

## SUPPORTING STATEMENT (Refer to OMB Form 83-I INST)

### A. JUSTIFICATION

#### 1. Need for the Information Collection

Section 2330a of title 10, United States Code (U.S.C.), requires the Secretary of Defense not later than the third quarter of each fiscal year to submit to Congress an annual inventory of the activities performed during the preceding fiscal year pursuant to contracts for services for or on behalf of the Department of Defense, to include “**direct labor hours and costs collected from contractors**” (emphasis added).

Section 235 of title 10, United States Code, requires annual budget documents to display contractor full-time equivalents with dollar amounts requested for contract services, informed by a review completed of the annual inventory of contracts for services (ICS).

House Report 111-166 for the Fiscal Year 2010 National Defense Authorization Act at page 349 recommends that the methodology used by the Department of the Army to compile the service contract inventory should be used by the other military departments. After lengthy review, the Department of Defense (DoD) has determined that all Components should follow the Army best practice for collecting information to satisfy section 2330a of title 10, U.S.C., including a common web-based reporting application.

The Department is not currently able to fully implement sections 235 and 2330a of title 10, U.S.C. Moreover, while the law directs the Department to collect the information, it is required because Congress has recognized that the Department possesses insufficient information upon which to manage an increasing volume of service contracts, and consequently make well-reasoned decisions which would more efficiently allocate the Department’s resources, and enhance readiness. The submission of this information clearly involves additional effort on the part of contractors. However, providing the government information essential to the thoughtful assessment of true value received is critical. This will lead to much needed improvements in the stewardship of the tax-payers’ monies, and allow the Department to better allocate its decreasing resources in support of our commander's readiness needs.

#### 2. Use of the Information

This program will greatly enhance the ability of the DoD to identify and track the services provided by contractors. Current systems do not have contractor manpower data that is collected by a common Contractor Manpower Reporting System – i.e., Direct Labor Hours, Direct Labor Dollars and Organization supported. Existing financial and procurement systems have obligation amounts of an unknown mix of services and supplies, and DoD is not able to trace the funding to the organization supported. Like all other Federal Government agencies, DoD’s reliance on service contractors has increased significantly over the past decade, and as DoD will continue to have a “multi-sector workforce” consisting of military members, Federal

employees and contractor personnel, it is extremely important to have accountability for all sectors.

Additionally, reliance on contractors in support of military operations will continue (and likely grow). Reflective of this trend, directives have been published that address this fact and how Commanders are to maintain contractor visibility. This guidance emphasizes the fact that armed forces are deploying and will deploy without a standard means of tracking the contractor workforce. Even more importantly, there is no approved system available for reporting contractor visibility or formal policy that lays out the required personnel data fields. Since no standard accountability procedures or contractor visibility reporting systems currently exist outside of the Army, there is no way to accurately account for the total DoD workforce and to plan for that workforce.

This information is being used to help identify candidate contracts for in-sourcing and to justify contract services in the DoD budget in compliance with sections 235 and 2330a of title 10, U.S.C.

### 3. Use of Information Technology

The DoD will use a streamlined, user-friendly, and secure web site to obtain contractor work force information, based on the Army system located at <https://cmra.army.mil/>. This web site allows contractors the option of entering their data directly into the web site via short drop-down menus or batch loading data based on formatted spreadsheets.

a. The information requested, such as the Reporting Period, Contract Number, Task/Delivery Order Number, Customer Name and Address, Contracting Office Name and Address, Federal Supply Class or Service Code, Contractor Name and Address, Value of Contract Instrument, and the Number and Value of Direct Labor Hours will be used to facilitate the accurate identification of the function performed and to facilitate estimate the reliability of the data.

The contractor is required to completely fill in all required information

- (1) Beginning and ending dates covered by reporting period;
- (2) Contractor name, address, phone number, e-mail address, identity of Contractor employee entering data;
- (3) Estimated direct labor hours (including sub-Contractors);
- (4) Estimated direct labor dollars paid this reporting period (including sub-Contractors);
- (5) Estimated non-labor dollars paid this reporting period (including sub-Contractors)
- (6) Total payments (including sub-Contractors);

