

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
9000-xxxx, Combating Trafficking in Persons**

A. Justification.

1. **Administrative requirements.** Executive Order (E.O.) 13627, entitled Strengthening Protections Against Trafficking in Persons in Federal Contracts, dated September 25, 2012 (77 FR 60029, October 2, 2012) and Title XVII of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013) strengthen the long standing zero-tolerance policy of the United States regarding Government employees and contractor personnel engaging in any form of trafficking in persons.

Additional protections are required where the estimated value of the supplies (other than commercially available off-the-shelf (COTS) items) to be acquired outside the United States, or the services to be performed, outside the United States has an estimated value that exceeds \$500,000. These protections include the following: (a) The contractor is required to implement and maintain a compliance plan during the performance of the contract that includes an awareness program, a process for employees to report activity inconsistent with the zero-tolerance policy, a recruitment and wage plan, a housing plan, and procedures to prevent subcontractors from engaging in trafficking in persons; and (b) The contractor is required to submit a certification to the contracting officer prior to receiving an award, and annually thereafter, asserting that it has the required compliance plan in place and that there have been no abuses, or that appropriate actions have been taken if abuses have been found. The compliance plan must be provided to the contracting officer upon request, and relevant portions of it must be posted at the workplace and on the contractor's website. Additionally, contractors are required to flow these requirements down to any subcontracts where the estimated value of the supplies acquired or the services required to be performed outside the United States exceeds \$500,000.

2. **Uses of information.** The compliance plan is only provided to the contracting officer upon request and will usually be requested only if the contracting officer has reason to believe that there may be trafficking in persons activities in violation

of the Government's zero-tolerance policy. Generally, this will occur when the contracting agency or an enforcement agency is conducting an audit, investigation, or a formal action to ascertain compliance with the Trafficking Victims Protection Act (22 U.S.C. 7104), Executive Order 13627, or any other applicable law or regulation. The certification will be used to provide reasonable assurance to the Government that the contractor is aware of and complying with the requirements of the Executive Order and statute.

3. Consideration of information technology. Information technology has been applied to the maximum extent possible. The contracting officer is not prevented from accepting any requested compliance plans electronically.

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 or other entities, describe methods used to minimize burden. The burden applied to small businesses is the minimum consistent with applicable laws, executive orders, regulations, and prudent business practices.

6. Describe consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently. The information collection requirements contained within this final rule is necessary to implement the requirements contained within Executive Order 13627 and title XVII of the National Defense Authorization Act for Fiscal Year 2013.

7. Special circumstances for collection. Collection is consistent with guidelines in 5 CFR 1320.6.

8. Efforts to consult with persons outside the agency. Under the procedures established for development of the FAR, agency and public comments were solicited and each comment addressed before finalization of the text. A notice published in the *Federal Register* at 78 FR 59317, on September 26, 2013. Three respondents submitted comments on the information collection requirements of the proposed rule.

Comment: Several respondents commented that the four hour estimate per contract to prepare and submit an annual certification underestimates the burden because it does not take

into consideration the time required to monitor, detect and terminate any agent subcontractors or subcontractor employees who have engaged in trafficking in persons at all tiers.

Response. The Councils performed a detailed analysis and believe that the certification process should require minimal additional attention if a company is taking the time required to maintain a sound compliance plan. Therefore, the Councils have not increased the estimated number of burden hours.

Comment. One respondent commented that the 24 hour estimate to prepare the compliance plan underestimates the burden.

Response. The Councils performed detailed analysis taking into account many factors. The estimated burden associated with writing the compliance plan takes into consideration that this is one-time , to be updated, as necessary, to align with the size, scope and complexity of later procurements. The Councils have not increased the estimate.

9. Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or guarantees. No payment or gift will be provided to respondents, other than remuneration of contractors under their contracts.

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. No sensitive questions are involved

12 & 13. Estimated total annual public hour and cost burden. The estimated cost to the public for the compliance plan is as follows:

Recordkeeping Burden:

Number of recordkeepers ¹	11,960
Hours per recordkeeper ²	<u>x 24</u>
Total recordkeeping hours	287,040
Cost per hour ³	<u>x \$68.00</u>

¹ This number is based on FPDS-NG data for new contract awards, including tier 1 through 10 subcontracts, made during fiscal year 2011 valued at greater than \$500,000 for performance outside of the United States.

