

SECTION I: PART A OF THE SUPPORTING STATEMENT

1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title and Number of the Information Collection

Participation by Disadvantaged Business Enterprises in Procurements under
EPA Financial Assistance Agreements (Renewal)
ICR Number 2047.05, OMB Number 2090-0030

1(b) Short Characterization/ Abstract

The EPA Disadvantaged Business DBE Program is an outreach, education and goal setting program designed to increase and encourage the utilization and participation of DBEs in procurements funded by EPA assistance agreements. Recipients of EPA financial assistance agreements are required to seek, and encouraged to utilize small, minority, and women-owned businesses for their procurement needs under the financial assistance agreement.

EPA currently requires an entity to be certified in order to be considered a Minority Business Enterprise (MBE) or Woman Business Enterprise (WBE) under EPA's Disadvantaged Business Enterprise (DBE) Program for its financial assistance programs. EPA currently requires an entity to first try to become certified by a federal agency (e.g., the Small Business Administration (SBA), or the Department of Transportation (DOT)), or by a State, locality, Indian Tribe or independent private organization so long as their applicable criteria match those under Section 8(a)(5) and (6) of the Small Business Act and applicable implementing regulations. EPA only certifies firms that cannot get certified by one of these entities. Accordingly, EPA, working through contractors ("EPA Private Certifiers"), may certify some MBE and WBE contractors. To qualify as an MBE or WBE under EPA's programs an entity must establish that it is owned and/or controlled by socially and economically disadvantaged individuals who are of good character and are citizens of the United States.

In an effort to ensure that Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) receive a "fair share" of procurement opportunities funded by EPA financial assistance agreements, it is required that all financial assistance recipients, unless exempt under 40 CFR 33.411, negotiate objectives/goals for MBE/WBE utilization. A fair share objective is a goal based on the capacity and availability of qualified, certified MBEs and WBEs in the relevant geographic market for the grant recipient in the procurement categories of construction, equipment, services and supplies compared to the number of all qualified entities in the same market for the same procurement categories.

All EPA financial assistance recipients are required to report to the Agency on their efforts to comply with the DBE Program requirements. This is how EPA evaluates and ensures the effectiveness of, and compliance with, the program's requirements. Recipients are required to report either annually or semi-annually depending on the type of grant received. Recipients are required to report their MBE/WBE participation achievements on EPA Form

5700-52A.

Contract administration requirements also necessitate that financial assistance agreement recipients require its prime contractor to provide EPA Form 6100-2—DBE Program Subcontractor Participation Form to all of its DBE subcontractors. EPA Form 6100-2 gives a DBE subcontractor the opportunity to describe the work the DBE subcontractor received from the prime contractor, how much the DBE subcontractor was paid and any other concerns the DBE subcontractor might have, for example reasons why the DBE subcontractor believes it was terminated by the prime contractor. DBE subcontractors may send completed copies of EPA Form 6100-2 directly to the appropriate EPA DBE Coordinator. The requirements to complete these forms are intended to prevent any “bait and switch” tactics at the subcontract level by prime contractors which may circumvent the spirit of the DBE Program.

There are two types of forms associated with the DBE Rule under this ICR: The EPA DBE Program contract administration forms and the EPA DBE certification applications.

Contract Administration Forms:

- EPA Form 6100-2: Gives a DBE subcontractor the opportunity to describe work received and/or report any concerns regarding the EPA-funded project;
- EPA Form 6100-3: Captures the DBE subcontractor’s description of work to be performed and the price of the work submitted to the prime contractor; and
- EPA Form 6100-4: Describes the prime contractor’s actual and/or anticipated use of identified certified DBE subcontractors and the estimated dollar amount of each subcontract.

