

**SUPPORTING STATEMENT
FOR INFORMATION COLLECTION SUBMISSION
9000-0101, DRUG-FREE WORKPLACE**

A. Justification.

1. **Administrative requirements.** As mandated in Public Law 100-690, the Drug-Free Workplace Act of 1988, and as enacted in Public Law 111-350, which recodifies Title 41 – Public Contracts: (1) Government contractor employees are required to notify their employer of any criminal drug statute conviction for a violation occurring in the workplace; and (2) Government contractors, after receiving notice of such conviction, must notify the Government contracting officer. These requirements were effective as of March 18, 1989. FAR clause 52.223-6, Drug-Free Workplace, implements the Act.

2. **Uses of information.** The information provided to the Government is used to determine contractor compliance with the statutory requirements to maintain a drug-free workplace.

3. **Consideration of information technology.** We use improved information technology to the maximum extent practicable. Where both the Government agency and contractors are capable of electronic interchange, the contractors may submit this information collection requirement 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.** Collection of information is made only when an employee is convicted of a criminal drug charge for a violation occurring in the workplace. Therefore, collection is conducted as infrequently as possible.

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

8. **Efforts to consult with persons outside the agency.** A notice was published in the Federal Register at 80 FR 78232 on December 16, 2015. No comments were received. A 30-day notice was published in the Federal Register at 81 FR 15303 on March 22, 2016.

9. **Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.** Not applicable.

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.** Sensitive information is involved--however, only the information statutorily mandated.

12 & 13. **Estimated total annual public hour and cost burden.**

FAR clause 52.223-6 is not applicable to commercial items, contracts at or below the simplified acquisition threshold (unless awarded to an individual), contracts performed outside the United States or by law enforcement agencies. Based on Fiscal Year 2011 (FY11) data from the Federal Procurement Data System (FPDS), this clause only applies to 1,691,959 contract actions or approximately 10% of FY11 contract actions.¹ We further estimate that 19,528 unique contractors would be awarded approximately 1.2% of the contract actions.²

Statistically, only a small number of contractor employees, approximately 3.4% would be illicit drug users, according to U.S. Department of Justice Drug and Crime Facts. Using the 3.4% as a baseline, we estimate of the 19,528 unique contractors 664 ($19,528 * 3.4\% = 664$) would have contractor employees that would fall under this statistic.

Of this pool of unique contractors, we estimate 90% would have employees convicted of a criminal drug statute violation occurring in the workplace, which requires reporting in accordance with the clause. Therefore, the total estimated number of respondents per year is 598 ($664 * 90\% = 598$).

It is estimated that only one (1) response would be reported annually per respondent.

The amount of time required to read and prepare this information is estimated at .5 hours per response. This is based on the estimated time it would take to obtain the report of the conviction from the employee, convey this information to the correct company point of contact and then provide the written notice of the conviction and the position title of the employee to the contracting officer.

There is no requirement in the clause for recordkeeping, only a reporting burden.

Annual Hour Burden

¹ For FY11, there were a total of 16,756,326 total transactions of which 334,676 were actions for work performed outside the U.S, 14,458,711 were commercial items, and 279,980 were at or below the simplified acquisition threshold for a total of 1,691,959 actions that this clause applies to ($16,756,326 - 334,676 - 14,458,711 - 279,980 = 1,691,959$) or approximately 10% ($1,691,959/16,756,326 = 10\%$).

² Based on FY11 FPDS data 16,756,326 contract actions were awarded to 193,394 unique vendors, or 1.15414% ($193,394/16,756,326 = 1.15414\%$) of contract actions. Applying 1.15414% to the 1,691,959 contract actions that this clause applies to, approximately 19,528 unique contractors would be awarded a contract action.

Estimated respondents/yr.....	598
Responses annually.....x	<u>1</u>
Total annual responses.....	598
Estimated hrs/response.....x	<u>.5</u>
Estimated total burden/hrs.....	299

Annual Cost Burden

Total response and recordkeeping burden hours.....	299
Average wages + overhead (\$22.57/hr. + 36.45% OH)*.....x	<u>\$31</u>
Total cost to the public.....	\$9,269

*Based on the OPM salary tables for Calendar Year 2012, we used an hourly rate equivalent to a GS-9, Step-5, or \$22.57/hour, plus a burden rate mandated by OMB for A-76 public-private competitions, or 36.45%, and rounded the total to the nearest whole dollar, or \$31.00. The estimated cost per response is approximately \$15.50.

14. Estimated cost to the Government. Time required for Governmentwide review is estimated at .5 hour per response. This response time includes reviewing the written notice along with documenting the contract file.

Annual Reviewing Burden and Cost

Total annual responses.....	598
Review time per response/hr..... x	<u>.5</u>
Total burden hours.....	299
Average wages + overhead (\$38.92/hr. + 36.45% OH)*..... x	<u>\$53</u>
Total Government cost.....	\$15,847

*Based on the OPM salary tables for Calendar Year 2012, we used an hourly rate equivalent to a GS-13, Step-5, or \$38.92/hour, plus a burden rate mandated by OMB for A-76 public-private competitions, or 36.45%, and rounded the total to the nearest whole dollar, or \$53.00.

15. Explain reasons for program changes or adjustments reported in Item 13 or 14. This submission requests an extension of OMB approval of an information collection requirement in the FAR. The information collection requirement in the FAR remains unchanged with the exception of the annual public burden and cost and estimated cost to the government. The figures have been updated to reflect updated calculations.

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