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# Supporting Statement for Procurement Requirements

## **Part A: Justification**

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**OMB No. 1910-4100**

### *Collection Instruments*

- Department of Energy (DOE) Acquisition Regulations (DEAR) Part 952 – Solicitation Provisions and Contract Clauses, and
- DEAR Subpart 970.52 Solicitation Provisions and Contract Clauses for Management and Operating (M&O) Contracts
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November 2021

U.S. Department of Energy  
Washington, DC 20585

# Table of Contents

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Part A: Justification.....	i
Introduction.....	2
A.1. Legal Justification.....	3
A.2. Needs and Uses of Data.....	4
A.3. Use of Technology.....	4
A.4. Efforts to Identify Duplication.....	5
A.5. Provisions for Reducing Burden on Small Businesses.....	5
A.6. Consequences of Less-Frequent Reporting.....	5
A.7. Compliance with 5 CFR 1320.5.....	5
A.8. Summary of Consultations Outside of the Agency.....	6
A.9. Payments or Gifts to Respondents.....	7
A.10. Provisions for Protection of Information.....	7
A.11. Justification for Sensitive Questions.....	7
A.12A. Estimate of Respondent Burden Hours.....	7
A.12B. Estimate of Annual Cost to Respondent for Burden Hours.....	10
A.13. Other Estimated Annual Cost to Respondents.....	10
A.14. Annual Cost to the Federal Government.....	10
A.15. Reasons for Changes in Burden.....	11
A.16. Collection, Tabulation, and Publication Plans.....	11
A.17. OMB Number and Expiration Date.....	11
A.18. Certification Statement.....	11

## Introduction

**Provide a brief introduction of the Information Collection Request. Include the purpose of this collection, note the publication of the 60-Day Federal Register Notice, and provide the list of forms within this collection.**

DOE's existing authority to collect Procurement data from contractors is scheduled to expire on November 30, 2021. The purpose of this request is to renew DOE's existing authority to collect Procurement data from contractors. Information collection of this data is required by the Department of Energy Acquisition Regulation (DEAR) codified at Chapter 9 of Title 48 of the Code of Federal Regulations.

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.

The 60-Day Federal Register Notice was published on September 14, 2021 (Volume 86, Number 175).

The list of Solicitation Provisions and Contract Clauses within this collection are from DEAR Part 952 – Solicitation Provisions and Contract Clauses and DEAR Subpart 970.52 Solicitation Provisions and Contract Clauses for Management and Operating (M&O) Contracts as shown below:

<b>DEAR Part 952</b>	<b>Solicitation Provisions and Contract Clauses</b>
952.204-2	Security requirements.
952.204-70	Classification/ Declassification.
952.204-72	Disclosure of information.
952.204-73	Facility Clearance.
952.204-75	Public Affairs.
952.208-7	Tagging of leased vehicles.
952.209-8	Organizational conflicts of interest-disclosure.
952.209-72	Organizational conflicts of interest-contract clause.
952.215-70	Key personnel (General Contracts).
952.217-70	Acquisition of real property.
952.219-70	DOE Mentor-Protégé program.
952.223-75	Preservation of individual occupational radiation exposure records.
952.223-78	Sustainable Acquisition Program (Non M&O contracts)
952.226-70	Subcontracting goals under section 3021(a) of the Energy Policy Act of 1992 – solicitation provision.
952.226-72	Energy Policy Act subcontracting goals and reporting requirements.
952.226-73	Energy Policy Act target group certification.
952.231-71	Insurance - litigation and claims.
952.250-70	Nuclear hazards indemnity agreement.
<b>DEAR Subpart 970.52</b>	<b>Solicitation Provisions and Contract Clauses for M&amp;O Contracts</b>
970.5203-3	Contractor's organization.
970.5204-1	Counterintelligence.
970.5204-2	Laws, regulations, and DOE directives.
970.5204-3	Access to and ownership of records.