Certification Applications

- EPA DBE Certification Application (EPA Form 6100-1a) (Sole Proprietorship);
- EPA DBE Certification Application (EPA Form 6100-1b) (Limited Liability Company);
- EPA DBE Certification Application (EPA 6100-1c) (Partnerships);
- EPA DBE Certification Application (EPA Form 6100-1d) (Corporations);
- EPA DBE Certification Application (EPA Form 6100-1e) (Alaska Native Corporations);
- EPA DBE Certification Application (EPA Form 6100-1f) (Tribally Owned Businesses);
- EPA DBE Certification Application (EPA Form 6100-1g) (Private and Voluntary Organizations);
- EPA DBE Certification Application (EPA Form 6100-1h) (Concerns owned by Native Hawaiian Organizations); and
- EPA DBE Certification Application (EPA Form 6100-1i) (Concerns Owned by Community Development Corporations).

Reporting and recordkeeping requirements for EPA’s existing MBE and WBE specific

provisions in 40 CFR Parts 30 and 31 are covered by existing ICR with OMB control number 2090-0030, which has an expiration date of August 31, 2015. That ICR encompasses EPA's MBE/WBE Reporting Form for MBE/WBE Utilization under Federal Grants, Cooperative Agreements, and Interagency Agreements for all EPA financial assistance programs, Form 5700-52A. That ICR is not superseded by this ICR and will remain in effect.

MBE/WBE reporting and recordkeeping requirements for EPA's Clean Water State Revolving Fund (CWSRF) Program codified in 40 CFR 35.3145(d) and (e) are covered by ICR control number 2040-0118; MBE and WBE reporting and recordkeeping requirements for EPA's Drinking Water State Revolving Fund (DWSRF) Program, codified in 40 CFR 35.3575(d) are covered by ICR control number 2040-0185; and MBE/WBE reporting and recordkeeping requirements for EPA's Superfund Program regulations are covered by ICR control number 2050-0179. Those ICRs are not superseded by this ICR and will remain in effect.

This ICR examines the respondent reporting requirements, associated hour, and cost burden of the EPA DBE rule for the key functional components of the DBE program except the reporting and recording keeping requirements covered under EPA ICR control number 2090-0030.

1(c) OMB Terms of Clearance

On August 13, 2013, OMB provided the following Terms of Clearance: "This ICR is approved for a period of 2 years until 2015, when EPA will undertake a comprehensive review of the Disadvantaged Business Enterprise rule. This ICR should be revised in accordance with lessons learned from this review with a focus on maximizing practical utility and minimizing public burden associated with collecting the information necessary to carry out the functions of this program."

EPA is currently performing a comprehensive review of the DBE rule, which is scheduled to be completed by December 31, 2015. Ten DBE Coordinators are analyzing current DBE processes/procedures and proposing improvements. There are five proposals currently being considered by the EPA: 1) Dissolve the current DBE certification program because it has certified only two businesses since the DBE rule was finalized in 2008; 2) Eliminate EPA Form 6100-2; 3) Remove procurement categories; 4) Establish a reporting threshold; and 5) Establish a fair share negotiation threshold. All proposals are undergoing extensive cost-benefit analysis. Once the proposals are through formal EPA review, the Office of the Administrator will post a Federal Register Notice for public comment. There are no proposed changes to any of the forms at this time, however, changes will be forthcoming, pursuant to a complete review. EPA is renewing the aforementioned forms until such time as the DBE rule review is complete.

2. NEED/AUTHORITY FOR THE COLLECTION

2(a) Need/Authority for this Collection

This ICR is for the purpose of ensuring that EPA's statutory DBE procurement goal requirements are implemented in harmony with the United States Supreme Court's decision in Adarand Constructors, Inc. v. Peña, 115 S. Ct. 2097 (1995).

EPA's legal authorities for its DBE Program are:

Public Law 102-389, a 1993 appropriations act (42 U.S.C. §4370d) (EPA's 8% statute), which provides in pertinent part:

“The Administrator of the Environmental Protection Agency shall, hereafter, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans and contracts for wastewater treatment and leaking underground storage tanks grants, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of Section 8(a)(5) and (6) of the Small Business Act (15 U.S.C. § 637 (a)(5) and(6)), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.”

