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via: www.regulations.gov

Mr. David A. Shive
Chief Information Officer
Office of Government-wide Policy
General Services Administration
Regulatory Secretariat Division (MVCB)
1800 F Street NW
Washington, DC 20405

**Re: Information Collection; CDP Supply Chain Climate Change Information
Request; Information Collection 3090-XXXX**

Dear Mr. Shive:

The American Fuel & Petrochemical Manufacturers (“AFPM”) appreciates the opportunity to provide comments regarding the General Services Administration’s (“GSA”) proposal to submit a request to the Office of Management and Budget (“OMB”) for review and clearance for use of the CDP (formerly Carbon Disclosure Project) Supply Chain Climate Change Information Request (“ICR”) to inform and develop purchasing policies and contract requirements.¹ AFPM is a national trade association comprising virtually all U.S. refining and petrochemical manufacturing capacity. AFPM members supply consumers with a variety of products and services used daily in their homes and businesses. These products include gasoline, diesel fuel, home heating oil, jet fuel, lubricants, and the chemicals that serve as “building blocks” in making diverse products, such as plastics, clothing, medicine, and computers.

AFPM supports the use of data obtained from thorough and objective analysis of industry sector risks, opportunities, and overall performance. However, we do not support this ICR for several reasons. First, the CDP is unqualified to provide the necessary detail or objectivity to inform the federal government regarding energy market and environmental risks. Second, the use of the CDP information as stated in this notice would violate Executive Order 13783. Third, as an administrative matter, it appears that the GSA had initiated this program to use CDP data in 2015 without providing sufficient opportunity for public comment from affected parties. Finally, AFPM members conducting business with the federal government will be adversely affected by the use of data obtained from CDP that would purportedly “safeguard Federal assets against

¹ 83 *Federal Register* 32298 (July 12, 2018).



waste, loss, and misappropriation resulting from unmitigated exposure to energy market and environmental risks.” We discuss these concerns in greater detail below.

I. The CDP Methodology is Flawed

The CDP scoring and assessment system lacks the transparency and objectivity necessary to make informed contract decisions. Scoring is biased towards those that participate in the CDP questionnaires in the following manner. Rather than offering a “no-score” for those that do not participate in their survey, CDP ranks non-participants in the same low-scoring category as those they determine to poorly-manage climate risks. The investing and financial news website *Investopedia* states, “A common criticism of the CDP’s carbon disclosure rating is that companies who choose not to participate in its survey...receive low scores as a result.”² The *Seattle Times* reported in 2016 that Amazon received a poor carbon disclosure rating from CDP, mostly because it chose not to respond to the CDP survey.³ The CDP scoring approach improperly characterizes companies based solely on their participation in CDP’s questionnaires and not based on factual analysis of business practices and risks.

Additionally, the CDP’s carbon disclosure rating does not necessarily reflect the actions a company takes to mitigate its impact on climate change or to offset its carbon footprint. A significant part of the CDP’s scoring demonstrates the level of disclosure of climate-impact information.⁴ This disconnect between weighing the *reporting* of impact information over measurable actions such as *mitigation and offset* are indicative of the subjective nature of the CDP analysis and why it is ill-suited as an information source to guide assessment of purchasing policies and contracts.

Finally, because CDP is a voluntary program, the depth and degree of the information provided can vary widely, in turn impacting the subjective scoring by CDP. Companies may choose to answer all or only certain subsets of questions. The CDP scoring methodology penalizes companies for not providing answers to questions, distorting the scoring process into something more of a gauge of participation, and not an objective review of business risks and opportunities related to carbon emissions. Coupled with the lack of standardization in responses, the limited use of the CDP data becomes clear. In an academic paper evaluating worldwide corporate submissions to the CDP, the authors concluded, “...although the CDP has tried to improve standardization of responses by directing companies to the GHG Protocol for measuring and reporting emissions, those companies that did respond used a combination of methods for their disclosures. *This presented obvious difficulties regarding the comparability of the information,*

² <https://www.investopedia.com/terms/c/carbon-disclosure-rating.asp>

³ <https://www.seattletimes.com/business/amazon/amazon-reluctant-to-share-carbon-emissions-data/>

⁴ <https://www.investopedia.com/terms/c/carbon-disclosure-rating.asp>



which was compounded by the large number of companies that either did not respond at all to the CDP or chose not to provide emissions data”⁵ (emphasis added).

