

**SUPPORTING STATEMENT
EPA ICR 2183.06
DRUG TESTING FOR CONTRACT EMPLOYEES**

1. Identification of the Information Collection

(a) Title of the Information Collection

“Drug Testing for Contractor Employees (Renewal),” EPA ICR Number 2183.06 and OMB Control Number 2030-0044.

(b) Short Characterization

This Performance Work Statement applies to a contractor who performs response services at sensitive sites with serious security concerns where the Agency and public interest would best be protected through drug testing of contractor employees. The Contracting Officer or On-Scene Coordinator will designate significant security concerns in the contractual tasking document when the situation warrants. The Performance Work Statement requires the contractor to test employees for the use of marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), and any other controlled substances. Only contractor employees who have been tested within the previous 90 calendar days and have passing drug test results may be directly engaged in on-site response work and/or on-site related activities at designated sites with significant security concerns.

The EPA uses contractors to perform services throughout the nation in response to environmental emergencies involving the release, or threatened release, of oil, radioactive materials or hazardous chemicals that may potentially affect communities and the surrounding environment. Releases may be accidental, deliberate, or may be caused by natural disasters. Contractors responding to any of these types of incidents may be responsible for testing their employees for the use of marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), and any other controlled substances. The testing for drugs must be completed prior to contract employee performance. The contractor shall maintain records associated with all drug tests.

(c) Terms of OMB Clearance

OMB Terms of Clearance: “The Agency has clarified that it does not require drug testing of contractor employees, but rather that it requires the contractor to provide employees that have been drug tested. Should the agency begin to require drug testing, this ICR should be modified to reflect appropriate protections of respondent privacy.”

EPA contractors performing emergency response services at non-Federal facilities are not subject to the requirements and standards of Homeland Security Presidential Directive 12 (HSPD-12), e.g., leased office buildings, emergency response sites, private residences, schools, sites of law enforcement activity. This type of location is not covered under HSPD-12. There are no requirements for drug testing of contractor employees working at either Federal or

non-Federal facilities under HSPD-12.

2. Need For and Use of The Collection

(a) Need/authority for the Collection

The legal authority for this collection is 5 CFR Parts 731, 732, and 736. The EPA has a responsibility to protect the public and Agency and contractor employees working on an emergency response incident by ensuring employees are not under the influence of marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), and any other controlled substances. This process is necessary to allow the EPA to meet its responsibilities and mitigate the threat to the public health, welfare and the environment.

(b) Uses/users of the Data

Information is collected by response contractors for performing drug tests on contract employees before the individual employees perform contractual services for the EPA.

3. Nonduplication, Consultation, and Other Collection Criteria

(a) Nonduplication

Information requested from a contractor's employee to determine suitability to perform on a response contract is unique to a specific individual; this information cannot be obtained from any other source.

(b) Public Notice Required Prior to ICR submission to Office of Management and Budget.

EPA published a notice in the Federal Register at 80 FR 6704 on February 6, 2015 soliciting public comment on this ICR. No comments were received.

(c) Consultations

To determine contractor burden associated with the information collection identified in this request, the following vendors were previously contacted:

| <u>Representative</u> | <u>Firm</u> | <u>Phone</u> |
|-----------------------|---------------------------|----------------|
| Lisa Friday | Weston Solutions | (610) 701-3157 |
| Eric Simpson | Sovereign Consulting | (508) 339-3200 |
| Joe Baer | Tech Law | (304) 230-1230 |
| Mark Ruck | Environmental Restoration | (636) 680-2405 |
| Sherry Maule | Guardian Environmental | (302) 918-3070 |

Each individual consulted indicated that he/she understood the need for the information collection and did not find the collection excessively burdensome. Many contractors indicated they perform drug testing as a normal course of business. Estimated time to complete the

information collection is described in Section 6, “Estimating the Burden and Cost of the Collection.”

(d) Effects of Less Frequent Collection

The information provided by the contractors’ employees is collected once prior to the employee performing under a response contract work on-site for the EPA and generally every quarter to ensure employees can meet the requirement of having been tested every 90 days prior to starting work on a sensitive site. The requirement for drug testing cannot be met with a less frequent collection.

(e) General Guidelines

The information contained in this ICR is in accordance with the Office of Management and Budget’s general guidelines for federal data collection, except that small entities have to follow the same collection procedures as other respondents.