Public Law 101-549, Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. §7601 note) (EPA's 10% statute), which provides in pertinent part:

“In providing for any research relating to the requirements of the amendments made by the Clean Air Act Amendments which use funds of the Environmental Protection Agency, the Administrator of the Environmental Protection Agency shall, to the extent practicable, require that not less than 10 percent of the total Federal funding for such research will be made available to disadvantaged business concerns.”

2(b) Practical Utility/Users of the Data

The certification forms associated with the Disadvantaged Business Enterprise Program were created to certify those firms that cannot obtain certification from other federal, local, tribal and private entities. The EPA certification program is necessary because the statutory authority for EPA's program includes classification of businesses that are not currently certified by other sources. EPA only certifies firms that are denied certification from other entities. Requiring firms to first seek certification from other sources is beneficial to businesses because the EPA DBE certification is only accepted by EPA while certifications from other sources have broader applications.

The contract administration forms associated with the Disadvantaged Business Enterprise (DBE) Program are designed to prevent unfair practices that adversely affect DBEs. The forms are to be completed by the prime contractor and submitted to either the EPA DBE Coordinator or the financial assistance agreement recipient. The data that is collected will allow EPA to monitor the contractor's DBE utilization.

3. NON DUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) Non Duplication

All of the information collected pursuant to this ICR is specific to the associated rulemaking. To the extent MBEs and/or WBEs are certified by another Federal agency, there is no duplication of effort involved for them to become certified under this rulemaking since they are not required to obtain EPA certification under those circumstances. The information collected from respondents on the contract administration forms is required by statute and is not available from other sources.

3(b) Public Notice Required Prior to ICR submission to OMB

In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), EPA has notified the public through the *Federal Register* notice on the renewal of this ICR (See 80 *FR* 10087, February 25, 2015). The Docket ID No. for the notice is EPA-HQ-OA-2006-0278, and can be accessed at www.regulations.gov. The comments that were collected during this period were used to make changes to the administration forms to provide clarity.

3(c) Consultations

OSBP is currently in consultation with the following EPA DBE Regional Coordinators as a part of the DBE Rule Review.

| | | |
|------------------------------------|--------------------------------|--|
| 1 (CT, ME, RI, MA, NH, VT) | Larry Wells | wells.larry@epa.gov |
| 2 (NJ, NY, PR, VI) | Michele Junker Peggy DeLuca | junker.michele@epa.gov deluca.peggy@epa.gov |
| 3 (AL, FL, GA, KY, MS, NC, SC, TN) | Charles Hayes | hayes.charles@epa.gov |
| 4 (IL, IN, MI, MN, OH, WI) | Adrienne Callahan | callahan.adrienne@epa.gov |
| 5 (AR, LA, NM, OK, TX) | Debora Bradford | bradford.debora@epa.gov |
| 6 (MO, NE, IA, KS) | Chester Stovall | stovall.chester@epa.gov |
| 7 (AZ, HI,CA, NV) | Joe Ochab | ochab.joe@epa.gov |
| 8 (AK, ID, OR, WA) | Greg Luchey | luchey.greg@epa.gov |

3(d) Effects of Less Frequent Collection

This rule does not impose any additional reporting and recordkeeping requirements on MBE/WBE achievements that are not already covered by the existing ICR under OMB control number 2030-0020 which covers “MBE/WBE Utilization under Federal Grants, Cooperative Agreements, and Interagency Agreements,” EPA Form 5700-52A. To the extent additional burden is imposed, EPA will adjust the burden hours when its existing Grants,

Cooperative Agreements and Interagency Agreements ICR 2030-0020 is renewed as well as when the other ICRs which encompass MBE/WBE reporting and recordkeeping are renewed. The certification information collection activities are activity based. No lower frequency of filing an affidavit regarding an entity's status under section 33.210(a) is possible.

