

Department of Transportation
Office of the Chief Information Officer
Supporting Statement

Hazardous Materials Public Sector Training and Planning Grants
OMB Control No. 2137-0586

(Expiration Date: March 31, 2011)

INTRODUCTION

This information collection was originally initiated as a result of September 17, 1992 rulemaking under Docket No. HM-209 (RIN 2137-AC09) [57 FR 43062]. This rulemaking implemented a reimbursable grant program to enhance existing State, Indian tribal, and local hazardous materials emergency response programs. This specific information collection addresses the burden associated with the paperwork required of applicants applying for hazardous materials sector training and planning grants. This is to request the Office of Management and Budget's (OMB) renewed three year clearance for an extension without change for the information collection entitled, "Hazardous Materials Public Sector Training and Planning Grants," OMB Control No. 2137-0586, which is currently due to expire on March 31, 2011.

Part A. Justification.

1. Circumstances that make the collection necessary.

This is a request for an extension without change of an existing information collection approval under OMB No. 2137-0586. Part 110 of the Hazardous Materials Regulations (49 CFR 100-180) addresses a reimbursable grant program to enhance existing State, local, and Indian tribal hazardous materials emergency preparedness response programs. This information collection supports the Departmental Strategic Goal for Safety.

This reimbursable grant program is required by Section 5116 (49 App. U.S.C.) of the Federal hazardous materials transportation law. Section 5116 authorizes the Secretary to provide assistance to States and Indian tribes for hazardous materials emergency response planning and training. The purpose of the grant program is to increase State, local, and Indian tribal effectiveness in safely and efficiently handling hazardous materials accidents and incidents; enhance implementation of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA); and encourage a comprehensive approach to emergency planning and training by incorporating the unique challenges of response to transportation situations. Where practicable, the Department relies on its general grant provisions contained in 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."

2. How, by whom, and for what purpose is the information used.

The Hazardous Materials Public Sector Training and Planning Grants program (49 CFR Part 110) creates an appropriate role for PHMSA and other agencies at the Federal level to provide financial and technical assistance, national direction, and guidance to enhance State, local, and Indian tribal hazardous materials emergency planning and training. The programs developed under the grant program increase the emphasis on transportation in ongoing efforts, improve the capability of communities to plan, train for, and respond to, the full range of potential risks.

PLANNING GRANT PROGRAM

Planning grants may be used for specific activities that include the following:

- (1) Development, improvement, and implementation of emergency plans required under the Emergency Planning and Community Right-to-Know Act of 1986, as well as exercises which test the emergency plan. Enhancement of emergency plans to include hazard analysis as well as response procedures for emergencies involving transportation of hazardous materials, including radioactive materials.
- (2) An assessment to determine flow patterns of hazardous materials within a State, between a State and another State or Indian country, and development and maintenance of a system to keep such information current.
- (3) An assessment of the need for regional hazardous materials emergency response teams.
- (4) An assessment of local response capabilities.
- (5) Conduct of emergency response drills and exercises associated with emergency preparedness plans.
- (6) Provision of technical staff to support the planning effort.
- (7) Additional activities the Associate Administrator deems appropriate to implement the scope of work for the proposed project plan and approved in the grant.

TRAINING GRANT PROGRAM

Training grants may be used for specific activities that include the following:

- (1) An assessment to determine the number of public sector employees employed or used by a political subdivision who need the proposed training and to select courses consistent with the National Curriculum.
- (2) Delivery of comprehensive preparedness and response training to public sector employees. Design and delivery of preparedness and response training to meet specialized needs. Financial assistance for trainees and for the trainers, if appropriate, such as tuition, travel expenses to and from a training facility, and room and board while at the training facility.
- (3) Emergency response drills and exercises associated with training, a course of study, and tests and evaluation of emergency preparedness plans.
- (4) Expenses associated with training by a person (including a department, agency, or instrumentality of a State or political subdivision thereof or an Indian tribe) and

activities necessary to monitor such training including, but not limited to examinations, critiques and instructor evaluations.