(f) Confidentiality

The EPA contractor is responsible for collecting and maintaining information under this collection of information; therefore, each contractor will have his own procedures for ensuring confidentiality.

The EPA contractor is responsible for having the drug testing performed, and for providing, for work at sensitive sites, only those individuals who have passed the test within the previous 90 days.

(g) Sensitive Questions

The contractor will collect and maintain employee information. The EPA will not collect contractor employee information nor maintain it. EPA is responsible for receiving only the notification from contractors of the passing status of proposed employees and the date of the testing. Therefore, information being requested by EPA is commonly collected as a normal business practice and is not unduly sensitive.

4. The Respondents and the Information Received

(a) Respondents/North American Industry Classification System Codes

Notification is provided from contractors of the passing status of proposed contractor and subcontractor employees who will perform services with regard to environmental emergencies involving the release, or threatened release, of oil, radioactive materials or hazardous chemicals that may potentially affect communities and the surrounding environment. All contractor employees who will perform on response actions are subject to drug testing prior to contract performance. Typically, these contractor respondents fall into the following North American

Industry Classification System code: 562910 Remediation Services.

(b) Information Requested

EPA is only requesting information on the status of proposed employees' drug test and the date of the drug testing.

5. The Information Collected: Agency Activities, Collection Methodology, and Information Management

(a) Agency Activities

The EPA contracting officers are responsible for ensuring that they have received notification from the contractor that all of its employees working under the contract at a response site with security concerns have passed the drug test for the use of marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), and any other controlled substances.

(b) Collection Methodology and Management

The information is collected by each contractor from each employee who will be working on a sensitive response site. Submissions are accepted in any format, as long as they provide a passing status of proposed employees and the date the test was given. No other information is submitted to the Agency, but compliance is mandatory and no employee may work on a response site with security concerns without passing the drug test. Only those contractor employees who have been tested within the previous 90 calendar days may be directly engaged in on-site response work and/or on-site related activities at designated sites with significant security concerns.

(c) Small Entity Flexibility

Separate or further simplified requirements for small entities are not practical because the stated objectives cannot be met under such alternatives. The requirements of the information collection apply to the awardees of the contract. Reasonable expense associated with the Drug Testing is reimbursable; therefore, small businesses are not expected to experience financial difficulties in fulfilling these requirements. There are numerous commercial sources that perform drug tests.

(d) Collection Schedule

Information on the passing status of proposed employees and the date the test was given will be collected periodically as individuals are requested to work on a response site location under new or existing contracts.

6. Estimating the Burden and Cost of the Collection

(a) Estimation of Respondent Burden

Respondent burden estimates for this collection are based upon interviews with the contractors identified in 3(b) above and discussions with Agency personnel. The Agency anticipates that the contractor burden for complying with this requirement includes the time it takes for employees to provide the required information, the administrative time to manage a drug testing subcontract, the time to notify the Agency, and the effort to maintain the records for 4 years.

(b) Estimation of Respondent Costs

(i) Estimating Labor Costs

| Respondent Cost Estimate | | | | | |
|--|--|-------------------|-------------------|-------------|-----------------|
| Burden Loaded | | | | | |
| <u>Step</u> | <u>Collection Activity</u> | <u>Labor Cat.</u> | <u>Hours</u> | <u>Rate</u> | <u>Cost</u> |
| 1. | Time to provide sample | Employees | 1.5 hours | \$65.47 | \$ 98.21 |
| 2. | Cost of Drug Test (subcontract) | | | | \$ 44.00 |
| 3. | Manage Drug Test subcontract & review results | HR Manager | .25 hour | \$172.36 | \$ 43.09 |
| 4. | Submit notification | HR Manager | .25 hour | \$172. | \$ 43.09 |
| 5. | Maintain files | Admin. Support | <u>.25 hour</u> | \$53.38 | <u>\$ 13.35</u> |
| | | | 2.25 hours | | |
| Estimated Respondent Cost per Drug Test | | | | | \$241.74 |