- (7) Product Service Codes (PSCs) reflecting services provided by Contractor (and separate PSCs for each sub-Contractor, if different);
- (8) Organizational title associated with the Unit Identification Code (UIC) for the Army Requiring Activity (the Army Requiring Activity is responsible for providing the Contractor with its UIC for the purposes of reporting this information);
- (9) Locations where Contractor and sub-Contractors perform the work (specified by zip code in the United States and nearest city, country, when in an overseas location, using standardized nomenclature provided on website);
- (10) Presence of deployment or contingency contract language; and
- (11) Number of contractor and sub-contractor employees deployed in theater this reporting period (by country).

b. The Direct Labor Hours are requested for use in calculating contractor manpower equivalents. This information is reported directly from the contractor as specified in 10 U.S.C. 2330a.

c. Each contractor may determine costs for submitting information on the Contractor Manpower Reporting System web site. Given the streamlined menu of data requested and the user-friendly web site for submitting the data, the actual costs for reporting this information to date have been minimal. The cost elements can include the man-hours spent entering the data, man-hours spent configuring current systems, and the man-hours spent collecting the data. The Army has found that during the first five years of reporting, most contractors are choosing to absorb the cost of reporting into overhead rather than separately identifying the direct cost.

d. The contractor name, address, and point of contact with an email address are requested to facilitate reconciliation of the data and clarification of any ambiguous entries with the contractor.

#### 4. Non-duplication

The Army has instituted several program enhancements that DoD will leverage to further minimize the reporting burden for all parties. For instance, contract funding information can be pre-populated from defense accounting system data and edited, if necessary with a series of easy-to-use drop down menus of standard accounting data elements. In the previous data collection effort, contractors were expected to know Department funding source data. Another enhancement to the data collection effort is the drop down menus for the identification of the DoD organizational customer supported. In this regard, rather than have the contractor go into the system and presume whom they are providing support services to, the system is now designed with drop down menus that supply standard information that is easy to locate. The DoD system will also be pre-populated with information on the “organization supported” to minimize reporting confusion.

## 5. Burden on Small Business

The information collection does not have a significant economic impact on small business entities. The data collection requirement has been narrowly tailored to maximize the use of existing records already maintained by contractors. The data collections have been tailored to minimize the impact on all contractors by using electronic data collection, providing help desk support and limiting reported data to only a small number of easy-to-obtain data elements. The execution of the data collection will be prospective. A priced line item may be included in a given contract or task order so the contractors are compensated for the reasonable cost of providing the data.

The small business community had the highest rate of compliance compared to large businesses for the first data collection effort undertaken by the Army. Army experience has shown that small businesses tended to report more often and have fewer data errors.

## 6. Less Frequent Collection

If information is collected less than annually, after the close of each fiscal year, the Department will not be able to comply fully with the requirements of sections 235 and 2330a of title 10, U.S.C.

## 7. Paperwork Reduction Act Guidelines

This information collection is consistent with guidelines in 5 CFR 1320.5(d)(2). The information is intended to be reported on an annual basis in order to minimize the reporting burden on contractors. The Contractor Manpower Reporting System web site, however, offers contractors the flexibility to submit information throughout the fiscal year as contracts or task orders are performed. The website also offers a bulk loader to upload information from multiple contracts and task orders into the system at one time via a standard template.

There is no requirement for respondents to submit paper documents as all data is collected electronically.

There is no requirement for respondents to retain records that they are not otherwise required to maintain.

## 8. Consultation and Public Comments

a. This information collection is consistent with the guidelines in 5 CFR 1320.5(d). Public comments were solicited in the Federal Register from December 6, 2011 till December 27, 2011 and again January 23, 2012 till March 23, 2012. This revised Supporting Statement addresses comments received, including select concerns submitted by the Professional Services Council (PSC) on March 23, 2012.

b. There is precedent within the Department based on the experience of the Department of the Army for the past five years to support this request. As such, Department of

the Army efforts constitute actions to date to consult with interested agencies, affected private sector firms, and members of the public, to ensure minimal burden for the collection of this information. The Army employs a robust and active help desk that works directly with the reporting contractors and commands; a key feature for Army to reduce the reporting burden and hours. DoD will also benchmark this help desk feature for policy and technical questions, and use it to provide training to all users.

This PRA request is not solely related to complying with the law or meeting Congressional direction; though it does implement the requirement of 10 USC 2330a to calculate the number of contractor FTE based on "direct labor hours and associated cost information collected from contractors". This requirement transitions measurements of contracted services from dollars to a common unit of measure related to workload while maintaining the principles of performance based services acquisition. This transition is critical for a myriad of reasons, not least of which is the Department's efforts to effectively manage the Total (multi-sector) Force in an increasingly constrained fiscal environment. This imperative is made exponentially more urgent as the Department implements the reductions called for by the Budget Control Act, and implements continued efficiencies and force structure changes to respond to decreasing top-lines necessitated by the Nation's enduring economic realities.

