

**Department of Energy
Supporting Statement
Procurement Package
OMB Control Number 1910-4100**

This supporting statement provides additional information regarding the Department of Energy's (DOE or Department) request approval for the above named package of information collections imposed by the Department of Energy Acquisition Regulation (DEAR), codified at Chapter 9 of Title 48 of the Code of Federal Regulations. The DEAR is authorized by section 644 of the Department of Energy Organization Act, 42 U.S.C. 7254, as well as section 205(c) of the Federal Property and Administrative Services Act, 40 U.S.C. 486(c). The DEAR implements and supplements the Federal Acquisition Regulation (FAR), authorized by the Office of Federal Procurement Policy Act, 41 U.S.C. 405. To the extent that a procurement burden is first imposed by the FAR, it will be justified and cleared by the General Services Administration for Government-wide use. If a procurement burden is imposed by the DEAR, the burden will be justified and cleared by DOE as part of this Paperwork Reduction Act submission.

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.**

The DOE is the second largest procurement organization in the Federal Government. Responsible management of these large contracts requires diligent contract administration and the collection of certain information as specified in certain solicitation provisions and contract clauses of the DEAR.

The Department of Energy Organization Act, 42 U.S.C. 7254, states that the Secretary of Energy is authorized to prescribe such procedural and administrative rules as may be deemed necessary and appropriate to administer and manage the functions vested in the Department, and to enter into and perform contracts, leases, cooperative agreements, and other similar transactions with public agencies and private organizations and persons as may be deemed necessary and appropriate.

- 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.**

The information collected by this package is used by the Department's program, financial, and procurement personnel to evaluate proposals and administer contracts. These collections are used to exercise management oversight and control of the Department's management contractors operating the Department's major facilities, and other contractors furnishing products and services. The information received from this collection has been, and will continue to be, used for the administration of these contracts.

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.

Contractors are authorized to submit information to the Department electronically, e.g., Internet, E-mail, computer storage device, or facsimile. In some instances, such as submission of proposals and scientific reporting, the Department has provided Web-based tools to facilitate submission of information. Most recently, the Department has extended these electronic submission procedures to its Procurement and Financial systems. The burden on contractors is reduced by tools such as the Vendor Inquiry Payment Electronic Reporting System (VIPERS), which allows vendors to submit their invoices and supporting data electronically.

4. Describe efforts to identify duplication.

Twice in the past, DOE has done extensive reviews of this information collection package to ensure that it does not duplicate other collections conducted elsewhere in the Department or within the larger Federal procurement community. The first review, performed in the early days of the Paperwork Reduction process (mid 90s) as part of the Clinton era Government Reinvention initiative, found significant overlap between the Department and Federal collections, and led to a 50% reduction in the Department's regulation. A more recent review found no duplication between the Department and other collections. Indeed, to comply with the FAR, we must ensure that the DEAR does not duplicate any requirements contained in the FAR. The FAR system prohibits agencies from duplicating requirements originally established in the FAR (see 48 CFR 1.302 and 1.304).

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

The impact of the collection on small businesses is considered in the rulemaking process and steps to minimize the impact are taken 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.

The frequency of collection is dictated by sound management practice, external laws and regulations, and Departmental Directives and requirements. When any of these conditions change to permit reduction in the frequency of collection, the reduction will be made and the contract documents will be changed to reflect the reduction. Not collecting the information or reducing the collection may result in violations of procurement, contractual, safety, health, or environmental statutes or regulations. The health and well-being of Federal and contractor employees, as well as Federal property and adjacent communities, could be adversely affected. Violations could also lead to criminal or civil penalties.

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 produce 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 statute or 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; and/or (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.**

Information collections in this package have been reviewed and justified by Departmental management requirements, statutes, external regulations, interagency requirements, Departmental orders, or other internal DOE requirements. The package is consistent with the 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 reported.**

The Department published a Notice and Request for Comment concerning this collection in the Federal Register on January 18, 2018 at 83 FR 2626. The notice described the collection and invited interested parties to submit comments or recommendations regarding the collection. No comments were received as a result of that notice.

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

There is no remuneration given for submission of any of the information other than the fact that the expense of responding is treated as an allowable cost.

It should be noted that the costs incurred by DOE contractors in responding to these information collections should generally be allowable costs recovered pursuant to their contracts' cost principles guidance. In this sense they differ from information collections imposed on the general public for which no cost reimbursement is provided. DOE is

interested in keeping these information burdens as small as possible to lessen its own costs under these contracts. Only basic management information is collected from contractors to allow the Department to manage and oversee contractor-conducted operations.

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

Where confidential information is involved in an information collection, the provisions for dealing with this confidential information are set forth in the related Departmental regulations. These are the normal regulations for 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.

There are no collections in this package involving questions that are sensitive, personal, or private in nature.