Step 1 of the information collection is completed by a contractor employee working at a sensitive site. The one and a half hour estimate is based upon information provided by the contractors who were previously interviewed for this ICR. The contractors interviewed indicated that while it takes .15 minutes to provide a specimen, this may be realistic for the time it takes the employee to physically provide a specimen, it does not take into account travelling to a lab, waiting to be called for the testing and returning to the job site. The contractors interviewed indicated the total process takes from 1-2 hours. The cost for Step 2, having a third party perform a drug test, is based upon market research and input from the vendors surveyed. Vendors’ costs for this ranged from \$28-\$85. OHS Health and Safety Services, one of the largest drug testing companies in the United States, estimates average costs at \$44 per test. OHS’ prices range from \$25-\$65 depending on the volume purchased. This data can be found on the OHS website at www.ohsinc.com. For estimating purposes for this ICR, the \$44 average was used. Steps 3 and 4, reviewing suitability and notifying EPA, are performed by a human resource type manager responsible for personnel management and are estimated at .25 of an hour based on vendor input. Administrative support personnel are responsible for completing step 5, which includes filing the background check in personnel records. This was estimated at .25 of an hour based on vendor input.

The cost associated with this effort was estimated using an hourly rate based upon the

May 2013 National Occupational Employment and Wage Estimates United States (http://www.bls.gov/oes/current/oes_nat.htm#43-0000) published by the U.S. Department of Labor, Bureau of Labor Statistics. Previously the National Compensation Survey: Occupational Wages in the United States, May 2010 published by the U.S. Department of Labor, Bureau of Labor Statistics was used. The categories used included the following: Hazardous Materials Removal Workers, Human Resource Manager, and Office and Admin Support.

Since the labor rates used in this estimate are from 2013, an escalation factor of 3% was applied for each year to determine an average wage for the respective year. The cost for each labor category was determined by multiplying the escalated hourly labor rate by an estimated loading factor of 2.95 to reflect industries' overhead, fringe benefits, and general and administrative costs for each year (2014-2017) that the ICR will be in effect. The 2.95 estimate was provided by an EPA cost analyst as representative of labor related burdens experienced by EPA contractors. The loaded labor costs for 2014 thru 2017 were added together then divided by three (number of years for the ICR) to arrive at an annualized labor cost for each labor category.

The following are the loaded labor rates used in the calculations in the table above:

Employees:

2013 = \$20.30
2014 = (\$20.30 x 1.03) \$20.91
2015 = (\$20.91 x 1.03) \$21.54 x 2.95 = \$ 63.54
2016 = (\$21.54 x 1.03) \$22.19 x 2.95 = \$ 65.45
2017 = (\$22.19 x 1.03) \$22.86 x 2.95 = \$ 67.42
\$196.41/3 = \$65.47

Human Resource Manager:

2013 = \$53.45
2014 = (\$53.35 x 1.03) \$55.05
2015 = (\$55.05 x 1.03) \$56.71 x 2.95 = \$ 167.28
2016 = (\$56.71 x 1.03) \$58.41 x 2.95 = \$ 172.31
2017 = (\$58.41 x 1.03) \$60.16 x 2.95 = \$ 177.48
\$ 517.07/3 = \$172.36

Administrative Support:

2013 = \$16.78
2014 = (\$16.78 x 1.03) \$17.28
2015 = (\$17.28 x 1.03) \$17.80 x 2.95 = \$ 50.36
2016 = (\$17.80 x 1.03) \$18.33 x 2.95 = \$ 54.09
2017 = (\$18.33 x 1.03) \$18.88 x 2.95 = \$ 55.70
\$160.15/3 = \$53.38

(ii) Capital/ Start-up Costs

Respondents will not be required to acquire capital goods to provide the requested

information; therefore, capital start-up costs have not been included in this estimate.

(iii) Operating and Maintenance Costs

Operating and maintenance costs, which include such items as file storage, photocopying, and postage, will be nominal.

(c) Estimating Agency Burden and Cost

Agency burden for responses to background check and suitability determinations.

| Agency Burden Cost Estimate | | | | | |
|---|-------------------------------------|-----------------------|---------------------|--------------------|----------------|
| <u>Step</u> | <u>Collection Activity</u> | <u>Labor Category</u> | <u>Burden Hours</u> | <u>Loaded Rate</u> | <u>Cost</u> |
| 1. | Ensure Compliance and document file | GS-13 | .25 hour | \$88.13 | <u>\$22.03</u> |
| Estimated Agency cost per background check \$22.03 | | | | | |