The requirement to account for contracted services has been in place for nearly 5 years and is not new to the private sector. Many stakeholders have registered concern about the requirements; however, the Congress has not lessened, and in fact, has expanded this requirement. The Department is not seeking to collect information on individual employees of the private sector firms through this data collection. This collection is critical in order to adequately measure "reliance" on contract services. Expenditures on DoD contracted services have grown by more than 130% over the last decade, but the work provided cannot be compared, for strategic planning/sourcing purposes, to the other sectors of our workforce because a reliable common unit of measure (end-strength and full-time equivalents) does not currently exist for contracts. This gap in information hinders the Department's ability to ensure adequate management control and oversight is in place for a balanced multi-sector workforce. Dollar amount information reported through other sources (FPDS-NG or contract writing/invoicing systems) is not an accurate measure of a given year's level of effort/work. These dollar amounts include other direct costs and overhead amounts that would artificially inflate a calculated FTE number and may be skewed because of multi-year appropriations, prior fiscal year obligations, and end of year obligations that flow into the next fiscal year. Current contractor FTE estimating methodologies (calculations based on dollars obligated on a contract, and "labor ratios" to identify goods versus services as reported in FPDS-NG instead of all services provided regardless of contract type) are not accurate, as reported individually by the Components.

c. Responses specific to concerns raised in the PSC letter dated March 23, 2012 are as follows:

PSC: "...it is inaccurate to point to the law as compelling this information collection from contractors." ...because the text of the law reads "'The number of contractor employees, expressed as full-time equivalents for direct labor, using direct labor hours and associated cost data collected from contractors (except that estimates may be used where such data is not

available and cannot reasonably be made available in a timely manner for purpose of the inventory)." (Emphasis added.)"..." "it is inaccurate to point to the law as compelling this information collection from contractors."

DoD Response: While the law allows the Department to use estimates where data cannot reasonably be made available, this language does not exempt the Department from taking action to comply with the law -- the purpose of this PRA request . The Department's November 22, 2011 plan to improve the inventory of contracts for services includes successive and prospective actions to require reporting from contractors spanning an estimated four year implementation timeframe to give both the Department time to refine policy, and industry time to adjust and provide constructive input to processes and procedures (as the Army has done during the course of the preceding five years). Following engagements between DoD senior political leadership and senior level staff of the Congressional defense committees in the fall of 2011, the Department's plan calls for the submissions by all DoD components in accordance with the FY2011 Section 8108(c) of the Department of Defense and Full Year Continuing Appropriations Act, 2011, Public Law 112-10.

PSC: "In our view, it is premature to grant this information collection request. That same November 22, 2011 DoD letter to Congress acknowledged that the next submission to Congress is due by June 30, 2012, just over three months from today.... we see no reason to grant the information collection request to meet the June 2012 deadline."

DoD Response: The requirement to collect the information as described in the Department's request was added to title 10 in January 2011. The PRA request is not intended to, and will not, impact the submission of the FY2011 ICS in June 2012, as the reporting period for this submission closed September 2011. The request is made to support future reporting, and as laid out in the Department's November 22<sup>nd</sup> plan, this process is estimated to take at least 4 years to complete. Moreover, the Department's plan for prospective actions requires reporting from contractors spanning an estimated four year implementation timeframe; therefore the argument of premature action is ill-founded.

PSC: "we believe DoD should complete that work (common hardware and software based on Army's system) and provide information to contractor stakeholders for their input before imposing that requirement on contractors. In any event, this information collection request should not be granted until the platform for the enterprise-wide solution has been developed, tested and validated."

DoD Response: Title 10 imposes the requirement, so the Department is taking steps to implement it in accordance with the law and appreciate our private sector partners' contributions to legal compliance matters. While a common collection platform is desired to streamline efforts, the lack of system availability does not negate the requirement of 10 USC 2330a nor the need of the Department to improve its understanding and governance of its contracted services as quickly as possible. The Department is currently finalizing review of the Army's system to leverage the solution Department-wide and will provide potential contractors with an opportunity to comment on its planned technology solution (which may include a public meeting) before the solution is finalized. The Department-wide solution that builds off of the Army's existing

platform will, of course, incorporate improvements, best practices, and lessons learned from contractor stakeholders that Army has already leveraged and considered.

