

**Supporting Statement for Information Collection  
9000-0164, Contractor Business Ethics Compliance Program and  
Disclosure Requirements**

**A. Justification.**

**1. Administrative requirements.** This is a request for a renewal of the information collection requirement OMB Control Number 9000-0164; Contractor Compliance Program and Integrity Reporting.

The requirement that the collection supports is located at FAR 52.203-13, Contractor Code of Business Ethics. This clause requires contractors to notify the respective agency Office of Inspector General when the contractor has credible evidence that the contractor's principal, employee, agent, or subcontractor committed a violation of certain federal criminal laws, or a violation of the Civil False Claims Act. Within 30 days of contract award, the contractor is required to have a written code of business ethics and to make a copy of the code of business ethics available to each of its employees performing work on the Government contract. In addition, contractors, other than small business or contractors furnishing commercial items or services, must establish a business ethics and compliance program within 90 days of award. The requirements of the clause at 52.203-13, also flowdown to subcontractors above a certain threshold.

**2. Use of information.** The objective of the notification requirement is to emphasize the critical importance of integrity in contracting and reduce the occurrence of improper or criminal conduct in connection with the award and performance of Federal contracts and subcontracts. Information obtained from the notification requirements will be provided to the agency Inspector General by the contractor.

**3. Consideration of information technology.** Contractors have the option to use electronic interchange to comply with the notification requirements.

**4. Efforts to identify duplication.** This requirement is being issued under the Federal Acquisition Regulation (FAR) which has been developed to standardize Federal procurement practices and eliminate unnecessary duplication.

**5. If the collection of information impacts small businesses (item 5) describes any methods used to minimize the burden.**

In FY 2013, there were 152,271 small business concerns listed in FPDS-NG with unique DUNS numbers. The Government estimates that of the listed small business concerns, approximately 125,000 (80%) will receive contracts in a given fiscal year. Government small business experts estimate that at least twice that number of small businesses (250,000) will receive subcontracts. However, the only small business concerns impacted by the information collection requirements of this clause requiring contractor reporting of violations of Federal criminal law are those small businesses that are aware of such violations with regard to their Government contracts or subcontracts.

To minimize the impact on small business concerns, the Government adopted the following decisions

- The requirement for formal training programs and internal control systems are inapplicable to small business concerns.
- The requirement for mandatory reporting is limited to violations of Federal criminal law or civil False Claims Act in connection with performance or award of a Government contract performed by the contractor or a subcontract there under, rather than requiring report of any improper conduct, even that which is not a violation of Federal criminal law, or reports of violations under the contracts of other contractors.

**6. Describe the Consequences to Federal activities if the collection is not conducted or is conducted less frequently.**

The requirement for mandatory disclosure is necessary because only a few companies have responded to prior invitations that they report or voluntarily disclose suspected instances of violations of Federal criminal law relating to the contract or subcontract. Without mandatory disclosure, the occurrence of improper or criminal conduct in connection with the award and performance of Federal contracts and subcontracts may not be effectively addressed.

**7. Special circumstances for collection.** No special circumstances for collections exist.

**8. Efforts to consult with persons outside the agency.**

Under the procedures established for development of the FAR, agency and public comments are solicited and each comment addressed before finalization of the text. A 60 day notice was published in the Federal Register at 79 FR 32959 on June 9, 2014. No comments were received. A 30 day notice was published in the Federal Register at 79 FR 50647, on August 25, 2014. No comments were received.

**9. Explanation of any decision to provide any payment or gift to respondents, other than reenumeration of contractors or guarantees.** No such payments or gifts are contemplated.

**10. Describe assurance of confidentiality provided to respondents.** This information is disclosed only to the extent consistent with prudent business practices and current regulations.

**11. Additional justification for questions of a sensitive nature.** Integrity in contracting is of critical importance, and it is necessary for contractors to report violations of Federal criminal law in connection with the award or performance of Government contracts and subcontracts in order to reduce the occurrence of such criminal conduct and to promptly investigate and deal with it, when it occurs.

**12. Estimated total annual public hour burden.**

The annual total burden hours as follows:

Based on review of FY 2013 contract awards as entered in the Federal Procurement Data System, the Government estimate that 5200 contractors per year will be subject to the clause 52.203-13 (contracts greater than \$5 million). It's estimated that of those 5200 contractors, 208 (4%) will report violations of Federal criminal law with regard to performance or award of a Government contract or subcontract. In addition, the Councils estimate that 68 contractors that do not have the clause 52.203-13 in their contract will also report such violations.

Wages are based on the average hourly wage and associate overhead of a lawyer and business manager that may be responsible for disclosing violations of Federal criminal law.

|                           |            |
|---------------------------|------------|
| Respondents:              | 276        |
| Responses per respondent: | X <u>1</u> |

|                                   |   |                |
|-----------------------------------|---|----------------|
| Total annual responses:           |   | 276            |
| Preparation hours per response:   | X | <u>60</u>      |
| Total response burden hours:      |   | 16,560         |
| Averages wages (\$75 + 32.85% OH) |   | X <u>\$100</u> |
| Estimated cost to the Public      |   | 1,656,000      |

**13.** There are no capital start-up or operational land maintenance costs associated with this information collection, other than the hour burden detailed in paragraph 12.

**14. Estimated cost to the Government.**

The time required for the Government review is estimated at 24 hours. The cost is based on the average hourly wage salary of GS 13, plus 100% overhead.

|                                     |   |               |
|-------------------------------------|---|---------------|
| Reviewing time/hr                   |   | 24            |
| Responses/yr                        | X | <u>276</u>    |
| Review time/yr                      |   | 6624          |
| Average wages \$54/hr. + 32.85% OH) |   | X <u>\$54</u> |
| Total Government cost               |   | \$357,696     |

**15. Explain reasons for program changes or adjustment reported in Item 13 or 14.** The 60 hour burden estimate reflects what was published in the November 12, 2008; final rule (73 FR 67064). There (page 73 FR 67090) the Government stated an initial estimate of 3 hours was inadequate and revised the estimated burden hours to 60 per response. The change particularly considers the hours that would be required for the collection within a company, prior to release to the Government. The estimated cost to the Government is updated to reflect current GS-13 wages averaging \$54 per hour. Based on the OPM GS-13/step 5 salary (\$39.31 an hour) plus 36.25 percent burden, rounded to the nearest dollar, or \$54 an hour. The burden rate used is that mandated by OMB memorandum M-08-13 for use in public-private competition, as updated by OMB for the current year. Reference Salary Table 2014-GS, Effective January 2014, found at [www.opm.gov](http://www.opm.gov)).

**16. Outline plans for published results of information collection.** Results of this information collection will not be published.

**17. Approval not to display expiration date.** Not applicable.

**18. Explanation of exception to certification statement.** Not applicable.

**B. Collections of Information Employing Statistical Methods.**

Statistical methods are not used in this information collection.