**SUPPORTING STATEMENT FOR THE**

**INFORMATION COLLECTION REQUIREMENTS OF THE**

**CONFLICT OF INTEREST (COI) AND DISCLOSURE FORM**

**OFFICE OF MANAGEMENT AND BUDGET (OMB)**

**CONTROL NUMBER 1218-0255 (September 2023)**

This is an extension request for a currently approved data collection.

**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 collection of information.**

The main objective of the Occupational Safety and Health Act (OSH Act or Act) is to “assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources” (29 U.S.C. 651). To achieve this objective, the OSH Act specifically authorizes “the development and promulgation of occupational safety and health standards” (29 U.S.C. 651). The Act states further that “[t]he Secretary … shall prescribe such rules and regulations as [they] may deem necessary to carry out [their] responsibilities under this Act, including rules and regulations dealing with the inspection of an employer’s establishment” (29 U.S.C 651).

The Office of Management and Budget (OMB) published the *Final Information Quality Bulletin for Peer Review* (Bulletin) on December 15, 2004. The Bulletin established that important scientific information shall be peer-reviewed by qualified specialists before the federal government disseminates it. The peer review process is an important procedure used to ensure that the quality of published information meets the standards of the scientific and technical community. In its most basic form, the process is a collegial deliberation involving an exchange of judgments about the appropriateness and thoroughness of methods used and the strength of the authors’ inferences. Peer reviewing focuses on the analyses of a draft product for quality by specialists in the field that were not involved in any process leading to the production of the draft. Some federal agencies use peer reviews to evaluate a draft’s information that may contain important scientific determinations. The selection of participants in a peer review process is based on their individual expertise, considering their independence and any actual or potential conflicts of interest.

The Bulletin states that an “. . . agency must address reviewers’ potential conflicts of interest (including those stemming from ties to regulated businesses and other stakeholders) and independence from the agency.” This Bulletin requires agencies to adopt or adapt the committee selection policies employed by the National Academy of Sciences (NAS)[[1]](#footnote-3) when selecting peer reviewers who are not government employees. In direct response, the NAS employs a *Conflict –of Interest Disclosure* form to determine whether an actual or potential conflict of interest exists for provisional committee members. A copy of the OMB’s *Final Information Quality Bulletin for Peer Review, Introduction* is attached to this supporting statement.

The Information Quality Act (Pub. L. 106-554 § 515(a) (Dec 2000)), which was developed as a supplement to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), authorizes this information collection and also supports the Regulatory Planning and Review Executive Order published under the Clinton Administration (E.O. 12866 § 1(b)(7)) (58 FR 51735).[[2]](#footnote-4)

1. **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.**

This collection of information requirement will help the agency and its contractors convene peer review panels that meet the standards of the scientific and technical communities and ensure that included panelists are free of unavoidable conflicts of interest.

OSHA’s contractor obtains background and conflict of interest information using a standardized format, referred to as the Conflict of Interest (COI) form, to determine if a significant conflict of interest will not compromise the potential peer reviewers. The term “conflict of interest” means any financial or other interest that conflicts with the individual’s service because (1) it could significantly impair the individual’s objectivity or (2) it could create an unfair competitive advantage for any person or organization. Except for those situations in which OSHA determines that a conflict of interest is unavoidable and promptly and publicly discloses the COI, no individual can be selected to serve as a peer reviewer for OSHA if the individual has a COI that is relevant to the functions or services performed.

OSHA has both short- and long-form versions of the COI form. The questions on the shorter form elicit a yes/no answer and only require additional responses where a potential conflict is identified. The longer form requires those same questions while also seeking more detailed information on potential conflict areas, such as employment, research funding, and held assets. Depending on their circumstances, potential peer reviewers may be asked to complete either the short or long versions of the COI form.

The potential peer reviewer returns the completed COI form to the OSHA contractor. The contractor reviews the responses and determines whether potential peer reviewers have any conflicts of interest. The contractor then convenes the peer review panel.

1. **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, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burdens.**

OSHA contractors generally distribute the COI form to respondents via email attachment, though may use any other automated, electronic, mechanical, or other technological information techniques available to them. The respondents may return the completed form in hard copy or through similar automated, electronic, mechanical, or other technological information techniques (e.g., via email or facsimile). OSHA wrote the paperwork requirement in performance-oriented language (i.e., in terms of what data to collect, not how to record the data).