970.5211-1	Work authorization.
970.5215-1	Total Available Fee: Base fee amount and performance fee amount.
970.5223-1	Integration of environment, safety, and health into work planning and execution.
970.5223-7	Sustainable Acquisition Program (M&O contracts)
970.5226-1	Diversity plan.
970.5227-1	Rights in data-facilities.
970.5227-2	Rights in data-technology transfer.
970.5227-3	Technology transfer mission.
970.5227-10	Patent rights-management and operating contracts, nonprofit organization or small business firm contractor.
970.5227-11	Patent rights-management and operating contracts, for-profit contractor, non-technology transfer.
970.5227-12	Patent rights-management and operating contracts, for-profit contractor, advance class waiver.
970.5228-1	Insurance-Litigation and claims.
970.5229-1	State and local taxes.
970.5232-2	Payments and advances.
970.5232-3	Accounts, records, and inspection.
970.5236-1	Government facility subcontract approval.
970.5243-1	Changes.
970.5245-1	Property.

## A.1. Legal Justification

**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 basic authority for collection of this data is the statute establishing the Department of Energy ("Department of Energy Organization Act," Public Law 95-91, of August 4, 1977). It vests the Secretary of Energy with the executive direction and management function, authority, and responsibilities for the Department, including contract management. The provisions of 42 U.S.C § 7254 state "The Secretary is authorized to prescribe such procedural and administrative rules and regulations as he may deem necessary or appropriate to administer and manage the functions now or hereafter vested in him"; and 42 U.S.C § 7256 (a) "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 here after vested in the Secretary."

DOE is already collecting this information as required by the 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.

## A.2. Needs and Uses of Data

**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**

DEAR Part 952 – Solicitation Provisions and Contract Clauses, within this collection, implement FAR part 52 which sets forth contract clauses for use in connection with the acquisition of personal property and nonpersonal services (including construction), and supplements, as well as modifies, FAR part 52 by prescribing certain modifications to be made to FAR clauses when used in DOE contracts and specifying certain DEAR clauses to be used in addition to or in place of such FAR clauses to meet DOE mission requirements.

DEAR Subpart 970.52 Solicitation Provisions and Contract Clauses for M&O Contracts, within this collection, supplement the provisions and clauses prescribed in the FAR and in other parts of the DEAR ([48 CFR 901](#) through [48 CFR 952](#)), and, pursuant to the individual provision or clause prescription, are to be used in addition to or in place of such clauses to meet DOE mission requirements. M&O contracts are hybrid contracts, in some cases including aspects of several FAR contract types, for example, supplies and construction. For some FAR solicitation provisions and contract clauses, this subpart prescribes their use despite the hybrid nature of the work required.

The information collected is required by the DEAR codified at Chapter 9 of Title 48 of the Code of Federal Regulations and this information is currently used by the Department's program, financial, and procurement personnel, e.g., Heads of Contracting Activities, Procurement Directors, Contracting Officers, and Contracting Officer Representatives, to evaluate proposals, award, and administer contracts. Additionally, these collections are used to exercise management oversight and control of the Department's M&O contractors operating the Department's major facilities and other contractors furnishing products and services. The information received from the current collection has been used for the award and administration of these contracts.

## A.3. Use of Technology

**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. Submission of proposals and scientific reporting utilize the Department's Web-based tools to facilitate submission of information. The burden on contractors is reduced significantly by tools such as DOE's electronic Strategic Integrated Enterprise Procurement System (STRIPES), and the Vendor Inquiry Payment Electronic Reporting System (VIPERS). STRIPES allows vendors to submit their proposals and receive awards electronically and VIPERS allows vendors to submit their invoices and supporting data electronically for payment.

The Department program managers and contractors continually work to apply the latest information technology (hardware and software) methods to reduce the information collection burden and improve the timeliness and usefulness of the management information collected. This includes automation of previously manual processes as appropriate.

#### **A.4. Efforts to Identify Duplication**

**Describe efforts to identify duplication.**

The data collected is not available from any other source and is not duplicated elsewhere, to our knowledge. For example, twice in the past, DOE has done an extensive review 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, in the mid-90s as part of the Clinton era Government Reinvention initiative and in the early days of the Paperwork Reduction process 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).