PSC: “the department has plenty of time to conduct discussions with industry, provide an opportunity for comment on any contractual requirement and then submit a properly researched and more timely information collection request for initiation, if at all, in fiscal year 2013.”

DoD Response: Following engagements between DoD senior political leadership and senior level staff of the Congressional defense committees in the fall of 2011, the Department’s plan to pursue this PRA request was agreed to be the most expedient method to comply with the changes made to title 10 by section 321 of the FY2011 National Defense Authorization Act. While comment and input from all parties will be considered, continued non-compliance with title 10 and not expediting the improvement of the Department's ability to manage its contracted services in a time of increased fiscal pressure is unacceptable.

PSC: “The information collection request ignores the potential direct cost to the department from contractors who may request reimbursement of the compliance cost. The Army has a long history of collecting this information from contractors and for many Army contractors, the current year effort is not reflective of the challenges that our member companies identified during the start-up phases of the Army's effort. Since for all other components of the department the information collection from contractors will be a new requirement, we believe relying on a "steady state" condition from the Army may understate the time and cost all other department services contractors may incur in compiling and completing the initial submission, in particular.

“By the same token, we believe the department's estimate of the total cost to the department of this information collection request, as detailed in paragraph 14 of the justification, to be understated. The Army incurs about 40 percent of all DoD spending, and is the single largest agency for services spending. However, it does not have the largest number of contractors with services contracts that could be subject to this information collection request.”

DoD Response: Item nine of the information collection justification form indicates that all costs for reporting will be reimbursed. Regardless of the cost, or whether the cost is submitted as a direct or indirect cost, the Department bears the burden, and must comply with the law. Based on Army experience (the only available to date), this cost is de minimus, as reported to Army by private sector firms providing data for the past five years, including for new awards and added requirements. The assertion of greater time or cost cannot be supported without additional data from PSC or other entities. The return on this additional cost will be significant in terms of improved contracting governance.

The Army initiated its contractor inventory reporting because it could not wait for the “perfect” solution for managing this growing percentage of obligation authority. In 2003, the Army met with more than fifty senior executives from large defense contractors and small businesses to introduce the reporting application and received feedback that was incorporated to improve the reporting application. In a December 20, 2011 communication to the House Armed Services Committee, the Secretary of Defense stated that he was “committed to making the Department’s information technology and business enterprise systems available to support and enable the

efforts of the rest of the Department to quickly implement the Army's 'Contractor Manpower Reporting Application' tool this fiscal year, while also leveraging the Army processes, lessons learned, and best practices to comply with the law in the most cost efficient and effective manner." The Army's web-based reporting application and data base was designed **for less than \$1 million** and is currently **maintained by a five person cell** that performs help desk, data base administration, software design updates, policy oversight and functional reviews for the entire Army with engagement from acquisition, financial management, and manpower stakeholders. The blending of policy with data management, analysis and help desk functions helps improve data quality, reduce burdens on industry reporting, and make the system responsive to needed changes to accommodate users. The Army's inventory has helped improve their Total Force Management by identifying functions at risk of inherently governmental performance, and collected cost information that can be used to assess buying practices for contracted services, particularly when the issues of overhead costs and potential redundancies between contracted functions and the organic workforce are closely examined.

Estimates based on the Army's data and experience are also appropriate for following reasons: not only is Army the largest consumer of contracted services within the Department based on dollar amounts, their experience is enhanced by their role as the lead contracting agency for the past decade's overseas contingency operations, to include support of the US Central Command. Additionally, as reported in FY2010, the Army's calculated number of contractor full time equivalents (CFTE), based on direct labor hours reported by their contractors, is also approximately 40 percent of the Department's total CFTE reported. This number represents a common unit of measure to quantify the workforce; while the number of companies providing services to another DoD entity may be higher as singular entities, basing the estimate of the total cost to the Department for this information collection request on the Army experience to date is sound.

#### 9. Gifts or Payment

DoD's guidance expressly authorizes the Services and Components to incorporate requirements into their contracts for the submission of direct labor costs and other information. Contractors holding fixed-price contracts with these requirements will be paid their costs as part of the negotiated fixed-price and those holding cost-reimbursement contracts will be reimbursed for reasonable costs associated with their submitting this information under existing laws, regulations and policies governing contract payment. Most contractors have expressed the opinion that the cost of reporting the data will be de minimis. Inputting the data manually on an annual basis via the web site will only take a few minutes for each reported contract. Thus, based on Army experience with this reporting requirement, it is estimated that this effort would only add approximately \$400 to the cost of performance of each contract. In all cases, the contractors will be reimbursed for all reasonable costs of reporting the data. The Department is quite willing to make this investment, as the return will be far greater.