The requirement under section 33.302(e) for a recipient to provide EPA Form 6100-2 DBE Program Subcontractor Participation Form to all DBE subcontractors giving them the opportunity to describe the work they received from the prime contractor, how much the DBE subcontractor was paid, and any other concerns the DBE Subcontractor might have, is activity based.

The requirement under section 33.302(f) for a recipient to require its prime contractor to have any anticipated DBE subcontractors complete EPA Form 6100-3 DBE Subcontractor Performance Form is activity based.

The requirement under section 33.302(g) for a recipient to require its prime contractor to complete and submit EPA Form 6100-4 DBE Program Subcontractor Utilization Form as part of the prime contractor's bid or proposal package is activity based.

The requirement under section 33.201 for an EPA financial assistance recipients' MBE or WBE prime or subcontractor to be certified under EPA's DBE Program is activity based.

3(e) General Guidelines

This rulemaking is consistent with OMB's General Guidelines.

3(f) Confidentiality

Information gathered as part of the certification process that may reasonably be regarded as proprietary or other confidential business information will be safeguarded from disclosure to unauthorized persons, consistent with applicable Federal, State and local law. EPA has regulations concerning confidential business information. See 40 CFR Part 2 Subpart B.

3(g) Sensitive Questions

The requirements do not involve information of a sensitive nature.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a) Respondents/NAICS Codes

The respondents to this collection are entities in the fields of construction, equipment, services and supplies, who are intent on being prime contractors or subcontractors on EPA funded projects. The respondents include:

| <u>Category of respondents</u> | <u>NAICS Code</u> |
|---|-------------------|
| Architectural, engineering and other related services | 5413 |
| Architectural services (designing and planning the development of land) | 541320 |
| Remediation services and other waste management services | 56291 |
| Hazardous waste treatment and disposal | 562211 |
| Testing laboratories | 541380 |
| Wastewater remediation | 562211 |
| Construction equipment (wholesale) | 421810 |
| Construction engineering services | 541330 |
| Computer peripheral equipment | 421430 |
| Computer systems design programming services | 541511 |
| Computer systems design services | 541512 |
| Highway and street construction (includes roadwork) | 234110 |
| All other heavy construction | 234990 |
| Water sewer and pipeline construction | 234910 |
| Water treatment equipment (wholesale) | 421850 |
| Environmental consulting | 541620 |
| Management consulting services | 541618 |
| Soil testing | 562910 |

| | |
|---|--------|
| Water, supply and irrigation systems (water filtration) | 221310 |
| Sewage treatment facilities | 221320 |
| Hazardous waste treatment and disposal | 562211 |
| Long distance trucking of waste | 56211 |
| Office supplies | 453210 |
| Office machinery and equipment rental or leasing | 532420 |

4(b) Information Requested

(i) Data Items, Including Recordkeeping Requirements

Information requested as a result of this revision relate to the forms which are required if there are DBE subcontractors involved in a procurement under sections 33.302(e), (f) and (g).

EPA currently certifies the following types of: 1. disabled American-owned firms under EPA's 10% statute; 2. private and voluntary organizations controlled by individuals who are socially and economically disadvantaged under EPA's 10% statute; 3. women-owned businesses under EPA's 8% and 10% statutes who cannot get certified under DOT or SBA size criteria (EPA does not have size criteria) or by a State Government, Indian Tribal Government or independent private organization consistent with EPA's 8% or 10% statute as applicable; 4. DBE owned or controlled businesses under EPA's 8% statute (note-SBA and DOT require a DBE to be owned and controlled by socially and economically disadvantaged individuals. (as does EPA's 10% statute)); and 5. Entities which are certified under criteria which are inconsistent with EPA's DBE program criteria. It is important to note that to qualify as an MBE or WBE under EPA programs an entity must establish that it is owned and/or controlled by socially and economically disadvantaged individuals who are of good character and citizens of the United States.

