
Supporting Statement for Procurement Requirements

Part A: Justification

OMB No. 1910-4100

Collection Instruments

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

June 2025

U.S. Department of Energy
Washington, DC 20585

Table of Contents

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.....	6
A.7. Compliance with 5 CFR 1320.5.....	6
A.8. Summary of Consultations Outside of the Agency.....	7
A.9. Payments or Gifts to Respondents.....	7
A.10. Provisions for Protection of Information.....	8
A.11. Justification for Sensitive Questions.....	8
A.12A. Estimate of Respondent Burden Hours.....	8
A.12B. Estimate of Annual Cost to Respondent for Burden Hours.....	11
A.13. Other Estimated Annual Cost to Respondents.....	12
A.14. Annual Cost to the Federal Government.....	12
A.15. Reasons for Changes in Burden.....	12
A.16. Collection, Tabulation, and Publication Plans.....	18
A.17. OMB Number and Expiration Date.....	18
A.18. Certification Statement.....	18

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.

The Department of Energy's (DOE) existing authority to collect procurement data from contractors is scheduled to expire on June 30, 2025. The purpose of this request is to revise 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 (CFR).

To the extent that a procurement burden is first imposed by the Federal Acquisition Regulation (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 April 3, 2025 (Volume 90, Number 63, and Page number 14647).

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:

DEAR Part 952	Solicitation Provisions and Contract Clauses
952.204-2	Security requirements.
952.204-70	Classification/ Declassification.
952.204-72	Disclosure of information.
952.204-73	Facility Clearance.
952.204-74	Counterintelligence.
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.
952.223-71	Integration of environment, safety, and health into work planning and execution.
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.
DEAR Subpart 970.52	Solicitation Provisions and Contract Clauses for M&O Contracts

970.5203-3	Contractor's organization.
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.
970.5217-2	Agreements for commercializing technology.
970.5219	Small business subcontracting plan.
970.5222-4	Unemployment compensation.
970.5223-1	Integration of environment, safety, and health into work planning and execution.
970.5226-1	Diversity plan. ¹
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.

¹ There's currently a class deviation in place for clause 970.5226-1 Diversity plan, which requires Contracting Officers to notify affected contractors that the Department will no longer enforce this clause and that they should not submit such plans or any updates to such plans, and modify affected solicitations and contracts to remove the clause as soon as practicable.

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 collecting 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 "[t]he 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) "[t]he 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, implements 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's 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 all (100%) information covered by this Information Collection Request to the Department electronically, e.g., the Internet, E-mail, computer storage device, or facsimile. Submission of proposals and scientific reports utilize the Department's Web-based tools to facilitate submission of information (e.g., iEdison). 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. In November 2024, the DEAR was updated to include a new clause 48 CFR 952.232-7 *Electronic submission of invoices/vouchers*. The new clause establishes DOE's strong preference for electronic submission of vendor invoices and standardizes instructions for such submissions across the DOE complex.

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 percent 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, such as leveraging the use of technology through the use of electronic submissions and simplifying submission procedures, to minimize the impact are taken to the extent permitted by applicable statutory requirements and other legal and management constraints. As an example, the comprehensive update of the Department's acquisition regulations issued in November 2024 revised the DEAR to remove outdated information and citations along with extraneous procedural information that applies only to DOE's internal procedures and removed policy or procedures duplicative of FAR requirements. These revisions are anticipated to benefit small businesses by clarifying and streamlining

processes and procedures, and, in the case of invoice submission, standardizing processes across the DOE complex with a preference for electronic submission of required information.

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 frequency 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 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; 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 April 3, 2025 (Volume 90, Number 63), Page 14647. The notice described the collection and invited interested parties to submit comments or recommendations regarding the collection. There were three responses submitted in response to the Federal Register Notice. Two respondents submitted comments that are outside the scope of this Information Collection Requests and therefore are not addressed. One respondent stated that “the collection should not be renewed due to the noncompliance of the original agency that made the request. The original collection is not a normal agency function, and should be removed immediately due to the significant waste of taxpayer dollars.” The comment does not provide sufficient detail to allow for a comprehensive response; however, as noted in the Federal Register Notice, the procurement-related information covered by this Information Collection Requests is necessary to administer and manage DOE’s procurement and acquisition programs.