12. Provide labor hour estimates of the burdens associated with the information collection. 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.

The collection package contains burdens associated with solicitation provisions or contract clauses that request the submission of information or the maintenance of records by offerors and contractors. The individual burdens and their regulatory citations are identified in the attachment, entitled PROCUREMENT BURDENS 2018 – OMB CONTROL NO. 1910-4100. The collection involves 7,387 respondents with an annual estimate of 666,082 burden hours. These estimates were derived from field office inquiries and the related analysis of subject matter experts.

Total number of unduplicated respondents: 7,387 (202 state/local governments, 7,185 for-profit businesses)

Reports filed per respondent: 1

Total annual responses: 7,387

Total annual burden hours: 666,082

Average Burden Per Provision/Clause: 16,652 hours

Per Respondent: 90 hours

State/Local Governments:

Number of unduplicated respondents: 202
Reports filed per respondent: 1
Annual responses: 202
Annual burden hours: 18,184

Average Burden Per Provision/Clause: 455 hours
Per Respondent: 90 hours

For-Profit Businesses:

Number of unduplicated respondents: 7,185
Reports filed per respondent: 1
Annual responses: 7,185
Annual burden hours: 647,898

Average Burden Per Provision/Clause: 16,197 hours
Per Respondent: 90 hours

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

The associated cost estimate is \$85 per hour times the 666,082 burden hours for an expense estimated to be \$56,616,970. The most recent clearance three years ago used an hourly rate of \$79. This rate has been inflated by 2.1%, 2.3%, and 2.5% for the 12-months ending in December 2015, 2016, and 2017, respectively, in accordance with the Bureau of Labor Statistics increases in private industry wages and salaries. The cost per respondent is \$7,664.41 (\$56,616,970/7387).

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

The information collected under this collections is reviewed for accuracy and completeness by Contracting Officers (COs) and Contracting Officer's Representatives (CORs) performing their normal contract award and contract administration duties.

The CO would typically be a General Schedule (GS) Grade 14, Step 5, with an average salary of \$71/hour¹. The COR would typically be a GS Grade 13, Step 5, with an average salary of \$61/hour². The average review time for each position is approximately one hour. The annual cost to the Federal Government is summarized below:

\$71 (average CO at GS-14/5) X 1 hour X 7,387 (annual responses) = \$524,477
\$61 (average COR at GS-13/5) X 1 hour X 7,387 (annual responses) = \$450,607

Total Annual Cost to Federal Government: \$975,084

¹ \$71/hour and \$61/hour are the average of the rates (including benefits) at DOE's five largest procurement offices. See <http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2018/general-schedule/> for the base rates at each locality effective January 2018.

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

The annual burden hours and respondents have decreased from the most recent clearance three years ago, primarily due to DOE’s consolidation of its Management and Operating (M&O) contracts. This has reduced 9 burdens associated with the award and administration of M&O contracts by 82 respondents and 4,751 hours as follows:

	Clause Number, Title	Previous Annual Respondents	Reduction in Annual Respondents	Current Annual Respondents	Previous Annual Burden Hrs.	Reduction in Annual Burden Hrs.	Current Annual Burden Hrs.
1	970.5211-1, Work authorization.	33	10	23	528	160	368
2	970.5215-1, Total Available Fee: Base fee amount and performance fee amount.	32	9	23	1,064	299	765
3	970.5226-1, Diversity plan.	32	9	23	1,267	356	911
4	970.5227-1, Rights in data-facilities.	32	9	23	2,331	656	1,675
5	970.5227-2, Rights in data-technology transfer.	32	9	23	2,331	656	1,675
6	970.5227-3, Technology transfer mission.	32	9	23	2,331	656	1,675
7	970.5227-10, Patent rights-management and operating contracts, nonprofit organization or small business firm contractor.	32	9	23	2,331	656	1,675
8	970.5227-11, Patent rights-management and operating contracts, for-profit contractor, non-technology transfer.	32	9	23	2,331	656	1,675

	Clause Number, Title	Previous Annual Respondents	Reduction in Annual Respondents	Current Annual Respondents	Previous Annual Burden Hrs.	Reduction in Annual Burden Hrs.	Current Annual Burden Hrs.
9	970.5227-12, Patent rights-management and operating contracts, for-profit contractor, advance class waiver.	32	9	23	2,331	656	1,675
TOTAL BURDEN REDUCTIONS:			82			4,751	

The overall number of respondents has decreased from 7,469 to 7,387 and the total burden hours have decreased from 670,833 to 666,082.

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

None of the information collected is tabulated or published. The information collected is only used for contract award and administration purposes._

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.

The Department is not seeking approval to not display the expiration date for the OMB approval of the information collections contained in this package.

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

The Department is not requesting any exceptions to the certification statement provided in Item 19 of OMB Form 83-I.