EPA currently uses separate "EPA DBE Certification Application" forms depending on the entity seeking to be certified (EPA Form 6100-1a for sole proprietorships, EPA Form 6100-1b for limited liability companies, EPA Form 6100-1c for partnerships, EPA Form 6100-1d for corporations, EPA Form 6100-1e for Alaska Native Corporations (ANCs), EPA Form 6100-1f for Tribally owned concerns, EPA Form 6100-1g for private and voluntary organizations owned by individuals who are socially and economically disadvantaged, EPA Form 6100-1h for concerns owned by Native Hawaiian organizations, and EPA Form 6100-1i

for concerns owned by community development corporations). This approach is consistent with the approach taken by SBA in its SDB certification program. The information will be used to evaluate the MBE and/or WBE status of applicants.

EPA Form 6100-2 - DBE Program Subcontractor Participation Form gives a subcontractor the opportunity to describe the work the subcontractor received from the prime contractor, how much the subcontractor was paid and other concerns the subcontractor might have, for example reasons why the subcontractor believes it was terminated by the prime contractor.

EPA Form 6100-3 captures the DBE subcontractor's description of work to be performed and the price of the work submitted to the prime contractor..

EPA Form 6100-4 captures the prime contractor's actual and/or anticipated use of identified certified DBE subcontractors and the estimated dollar amount of each subcontract.

The information from these forms is used to evaluate whether prime contractors have attempted to use any "bait and switch" tactics in representing they would use MBE/WBE subcontractors without actually doing so; the information will also be used to determine whether any changes in EPA oversight are needed.

(ii) Respondent Activities

EPA DBE Certification Applications: the EPA DBE Certification Application (EPA Form 6100-1a) (Sole Proprietorship), the EPA DBE Certification Application (EPA Form 6100-1b) (Limited Liability Company), the EPA DBE Certification Application (EPA 6100-1c) (Partnerships), the EPA DBE Certification Application (EPA Form 6100-1d) (Corporations), the EPA DBE Certification Application (EPA Form 6100-1e) (Alaska Native Corporations), the EPA DBE Certification Application (EPA Form 6100-1f) (Tribally Owned Businesses), the EPA DBE Certification Application (EPA Form 6100-1g) (Private and Voluntary Organizations), the EPA DBE Certification Application (EPA Form 6100-1h) (Concerns owned by Native Hawaiian Organizations), and the EPA DBE Certification Application (EPA Form 6100-1i) (Concerns Owned by Community Development Corporations), can be submitted at any time.

A recipient must submit its proposed MBE and WBE fair share objectives and supporting documentation to EPA within 120 days after its acceptance of its financial assistance award.

EPA Form 6100-2 may be submitted by the subcontractor to the EPA DBE Coordinator at any time. EPA Forms 6100-3 should be submitted by the DBE subcontractor to the recipient as a part of the bid or proposal package. EPA Form 6100-4 should be submitted by the prime contractor to the recipient as a part of the bid or proposal process.

5. THE INFORMATION COLLECTED-AGENCY ACTIVITIES, COLLECTION,

METHODOLOGY, AND INFORMATION MANAGEMENT

The following section discusses how EPA or an EPA Private Certifier collects and manages the information received from respondents.

5(a) Agency Activities

EPA reviews certification applications to determine whether an entity is owned and/or controlled by one or more individuals claiming disadvantaged status. EPA or an EPA Private Certifier advises each applicant, within 15 days, whenever practicable, after receipt of an application, whether the application is complete and suitable for evaluation, and if not, what additional information or clarification is required, in accordance with Section 33.205(b). EPA makes its certification decision within 30 days of receipt of a complete application package, whenever practicable, in accordance with Section 33.205(b).

EPA DBE Coordinators receive a recipients proposed MBE and WBE fair share objectives within 120 days of accepting a financial assistance agreement. The EPA DBE Coordinator must respond in writing to the recipient's submission within 30 days of receipt either agreeing with the submission or providing initial comments for further negotiation.

