

**SUPPORTING STATEMENT
FOR INFORMATION COLLECTION SUBMISSION
9000-0147, POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION**

A. Justification.

1. **Administrative requirements.** As implemented in Federal Acquisition Regulation (FAR) Subpart 23.102, Executive Order (E.O.) 13423 of January 24, 2007, Strengthening Federal Environmental, Energy, and Transportation Management and E.O. 13514 of October 5, 2009, Federal Leadership in Environmental, Energy and Economic Performance, mandates compliance with right-to-know laws and pollution prevention requirements; implementation of an Environmental Management System (EMSs); and completion of Facility Compliance Audits (FCAs).

This information collection will be accomplished by means of FAR clause 52.223-5. This clause requires that Federal facilities comply with the planning and reporting requirements of the Pollution Prevention Act (PPA) of 1990 (42 U.S.C. 13101-13109) and the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 (42 U.S.C. 11001-11050). Additionally, this clause requires contractors to provide information necessary so that agencies can implement EMSs and complete FCAs at certain Federal facilities.

2. **Uses of information.** The information is used by Federal facilities managers and emergency planning and environmental engineering personnel to prepare emergency response plans, Toxic Release Inventory (TRI) reports, material safety data for hazardous chemicals, hazardous substance release emergency notifications, emergency and hazardous chemical inventory forms, toxic chemical release forms, and toxic chemical source reduction and recycling reports. The information is also used to implement environmental management systems and to complete facility compliance audits. A variety of data must be collected from Federal contractors in order for each facility to comply with PPA and EPCRA reporting requirements. The information to be collected in each case will depend on the chemicals being used in the performance of the contract, and the circumstances of their use.

3. **Consideration of information technology.** The information collection addressed herein is merely the aggregation of already-cleared data under EPA-generated information collection clearances. The burden on contractors depicted in this

supporting statement is, therefore, attributable only to locating and retrieving the required information.

Improved information technology is being used to the maximum extent practicable. Where both the Government agency and contractors are capable of electronic interchange, the contractors may submit this information collection requirement electronically. This means the information may be emailed or faxed. The technology to collect and distribute this information is not impacted in any way by the Integrated Acquisition Environment (IAE) initiative.

4. Efforts to identify duplication. This requirement is issued under the Federal Acquisition Regulation (FAR), which has been developed to standardize Federal procurement practices and eliminate unnecessary duplication. Similar information is not readily available from any other source.

5. If the collection of information impacts small businesses or other entities, describe methods used to minimize burden. The burden applied to small businesses is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices. The impact will be minimal unless the contractor uses hazardous substances in performance of a contract on a Federal facility. The collection of information will only impact small businesses that perform under contracts at Federal facilities where E.O. 13148 mandates compliance with PPA and EPCRA reporting and implementation requirements. The information required to prepare such reports will be collected, as needed, from both large and small businesses. The nature of the reporting requirements precludes reducing the information collection burden for small businesses. Comments are requested from large and small business concerns and other interested parties on this issue.

6. Describe consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently. Failure to collect all relevant information on the production, use, or storage of hazardous substances on Federal facilities, as well as information needed to complete an FCA or to implement an EMS, will result in noncompliance with the requirements imposed on such facilities by EPCRA, PPA and Executive Order 13148. Such noncompliance may result in inadequate emergency planning, incomplete public disclosures, or inadequate emergency responses. This would create the potential to jeopardize public health and safety.

7. Special circumstances for collection. Collection of information on a basis other than by individual contractors is not practical. The contractor is the only one that has the records necessary for the collection. There are no special circumstances that require the collection to be conducted in any manner listed in 5 CFR 1320.5(d)(2).

8. Efforts to consult with persons outside the agency. A notice was published in the *Federal Register* at 77 FR 63803, on October 17, 2012. No comments were received.

9. Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or guarantees. No payment or gift will be provided to respondents.

10. Describe assurance of confidentiality provided to respondents. The information collected will be disclosed only to the extent consistent with prudent business practices and current regulations. No assurance of confidentiality is provided to respondents.

11. Additional justification for questions of a sensitive nature. No sensitive questions are involved.

12. Estimated total annual public hour/ cost burden -- Toxic Release Inventory (TRI) and PPA Reporting, other reports required by the EPCRA, and other reporting required for EMS and FCA information collection. The information collection requirements are estimated in three parts based on the types of reports which will be filed by contractors in Federal facilities using the information collected under this rule: (1) Toxic Release Inventory and PPA reports; (2) other reports required by the EPCRA; and (3) information required for implementation of environmental management systems (EMSs) or completion of facility compliance audits (FCAs) at Federal facilities.