² The recordkeeping hours consist of the estimated time necessary to review instructions, search existing data sources, gather the data, and maintain the information internally.

³ Based on General Schedule (GS) pay for a GS-14, step 8, salary for 2012 plus 36.45% Civilian Position Full Fringe Benefit Cost Factor for 2012 per OMB Memo M-08-13 dated March 11, 2008 (\$50.05 X 136.45% = \$68.00). It is estimated that the recordkeeper will be a high-level administrative/program manager.

Total annual cost for recordkeeping \$19,517,820

Reporting Burden:

Number of respondents ⁴	120
Responses per respondent	<u>X 1</u>
Total annual responses	120
Hours per response ⁵	<u>X 1</u>
Total hours	120
Cost per hour ⁶	<u>X \$68.00</u>
Total annual cost to respondents	\$8,160.00

Total public burden hours 287,160
Total annual estimate of public burden \$19,525,980

The estimated cost to the public for the certification is as follows:

Certification Burden:

Number of respondents	11,960
Responses per respondent	<u>X 1</u>
Total annual responses	11,960
Hours per response ⁷	<u>X 4</u>
Total public burden hours	47,840
Cost per hour ⁸	\$83.00
Total annual estimate of public burden	\$3,970,720

14. Estimated cost to the Government. The time estimates are based on receiving, reviewing and analyzing the information submitted by the contractor.

The estimated cost to the Government for the compliance plan is as follows:

⁴ The compliance plan is only required to be provided to the Government when requested by the contracting officer. These requests are anticipated to occur only when the Government has reason to believe that trafficking in persons activities are occurring. It is estimated that the plan will be requested by the Government no more than 1% of the time.

⁵ The hours per response consists of the estimated marginal increase in internal accounting or management activity necessary to distribute the contractor- incurred costs to customers when a contract contains supply or service requirements to be performed outside the United States that exceed \$500,000.

⁶ Based on General Schedule (GS) pay for a GS-14, step 8, salary for 2012 plus 36.45% Civilian Position Full Fringe Benefit Cost Factor for 2012 per OMB Memo M-08-13 dated March 11, 2008 (\$50.05 X 136.45% = \$68.00). It is estimated that the respondent will be a high-level administrative/program manager.

⁷ The hours per response consist of the estimated marginal increase in internal accounting or management activity necessary when a contract contains supply or service requirements to be performed outside the United States that exceed \$500,000. It also includes the estimated time necessary to review instructions and to gather the data internally and from subcontractors.

⁸ Based on General Schedule (GS) pay for a GS-15, step 9, salary for 2012 plus 36.45% Civilian Position Full Fringe Benefit Cost Factor for 2012 per OMB Memo M-08-13 dated March 11, 2008 (\$60.47 X 136.45% = \$83.00). It is estimated that the recordkeeper will be a high-level administrative/attorney.

Number of respondents	120
Responses per respondent	x 1
Total annual responses	120
Hours per response	x 24
Total hours	2,880
Cost per hour	x \$83.00
Total annual estimate of burden	\$239,040

The estimated cost to the Government for the certification is as follows:

Number of respondents	11,960
Responses per respondent	x 1
Total annual responses	11,960
Hours per response	x .5
Total hours	5,980
Cost per hour ⁹	x \$53.00
Total annual estimate of burden	\$316,940

15. Explain reasons for program changes or adjustments reported in Item 13 or 14. This submission requests a new OMB approval for an information collection requirement in the FAR.

16. Outline plans for published results of information collections. Results will not be tabulated or published.

17. Approval not to display expiration date. We do not seek approval not to display the expiration date for OMB approval of the information collection.

18. Explanation of exception to certification statement. There are no exceptions to the certification accompanying this Paperwork Reduction Act submission.

B. Collections of Information Employing Statistical Methods.

Statistical methods are not used in this information collection.

⁹ Based on General Schedule (GS) pay for a GS-13, step 5, salary for 2012 plus 36.45% Civilian Position Full Fringe Benefit Cost Factor for 2012 per OMB Memo M-08-13 dated March 11, 2008 (\$38.92 X 136.45% = \$53.00). It is estimated that the Government reviewer will be a mid-level Contracting Officer.