all Roster members and self-search users must have access to the Internet (for access to the Roster website) via a computer, it is assumed that a computer would neither be purchased nor maintained for the primary purpose of accessing the U.S. Institute's website. The incremental costs of using a computer for this purpose is insignificant. In addition, any member or self-searcher who requests a hard copy of the questionnaires and all referral requesters will be sent copies via the U.S. Postal Service.

14. Annualized Costs to the Federal Government

14a. Total Capital and Start-Up Costs

Start-up costs for the refined evaluation system (revisions to a previously approved collection 3320-0005 involve labor only).

U.S. Institute For Environmental Conflict Resolution: Evaluation of the National Roster of ECR Practitioners 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

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

Once the revised evaluation system is in operation, the U.S. Institute will bear annual operation and maintenance costs.

The following table contains estimates of annual costs to operate the evaluation system for the National Roster of ECR Practitioners. The estimating assumptions are consistent with those in Section 12. Labor rates are fully burdened and reflect wage rates at the U.S. Institute for applicable job categories.

U.S. Institute for Environmental Conflict Resolution - Evaluation of the National Roster of ECR Practitioners Agency Cost (Annualized)					
Questionnaire/Activity	Minutes per Questionnaire	Number of Questionnaires	Total Hours	Labor Rate per Hour	Cost
<i>Administer Questionnaires</i>					
Roster Member	3	300	15	\$32.50	\$488
Roster User - End of Search	2	300	10	\$32.50	\$325
<i>Enter and Verify Data</i>					
Roster Member	2	300	10	\$32.50	\$325
Roster User - End of Search	3	300	15	\$32.50	\$488
<i>Analysis and Reporting</i>					
Performance reporting at 6-month intervals	N/A	N/A	5	\$42.5	\$213
<i>Oversight</i>					
Program Manager	N/A	N/A	2	\$62.5	\$125
Management	N/A	N/A	2	\$75	\$150
Total					\$2,114

The costs in the table above are average annual costs for the next three years once the evaluation system is operational.

15. Reasons for Program Changes/Adjustments

Burden change due to change in agency estimate.

For the roster member/practitioner instrument the time estimate was revised downward given respondent input. The total number of questions remains the same.

For the roster user instrument the time estimate was revised downward given respondent input, and because of a reduced estimate of the annual number of responses. The total number of questions remains the same.

16. Plans for Tabulation and Publication

To comply with the Government Performance and Results Act, the U.S. Institute, as part of the Morris K. Udall and Stewart L. Udall Foundation, 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 will be included in its *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 questionnaire.

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

The intent is to collect information from every member and user of the National Roster of ECR Practitioners. This section is not applicable since a census will be conducted.

2. Procedures for the Collection of Information

As noted in one above, all roster members and users will be surveyed. The average burden on respondents (roster members and users) is minimal at less than 4 minutes per response (3 minutes for members and 4 minutes for users) at an average cost of less than \$3.00 per respondent. The annual evaluation of roster members keeps the respondent burden to a minimum.

3. Testing Procedures

Experience with the previously approved collection (3320-0005 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:

Patricia Orr

Director of Policy, Planning, and Budget

U.S. Institute for Environmental Conflict Resolution

520-901-8548

Bridget Radcliff

Coordinator for ECR Support Programs

U.S. Institute for Environmental Conflict Resolution

520-901-8572

List of Appendices

Appendix A. Statutes and Regulations Authorizing the Collection of Information

Appendix B. Roster Program 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**

[DOCID: f:publ156.105]

[[Page 8]]

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:

[[Page 112 STAT. 10]]

``(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.

[[Page 112 STAT. 11]]

(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.--

[[Page 112 STAT. 12]]

``(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.--

-
 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. Roster Program Evaluation Design Overview

Roster Program Evaluation Design Overview

The U.S. Institute has a full-time Roster Manager who supervises a Roster Program consisting of two main components: design and operation of the National Roster of Environmental Dispute Resolution and Consensus Building Professionals and an associated referral system. Membership on the roster remains open to new applicants at all times. Potential members apply on-line and are required to provide information that demonstrates a level of training and experience adequate to meet specific, objective entry criteria. First constituted in February 2000, the roster currently includes over 300 members nationwide. When making referrals and locating neutral practitioners for sub-contracting, the U.S. Institute uses the roster as a primary source to identify experienced individuals, particularly in the locale of the project or dispute (as required by the Institute's enabling legislation). The public now has direct access to the roster search system via the Internet. When requested by any party, the Roster Manager also provides advice and assistance regarding selection of appropriate practitioners.

The U.S. Institute has designed an evaluation system to (a) measure and report on the performance of the roster program and (b) to facilitate continual learning and improvement when evaluation information is gathered, analyzed, and shared with roster members, users, managers/administrators, and other appropriate audiences.

Design Elements and Data Collection

On an annual basis roster members will be surveyed to evaluate their perceptions of the roster and to solicit their feedback on how the roster program can be improved. This voluntary questionnaire contains two questions, requiring fill-in-the blank and open-ended responses. Information from this questionnaire will permit U.S. Institute staff to evaluate how well the Roster is performing in meeting the needs of roster members.

Affected Entities: Entities potentially affected by this action are roster members.

Users who search the roster will be surveyed once for each new roster search. This voluntary questionnaire contains four questions, requiring simple fill-in-the blank and open-ended responses. Information from this questionnaire will permit U.S. Institute staff to evaluate how well the Roster is performing in meeting the needs of those searching the roster. *Affected Entities:* Entities potentially affected by this action are individuals who use the roster search system.

Data Use and Audiences

Information from the questionnaires will facilitate the (a) measurement and reporting of performance for the roster program and (b) learning and improvement when the feedback is used to improve roster services. The evaluation audiences include the roster members, roster users, project managers/administrators, and the Office of Management and Budget.

For more information contact:

Patricia Orr, Program Evaluation Coordinator
The U.S. Institute for Environmental Conflict Resolution
130 South Scott Avenue
Tucson, Arizona 85701
Telephone (520) 901-8548 or Fax (520) 670-5530

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