Toxic Chemical Release Inventory (TRI) and Pollution Prevention Act (PPA) reports (sections 313 of EPCRA and 6607 of PPA): The Environmental Protection Agency reports that 756 Federal facilities submitted reports in 2011 (the last year for which data is available). Of these, it is estimated that approximately 220 facilities use contractors, or approximately 30 percent. This is based on TRI data extrapolated from EPA's dataset tool. Based on the information submitted by the Office of the Federal Environmental Executive in coordination with EPA, on average, we estimate that there are eight contractors per facility that may use substances for which TRI reports are required. Therefore, we

estimate a total of (220 x 8 =) 1,760 responses per year. The information collection would be accomplished by contractor employees' equivalent to a GS-12 Federal employee using records that the contractor is required to maintain under existing law and regulation. We estimate a burden of four hours per response, for a total burden on respondents of 7,040 hours, or \$309,760, as follows:

Number of responses.....	1,760
Average hours per response.....x	<u>4</u>
Total hours.....	7,040
Cost per hour.....x	<u>\$44.00*</u>
Total annual burden.....	\$309,760**

* Based on the OPM salary table for calendar year 2012, we estimated an hour rate equivalent to a GS-12, Step-5, or \$32.73 per hour, plus 36.45 percent overhead burden which is the rate mandated by OMB for A-76 public-private competitions, and rounded to the nearest whole dollar, or \$44.00.

** The total annual burden is slightly increased since the last reporting period due to an increase in the cost per hour from \$42.72 to \$44.00. The cost per hour was updated based on current OPM hourly labor rates and OMB's overhead burdened rates.

Other reports required by the EPCRA (sections 311 and 312, hazardous chemical storage reporting): For any hazardous chemical used or stored in the workplace, facilities must maintain a material safety data sheet (MSDS), and submit the MSDSs (or a list of the chemicals) to their State Emergency Response Commission (SERC), Local Emergency Planning Committee (LEPC) and local fire department. Facilities must also report an annual inventory of these chemicals sections 311 and 312 of EPCRA require facilities to submit information on hazardous chemicals at their sites above the threshold quantities. Section 312 may be used to meet the section 311 reporting requirements for those facilities that become subject to reporting under section 311. The Environmental Protection Agency (EPA) estimates that 370 Federal facilities use toxic or hazardous chemicals subject to EPCRA reporting and emergency planning requirements. On average, we estimate that each of these Federal facilities has three contracts which will be subject to this collection of information for a total of 1,110 (3 x 370) covered contractors. We estimate that each contractor will be required to submit information annually, for a total of 1,110 responses per year. The information collection would be accomplished by contractor employees' equivalent to a GS-12 Federal employee using records

that the contractor is required to maintain under existing law and regulation. We estimate a burden of 0.5 hours per response, for a total burden of 555 hours, or \$24,420, as follows:

Number of responses.....	1,110
Average hours per response.....	x <u>0.5</u>
Total hours.....	555
Cost per hour.....	x <u>\$44.00*</u>
Total annual burden.....	\$24,420**

* Based on the OPM salary table for calendar year 2012, we estimated an hour rate equivalent to a GS-12, Step-5, or \$32.73 per hour, plus 36.45 percent overhead burden which is the rate mandated by OMB for A-76 public-private competitions, and rounded to the nearest whole dollar, or \$44.00.

**The total annual burden is decreased since the last reporting period due to a decrease in the number of federal facilities that use toxic or hazardous chemicals subject to a reporting requirement.

Other reporting required by Executive orders (E.O.): The Army Corp of Engineers, Engineer Research and Development Center estimates that 4,086 Federal facilities would be likely to collect information for facility compliance audits in accordance with E.O. 13423. Most agencies have a three-year audit cycle; therefore, approximately each year 1,362 audits are performed. We estimate that 90 percent of these Federal facilities have one (1) contract which will be subject to this collection of information, which equates to approximately 1,226 (.90 x 1,362) covered contractors. We estimate that each contractor will be required to submit information annually, for a total of 1,226 responses per year. The information collection would be accomplished by contractor employees' equivalent to a GS-12 Federal employee using records that the contractor is required to maintain under existing law and regulation. Based on information submitted by the Office of the Federal Environmental Executive in coordination with EPA, we estimate a burden of 5 hours per response, for a total burden on respondents of 6,130 hours, or \$269,720, as follows:

Number of responses.....	1,226
Average hours per response.....	x <u>5</u>
Total hours.....	6,130
Cost per hour.....	x <u>\$44.00*</u>
Total annual burden.....	\$269,720

* Based on the OPM salary table for calendar year 2012, we estimated an hour rate equivalent to a GS-12, Step-5, or \$32.73 per hour, plus 36.45 percent overhead burden which is the rate mandated by OMB for A-76 public-private competitions, and rounded to the nearest whole dollar, or \$44.00.