1. **Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item A.2 above.**

The information collection and maintenance requirement is specific to each invited expert and is not available or duplicated by another source. The information requested for the background information and conflict of interest disclosure is available only from the invited expert.

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

No small businesses are involved in this information collection requirement. The requested information is provided from persons as potential expert witnesses in their individual capacities, not in connection with any small businesses they may otherwise be associated with.

1. **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 information collection frequencies specified are the minimum OSHA believes necessary to ensure that the agency and its contractors can effectively monitor actual or potential conflicts of interest of its potential peer review panelists, to ensure that such unavoidable conflicts of interest would not compromise the integrity of analyses, and to ensure sustained compliance with the Bulletin.

1. **Explain any special circumstances that would cause an information collection to be conducted in a manner:**
* **Requiring respondents to report information to the agency more often than quarterly;**
* **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
* **Requiring respondents to submit more than an original and two copies of any document;**
* **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
* **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;**
* **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
* **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; or**
* **Requiring respondents to submit proprietary trade secret, 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.**

When possible, respondents will have 30 days or more, as measured from receipt of the form, to submit a completed form to the agency’s contractor. However, where necessitated based on individually tailored timeframes for each project, respondents may need to submit a completed form in fewer than 30 days.

As provided under contractual terms, the contractor must keep the completed COI forms confidential. *See* Item 10 of this supporting statement for further discussion of confidentiality agreements.

1. **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 5 CFR 1320.8(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 by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency 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.**

**Consultation with representatives of those from whom information is to be obtained**  **or those who must compile records should occur at least once every 3 years -- even if**  **the collection of information activity is the same as in prior periods. There may be**  **circumstances that may preclude consultation in a specific situation. These**  **circumstances should be explained.**

As required by the PRA, OSHA published a notice in the *Federal Register* on June 8, 2023 (88 FR 37581), Docket No. OSHA-2009-0042, soliciting comments from the public and other interested parties on the information collection requirements contained in the Conflict of Interest (COI) and Disclosure Form. This notice was part of a preclearance consultation program intended to provide interested parties the opportunity to comment on OSHA’s request for an extension by the Office of Management and Budget of a previous approval of the information collection requirements found. The agency did not receive any public comments in response to this notice.

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

The agency will not provide payments or gifts to the respondents.

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

No assurances of confidentiality are provided to respondents based on any statute, regulation, or agency policy; however, under contractual terms, OSHA’s contractor must keep the completed COI forms confidential.

OSHA’s contractor routinely collects, handles, and stores COI information while conducting peer reviews and peer consultation tasks for federal agencies. When identifying experts to review any document designated by the agency as a “highly influential scientific assessment” (HISA), the contractor requires candidate reviewers to provide COI information that they may consider to be confidential, such as financial holdings, investments, property holdings, etc., to determine whether an actual or potential COI may exist.

To maintain the confidentiality of all such COI information collections, the contractor requires all staff who receives or handles such information to sign confidentiality agreements that require them to adhere to the following procedures:

1. The COI form shall be used only to carry out the work required for the peer review or consultation;
2. The staff shall not disclose, discuss, or disseminate the information to or with anyone, both during the project and after the review or consultation is completed, unless that person is a staff person for the same contractor who has signed a confidentiality agreement;
3. The staff working on the peer review/consultation project shall exercise due diligence in safeguarding and handling the COI forms and information for the entire time it is in their possession;
4. The contractor shall not make any copies (including physical and electronic copies) of any part of the COI form, except for the original paper copy as needed for the project files;

1. The contractor shall not share COI information with the contracting agency or any outside entities, except as required to do so by law or as requested as part of a formal investigation by the Office of the Inspector General, General Accountability Office, or a Congressional Committee;
2. The contractor’s project manager shall store the electronic copy of the COI form only on their individual password-protected work computer, and only until the project is completed, at which point the electronic copy shall be deleted; and
3. While the project is underway, the contractor’s project manager shall store the COI forms in the individual task files, to be kept in locked file cabinets, until the project is complete, at which point the files shall be stored in archival boxes in a secure off-site location.
4. **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 the agency 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 questions of a sensitive nature being asked via either the long or short versions of the COI form.

1. **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, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
* **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
* **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 in Item 14.**

**Estimated Respondent Burden Hour and Cost Determinations**

**Wage Rates**

The agency determined the average wage rate from hourly wage earnings to represent the cost of employee time. For the relevant standard occupational classification category, OSHA used the wage rates reported in the Bureau of Labor Statistics (BLS), U.S. Department of Labor, Occupational Employment and Wage Statistics (OEWS), May 2021 [date accessed: February 1, 2023]. (OEWS data is available at https://www.bls.gov/oes/tables.htm. To access a wage rate, select the year, “Occupation profiles,” and the Standard Occupational Classification (SOC) Code.)

