

**DFARS Case 2009-D017,
Continuation of Essential
Contractor Services
Draft Interim Rule**

A. Justification

1. Today's changing threat environment, particularly under the current world pandemic influenza threat, has increased the need for Continuity of Operations (COOP) capabilities and plans that enable agencies to continue their essential functions across a broad spectrum of emergencies. This is a request for establishment of a new requirement for contractors to submit their contingency plan to ensure continuation of essential contractor services that support mission essential functions during a crisis situation in accordance with DoDI 3020.37, Continuation of Essential DoD Contractor Services during Crises. "Essential Contractor Services", means a service provided by a firm or individual under contract to the DoD to support vital systems or operated in support of military missions or roles and associated support activities considered of utmost importance to the US mobilization and wartime mission. These services are essential because: (1) DoD components may not have military or DoD civilian employees to perform those services immediately. (2) The effectiveness of the defense system or operations may be seriously impaired, and interruption is unacceptable when those services are not immediately available. DoD is proposing amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide contract language supporting the continuation of essential contractor services.

2. The contractor's plan is needed due to the nature of certain essential contracted functions for incorporation into a DoD organization's overall COOP plan as required by the FEMA Federal Preparedness Circular #65 and DoDI 3020.37. This plan communicates the contractor's plan to ensure they are able to continue to meet their obligations under the contract in an emergency for mission critical functions. The information collection associated with small businesses is the minimum consistent with applicable laws, Executive Orders, regulations, and prudent business practices.

3. Contractors may submit their contingency plan in electronic format.
4. As a matter of policy, DoD reviews the Federal Acquisition Regulation (FAR) and DFARS to determine if adequate language already exists. This plan implements a unique provision and does not duplicate any other requirement.
5. The burden applied to small businesses is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.
6. The consequence of not collecting this plan is that Government operations may be severely impaired during crisis situations. The frequency for collecting this information is determined by the frequency of the contractor's requirement to revise their plan to ensure a continuation of essential contractor services during crisis situations. Every attempt has been made to keep the frequency of collection to a minimum without jeopardizing the ability of the Government to determine how prepared they are to respond to crisis situations.
7. There are no special circumstances that require the collection to be conducted in any manner listed in 5 CFR 1320.5 (d) (2).
8. This collection is consistent with the guidelines in 5 CFR 1320.5(d). Public comments will be solicited in the Federal Register as required by 5 CFR 1320.8(d). A revised Supporting Statement will be provided to OMB to address any comments received on the DoD information collection portion of the interim DFARS rule.
9. No payment or gift will be provided to respondents.
10. The information collected will be disclosed only to the extent consistent with prudent business practice, current regulations, and statutory requirements. No assurance of confidentiality is provided to respondents.
11. No sensitive questions are involved.
12. Contracts from 11,882 different contracts were identified as possibly containing essential contractor services that support mission essential functions. Of those

contracts, only a portion of the services being provided will require a contingency plan (we estimate about 80% or 9,500) to ensure continuation of service. We further estimate that an average of about 1.25 responses per respondent, resulting in an estimate of 7,600 respondents. This should not impose a significant burden on contractors as they would normally need to have alternative plans to cover employee sick leave, mobilization, or strikes as a normal course of good business. Providing the plan to the Government allows the requiring activity responsible for that function to include the contractor portion of the total force in the organization's overall COOP plan.

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| A. | Number of respondents | 7,600 |
| B. | Responses per respondent | 1.25 |
| C. | Total annual responses | 9,500 |
| D. | Hours per response | 2 |
| E. | Total public burden hours | 19,000 |
| F. | Cost per hour ¹ | \$30.30 |
| G. | Total annual estimate of public burden | \$575,700 |

13. We do not estimate any burden hours apart from the hours estimated in items 12 and 14.

14. Annual cost to the Government. The time estimates are based on receiving, reviewing, analyzing the information submitted by the contractor. We estimate that the time associated with this task is 1 hour per response.

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|----|----------------------------|-----------|
| A. | Number of respondents | 7,600 |
| B. | Responses per respondent | 1.25 |
| C. | Total Annual responses | 9,500 |
| D. | Hours per response | 1 |
| E. | Total hours | 9,500 |
| F. | Cost per hour ² | \$30.30 |
| G. | Total amount | \$287,850 |

DoD estimates that it will take the Government one (1) hour to review the plan and incorporate it into the organization's COOP.

15. This is a new requirement to submit the plan.

¹ Based on GS-09 step 5 salary (\$22.24) plus 36.25 percent burden. This burden rate was derived from the Office of Personnel Management (updated through transmittal memorandum January 14, 2009).

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16. Results of this information will not be tabulated or published.

17. DoD does not seek approval to not display the expiration dates for OMB approval of the information collection.

18. There are no exceptions to the certification accompanying this Paperwork Reduction Act submission.

B. Collections of Information Employing Statistical Methods: Statistical methods will not be employed.