#### 10. Confidentiality

The current Army database design, policies, system operating and business rules, and best practices will be leveraged across DoD to assure respondent contractors that the raw



data will be treated as proprietary when associated with the contract number or a contractor name. Users with access to the system will be limited by their role in reporting and viewing data and will be verified for access to information by senior DoD program officials. The basis for this assurance is provided DoD policy, and the Army's successful experience.

Data to be collected is business information and not personal in nature; subsequently, neither a Privacy Act System of Records Notice (SORN) ID number/title/address, nor Privacy Impact Assessment is not required.

#### 11. Sensitive Questions

Questions of a sensitive nature are not asked.

#### 12. Respondent Burden, and its Labor Costs

##### a. Estimation of Respondent Burden

For the DoD effort, the estimated burden to private sector for reporting is based on the Army experience with five (5) years of similar reporting to date. This estimate was included in the Army's most recent PRA filing, approved by OMB in December 2011. The Army estimated that the annual burden hours will be 1,018 assuming 5 minutes (.08333 hours) per response (12,215 actions times .08333) based on experience from the Army interactive help desk, the limited number of fields that must be populated by the user, and the type of information that must be entered (predominantly from pre-populated lists or "drop-down menus"). At an hourly rate of \$20, the total cost of data reporting would be approximately \$20,360. The costs of reporting the data is a reimbursable expense for each contractor. It is estimated that on average data reporting will only take five (5) minutes per contract task order. The Army queried the DD350 database to determine the number of respondents, to identify the number of contractors for contract actions awarded.

For the DoD-wide effort, it is estimated that the Army comprises one-third of the total spent each year on contracted services. Therefore, including the Army, it is estimated that the annual burden hours will be 4,074, estimating five (5) minutes (.08333 hours) per response (48,884 instances times .08333). At an hourly rate of \$20, the total cost of data reporting for these inputs would be about \$81,480.00. The costs of reporting the data is a reimbursable expense to each contractor.

##### b. Labor Cost of Respondent Burden

As in the above, for the DoD-wide effort, it is estimated that the Army comprises one-third of the total spent each year on contracted services. Therefore, including the Army, it is estimated that the annual burden hours will be 4,074, estimating five (5) minutes (.08333 hours) per response (48,884 instances times .08333). At an hourly rate of \$20, the total cost of data reporting for these inputs would be about \$81,480.00. The costs of reporting the data is a reimbursable expense to each contractor.

### 13. Respondent Costs Other Than Burden Hour Costs

No annualized costs to respondents, other than the burden hour costs addressed in Item 12, resulting from the collection of information, is estimated based on Army experience to date.

### 14. Cost to the Federal Government

The Army estimated the annual cost to the Government to be approximately \$500,000 for its staff. These estimated costs include developmental costs, training, monthly status reports to monitor compliance, design and maintenance of the web site and a help desk. Considering the Air Force and Navy would mirror the Army model, and DoD will centralize support as much as possible for the Joint Staff, Combatant Commanders, and other DoD Components, DoD expects the additional cost to Government to be approximately \$1,500,000. The benefits resulting from improved contracting governance will result in a net savings to the government.

### 15. Reasons for Change in Burden

The FY11 National Defense Authorization Act, amended section 2330a of Title 10 to require the collection of direct labor hours and direct labor costs from contractors. Regardless, the Department urgently needs to improve its management of contracted services.

### 16. Publication of Results

The results of the information collection will not be published for statistical use, statistical analyses, or publication.

### 17. Non-Display of OMB Expiration Date

Approval not to display the expiration date is not being sought.

### 18. Exceptions to "Certification for Paperwork Reduction Submissions"

No exceptions are being sought.

## B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods were used to derive the Fiscal Year 2010 and earlier inventories of contracted services but will not be used to develop current and future inventories because the Department of Defense, Congress, and the Government Accountability Office have determined that reporting real data from contractors is more reliable, as discussed in statutory section. The Under Secretary of the Army, the Acting Under Secretary for Personnel and Readiness, and the Director of Cost and Program Evaluation have all determined that statistical estimation is less reliable and accurate than collecting this data. This collection does not employ statistical methods.