Drug testing is the responsibility of the EPA contractor. The Agency is primarily responsible for ensuring that contractors notify the Agency that its employees have passed the drug test. The Agency’s current effort is estimated to be approximately 15 minutes and performed by an employee at the GS-13 level. This is less than previous years, which was estimated at thirty minutes. After interviewing contracting officers, it was apparent that the process has become more efficient and takes less time. The GS-13 per hour salary for 2013 with a locality pay for “Rest of US” is \$39.21. Government wages were frozen for 2013. The GS-13 per hour salary for 2014 with a locality pay for “Rest of US” is \$39.60. An escalation factor has been applied using a factor of 3.0% based upon historical cost of living increases for federal workers. These wage rates were then multiplied by a factor of 2.16 to reflect Federal employee benefits. The 2.16 estimate was provided by an EPA cost analyst as representative of labor related burdens for government employees. The loaded labor costs for 2014 thru 2017 were added together then divided by three (number of years for the ICR) for an annualized loaded rate of \$88.13 for the three years the ICR is in effect.

| | | |
|--------|------------------------------------|----------------------|
| 2014 = | \$39.60 | |
| 2015 = | \$39.60 x 2.16....= | \$85.54 |
| 2016 = | (\$39.60 x 1.03) \$40.79 x 2.16 | = \$88.10 |
| 2017 = | (\$40.79 x 1.03) \$42.01 x 2.16 .. | = \$90.75 |
| | | \$264.39/3 = \$88.13 |

(d) Estimating the Respondent Universe and Total Burden

All EPA contractor personnel performing at an EPA designated sensitive site with

significant security concerns must be tested for the presence of marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), and any other controlled substances. A site with significant security concerns is determined by the Agency and could be sites that involve law enforcement activities, any indoor cleanups (including household residences), drug lab cleanups, and response actions at geographically sensitive locations such as military installations and government buildings. The number of contractor employees expected to submit to drug testing is 1,350 for the life of this ICR (3 years). This number was determined by input provided from the respondents estimating the number of drug tests that they provide in a year because they would be considered to have security concerns for the Agency. Annually, the Agency responds to roughly 450 incidences with an estimated 5% of these responses, 23, that may be designated as having security concerns for the Agency.

There are both small and large businesses working in the field with diverse response site situations that require large variations in the number of employees. Contractors may be on-site for a few days or many years depending on the situation. There are currently 44 contracts which require contractors to perform drug testing on employees working at sensitive sites. The number of annual drug tests performed by the companies who responded ranged from 0 to 300, this takes into account multiple tests for employees who are being tested quarterly. The government estimate is 450 tests for all contractors per year.

(e) Bottom Line Burden Hours and Costs

(i) Respondent Tally

Total estimated annual hours per respondent for this request is 1,012.5 hours at a cost of \$108,783. The hours were calculated by multiplying the number of hours per occurrence, 2.25, by the estimated number of tests per year, 450. The cost was derived by multiplying the respondent cost per collection, \$241.74, by the estimated 450 occurrences per year. The total cost over the life of this ICR, three years, is \$326,349. The previous ICR estimated cost was \$102,870. Interviews with contractors showed that the type of manager who performs work associated with background checks is a Human Resource Manager; therefore, an average rate for a Human Resource Manager was used for current calculations.

(ii) The Agency Tally

The total annual Agency burden hours for this collection request are 112.5 hours. This is derived by taking the total number of contractor employees expected to submit to drug testing, 450 per year, by the estimated burden hours of .25 per occurrence. The total annual Agency burden cost is estimated at \$9,913.50. This is calculated by multiplying the estimated burden hours, .25, by the estimated hourly rate of \$88.13 for a total of \$22.03 for one collection request. Then, the \$22.03 is multiplied by the estimated number of annual occurrences, 450, for a total of \$9,913.50. The estimated Agency cost over the life of this ICR, three years, is \$29,740.50

(f) Reasons for Change in Burden

As detailed above, this rate was based on information provided by the respondents as well as online market research. There is no change in the hours in the total estimated respondent burden compared with the ICR currently approved by OMB.

(g) Burden Statement

The annual public reporting and record keeping burden for this collection of information is estimated to average 2 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID Number EPA-HQ-OARM-2014-0858 which is available for online viewing at www.regulations.gov, or in person viewing at the Office of Environmental Information in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Office of Environmental Information is (202) 566-1752. An electronic version of the public docket is available at www.regulations.gov. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OARM-2014-0858 and OMB Control Number 2030-0044 in any correspondence.