

SUPPORTING STATEMENT
Fair Pay-Safe Workplaces Contractor Preassessment

General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When the question “Does this ICR contain surveys, censuses or employ statistical methods” is checked “Yes,” Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

The Fair Pay and Safe Workplaces Executive Order (E.O. 13673) was signed by President Barack Obama on July 31, 2014, to increase efficiency and cost savings in the work performed by parties who contract with the Federal Government by ensuring that they understand and comply with labor laws. Labor laws are designed to promote safe, healthy, fair, and effective workplaces. The Federal Acquisition Regulatory (FAR) Council and the Department of Labor (DOL) are directing implementation via the FAR Rule and DOL Guidance. As part of the E.O. implementation scheme, current and prospective Federal contractors will be able to participate in a Preassessment Program wherein they disclose their labor law history to DOL independent of a contract award solicitation. DOL will assess whether any of the prospective contractor’s violations are “serious,” “repeated,” “willful,” and/or “pervasive”; and whether a labor compliance agreement may be warranted.

In order to collect Preassessment data from contractors, OASAM is requesting use of a newly developed Preassessment Intake Form (Form DL1-7013 (attached), which will consist of two parts. Part A will obtain general information about the contractor, including identifying information and a primary representative, and a general “Fair Pay and Workplaces Representation” Part B will also collect identifying information, details on any covered Labor law violations, and mitigating factors and/or remedial measures the contractor may want considered in the preassessment process.

The data collected under this submission is necessary for DOL to conduct its work under the preassessment process, and use of a form is the only practical and effective intake method for

DOL. The information collected will be sent for processing within the Labor Compliance Advisor (LCA) Hub case management system for analysis and recommendations, to include possible remedial action under the Preassessment Program.

To this end, the Agency has determined the collection of information is needed prior to the expiration of the time periods established by the Paperwork Reduction Act (PRA). It is essential to the mission of the Agency, and the Agency cannot reasonably comply with normal PRA clearance procedures because public harm is reasonably likely to result if normal clearance procedures are followed.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

The data collected by the Preassessment Form will be used by DOL Labor Compliance Advisors to offer advice to contractors seeking guidance on labor law violations and compliance, as well as methods to proactively remediate issues independent of a specific acquisition.

Form A is used to collect general information about the contractor such as contact information and identifying information. Form A also includes questions pertaining to the contractor's prospective eligibility to be reviewed under the FPSW EO, where they will indicate if they have any existing labor law violations and if they intend on going after contracts greater than \$500,000.

Form B is used to collect specific labor law violation information, to be entered into a case management system used by the LCAs to query an enforcement agency database to receive more information about the self-reported labor law violations.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.*

Information will be collected electronically. To begin with, a contractor will submit a request online for Preassessment via the DOL website. The purpose of this initial collection is to gauge the requests for Preassessment and the need for DOL resources.

From this point, the contractor will be sent Forms A and B where they will complete the forms in a PDF reader on their own computers, and be able to email the forms back to DOL for review. Electronic submission reduces both the burden and cost of submission on the contractor.

4. *Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.*

Preassessment information is submitted voluntarily to DOL and is not tied to any particular acquisition.

When a contractor submits a bid that meets the threshold for the EO, and a contracting officer has initiated a responsibility determination, then that particular contractor **must** submit their labor law violation information into GSA SAM.

The information for both of these submissions will be the same. However, because the contractor is not tied to a particular acquisition during Preassessment, the information will not be accessible in SAM. Additionally, if a contractor has already been requested by a contracting officer to submit their information in SAM, then there is no reason for the contractor to go through Preassessment as they will be receiving analysis as a part of the Pre-Award determination.

5. *If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.*

The burden applied to small businesses is the minimum consistent with applicable laws, EO's, regulations, and prudent business practices. Numerous steps have been taken to minimize the burden, including:

- (1) DOL provides Preassessment as a voluntary service to those contractors that wish to participate; preassessment is not mandatory.
- (2) The EO limits disclosure requirements for the first six months to contracts \$50 million and above, and subsequently to contracts over \$500,000. Also, these limits exclude COTS items, which makes up for the majority of small business transactions.
- (3) DOL creates certainty for contractors by having ALCAs utilize the DOL Guidance and coordinate through DOL to promote a consistent approach across Government agencies to analyzing and assessing disclosed violation information. As such, preassessment evaluations can be relied upon by government agencies for future pre-award assessments tied to a specific acquisition.

6. *Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

DOL is only collecting this information when a contractor reaches out and a respondent indicates they would like to undergo Preassessment. As such, if DOL do not collect this data per their request, DOL will be unable to offer the contractor the opportunity to receive guidance on their labor law violations, as promised in the DOL Guidance for EO 13673.

Furthermore, this collection enhances worker protection by providing a means of voluntary agreements.

7. *Explain any special circumstances that would cause an information collection to be conducted in a manner:*
- * Requiring respondents to report information to the agency more often than quarterly;*
 - * Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
 - * Requiring respondents to submit more than an original and two copies of any document;*
 - * Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;*
 - * In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*
 - * Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
 - * That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
 - * Requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

The Department does not implicate any of the listed special circumstances regarding this information collection.

8. *If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.*

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years—even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

There has not yet been an opportunity for public comment on this specific information collection, as DOL is seeking emergency clearance.

However, this information collection is of the same data elements listed in Fair Pay and Safe Workplaces PRA.

9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

The Department will not provide any payment or gift to respondents.

10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

This information is disclosed only to the extent consistent with prudent business practices and current regulations and statutory requirements.

11. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

The Department associates no questions of a sensitive nature with this information collection.