According to the Federal Facilities Environmental Stewardship and Compliance Assistance Center, an estimated 2,373 federal facilities would be likely to collect information for Environmental Management System (EMS) self-assessments (E.O. 13423 and 13514). We estimate that .55% of these Federal facilities have one (1) contract which will be subject to this collection of information (.55 x 2,373 =) 1,305 covered contractors. We estimate that each contractor will be required to submit information annually, for a total of 1,305 responses per year. The information collection would be accomplished by contractor employees' equivalent to a GS-12 Federal employee using records that the contractor is required to maintain under existing law and regulation. Based on information submitted by the Office of the Federal Environmental Executive in coordination with EPA, we estimate a burden of 5 hours per response, for a total burden on respondents of 6,525 hours, or \$287,100, as follows:

Number of responses.....	1,305
Average hours per response.....	x <u>5</u>
Total hours.....	6,525
Cost per hour.....	x <u>\$44.00*</u>
Total annual burden.....	\$287,100

* Based on the OPM salary table for calendar year 2012, we estimated an hour rate equivalent to a GS-12, Step-5, or \$32.73 per hour, plus 36.45 percent overhead burden which is the rate mandated by OMB for A-76 public-private competitions, and rounded to the nearest whole dollar, or \$44.00.

Total Other Reporting Required (FCA and EMS):

Number of responses.....	2,531
Average hours per response.....	x <u>5</u>
Total hours.....	12,655
Cost per hour.....	x <u>\$44.00*</u>
Total annual burden.....	\$556,820

The total annual cost to respondents is, therefore, (7,040 + 555 + 12,655 =) 20,250 hours, or (\$309,760 + \$24,420 + \$556,820 =) \$891,000.

14. **Estimated cost to the Government.** The time required for Government review of the information collected varies. For information collected to support preparation of Toxic Release Inventory and PPA reports, we estimate three (3) hours of review by a GS-12 Government employee per submission. For information collected to support preparation of other reports required by EPCRA, we estimate one (1) hour of review by a GS-12 Government employee per submission. For information collected to support Sections 201 and 202 of E.O. 13148, we estimate one (1) hour of review by a GS-12 Government employee per submission. The estimated cost to the Government to review responses to this information is calculated as follows:

	<u>TRI Reports</u>	<u>Other Reports</u>	<u>EMS/FCA</u>
<u>Reports</u>			
Number of responses	1,760	1,110	2,531
Avg. hours per response	x <u>4</u>	x <u>.5</u>	x <u>5</u>
Total hours	7,040	555	12,655
Cost per hour	\$ <u>44.00*</u>	\$ <u>44.00*</u>	\$ <u>44.00*</u>
Total annual cost	\$309,760**	\$ 24,420**	\$556,820**

* Based on the OPM salary table for calendar year 2012, we estimated an hour rate equivalent to a GS-12, Step-5, or \$32.73 per hour, plus 36.45 percent overhead burden which is the rate mandated by OMB for A-76 public-private competitions, and rounded to the nearest whole dollar, or \$44.00.

** The total annual burden is slightly increased since the last reporting period due to an increase in the cost per hour from \$42.72 to \$44.00. The cost per hour was updated based on current OPM hourly labor rates and OMB's overhead burdened rates.

<u>Summary</u>	<u>Totals</u>
Number of Respondents:	3,121
Avg. Response/Respondent:	1.73
Number of responses	5,401
Avg. Burden/Response:	3.7493
***Estimated Total hours	20,250
Total annual cost	\$891,000

***The Estimated Total Burden Hours are 20,250. The calculation of 20,250/5,401 results in 3.7493 avg. burden hrs./response.

15. Explain reasons for program changes or adjustment reported in Item 12 or 13. This request updates a currently approved information collection requirement. Adjustments were made number of facilities reporting based on information obtained from EPA. The previous supporting statement, and subsequent approval, was only based upon 2004 Environmental Protection Agency TRI, PPA, and other EPCRA reporting data. This supporting statement is based on year 2011 data. An economic adjustment was made to the information collection accomplished by contractor employees and the information review accomplished by the Government employee. The estimated cost pay scale for both the contractor employee equivalent and the Government employees remained the same at a GS-12 Step-5 Federal employee. These rates were adjusted for inflation in accordance with the Office of Personnel Management (OPM) salary tables for 2012.

16. Outline plans for published results of information collections. Results of this information collection will not be published.

17. Approval not to display expiration date. Not applicable.

18. Explanation of exception to certification statement. Not applicable.

B. Collections of Information Employing Statistical Methods. Results will not be tabulated. Statistical methods will not be employed.