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 requirements and 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 the confidential information are set forth in the related Departmental regulations (e.g., 48 CFR 952.204-2 *Security requirements*, 48 CFR 952.209-72 *Organizational conflicts of interest*, 48 CFR 970.5204-3 *Access to and ownership of records*, etc.); 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 7,441 respondents with an annual estimate of 667,056 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	Contractor	9	9	555.56	5,000	Once

information.						
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
952.204-74, Counterintelligence.	Contractor	10	10	40.00	400	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
952.223-71 Integration of environment, safety, and health into work planning and execution.	Contractor	3	3	245.00	735	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.	Contractor	32	32	40.00	1,280	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
970.5204-2, 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	6,837.52	170,938	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
970.5217-2 Agreements for commercializing technology.	Contractor	23	23	245.00	5,635	Once
970.5219 Small business subcontracting plan.	Contractor	21	252	1.0	252	Once
970.5222-4 Unemployment compensation.	Contractor	10	10	1.00	10	Once
970.5223-1, Integration of environment, safety, and health into work planning and execution.	Contractor	7	7	245.00	1,715	Once
970.5226-1, Diversity plan.	Contractor	23	23	39.61	911	Once
970.5227-1, Rights in data-facilities.	Contractor	23	23	74.83	1,721	Once
970.5227-2, Rights in data-technology transfer.	Contractor	23	23	73.00	1,679	Once
970.5227-3, Technology transfer mission.	Contractor	23	23	71.83	1,652	Once
970.5227-10, Patent rights-management and operating contracts, nonprofit organization or small business firm contractor.	Contractor	23	23	74.83	1,721	Once
970.5227-11, Patent rights-management and operating contracts, for-profit contractor, non-technology transfer.	Contractor	23	23	73.00	1,679	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-	Contractor	22	22	880.50	19,371	Once

Litigation and claims.						
970.5229-1, State and local taxes.	Contractor	10	10	1.00	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	1.00	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
TOTAL		7,441	7,672		667,056	

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 \$ 70,844,015. This is based on a fully burdened hourly wage of \$106.20/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	667,056	\$106.20	\$70,844,015
TOTAL	667,056		\$70,844,015

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 \$1,572,109. The information collected under this collection is reviewed for accuracy and completeness by Contracting Officers and Contracting Officer’s Representatives performing their normal contract award and contract administration duties. The Contracting Officer would typically be a General Schedule (GS) Grade 14, Step 5, with an average hourly base pay rate of \$69.37¹ (adding a 1.6 multiplier for government employees (\$110.99)). The Contracting Officer’s Representative would typically be a GS Grade 13, Step 5, with an average hourly rate of \$58.70² (adding a 1.6 multiplier for government employees (\$93.92)).

¹ Hourly wage rate of \$69.37 is based on an average for a GS-14, Step 5 at DOE’s five largest procurement offices as follows: Chicago Service Center (IL) (\$75.60), Oak Ridge Office (TN) (\$67.63), Idaho Operations Office (ID) (\$67.63), NNSA M&O Contracting Office (NM) (\$68.36), and Savannah River Operations Office (SC) (\$67.63), using the [2025 General Schedule \(GS\) Locality Pay Tables](#) for rates at each locality.

² Hourly wage rate of \$58.70 is based on an average for a GS-13, Step 5 at DOE’s five largest procurement offices as follows: Chicago Service Center (IL) (\$63.97), Oak Ridge Office (TN) (\$57.23), Idaho Operations Office (ID) (\$57.23), NNSA M&O Contracting Office (NM) (\$57.85), and Savannah River Operations Office (SC) (\$57.23), using the [2025 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
Contracting Officers	GS-14-5	\$69.37	\$110.99	7,672	\$851,531
Contracting Officer’s Representatives	GS-13-5	\$58.70	\$93.92	7,672	\$720,579
					\$1,572,109

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.