- (5) Provision of staff to manage the training effort designed to result in increased benefits, proficiency, and rapid deployment of local and regional responders.
- (6) Additional activities the Associate Administrator deems appropriate to implement the scope of work for the proposed project and approved in the grant.

GRANT APPLICATION

Funding for the grant program beginning in FY 1993 is generated through a registration fee to be collected from certain shippers and carriers of hazardous materials and certain packaging manufacturers.

The grant program provides for multi-year scopes of work promoting the opportunity for long-term planning and training programs. By law, 75 percent of the planning funds must be passed through to local emergency planning committees established under the Emergency Planning and Community Right-to-Know-Act of 1986. Seventy-five percent of the training funds must be used for the purpose of training public sector employees to respond to emergencies involving hazardous materials. The grant program is designed to increase the emphasis on transportation in ongoing planning and training efforts. This comprehensive approach supports communities in their efforts to address the full range of potential risks they face. As prescribed by law, the grant program is intended to ensure that the maximum amount of funding and benefit of training will reach the local level.

The Grant Application package required in 49 CFR 110.30(a) must include the following:

- (1) Application for Federal Assistance for Non-Construction Programs (SF-424) and Budget Sheets (SF-424A). A single application may be used for both planning and training if the budgets for each are entered separately on all budget sheets.
- (2) For States, a letter from the Governor designating the State agency authorized to apply for a grant and written certifications to receive a grant.
- (3) For Indian tribes, a letter from the tribal government, governing body, or tribal council to the effect that the applicant is authorized to apply for a grant and to provide the written certifications required in order to receive a grant.
- (4) A written statement explaining whether the State or tribe assesses and collects fees on the transportation of hazardous materials and whether such assessments or fees are used solely to carry out purposes related to the transportation of hazardous materials.
- (5) A statement designating a project manager and providing the name, position, address, and telephone number of the individual who will be responsible for coordinating the funded activities with other agencies/organizations.
- (6) A project narrative statement of the goals and objectives of the proposed project, project design, and long-range plans. The proposed grant project and funding periods may be one or more years.
- (7) A statement of work in support of the proposed project that describes and sets priorities for the activities and tasks to be conducted, costs associated with each

activity, number and types of deliverables and products to be completed, and a schedule for implementation.

- (8) A description of the major items of costs needed to implement the statement of work and a copy of any cost or price analysis if conducted.
- (9) Drug-Free Workplace Certification. The applicant must certify, as specified in Appendix C of 49 CFR Part 29, that it will comply with the Drug-Free Workplace Act of 1988 (Pub. L. 100-690).
- (10) Anti-Lobbying Certification. The applicant must certify, as specified in Appendix A of 49 CFR Part 20, that no Federal funds will be expended to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress (Pub. Law 101-121).
- (11) Debarment and Suspension Certification. The applicant must certify, as specified in Subpart G of 49 CFR Part 29, that it will not make an award or permit any award to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs (Pub. L. 100-17).

Planning. In addition to the requirements specified in § 110.30(a), eligible State applicants must include the following in their application package as required by § 110.30(b):

- (1) A written certification that the State is complying with sections 301 and 303 of the Emergency Planning and Community Right-to-Know Act of 1986, including a brief explanation of how compliance has been achieved.
- (2) A written statement specifying the aggregate expenditure of funds of the State, exclusive of Federal funds, for each of its last five fiscal years for developing, improving, and implementing emergency plans under the Emergency Planning and Community Right-to-Know Act of 1986, including an explanation specifying the sources of these funds. A written certification that the State's aggregate expenditures, as defined by the State, of funds for this purpose, exclusive of Federal funds, will not fall below the average level of its expenditures for its last five fiscal years. The applicant may not claim any of these expenditures for cost-sharing.
- (3) A written statement agreeing to make at least 75 percent of the Federal funds awarded available to LEPCs and an explanation of how the applicant intends to make such funds available to them for developing, improving, or implementing emergency plans.
- (4) Designation of a project manager to serve as contact for coordinating planning funds under this program.
- (5) A project narrative statement of the goals and objectives of each proposed project, including the following:
 - (i) A background statement describing the applicant's long-term goals and objectives with respect to:
 - (A) The current abilities and authorities of the applicant's program for preparedness planning;
 - (B) The need to sustain or increase program capability;

