

Neomi Rao, Administrator
Office of Management and Budget
Office of Information and Regulatory Affairs
725 17th Street, NW
Washington, D.C. 20006

Dear Ms. Rao:

Pursuant to 5 CFR § 1320.13, the Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) request Office of Management and Budget (OMB) emergency approval of an Information Collection Requirement (ICR) to collect information to support implementation of Section 1634 of Division A of the National Defense Authorization Act for Fiscal Year (FY) 2018 (Pub. L. 115-91), which prohibits the use by the Government of hardware, software, or services developed or provided, in whole or in part, by Kaspersky Lab and related entities. This prohibition takes effect on October 1, 2018. The additional information that will be collected consists of reporting if prohibited articles are discovered during the performance of a contract. This information collection will be effected through a contract clause, included in the Federal Acquisition Regulation through publication of an interim rule.

Passage of section 1634 reflects concern on the part of Congress that Kaspersky Lab represents an unacceptable risk to Government information systems, information, and national security. While the prohibition on the use by the Government of covered articles does not take effect until October 1, 2018, agencies are already purchasing items and services with anticipation that they will be used beyond this date. Passage of the omnibus appropriations bill and the availability of additional funding for FY 18 has increased agency purchasing activity, and the information to be collected is necessary to ensure that this purchasing is done responsibly and consistent with national security.

In view of the foregoing, DoD, GSA, and NASA request emergency OMB approval for this ICR no later than Friday May 11, 2018, to be effective immediately for the maximum period of 6 months. The collection of information is needed prior to the expiration of time periods established and is essential to the successful implementation of this national security effort.

Moreover, DoD, GSA, and NASA cannot comply with the normal clearance procedures because public harm is reasonably likely to result if current clearance procedures are followed. Not only would agencies be more likely to purchase and install prohibited articles, but even if such articles were identified prior to the October 1, 2018 date, agencies would incur substantial additional costs replacing such articles, as well as additional administrative costs for reprocurement.

For these reasons, DoD, GSA, and NASA request a waiver under the requirements set forth in 5 CFR § 1320.13, for prior publication in the *Federal Register*, due to the urgent requirement to implement the Section 1634 prohibition.

Going forward, and in response to public comments received in response to the interim rule, DoD, GSA, and NASA will take all practicable steps to consult with interested agencies and members of the public in order to minimize the burden of the collection of information. Such steps will include preparing a *Federal Register* notice in order to submit a permanent Information Collection Requirement.

If you have any questions, please contact William Clark, Director, Governmentwide Acquisition Policy, General Services Administration, at 202-834-6668 or email william.clark@gsa.gov.

Sincerely,

Date: May 9, 2018

=S= *Linda W. Neilson for*

Shay D. Assad
Director
Defense Pricing/Defense Procurement and Acquisition Policy
Department of Defense

Dated: May 9, 2018

=S=

Jeffrey A. Koses
Senior Procurement Executive/Deputy CAO
Office of Acquisition Policy
U.S. General Services Administration

Dated: May 9, 2018

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Monica Y. Manning
Assistant Administrator
Office of Procurement
National Aeronautics and Space Administration