Since the previous Information Collection Request extension, the Department of Energy Acquisition Regulation (DEAR), codified at 48 CFR Chapter 9, underwent a comprehensive revision (89 FR 89720 published on November 13, 2024) to streamline the policies, procedures, provisions and clauses that are applicable to the Department’s contracts. The rulemaking updated or eliminated coverage that was

considered obsolete or that unnecessarily duplicated the Federal Acquisition Regulation (FAR) while retaining only that coverage which either implements or supplements the FAR for the award and administration of the DOE's contracts. The rule added several new clauses, removed others, and amended several existing clauses in order to promote more uniform application of the DOE's contract award and administration policies. While not all of these additions, revisions, and deletions resulted in changes to this Information Collection Request, those that did are discussed in the following paragraphs.

Clause 952.204-74, *Counterintelligence* (previously 970.5204-1) was renumbered and moved from 48 CFR 970.52 to 48 CFR 952 because the clause could apply to non-M&O contracts as well as M&O contracts. However, there were no substantive changes to the clause or to the recordkeeping requirements associated with it.

The text of clause 952.223-71 *Integration of environment, safety, and health into work planning and execution* previously simply pointed to the M&O version of the clause (970.5223-1 *Integration of environment, safety, and health into work planning and execution*) for the actual requirements (i.e., clause text). The DEAR revision added text similar to the M&O version of the clause to this clause (952.223-71), but the net recordkeeping requirements did not change because previously the recordkeeping requirements associated with the M&O version of the clause (970.5223-1) captured both M&O and non-M&O use.

Clause 970.5223-7, *Sustainable Acquisition Program (M&O contracts)* was deleted and the title of clause 952.223-78, *Sustainable Acquisition Program (Non M&O contracts)* was revised to remove the "(Non-M&O contracts)" qualifier, since clause 952.223-78 now covers both M&O and non-M&O contracts. As a result, the recordkeeping burden is simply shifted from the deleted clause (970.5223-7) to clause 952.223-78 and there is no net change to the total recordkeeping burden.

Clause 970.5204-3, *Access to and ownership of records* was revised to remove the automatic flow-down of the clause requirements based on the presence of clause at 970.5223-1 *Integration of environment, safety, and health into work planning and execution*, and replace the prescription with language that requires the contractor to flow down the clause (or maintain the applicable records themselves) whenever the subcontract scope of work could result in potential exposure to radioactive or other toxic substances that can cause long term health impacts. Although the number of DOE prime contracts impacted remains the same, the revised flow-down prescription means that the requirements of the clause would be flowed down into fewer subcontracts, and result in a decline in the burden hours per response at the prime contract level. While data on the various clauses included in subcontracts is not readily available, it is estimated that the revision to the clause's flow-down prescription will result in a reduction of 200 burden hours per response.

Clause 970.5217-2 *Agreements for commercializing technology* is a new clause with several recordkeeping impacts. Paragraph (b)(3)(iv) requires the contractor to maintain and provide, when requested by the DOE Contracting Officer, a summary of project information for each active Agreements for Commercializing Technology (ACT) project, consisting of sponsor name, total estimated costs, project title and description, project point of contact, and estimated start and completion dates; paragraph (b)(4)(ii) requires the contractor to develop and submit to the Contracting Officer for approval ACT

proposal packages, which are very detailed, and include the identity of the parties to the ACT agreement, the principal place of performance, any foreign ownership or control of the ACT agreement parties, a Statement of Work, an estimate of costs incurred under the M&O contract, an anticipated schedule, identification of key Government equipment and facilities that will be used under the ACT agreement, a list of expected deliverables, identification of the Intellectual Property (IP) lead and proposed selection of IP rights, a signed certification by the private parties that the M&O contractor offered the option to use Cooperative Research and Development Agreement (CRADA) and Strategic Partnership Project (SPP) alternatives such that the private parties are aware of the relative costs and other differences between the ACT agreement and the CRADA and SPP alternatives, source of funds, including a statement that no Federal funds, including pass-through funds received as a subcontractor or partner, are being utilized, applicable Environment, Safety, and Health (ES&H) and National Environmental Policy Act (NEPA) documentation, a statement of consideration, summarizing the risk and/or consideration offered the ACT participants in exchange for charging beyond full cost recovery or for other compensation provided by the participants, and when multiple third parties are parties to the ACT agreement, or as otherwise requested by the Contracting Officer, an IP Management Plan that sets forth the proposed disposition of IP rights, and income and royalty sharing, among the parties to an ACT agreement; paragraph (b)(8) requires the reporting of all ACT inventions to DOE, and requires the contractor to inform ACT partners of their IP rights and obligations, and the contractor must provide to the DOE Office of Technical Information (OSTI), computer software produced under an ACT Agreement. In addition, the clause requires the contractor to establish performance metric(s) to measure the time required to negotiate ACT agreements in a manner consistent with the time required to negotiate CRADAs and SPPs, and to obtain from each entity engaged in ACT the entity's reason(s) for selecting ACT for performance of work under the M&O contract. These recordkeeping and information submission requirements are similar to clause 970.5223-1, *Integration of environment, safety, and health into work planning and execution*, and it is anticipated that the clause will be included in all M&O contracts. In addition, it is further estimated that on average, each M&O contractor will submit one ACT package for Contracting Officer review per year, therefore, the Information Collection Request has been updated accordingly.