II. Collecting CDP Data Violates the Intent of Executive Order 13783

Executive Order 13783 was released on March 28, 2017. Section 3 outlines a variety of energy and climate-related presidential and regulatory actions that were revoked. This includes the following memorandum, Executive Orders, and reports:

- (i) Executive Order 13653 of November 1, 2013 (Preparing the United States for the Impacts of Climate Change);
- (ii) The Presidential Memorandum of June 25, 2013 (Power Sector Carbon Pollution Standards);
- (iii) The Presidential Memorandum of November 3, 2015 (Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment);
- (iv) The Presidential Memorandum of September 21, 2016 (Climate Change and National Security)
- (v) The Report of the Executive Office of the President of June 2013 (The President’s Climate Action Plan);
- (vi) The Report of the Executive Office of the President of March 2014 (Climate Action Plan Strategy to Reduce Methane Emissions).

This Executive Order continues to suspend the Clean Power Plan, estimates of the Social Cost of Carbon, and related guidance. The spirit and letter of E.O. 13783 is a clear mandate for the government to cease its improper and inaccurate consideration of carbon emissions in regulatory actions. Furthermore, paragraph (d) in Section 3 states:

The heads of all agencies shall identify existing agency actions related to or arising from the Presidential actions listed in subsection (a) of this section, the reports listed in subsection (b) of this section, or the final guidance listed in subsection (c) of this section. Each agency shall, as soon as practicable, *suspend, revise, or rescind, or publish for notice and comment proposed rules suspending, revising, or rescinding any such actions*, as appropriate and consistent with law and with the policies set forth in section 1 of this order. (Emphasis added).

Government agencies were thus mandated to identify actions “related to or arising from” the retracted/rescinded documents and remove them from their regulations, policies, and guidance. In light of this clear mandate, we would note the continued efforts by GSA to incorporate CDP’s inaccurate Climate Change Supply information into the government contract review process to

⁵ Andrew, Jane and Cortese, Corinne L., Carbon Disclosures: Comparability, the Carbon Disclosure Project and the Greenhouse Gas Protocol, *Australasian Accounting, Business and Finance Journal*, 5(4), 2011, 5-18



be inconsistent with the intent of E.O. 13783. Indeed, the announcement⁶ by GSA of the supply chain reporting program directly cites E.O. 13693, *Planning for Federal Sustainability in the Next Decade*, which is now in direct conflict with E.O. 13783. This program to incorporate the CDP questionnaire data therefore violates the intent of E.O. 13783 and should be suspended.

III. The GSA Has Not Provided Sufficient Opportunity for Public Comment on Its GHG Disclosure Requirements

The GSA announced this program on March 19, 2015,⁷ and it was described as a “new pilot program to encourage GSA vendors and contractors to publicly disclose their corporate-wide greenhouse gas emissions (GHG) and set targets for reducing them.” The announcement further stated that “the program will be voluntary for companies to disclose via CDP Supply Chain,” and, most importantly, “*participation will not affect the award of GSA contracts*” (emphasis added). In light of the current comment period, there are two critical observations:

First, GSA has repositioned the relevance and use of the voluntary CDP data they are collecting. What was originally posited as “not affect[ing] the award of GSA contracts,” has now become a program by which the CDP data will be used to “safeguard Federal assets against waste, loss, and misappropriation resulting from unmitigated exposure to energy market and environmental risks.” Based on the notice for comment from July 12, 2018, it is clear that GSA will now use this data to make decisions affecting the award of federal contracts. This is a clear departure from the original premise of the voluntary pilot program and represents a significant shift of business relations between a government agency and contractors, and the importance of the data provided. Using CDP data in the manner described by the GSA, and due to the scoring methods, this program amounts to a *de facto* requirement to participate in the CDP supply chain questionnaire.

Second, GSA has not afforded sufficient opportunity for public comment on this program. While GSA’s original contention of program participation not affecting the award of contracts was spurious, this new approach makes clear how CDP data will affect contract selection. Such an approach that affects significant numbers of stakeholders cannot be undertaken without the opportunity for public comment *on the veracity of the program itself*, and not just administrative details to satisfy Paperwork Reduction Act obligations (as declared in the 7-12-2018 proposal). The GSA must provide the public this opportunity for comment.

Conclusion

Based on the above discussion, GSA should abandon its plan to use CDP data in contract decisions as it lacks sufficient transparency and credibility, conflicts with a variety of

⁶ <https://www.gsa.gov/blog/2015/03/19/GSA-Launches-New-Supply-Chain-GHG-Emissions-Reporting-Pilot>

⁷ *Id.*



government initiatives regarding GHG emissions, and has not been allowed sufficient opportunity for public comment. To the extent that the GSA seeks to use environmental information to support its purchasing policies and contract requirements, AFPM suggests that the GSA find more objective and relevant information that will meet their needs through other channels such as:

- Solomon and Associates
- Federal financial disclosures such as SEC reporting/10-K reports
- Company websites for social responsibility reports and climate-driven risk analysis

Thank you again for the opportunity to provide relevant feedback on this approach. Please contact me at (202) 844-5508 should you have any questions.

Sincerely,

David Friedman
Vice President, Regulatory Affairs