EPA DBE Coordinators review the contract administration forms to ensure that the prime contractor and subcontractor are in accordance as to the work that will be performed under the contract. The EPA DBE Coordinator will contact the prime contractor and subcontractor and resolve any issues should a discrepancy exist. Pursuant to Section 33.302, in the event that a DBE subcontractor fails to complete work under the subcontract for any reason, the recipient must require the prime contractor to employ the six good faith efforts described in Section 33.301 if soliciting a replacement subcontractor.

EPA will safeguard confidential business information in accordance with 40 CFR Part 2, Subpart B, "Confidentiality of Business Information."

5(b) Collection Methodology and Management

EPA does not have a formal method to collect the information pertaining to the fair share objectives. However, recipients are required to substantiate their proposed objectives based on data derived from an availability analysis, disparity study, another EPA recipient, or alternative methods as described in 40 CFR 33.405

EPA uses the forms to evaluate MBE/WBE certifications. Similar forms, consisting of separate forms for corporations, partnerships, limited liability corporations, sole proprietorships, Alaska Native Corporation (ANC) owned concerns, and Tribally owned concerns, were approved by OMB, ICR control Number 3245-0317, for SBA's SDB certification program. EPA also uses a separate form for private and voluntary organizations owned by individuals who are socially and economically disadvantaged because they are a separately designated group under EPA's 10% statute whose structure as organizations is different from the other types of entities being certified. EPA is also uses separate forms for concerns owned

by Native Hawaiian Organizations and Community Development Corporation-owned concerns because these entities may be certified under SBA's 8(a) Business Development Program. EPA's 8% statute is tied to Section 8(a)(5) and (6) of the Small Business Act. These EPA forms are patterned along the lines of the other EPA certification forms being submitted. EPA will store the data in OSBP's office space.

EPA uses the 6100-2, 6100-3 and 6100-4 forms to evaluate whether prime contractors have attempted to use any "bait and switch" tactics in representing they would use MBE/WBE subcontractors without actually doing so.

In collecting and analyzing information, EPA will ensure the completeness of collected information by reviewing each submittal. EPA will store the data in the award file maintained by the DBE Coordinator.

This collection of information does not involve the use of automated, electronic, mechanical or other forms of technological collection, which permits electronic submission of responses.

5(c) Small Entity Flexibility

EPA's DBE Program is aimed at providing contracting opportunities for small businesses owned and/or controlled by socially and economically disadvantaged individuals, among others (e.g., historically black colleges and universities) (HBCUs). EPA believes that the effect of the rule on small entities, including small government jurisdictions, is minimal. Accordingly, EPA believes the economic impact of this rule on small entities is minimal.

In EPA's view, this rule does not affect the total funds or business opportunities available to small businesses that seek to work under EPA financial assistance programs.

EPA is unaware of any data which would enable the Agency at this time to measure the distributive effects of the rulemaking proposal on various types of small entities. In the preamble to the rule, EPA stated that the agency continues to be interested in the potential impacts of the rule on small entities and welcomes comments on issues related to such impacts, including comments related to the financial and time burden associated with the requirements (including actual hours and dollars).

5(d) Collection Schedule

Once certified by EPA, an entity will generally remain on EPA's list of certified MBEs and WBEs for a period of three years from the date of its certification. To remain on EPA's list after three years, an entity would have to submit a new application and receive a new certification.

Once a recipient's fair share objective have been accepted, they remain in effect for three fiscal years unless there are significant changes to the data supporting the objectives.

EPA Form 6100-2 is collected by the DBE Coordinator at the discretion of the DBE subcontractor. EPA Forms 6100-3 is collected by the prime contractor at the time of bid or proposal. EPA Form 6100-4 is collected by the recipient at the time of bid or proposal.