- (C) Current degree of participation in or intention to assess the need for a regional hazardous materials emergency response team; and
- (D) The impact that the grant will have on the program.
- (ii) A discussion of whether the applicant's program currently knows, or intends to assess, transportation flow patterns of hazardous materials within the State and between that State and another State.
- (iii) A schedule for implementing the proposed grant activities.
- (iv) A statement describing the ways in which planning will be monitored by the project manager.
- (v) A statement indicating that all members of the State Emergency Response Commission were provided the opportunity to review the grant application.

Training. In addition to the requirements specified in § 110.30(a), eligible State and Indian tribe applicants must include the following in their application package as required by § 110.30(b):

- (1) For a State applicant, a written certification explaining how the State is complying with sections 301 and 303 of the Emergency Planning and Community Right-to-Know Act.
- (2) A written statement specifying the aggregate expenditure of funds of the State or Indian tribe, exclusive of Federal funds, for each of its last five fiscal years for training public sector employees to respond to accidents and incidents involving hazardous materials, including an explanation specifying the sources of these funds. A written certification that the applicant's aggregate expenditure, as defined by the State or tribe, of funds for this purpose, exclusive of Federal funds, will not fall below the average level of its expenditures for its last five fiscal years. The applicant may not claim any of these expenditures for cost-sharing purposes.
- (3) For a State applicant, a written statement agreeing to make at least 75 percent of the Federal funds awarded available for the purpose of training public sector employees employed or used by political subdivisions. A State applicant may elect to pass all or some portion of the grant on to political subdivisions for this purpose. The applicant must include a specific explanation of how it intends to meet this requirement.
- (4) Designation of a primary point of contact for coordinating training funded under this program. Identification of a single repository for copies of course materials delivered under the grant as specified in §110.90 of this part.
- (5) A project narrative statement of the long-range goals and objectives of each proposed project, including the following:
 - (i) A background statement describing:
 - (A) The current hazardous materials training program(s);
 - (B) Training audience, including numbers and levels of training and accreditation program for each level or criterion required to advance to the next level;
 - (C) Estimated total number of persons to be trained under the proposed

- project;
- (D) The ways in which training grants will support the integrated delivery of training to meet the needs of individualized geographic and resource needs and time considerations of local responders. When appropriate, a statement describing how the proposed project will accommodate the different training needs for rural versus urban environments; and
 - (E) The impact that the grant and the National Curriculum will have on the program.
- (ii) A statement describing how the National Curriculum will be used or modified to train public sector employees at the local level to respond to accidents and incidents involving hazardous materials.
 - (iii) A statement describing the ways in which effectiveness of training will be monitored by the project manager, including, but not limited to, examinations, critiques, and instructor evaluations.
 - (iv) A schedule for implementing the proposed training grant activities.
 - (v) A statement indicating that all members of the State or Tribal Emergency Response Commission were provided the opportunity to review the grant application.

FINANCIAL ADMINISTRATION

A State must expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:

- (1) Permit the preparation of reports required by 49 CFR part 18 and this part, including the tracing of funds provided for planning to a level of expenditure adequate to establish that at least 75 percent of the funds provided were made available to LEPCs for developing, improving, and implementing emergency plans; and the tracing of funds provided for training to a level of expenditure adequate to establish that at least 75 percent of the funds provided were made available for the purposes of training public sector employees employed or used by political subdivisions.
- (2) Permit the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

The financial management systems of Indian tribes and any subgrantees must meet the standards of 49 CFR 18.20, including the ability to trace funds provided for training to a level of expenditure adequate to establish that at least 75 percent of the funds provided

were made available for the purposes of training public sector employees employed or used by political subdivisions.