#### **A.5. Provisions for Reducing Burden on Small Businesses**

**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.

#### **A.6. Consequences of Less-Frequent Reporting**

**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.

#### **A.7. Compliance with 5 CFR 1320.5**

**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; 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.

## **A.8. Summary of Consultations Outside of the Agency**

**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 Notice and Request for Comment concerning this collection in the Federal Register on September 14, 2021 (Volume 86, Number 175), Page 51130. 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 and no additional efforts were made to consult with persons outside of DOE.

## A.9. Payments or Gifts to Respondents

**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.

## A.10. Provisions for Protection of Information

**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.

## A.11. Justification for Sensitive Questions

**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.

## A.12A. Estimate of Respondent Burden Hours

**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.**

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 Table A1, Estimated Respondent Hour Burden. 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.

**Table A1. Estimated Respondent Hour Burden**

Form Number/Title (and/or other Collection Instrument name)	Type of Respondents	Number of Respondents	Annual Number of Responses	Burden Hours Per Response	Annual Burden Hours	Annual Reporting Frequency
952.204-2, Security requirements.	Contractor	5,717	5,717	1.00	5,717	Once
952.204-70, Classification/Declassification.	Contractor	113	113	44.25	5,000	Once
952.204-72, Disclosure of information.	Contractor	9	9	555.56	5,000	Once
952.204-73, Facility Clearance.	Contractor	113	113	16.32	1,844	Once
952.204-75, Public Affairs.	Contractor	10	10	1.00	10	Once
952.208-7, Tagging of leased vehicles.	Contractor	10	10	1.00	10	Once
952.209-8, Organizational conflicts of interest-disclosure.	Contractor	700	700	2.00	1,400	Once
952.209-72, Organizational conflicts of interest-contract clause.	Contractor	10	10	2.00	20	Once
952.215-70, Key personnel (General Contracts).	Contractor	61	61	4.11	251	Once
952.217-70, Acquisition of real property.	Contractor	10	10	1.00	10	Once
952.219-70, DOE Mentor-Protégé program.	Contractor	10	10	1.00	10	Once
952.223-75, Preservation of individual occupational radiation exposure records.	Contractor	27	27	100.00	2,700	Once
952.223-78, Sustainable Acquisition Program (Non M&O contracts).	Contractor	10	10	40.00	400	Once
952.226-70, Subcontracting goals under section 3021(a) of the Energy Policy Act of 1992 - solicitation provision.	Contractor	26	26	10.00	260	Once
952.226-72, Energy Policy Act subcontracting goals and reporting requirements.	Contractor	26	26	2.00	52	Once
952.226-73, Energy Policy Act target group certification.	Contractor	26	26	4.00	104	Once
952.231-71, Insurance - litigation and claims.	Contractor	22	22	880.50	19,371	Once
952.250-70, Nuclear hazards indemnity agreement.	Contractor	10	10	1.00	10	Once
970.5203-3, Contractor's organization.	Contractor	26	26	21.96	571	Once
970.5204-1, Counterintelligence.	Contractor	10	10	40.00	400	Once