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

6(a) Estimating Respondent Burden

- EPA DBE Program Certification Forms

Since EPA's DBE certification program closely resembles the DOT DBE Certification Program, the total estimated burden hours used for this collection is based on DOT's current ICR burden estimation for their certification program. Based on DOT's figures, EPA estimates that the total burden hours per applicant to complete its DBE certification application with supporting documentation is approximately 8 hours. The EPA Office of Small Business Program currently receives approximately two DBE certification applications per month which includes applications from firms that are seeking recertification.

- Affected Public: Firms applying to be certified as DBEs
- Number of Respondents: 24 per year
- Frequency of Response: Once during initial DBE certification
- Estimated Average Burden per Response: 8 hours
- Estimated total burden: 192 hours per year

- EPA Fair Share Negotiations

The fair share negotiation process will not be affected by the changes in the certification and contract administration forms associated with the EPA DBE program. The respondent burden for this activity is derived from collecting and analyzing the data used to develop fair share objectives. Although there are several methods that can be used to calculate fair share objectives, EPA calculated the burden associated with developing an availability analysis as it is the most widely used and laborious methodology. The number of respondents is based on the current number of recipients with active negotiated goals as of July 2013. There are 115 active negotiated rates. If each recipient negotiates their goals every three years, the number of respondents would average 38 per year.

- Affected Public: EPA grant recipients
 - Number of Respondents: 38 (115/3)
 - Frequency of Response: Once Every Three Years
 - Estimated Average Burden per Response: 265 hours
 - Estimated total burden: 10,070 hours per year
- EPA DBE Program Contract Administration Forms 6100- 2, 6100-3, 6100-4

EPA does not anticipate that the proposed revisions will lead to any measurable change in burden, as they exist primarily to make filling out the form easier but do not do so in a way that the Agency is yet able to quantify.

- Affected Public: EPA grant recipients, prime contractors and DBE subcontractors
- Number of Respondents: 1,803
- Frequency of Response: Once during bid or proposal
- Estimated Average Burden per Response: ¼ of 1 hour per form
- Estimated total burden: 450.75 hours per year per form (1,352.25 total hours per year)

6(b) Estimating Respondent Costs

Table 6-1 provides the cost estimates for the affected respondents. We used the Bureau of Labor Statistics’ [2014 median wage rate for a compliance officer](#) to estimate this cost.

Table 6-1

| | No. of Respondents | Est. Total Burden (hrs.) | Wage Rate | Total Cost |
|--------------------------|---------------------------|---------------------------------|------------------|-----------------------------|
| DBE Certification | 24 (2*12) | 192 (24*8) | \$31.23 | \$5,996.16 (\$31.23*192) |

| | | | | |
|--------------------------------|-------|---------------------------|---------|-------------------------------|
| Fair Share Negotiations | 38 | 10,070 (38*265) | \$31.23 | \$314,486 (\$31.23*10070) |
| Forms 6100-2, -3, -4 | 1,803 | 1,352.25 ((1803*.25)3) | \$31.23 | \$42,230 (\$31.23*1352.25) |

Key Assumptions:

- Some percent of government entities will already have a suitable availability analysis [likely to result in an overestimate of burden and cost].
- Some percent of non-governmental entities will use States' availability analyses [likely to result in an overestimate of burden and cost].
- An availability analysis is valid for ten years. This means that a recipient does not need to develop a new availability analysis when their fair share goals are renegotiated (every three years) unless there has been a significant change in the recipient's relevant geographic area [likely to result in an overestimate of burden and cost].
- The burden associated with the Fair Share Negotiation process occurs every three years.

Based on Table 6-1, the estimated total respondent cost is \$5,996,16 per year for the DBE Certifications, \$314,486 for fair share negotiations and \$42,230 for Forms 6100-2, -3, -4.