Clause 970.5219 *Small business subcontracting plan* is a new clause that supplements FAR clause 52.219-9 *Small Business Subcontracting Plan*, which requires semi-annual subcontract reporting via the Electronic Subcontracting Reporting System (eSRS). The DEAR clause does not require the contractor to maintain any additional records beyond those imposed by 52.219-9 and does not establish a reporting frequency; however, the *Management and Operating Contractor Subcontract Reporting Capability (MOSRC) Guide for M&O Contractors* (Guide), which provides specific instructions to contractors regarding subcontract reporting, requires the contractor to extract the required data for a for all eligible actions in the required format from the contractor's business systems and upload the extracted data to MOSRC. The clause is applicable to all M&O contractors, except for Ames National Laboratory and Princeton Plasma Physics Laboratory, and it is anticipated that contractors will spend one hour per to extract the required information and upload it to MOSRC, per report, as required by the Guide.

Clause 970.5222-4 *Unemployment compensation* is a new clause that requires the contractor to provide the Contracting Officer a "statement of coverage" to identify whether the contractor will opt into the

state unemployment fund through payment of the unemployment insurance tax or opt out by reimbursing the state(s) for actual claims paid. The clause also reserves the right for the Contracting Officer to "request additional information to assess budgetary and programmatic risks and impact when the contractor chooses to opt out". The recordkeeping / information collection burden associated with this clause is similar in scope and frequency to the recordkeeping / information collection burden associated with clause 970.5229-1, *State and local taxes*, therefore the estimates from clause 970.5229-1 were used for this clause.

Clause 970.5227-1, *Rights in data-facilities* was revised to add several new requirements, including paragraph (b)(4), requiring the contractor to deposit technical data at the Office of Scientific and Technical Information per the DOE Order 241.1; paragraph (c)(3) to allow the Government to instruct the contractor to assert copyright in technical data or software and transfer title to the Government for licensing and distribution if necessary, which may require the contractor to submit information to DOE Patent Counsel or to a third party; and paragraph (d) was modified to allow DOE Patent Counsel to determine what Alternates are appropriate to data rights clauses in subcontracts, which may also require the submission of information to the DOE Patent Counsel. The additional requirements result in a slight increase (estimated at 2 hours) to the burden hour per response for this clause.

Clause 970.5227-2, *Rights in data-technology transfer* was revised in paragraph (d) to expand the type of data that the contractor can protect for control without commercializing and adds a shorter notice to the publisher, if necessary. This expansion of the contractor's ability to assert copyrights without Contracting Officer approval decreases the recordkeeping burden on the contractor since the contractor will have fewer copyright assertion package submissions for Contracting Officer / Government approval. However, the reduction was offset by the addition of paragraph (f), which addresses copyright assertion and distribution in open-source software (OSS). The new paragraph requires the contractor to notify the funding program that the contractor intends to distribute the software as OSS, which requires the provision of written notice (including relevant data such as, for example, the software disclosure form) to each DOE Program or Programs that have provided a substantial portion of the funding (funding source(s)) to develop the software. Overall, the revisions result in a slight increase in the burden hour per response for this clause.