970.5204-2, Laws, regulations, and DOE directives.	Contractor	34	34	856.79	29,131	Once
970.5204-3, Access to and ownership of records.	Contractor	25	25	7,037.52	175,938	Once
970.5211-1, Work Authorization.	Contractor	23	23	16.00	368	Once
970.5215-1, Total Available Fee: Base fee amount and performance fee amount.	Contractor	23	23	33.26	765	Once
970.5223-1, Integration of environment, safety, and health into work planning and execution.	Contractor	10	10	245.00	2,450	Once
970.5223-7, Sustainable Acquisition Program (M&O contracts).	Contractor	22	22	40.00	880	Once
970.5226-1, Diversity plan.	Contractor	23	23	39.61	911	Once
970.5227-1, Rights in data-facilities.	Contractor	23	23	72.83	1,675	Once
970.5227-2, Rights in data-technology transfer.	Contractor	23	23	72.83	1,675	Once
970.5227-3, Technology transfer mission.	Contractor	23	23	72.83	1,675	Once
970.5227-10, Patent rights-management and operating contracts, nonprofit organization or small business firm contractor.	Contractor	23	23	72.83	1,675	Once
970.5227-11, Patent rights-management and operating contracts, for-profit contractor, non-technology transfer.	Contractor	23	23	72.83	1,675	Once
970.5227-12, Patent rights-management and operating contracts, for-profit contractor, advance class waiver.	Contractor	23	23	72.83	1,675	Once
970.5228-1, Insurance-Litigation and claims.	Contractor	22	22	880.50	19,371	Once
970.5229-1, State and local taxes.	Contractor	10	10	1.0	10	Once
970.5232-2, Payments and advances.	Contractor	22	22	7,745.23	170,395	Once
970.5232-3, Accounts, records, and inspection.	Contractor	25	25	7,037.52	175,938	Once
970.5236-1, Government facility subcontract approval.	Contractor	10	10	1.0	10	Once
970.5243-1, Changes.	Contractor	18	18	40.28	725	Once
970.5245-1, Property.	Contractor	36	36	1,000.00	36,000	Once
<b>TOTAL</b>			<b>7,387</b>	<b>7,387</b>	<b>666,082</b>	

### A.12B. Estimate of Annual Cost to Respondent for Burden Hours

Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under ‘Annual Cost to Federal Government’.

The estimated total cost to respondents is \$58,535,286. This is based on a fully burdened hourly wage of \$87.88/hour using “Management, Professional and related” line item on the U.S. Bureau of Labor Statistics (BLS) [Table 2. Civilian workers by occupational and industry group \(bls.gov\)](#). This fully burdened hourly wage rate from BLS includes the 1.4 multiplier for private employees.

**Table A2. Estimated Respondent Cost Burden**

Type of Respondents	Total Annual Burden Hours	Hourly Wage Rate	Total Respondent Costs
Contractor	666,082	\$87.88	\$58,535,286
<b>TOTAL</b>	<b>666,082</b>		<b>\$58,535,286</b>

### A.13. Other Estimated Annual Cost to Respondents

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

No other costs, including capital or maintenance costs, will be incurred by contractors, beyond their time. This information collection is an allowable contract cost. Contractor collection costs are all charged to the Department. Therefore, there is no cost to the contractors for the collection of this data.

### A.14. Annual Cost to the Federal Government

Provide estimates of annualized cost to the Federal government.

The annualized cost to the Federal government for this information collection is estimated to be \$1,409,735.08. This information collected under this collection 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 hourly rate of \$64.61 (*adding a 1.6 multiplier for government employees*). The COR would typically be a GS Grade 13, Step 5, with an average hourly rate \$54.66 (*adding a 1.6 multiplier for government employees*). The average hourly rates were computed based on DOE’s five largest procurement offices using the 2021 General Schedule (GS) Locality Pay Tables for rates at each locality.

The average review time for each position is approximately one hour. The annual cost to the Federal Government is summarized below:

**Table A3. Annual Cost to the Government**

Federal Employee	GS Level	Average Hourly Rate	1.6 Multiplier	Total Annual Responses (1 hr per response)	Annual Cost
COs	GS-14-5	\$64.61	\$103.38	7,387	\$763,668.06
CORs	GS-13-5	\$54.66	\$87.46	7,387	\$646,067.02
					\$1,409,735.08

**A.15. Reasons for Changes in Burden**

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

No program changes have been made with the exception of the total cost burdens due to using the latest BLS data on wages which reflects approximately a 3 percent adjustment.

**Table A4. ICR Summary of Burden**

	Requested	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Previously Approved
Total Number of Responses	7,387		\$0	7,387
Total Time Burden (Hr)	666,082		\$0	666,082
Total Cost Burden	\$58,535,286		\$1,918,316	\$56,616,970

**A.16. Collection, Tabulation, and Publication Plans**

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.\_

**A.17. OMB Number and Expiration Date**

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

DOE will display the OMB Control number and expiration date upon OMB's approval of the information collection.

**A.18. Certification Statement**

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.