6(c) Estimating Agency Burden and Cost

- **DBE Certification Applications:** Based on experience, EPA estimates that it will take the DBE program manager at a GS-14 level in Washington, DC approximately one hour to review a certification and render a decision as to whether or not the firm can be certified as an EPA DBE. At a salary of \$51.43 per hour, the federal cost per year of reviewing the estimated 24 certifications is \$1,234.32.
 - o Hourly Rate: \$51.43
 - o Number of Respondents: 24
 - o Number of Review Hours per form: 1
 - o Total Burden Hours: 24
 - o Total Cost: \$1,234.32
- **Fair Share Goal Negotiation:** Based on experience, EPA estimates that it will take a DBE Coordinator at a GS-12 level in Washington, DC approximately 8 hours to review the documentation (including the availability analysis) and provide feedback associated with the fair share negotiation process. At a salary of \$36.60 per hour, the average

annual federal cost of negotiating fair share objectives for 38 respondents is \$11,126.40.

- o Hourly Rate: \$36.60
 - o Number of Respondents: 38
 - o Number of Review Hours per form: 8
 - o Total Burden Hours: 304
 - o Total Cost: \$11,126.40
- DBE Contract Administration Forms: The Agency estimates that it will take one hour to review each of the three contract administration forms: 6100-2, 6100-3, 6100-4. Even though the submission EPA Form 6100-2 is an optional, the Agency has calculated the burden to review that form as well in order to prevent underestimation. A DBE Coordinator or Grant Specialist’s review of the forms at a GS-13 step four position in Washington, D.C. will cost \$86,309.61 per form per year at a rate of \$47.87 an hour.
 - o Hourly Rate: \$47.87
 - o Number of Respondents: 1,803
 - o Number of Review Hours per form: 1
 - o Total Burden Hours per form: 1,803
 - o Total Burden to Review All Forms: 5,409
 - o Total Cost per form: \$86,309.61
 - o Total Cost to Review All Forms: \$258,928.83

6(d) Estimating the Respondent Universe and Total Burden and Costs

Table 6-2 summarizes the total estimated annual burden and cost of this information collection. We estimate that it will require a total of **17,351.25** hours and cost **\$634,001.71** with all costs attributed to labor hours to meet the requirements of the DBE.

Table 6-2

| RESPONDENTS | <i>Number of Respondents</i> | <i>Total Burden Hours</i> | <i>Total Cost</i> |
|--------------------------------|------------------------------|---------------------------|---------------------|
| <i>DBE Certification</i> | 24 | 192 | \$5,996.16 |
| <i>Fair Share Negotiations</i> | 38 | 10,070 | \$314,486 |
| <i>6100-2, -3, -4</i> | 1,803 | 1,352.25 | \$42,230 |
| | 1,865 | 11,614.25 | \$362,712.16 |
| EPA | | | |
| <i>DBE Certification</i> | 24 | 24 | \$1,234.32 |
| <i>Fair Share Negotiations</i> | 38 | 304 | \$11,126.40 |
| <i>6100-2, -3, -4</i> | 1,803 | 5,409 | \$258,928.83 |
| | 1,865 | 5,737 | \$271,289.55 |
| | | | |
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|--------------|--|------------------|---------------------|
| | | | |
| TOTAL | | 17,351.25 | \$634,001.71 |

Key Assumptions:

- There are 13 EPA DBE Coordinators. If there are 115 respondents, each Coordinator will negotiate the fair share objectives of an average of 9 recipients every three years.
- The federal salary for a GS-12 employee varies by state. Therefore, the actual agency burden will differ based on the Coordinator's region.

6(e) Bottom Line Burden Hours and Cost Tables

- (i) Respondent Tally
Annual Burden: 11,614.25 hours
Annual Cost: \$362,712.16
- (ii) Agency Tally
Annual Burden: 5,737 hours
Annual Cost: \$271,289.55

6(f) Reasons for Change in Burden

The change in the total number of burden hours and total cost reflects updated labor data from the Bureau of Labor Statistics.

6(g) Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 6 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID Number EPA-HQ-OA-2006-0278, which is available for online viewing at www.regulations.gov, or in person viewing at the OEI Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752. An electronic version of the public docket is available at www.regulations.gov. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OA-2006-0278 and OMB Control Number 2090-0030 in any correspondence.