To derive the loaded hourly wage rate presented in the table below, the agency used data from the Bureau of Labor Statistics’ OEWS report, as described in the paragraph above, and applied to the wage rate a fringe benefits markup from the following BLS release: *Employer Costs for Employee Compensation News Release* text, released 10:00 AM (EDT), December 15, 2022 (*ttps://www.bls.gov/news.release/archives/ecec\_12152022.pdf).* BLS reported that for private industry workers, fringe benefits accounted for 29.5 percent of total compensation and wages accounted for the remaining 70.5 percent. To calculate the loaded hourly wage for each occupation, the agency divided the mean hourly wage rate by 1 minus the fringe benefits.

Table A, below, is a summary of how the wage rate estimate was derived for the information collection requirements specified.

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| **Table A: Wage Hour Estimates** |
| **Occupational Title** | **Standard Occupation Code**(SOC) | **Mean Hour Wage Rate**(a) | **Fringe** **Benefits** (b) | **Loaded Hourly Wage Rate** (c) = (a)(1/(1-(b))) |
| Actuaries | 15-2011 | $61.34 | .295 | $87.01 |

**COI Form, Short Version**

OSHA estimates that 18 respondent-actuaries will be asked to submit a short version of the COI form annually, and that it will take the respondents 30 minutes (30/60 hour) to complete and submit.

**Burden Hours**: 18 respondents x 30/60 hour = 9 hours

  **Cost**: 9 hours x $87.01 = $783.09

**COI Form, Long Version**

OSHA estimates that an additional 18 respondent-actuaries will be asked to submit a long version of the COI form annually, and that it will take the respondents one hour to complete and submit.

**Burden Hours**: 18 respondents x 1 hour = 18 hours

  **Cost**: 18 hours x $87.01 = $1,566.18

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| --- |
| **Table B: Estimated Annualized Respondent Hour and Cost Burden**  |
|  | **Type of Respondent** | **Number of Respondents** | **Number of Responses per Respondent** | **Total Number of Responses** | **Average Burden per Responses** *(hours)* | **Total Burden Hours** | **Loaded Hourly Wage Rate** | **Total Burden Costs** |
| COI Form, Short Version | Actuaries(Individuals or Households) | 18 | 1 | 18 | 30/60 | 9 | $87.01 | $783.09 |
| COI Form, Long Version | Actuaries(Individuals or Households) | 18 | 1 | 18 | 1 | 18 | $87.01 | $1,566.18 |
| **TOTAL** | --- | 36 | --- | **36** | --- | **27** |  **---** | **$2,349** (rounded) |

1. **Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).**
* **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling, and testing equipment; and record storage facilities.**
* **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
* **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices.**

There are no additional costs to the possible peer reviewer, other than their time under item 12.

1. **Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

There is no cost to the Federal Government associated with this information collection request. The agency has no annualized cost associated with enforcing this requirement. OSHA would only review records in the context of an investigation of a particular employer to determine compliance. These activities would be outside the scope of the PRA (*See* 5 CFR 1320.4(a)(2)).

1. **Explain the reasons for any program changes or adjustments.**

The agency is requesting to maintain the burden hour estimate of 27 hours.

1. **For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time scheduled for the entire project, including beginning, and ending dates of the collection of information, completion of report, publication dates, and other actions.**

The information to be collected through the COI form will not produce results that will be published for statistical use.

1. **If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reason that display would be inappropriate.**

OSHA will display the expiration date for OMB’s approval of this information collection on the *Background Information and Conflict of Interest Disclosure* package.

1. **Explain each exception to the certification statement.**

OSHA is not requesting an exception to the certification statement.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS.**

This supporting statement does not contain any collection of information requirements that employ statistical methods.

1. The NAS’ committee selection policies can be found in the organization’s *Policy and Procedures on Committee Composition and Balance and Conflicts of Interest for Committees Used in the Development of Reports*, published May 2023. Available at: <http://www.nationalacademies.org/coi/index.html>. [↑](#footnote-ref-3)
2. The Executive Order requires that “. . . each agency shall base its decision on the best reasonably obtainable scientific, economic, or other information.” [↑](#footnote-ref-4)