

to furnish information on the economic costs, impacts and distributional effects of this proposed rule, after which the agency may reconsider its position.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned ICR No-2047.01.

This ICR is for the purpose of ensuring that EPA's statutory DBE procurement goal requirements are implemented in harmony with the United States Supreme Court's decision in *Adarand Constructors, Inc. v. Peña*, 115 S. Ct. 2097 (1995).

The requirements to complete EPA Forms 6100-2-DBE Program Subcontractor Participation Form, 6100-3-DBE Program Subcontractor Performance Form, and 6100-4-DBE Program Subcontractor Utilization Form, are intended to prevent any "bait and switch" tactics at the subcontract level by prime contractors which may circumvent the spirit of the DBE Program.

The requirements to complete the EPA DBE Certification Application (EPA Form 6100-1a) (Sole Proprietorship), the EPA DBE Certification Application (EPA Form 6100-1b) (Limited Liability Company), the EPA DBE Certification Application (EPA Form 6100-1c) (Partnerships), the EPA DBE Certification Application (EPA Form 6100-1d) (Corporations), the EPA DBE Certification Application (EPA Form 6100-1e) (Alaska Native Corporations), the EPA DBE Certification Application (EPA Form 6100-1f) (Tribally Owned Businesses), the EPA DBE Certification Application (EPA Form 6100-1g) (Private and Voluntary Organizations), the EPA DBE Certification Application (EPA Form 6100-1h) (Concerns owned by Native Hawaiian Organizations), and the EPA DBE Certification Application (EPA Form 6100-1i) (Concerns Owned by Community Development Corporations), as applicable, would be required to be completed by an entity seeking to be counted as a minority business enterprise (MBE) or women's business enterprise (WBE) under EPA's DBE Program, which cannot get certified as an MBE or WBE by the SBA or DOT under their respective programs or by an Indian Tribal Government or independent private organization consistent with EPA's 8% or 10% statute as applicable.

Responses to the collection of information will be mandatory. EPA's legal authorities for the DBE Program are Public Law 102-389, a 1993 appropriations act (42 U.S.C. 4370d) (EPA's 8% statute), and Public Law 101-549, Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 *note*) (EPA's 10% statute).

Other legal authorities include Public Law 99-499, the Superfund Amendments and Reauthorization Act of 1986; Public Law 100-590, the Small Business Administration Reauthorization and Amendment Act of 1988; Executive Order 12138, "Creating a National Women's Business Enterprise Policy and Prescribing Arrangements for Developing, Coordinating and Implementing a National Program for Women's Business Enterprise," issued May 18, 1979; Executive Order 11625, "Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise," issued October 13, 1971; and Executive Order 12432, "Minority Business Enterprise Development," issued July 14, 1983.

EPA may make available to the public any information concerning EPA's DBE Program release of which is not prohibited by Federal law or regulation, including EPA's Confidential Business Information regulations at 40 CFR Part 2, Subpart B.

The total labor burden and costs to MBEs and WBEs for certification under State, Tribal and Insular Area funding programs is estimated to total \$8,750,300, with 168,275 burden hours and 6,731 MBE and WBE entities affected for the three-year period of the ICR. The estimated annual burden hours per response is 25 hours; the number of respondents is estimated at 2,244 at an average annual labor burden and cost per MBE and WBE of \$1300. The average annual burden and costs are estimated by spreading the first year cost over the three-year period of the ICR, yielding a total annual average burden of 56,092 hours and \$2,916,767 in costs.

The total labor burden and costs to all EPA grant and loan recipients that would have to perform an availability analysis to meet the requirements of the proposed rule and other paperwork requirements are estimated to be \$16,509,500 with 825,475 burden hours and 3,115 entities affected for the three-year period of the ICR. The estimated annual burden hours for all responses is 275,158, and the annual number of respondents is estimated at 1,038.

The annual cost for all respondents would be \$5,503,167. The cost per respondent is estimated at \$5,250 (each

respondent is estimated to perform an availability analysis once every three years) and is estimated to take 265 hours at \$20/hour. EPA assumed there were no additional start up costs or capital expenditures.

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 No. OA-2002-0001 which is available for public viewing at the OEI Docket in the EPA Docket Center (EPA/DC), EPA West Room B102, 1301 Constitution Ave., NW., Washington, DC. 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 OEI Docket is (202) 566-1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET 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, and to access those documents in the public docket that are available electronically. Once on 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