Advances shall be made to States and Indian tribes consistent with 49 CFR part 18 and 31 CFR part 205. The Associate Administrator shall base these advances on demonstrated need, which will be determined on a case-by-case basis, considering such factors as State/Tribal budget constraints and reductions in amounts budgeted for hazardous materials activities. To obtain an advance, a State or Indian tribe must comply with the following requirements:

- (1) A letter from the Governor or Tribal leader or their designee is required specifying the extenuating circumstances requiring the funding advance for the grant;
- (2) The maximum advance request may not be more than \$25,000 for each State or Indian tribe;
- (3) Recipients of advance funding must obligate those funds within 3 months of receipt;
- (4) Advances including interest will be deducted from the initial reimbursement to the State or Indian tribe; and
- (5) The State or Indian tribe will have its allocation of current grant funds reduced and will not be permitted to apply for future grant funds until the advance is covered by a request for reimbursement. For example, if \$25,000 is advanced for personnel costs, this advance would be deducted from the initial reimbursement in the year the advance was made.

To be allowable, costs must be eligible, reasonable, necessary, and allocable to the approved project in accordance with OMB Circular A-87 and included in the grant award. Costs incurred prior to the award of any grant are not allowable. Recipient agencies are responsible for obtaining audits in accordance with the Single Audit Act of 1984 (31 U.S.C. 7501), 49 CFR part 90, and OMB Circular A-128. Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits. The Associate Administrator may audit a recipient agency at any time.

GRANT MONITORING, REPORTS AND RECORD RETENTION

Grant monitoring.

Project managers are responsible for managing the day-to-day operations of grant, subgrant and contract-supported activities. Project managers must monitor performance of supported activities to assure compliance with applicable Federal requirements and achievement of performance goals. Monitoring must cover each program, function, activity, or task covered by the grant. Monitoring and reporting requirements for planning and training are contained in this part; general grant reporting requirements are specified in 49 CFR 18.40.

Reports.

- (1) The project manager shall submit a performance report at the completion of an activity for which reimbursement is being requested or with a request to amend the grant. The final performance report is due 90 days after the expiration or termination of the grant.
- (2) Project managers shall submit an original and two copies of all performance reports. Performance reports for planning and training must include comparison of actual accomplishments to the stated goals and objectives established for the performance period, and the reasons for not achieving those goals and objectives, if applicable.
- (3) Project managers shall report developments or events that occur between the required performance reporting dates which have significant impact upon the planning and training activity such as:
 - (i) Problems, delays, or adverse conditions which will impair the ability to meet the objective of the grant; and
 - (ii) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.
- (4) Financial reporting, except as provided in §110.70 and 49 CFR 18.41, shall be supplied quarterly using Standard Form 270, Request for Advance or Reimbursement, to report the status of funds. The project manager shall report separately on planning and training.

Records retention.

In accordance with 49 CFR 18.42, all financial and programmatic records, supporting documents, statistical records, training materials, and other documents generated under a grant shall be maintained by the project manager for three years from the date the project manager submits the final financial status report (SF 269) or Request for Advance or Reimbursement (SF 270). The project manager shall designate a repository and single-point of contact for planning and for training, or both, for these purposes. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

AFTER-GRANT REQUIRMENTS

The Associate Administrator will close out the award upon determination that all applicable administrative actions and all required work of the grant are complete in accordance with subpart D of 49 CFR part 18. The project manager must submit all financial, performance, and other reports required as a condition of the grant, within 90 days after the expiration or termination of the grant. This time frame may be extended by the Associate Administrator for Hazardous Materials Safety for cause.

DEVIATION

Recipient agencies may request a deviation from the non-statutory provisions of this part. The Associate Administrator will respond to such requests in writing. If appropriate, the decision will be included in the grant agreement. Request for deviations from part 110 must be submitted to:

Grants Manager, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., Washington, DC 20590–0001.

Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 et seq.) specifies that Hazardous Materials Emergency Preparedness (HMEP) grant funds are to be allocated based on the needs of states and Indian tribes for emergency response planning and training, considering a number of factors including whether the state or tribe imposes and collects a fee on the transportation of hazardous materials and whether the fee is used only to carry out a purpose related to the transportation of hazardous materials. 40 U.S.C. 5116(b)(4). Accordingly, the HMEP grant application procedures in Part 110 require applicants to submit a statement explaining whether the applicant assesses and collects fees for the transportation of hazardous materials and whether those fees are used solely to carry out purposes related to the transportation of hazardous materials.

Section 5125(f) of the Federal hazmat law permits a state, political subdivision of a state, or Indian tribe to impose a fee related to the transportation of hazardous materials only if the fee is fair and used for a purpose related to transporting hazardous materials, including enforcement and planning, developing, and maintaining a capability for emergency response. In accordance with § 5125, the Department of Transportation may require a state, political subdivision of a state, or Indian tribe to report on the fees it collects, including: (1) the basis on which the fee is levied; (2) the purposes for which the revenues from the fee are used; and (3) the total amount of annual revenues collected from the fee. Until now, we have not proposed asking states, political subdivisions, or Indian tribes to report this information.

3. Extent of automated information collection.

The burden has been made as simple as possible. The information is considered critical in assuring an effective grant program. The Government Paperwork Elimination Act directs agencies to allow the option of electronic filing and recordkeeping by October 2003. Electronic filing and recordkeeping for this information collection is allowed as an option to submit and maintain records.

4. Efforts to identify duplication. There is no duplication as the information is unique to specific situations. Each response is unique and information derived from one may not be inferred to another.

5. Efforts to minimize the burden on small businesses. The burden has been made as simple as possible.
6. Impact of less frequent collection of information. It is essential that PHMSA receives the required information from the grant applicants to ensure that funding resources are properly distributed to applicants most in need. The collection of this information is reviewed periodically to ensure that the requirements involving safety in the transportation of hazardous materials are kept to the necessary standards to protect all involved.
7. Special circumstances.

This collection of information is generally conducted in a manner consistent with the guidelines in 5 CFR 11320.5(d)(2).

8. Compliance with 5 CFR 1320.8.

We published a 60-Day Notice and Request for Comments under Docket No. PHMSA–2010–0373 (Notice No. 10–10) on December 29, 2010, in the Federal Register [75 FR 82142] requesting public comment on the renewal of this information collection. The comment period closed on February 28, 2011.

PHMSA received comments concerning this information collection in response to the 60-Day Notice. Specifically, the commenters questioned the use of the statement of benefits provided by the Hazardous Materials Public Sector Training and Planning Grants program; asked PHMSA to provide greater program accountability; inquired about an investigation of the grants program; and urged PHMSA to ensure that the fees paid by the regulated community are used for eligible activities, and that the agency publically disclose this information. PHMSA determined that these comments are beyond the scope of this notice, however, we forwarded the commenters' concerns and suggestions to the appropriate program office.

We published a 30-Day Notice and Request for Comments under Docket No. PHMSA–2010–0373 (Notice No. 11-2) on March 30, 2011, in the Federal Register [76 FR 17748] requesting public comment on the renewal of this information collection. The comment period closes on April 29, 2011.

9. Payments or gifts to respondents.

There is no payment or gift provided to respondents associated with this collection of information.

10. Assurance of confidentiality.

One professional for each respondent spending approximately 20.5 hours for administration of grant.

20.5 hours x 68 respondents = **1,394 hours.**

One professional for each respondent spending approximately 6 hours for management level closeout of grant.

6 hours x 68 respondents = **408 hours.**

Total Clerical Hours: **428 + 544 + 136 = 1,108 hours.**

One clerical for each respondent spending approximately 6.3 hours on preparation of the grant.

6.3 hours x 68 respondents = **428.4 or approximately 428 hours.**

One clerical for each respondent spending approximately 8 hours on administration.

8 hours x 68 respondents = **544 hours.**

One clerical for each respondent spending approximately 2 hours to closeout grants at approximately.