12. *Provide estimates of the hour burden of the collection of information. The statement should:*

- * Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.*
- * If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.*
- * Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under “Annual Cost to Federal Government.”*

<i>Annual Estimated Cost to the Public of Reporting Burden</i>	
A. Number of Respondents	110
B. Frequency of Response	One time (not annual)
C. Hours per Response (Form A)	1
D. Hours per Response (Form B)	5.96
E. Average number of Form Bs per	9.65

Respondent	
F. Total Hours	6,436.54
G. Rate Per Hour (Average)	\$61.43
H. Total Annual Cost to the Public	\$395,396.66

- A. Within Fiscal Years (FY) 12-14 Federal Procurement Data System (FPDS) awards valued greater than \$50,000,000 averaged 2211 awards per year. The threshold for contracts to be reviewed under the FPSW for the first six months once effective is \$50,000,000 therefore DOL anticipates contractors requesting preassessment will primarily have previously bid, or plan on bidding on the future, on any contract over that value. Furthermore, DOL has estimated that approximately 10% of all federal contractors have labor law violations, however only half of these contractors will request preassessment from DOL. Therefore, 5% of 2211 is 110.55, rounded to 110 contractors.
- B. Contractors will only request to undergo preassessment once, therefore it is a one-time cost, versus an annual cost.
- C. Form A is for gathering general information about the contractor in regards to their labor law history. Answering this form will require the contractor only represent whether they have any labor law violations, not the specific information for each labor law violation.
- D. Form B is for gathering specific labor law violation information. This estimate is from the Fair Pay and Safe Workplaces PRA.
- E. DOL estimates that the average contractor will have 9.65 labor law violations. This estimate is from the Fair Pay and Safe Workplaces ICR.
- F. Total hours represents ((Form A Hours per response) + (Form B Hours per response X Average number of Form Bs per respondent)) X Total number of respondents.
- G. Rate per hour is calculated using the below table.
- H. Total cost is calculated by multiplying the Total Hours by Rate per Hour (average).

<i>Private Sector Hourly Compensation Rates¹</i>			
Labor Category	Median Hourly Wage	Loaded Wage Factor	Hourly Rate
	a	b	c = a x b
Operations Manager	\$46.99	1.44	\$67.67
Lawyer	\$55.69	1.44	\$80.19
Administrative Assistant	\$17.55	1.44	\$25.27
Legal Support Worker	\$23.47	1.44	\$33.80
Software Analyst	\$47.24	1.44	\$68.03

Burden Summary Table

¹ Rates are based on the median 2015 rates from the Bureau of Labor Statistics, National Occupational Employment and Wage Estimates (OES), rather than a General Schedule (GS) rate, as the OES more closely reflects private sector compensation. A discussion of the rationale for use of the OES rates is found in the RIA Section B. Hourly Compensation Rates. Bureau of Labor Statistics, May 2015, National Occupational Employment and Wage Estimates can be retrieved from http://www.bls.gov/oes/current/oes_nat.htm.

Activity	Number of Respondents	Annual Frequency	Total Annual Responses (Rounded)	Time Per Response (Hours)	Total Annual Burden Hours (Rounded)
Form DL1-7013-A	110	1	110	1	110
Form DL1-7013-B	110	9.65	1062	5.96	6,330
<i>Unduplicated Totals</i>	<i>110</i>	<i>NA</i>	<i>1172</i>	<i>NA</i>	<i>6,440</i>

Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

** The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.*

** If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.*

** Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.*

The Department does not anticipate any annual cost burden to the respondents.

Total Burden Cost (capital/startup): 0. Total Burden Cost (operating/maintaining): 0.

14. *Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.*

<i>Annual Estimated Cost to the Federal Government of Reporting Burden</i>	
A. Number of Respondents	110
B. Government Hours per respondent	20
C. Total Hours	2,200
D. Rate Per Hour	\$111.75
E. Total Annual Cost to the Government	\$245,850.00

- A. Within Fiscal Years (FY) 12-14 Federal Procurement Data System (FPDS) awards valued greater than \$50,000,000 averaged 2211 awards per year. The threshold for contracts to be reviewed under the FPSW for the first six months once effective is \$50,000,000 therefore DOL anticipates contractors requesting preassessment will primarily have previously bid, or plan on bidding on the future, on any contract over that value. Furthermore, DOL has estimated that approximately 10% of all federal contractors have labor law violations, however only half of these contractors will request preassessment from DOL. Therefore, 5% of 2211 is 110.55, rounded to 110 contractors.
- B. DOL estimates it will take approximately 20 hours to assess each contractor’s labor violation information. This figure is pulled directly from Fair Pay and Safe Workplaces PRA.
- C. Total hours represents Number of Respondents X Government Hours per response.
- D. Estimates for this Paperwork Reduction Act information collection reflect Government costs attributable to DOL, as they are the sole agency offering preassessment. For estimating the DOL Rate Per Hour, one General Schedule (GS) scale mid-range, i.e. Step 5, wage rates, adjusted for the locality pay area of Washington-Baltimore-Northern Virginia, are utilized. Therefore, the GS-15 rate of \$111.75 is used for tasks performed by LCAs.
- E. Total annual cost represents Total Hours X Rate Per Hour.

15. *Explain the reasons for any program changes or adjustments reported on the burden worksheet.*

This is a new information collection.

16. *For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

The Department will not publish information obtained from this information collection. Publication of information is not part of the request and is not planned.

17. *If seeking approval not to display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*

The Department will display the expiration date of the information collection.

18. *Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”*

The Department is not seeking any exceptions to the certification statement.

Part B Statistical Methods

This information collection does not employ statistical methods.