

**Supporting Statement
Legal Collections
OMB Control Number 1910-0800**

This supporting statement provides additional information regarding the Department of Energy's (DOE or Department) request for processing of the proposed information collection, *Legal Collections*. The numbered questions correspond to the order shown on the Office of Management and Budget (OMB) Form 83-I, "Instructions for Completing OMB Form 83-I."

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the information collection.**

This package contains information collections that are used by Departmental management to exercise oversight and control over management and operating (M&O) contractors of DOE's Government-Owned Contractor-Operated (GOCO) facilities and off-site contractors. The contractor management oversight and control function concerns the ways in which DOE contractors provide goods and services for DOE organizations and activities in accordance with: the terms of their contract; the applicable statutory, regulatory, and mission support requirements of the Department; and regulations in the intellectual property area covered by this package.

The basic authority for these collections is the Department of Energy Organization Act, Public Law 95-91, of August 4, 1977, which vests the Secretary of Energy with the executive direction and management functions, authority and responsibilities for the Department, including contract management. The provisions of 42 U.S.C. § 7254 state that "the Secretary is authorized to prescribe such procedural and administrative rules as he may deem necessary or appropriate to administer and manage the functions now or hereafter vested in him." Further, 42 U.S.C. § 7256(a) states that "the Secretary is authorized to enter into and perform such contracts, leases, cooperative agreements, or other similar transactions with public agencies and private organizations and persons, and to make such payments (in lump sum or installments, and by way of advance or reimbursement) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary."

More specifically, 42 U.S.C. § 5908(b) requires that "[e]ach contract entered into by the Secretary with any person contain effective provisions under which such person shall furnish promptly to the Secretary a written report containing full and complete technical information concerning any invention, discovery, improvement, or innovation which may be made in the course of or under such contract." 42 U.S.C. § 5908(c) provides for patent waivers under regulations prescribed by the Secretary, which require waiver petitions. 35 U.S.C. § § 207-209 provide for patent licensing on application thereof.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection

1As noted above, the information obtained from DOE contractors by these information collections is used by Department management to manage the patent interests of the Department and the Federal Government. To adequately accomplish this function, certain management and program-type information must be collected from contractors and license applicants. For example, information on a patent license application is collected and used to qualify an applicant for a license in accordance with applicable regulations.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

1Within existing budget and resource constraints, Department program managers and contractors continually work to apply the latest appropriate-level information technology (hardware and software) to reduce the information collection burden and improve the timeliness and usefulness of the patent information being collected. This includes automation of previously manual processes for the Invention Certification for Federal Award form which will ease the burden in both preparation and review. The limited resources available were allocated to automating the most commonly used form. Accordingly, the collection is not 100% automated.

4. Describe efforts to identify duplication.

1Since the collections contained in this package are only applicable to patent management in DOE, meaningful duplication of these collections in other agencies is unlikely. Also, there is no similar information already available for use by the Department.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

1The impact of the collection of information on small businesses is considered to the extent permitted by applicable statutory requirements and other legal and management constraints.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

1The frequency of collection is dictated by sound management practice, external laws and regulations, and internal Departmental requirements. When any of these factors change to permit reduction of the frequency of information collections, a reduction is made and the contract documents are changed accordingly.

If these collections were not made, it would become difficult, if not impossible, to properly manage the Department's patent interests and perform the Department's missions that require contractor support.

7. **Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines. (a) requiring respondents to report information to the agency more often than quarterly; (b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; (c) requiring respondents to submit more than an original and two copies of any document; (d) requiring respondents to retain records, other than health, medical government contract, grant-in-aid, or tax records, for more than three years; (e) in connection with a statistical survey, that is not designed to product valid and reliable results that can be generalized to the universe of study; (f) requiring the use of statistical data classification that has not been reviewed and approved by OMB; (g) that includes a pledge of confidentiality that is not supported by authority established in stature of regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; (h) requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

No such circumstances exist. The Information Collections Request has been reviewed and justified against Departmental management requirements, statutes, external regulations or interagency reporting requirements, Departmental orders or other internal DOE statutory requirements, and will be collected in a manner consistent with 5 CFR. Part 1320 guidelines.

8. **If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5CFR 320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken in response to the comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside DOE to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or report.**

The Department published a 60-day *Federal Register Notice* and Request for Comments concerning this collection in the *Federal Register* (Vol. 83, No. 69, p. 15381) on April 10, 2018. The notice described the collection and invited interested parties to submit comments or recommendations regarding the collection. No comments were received.

9. **Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

1There are no plans to pay additional amounts to respondents to provide required information.

Note that the costs incurred by DOE contractors in responding to the information collections in this package are recovered in their contract fees and payments. They differ from information collections imposed on the general public for which no cost reimbursement is provided. In addition, M&O contractors provide input concerning information collection requirements during contract negotiation. In this regard, they have agreed that the patent collections of information are required for the administration of these contracts and are accepted as a normal business practice. Finally, DOE seeks to minimize the reporting burden to reduce expenditures.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

1Where confidential information is involved in an information collection, the provisions for dealing with this confidential information are set forth in contract documents and related Departmental regulations, and are normal to the handling of management and program information by the Department.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why DOE considers the questions necessary, the specific uses to be made of the information the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

1There are no collections in this package that involve questions of a sensitive, personal, or private nature.

12. Provide estimates of the hour burden of the collection of information. The statement should indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, DOE should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample fewer than 10 potential respondents is desirable.

1The estimated burden, expressed in burden hours, is the sum of the burden reported by Departmental elements and Field organizations as compiled from their respective contractors, or estimated by expert personnel familiar with these collections. Computations are based on the number of respondents multiplied by the annual reporting frequency multiplied by the hours per response. The annual number of respondents and annual burden hour estimates were made based on the average of the invention disclosures over the last two years (FY15 and FY16). Please note that all calculations have been rounded to two significant digits.

1Using these calculations, the estimated annual burden of this package is:

Total number of unduplicated respondents: 1,700
Reports filed per person: 1.2
Total annual responses: 2,040
Total annual burden hours: 13,260

Average Burden Per Collection: 6.5 hours
Average Burden Per Applicant: 7.8 hours

13. Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

The annual recordkeeping burden is determined by multiplying the number of record keepers by the estimated hours per record-keeper used to maintain the records on an annual basis.

Cost to Respondents: The estimated annualized costs to the contractor/public respondents for the data in this package are based on an assumed standard cost of \$75.00 per burden hour.
 $\$75 \times 13,260 = \$994,500$

14. Provide estimates of annualized cost to the Federal government.

The average hourly rate of Federal personnel (GS-9) reviewing the information collected is approximately \$98 (205,214/2080) per hour.

Annual Cost to Federal Govt.: $\$98 \times 2481$ (estimated annual reviewing hours) = \$243,138

15. Explain the reasons for any program changes or adjustments reported in Items 13 (or 14) of OMB Form 83-I.

This package indicates fewer respondents and fewer burden hours than those currently reflected in the OMB inventory. The differences are primarily due to fewer invention disclosures and patent waiver requests received during FY15 and FY16. The decrease in invention disclosures and patent waivers is outside of this office's control but is most likely due to decreased resources.

16. For collections whose results will be published, outline the plans for tabulation and publication.

No collections results will be published for statistical use.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

There is no reason not to display the expiration dates.

18. Explain each exception to the certification statement identified in Item 19 of OMB Form 83-I.

1 There are no exceptions to the Certification Statement.