2 hours x 68 respondents = **136 hours.**

Estimate of Annual Burden Costs : **\$169,456 burden costs**

We estimate that the total population of respondents affected by this information collection is approximately 68 respondents, with each respondent submitting one response (application) annually. The hourly wages vary, because different aspects of this information collection are performed by management, professional, and clerical staff, depending on the phase of this information collection. Costs are allocated for application and administration processing, and close-out procedures. We estimate the total annual burden costs for this information collection to be \$169,456.00.

Estimate of Annual Burden Costs (Management, Professional and Clerical:

There are 68 entities who apply for and are awarded grants annually. The application process is anticipated to require approximately 77.8 hours (61.5 hours of management and professional time and 16.3 hours of clerical time per entity, at an average hourly wage of \$38.00, \$34.00, and \$16.00, respectively.

Mgmt/Professional (Annual): **\$151,708.00**

Clerical (Annual): \$17,748.00
\$169,456.00

Total Management Costs: **\$90,440 + \$47,396 + \$13,872 = \$151,708.00**

One professional for each respondent spending approximately 35 hours at \$38.00 per hour for management level preparation and review of the grant application.
35 hours x \$38.00 per hour = \$1,330 x 68 respondents =
\$90,440.00.

One professional for each respondent spending approximately 20.5 hours at \$34.00 per hour for administration of grant.
20.5 hours x \$34.00 per hour = \$697.00 x 68 respondents =
\$47,396.00.

One professional for each respondent spending approximately 6 hours at \$34.00 per hour for management level closeout of grant.
6 hours x \$34.00 per hour = \$204.00 x 68 respondents =
\$13,872.

Total Clerical Costs: **\$6,868.00 + \$8,704.00 + \$2,176.00 = \$17,748.00.**

One clerical for each respondent spending approximately 6.3 hours at \$16.00 per hour on preparation of the grant.
6.3 hours x \$16.00 per hour = \$100.80 or approximately \$101.00 x 68 respondents =
\$6,868.00.

One clerical for each respondent spending approximately 8 hours at \$16.00 per hour on administration.
8 hours x \$16.00 per hour = \$128.00 x 68 respondents =
\$8,704.00.

One clerical for each respondent spending approximately 2 hours at \$16.00 per hour to closeout grants at approximately.
2 hours x \$16.00 per hours = \$32.00 x 68 respondents =
\$2,176.00.

13. Estimate of total annual costs to respondents.

There is no cost burden to respondents except those identified in item 12 above.

14. Estimate of cost to the Federal government.

The estimated cost to the Federal government is approximately \$146,000.00.

One professional program coordinator and one professional spend a total of 1,920 hours annually each, processing and monitoring grant applications, grant allocation methods, and technical assistance at approximately \$38.00.

1,920 hours x \$38.00 per hour =

\$72,960.00 x 2 Federal employees (1 program coordinator and 1 professional) =

\$145,920.00 cost to the Federal government.

15. Explanation of program changes or adjustments.

There is no change in burden.

16. Publication of results of data collection.

There is to be no publication for statistical use and no statistical techniques are involved.

17. Approval for not displaying the expiration date of OMB approval.

This information collection OMB Control number is prominently displayed in the HMR, specifically under § 171.6, entitled, "Control Numbers under the Paperwork Reduction Act."

18. Exceptions to certification statement.

There is no exception to PHMSA's certification of this request for information collection approval.

Attachments.

N/A

Part B. Collections of Information Employing Statistical Methods.

1. Describe potential respondent universe and any sampling selection method to be used.

N/A.

2. Describe procedures for collecting information, including statistical methodology for stratification and sample selection, estimation procedures, degree of accuracy needed, and less than annual periodic data cycles.

N/A.

3. Describe methods to maximize response rate.

N/A.

4. Describe tests of procedures or methods.

N/A.

5. Provide name and telephone number of individuals who were consulted on statistical aspects of the information collection and who will actually collect and/or analyze the information.

N/A.