Clause 970.5227-3, *Technology transfer mission* was revised to exclude CRADA and SPP requirements for product liability indemnity, which will reduce the number of instances where the contractor has to identify and obtain the approval of the Contracting Officer for any proposed exception(s) to the product liability indemnity requirement of the contract. The revision results in a slight decrease (estimated at 1 hour) to the burden hour per response for this clause.

Clause 970.5227-10, *Patent rights-management and operating contracts, nonprofit organization or small business firm contractor* was revised to add several new requirements, including paragraph (t) U.S. Competitiveness, which requires that, in compliance with the Determination of Exceptional Circumstance (DEC) for Domestic Manufacture of DOE Science and Energy Technologies, the contractor to submit a waiver package to show the government that it is not commercially feasible to comply with the DEC, or if there is a change in ownership amounting to a controlling interest, the contractor inform DOE and if it cannot comply with the DEC as a result, and convey to DOE title to any subject invention, if

the contractor believes it cannot comply with the DEC; and paragraph (v), Unauthorized Access, which requires the contractor to adequately protect materials related to inventions and notify DOE of a breach. The additional requirements result in a slight increase (estimated at 2 hours) to the burden hour per response for this clause.

Clause 970.5227-11, *Patent rights-management and operating contracts, for-profit contractor, non-technology transfer* was revised to require the contractor to adequately protect materials related to inventions and notify DOE of a security breach. The revision results in a slight increase to the burden hour per response for this clause.

As a result of the comprehensive DEAR revision (89 FR 89720 published on November 13, 2024) referenced above, the total number of responses increased by 285, and the total time burden increased by 974 hours. While the DEAR revisions included changes to clauses (e.g., re-numbering, creating a non-M&O version of a clause, eliminating an exclusive M&O version of a clause, etc.) that resulted in zero net change to the recordkeeping / information collection burden because the recordkeeping / information collection burden was already captured in the previous clauses, the DEAR revision also included the addition of three new clauses (970.5217-2 *Agreements for commercializing technology*, 970.5219 *Small business subcontracting plan*, and 970.5222-4 *Unemployment compensation*) as well as revisions to existing clauses that that added new requirements to those clauses that are considered Program changes. In addition, the total cost burden also increased due to increases in employee compensation (wages and benefits), as indicated in the latest BLS data, which reflects an increase of 10.5 percent from the previous Information Collection Request extension in 2021.

Table A3. ICR Detailed Burden Changes

Clause	Current Responses	Proposed Responses	Difference	Current Burden Hours	Proposed Burden Hours	Difference
952.223-71 <i>Integration of environment, safety, and health into work planning and execution</i>	0	3	+3	0	735	+735
952.223-78, <i>Sustainable Acquisition Program</i>	10	32	+22	400	1,280	+880
970.5204-3, <i>Access to and ownership of records</i>	25	25	0	175,938	170,938	-5000
970.5217-2 <i>Agreements for commercializing technology.</i>	0	23	+23	0	5,635	+5,635
970.5219 <i>Small business subcontracting</i>	0	252	+252	0	252	+252

<i>plan.</i>						
970.5222-4 <i>Unemployment compensation.</i>	0	10	+10	0	10	+10
970.5223-1, <i>Integration of environment, safety, and health into work planning and execution.</i>	10	7	-3	2,450	1,715	-735
970.5223-7 <i>Sustainable Acquisition Program (M&O Contracts)</i>	22	0	-22	880	0	-880
970.5227-1, <i>Rights in data-facilities.</i>	23	23	0	1,675	1,721	+46
970.5227-2, <i>Rights in data-technology transfer.</i>	23	23	0	1,675	1,679	+4
970.5227-3, <i>Technology transfer mission.</i>	23	23	0	1,675	1,652	-23
970.5227-10, <i>Patent rights-management and operating contracts, nonprofit organization or small business firm contractor.</i>	23	23	0	1,675	1,721	+46
970.5227-11, <i>Patent rights-management and operating contracts, for-profit contractor, non-technology transfer.</i>	23	23	0	1,675	1,679	+4
Totals	182	467	285	188,043	189,017	974

Table A4 shows a summary of burden changes associated with this collection.

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	7,672	+285	0	7,387
Total Time Burden (Hr)	667,056	+974	0	666,082
Total Cost Burden	\$70,844,015	+\$12,308,729	0	\$58,535,286

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.