

Supporting Statement for
OMB Control No. 9000-0066, Labor-related Requirements

FAR Section Affected: 52.222-2, 52.222-6, 52.222-11, 52.222-18, 52.222-33, 52.222-34, 52.222-46, SF 1413, SF 1444

A. Justification.

1. Administrative requirements. The Federal Acquisition Regulatory Council is combining OMB Control Nos. for the Federal Acquisition Regulation (FAR), to reduce the administrative burdens associated with renewing the information collections. This justification supports revision and extension of the expiration date of OMB Control No. 9000-0066 and combines it with the previously approved information collections OMB Control Nos. 9000-0175, 9000-0089, 9000-0014, and 9000-0155, with the new title “Labor-related Requirements”. Upon approval of this consolidated information collection, OMB Control Nos. 9000-0175, 9000-0089, 9000-0014, and 9000-0155 will be discontinued. The burden requirements previously approved under the discontinued Numbers will be covered under OMB Control No. 9000-0066.

OMB Control #	Title	Expiration
9000-0066	Professional Employee Compensation Plan	02/28/2019
9000-0175	Use of Project Labor Agreements for Federal Construction Projects	06/30/2019
9000-0089	Request for Authorization of Additional Classification and Rate Standard Form 1444	10/31/2019
9000-0014	Statement and Acknowledgment (SF 1413)	01/31/2021
9000-0155	Prohibition on Acquisition of Products Produced by Forced or Indentured Child Labor	04/30/2021

This clearance covers the information that offerors and contractors must submit to comply with the requirements in the Federal Acquisition Regulation (FAR) regarding labor as follows:

- a. **52.222-2, Payment for Overtime Premiums.** Paragraph (b) of this clause requires a contractor requesting overtime premiums that exceed the amount specified in paragraph (a) of the clause to do the following: (1) Identify the work unit; e.g., department or section in which the requested overtime will be used, together with present workload, staffing, and other data of the affected unit sufficient to permit the Contracting Officer to evaluate the necessity for the overtime; (2) Demonstrate the effect that denial of the request will have on the contract

delivery or performance schedule; (3) Identify the extent to which approval of overtime would affect the performance or payments in connection with other Government contracts, together with identification of each affected contract; and (4) Provide reasons why the required work cannot be performed by using multishift operations or by employing additional personnel.

- b. **52.222-6**, Construction Wage Rate Requirements. Paragraph (c) of this clause requires the contractor to establish additional classifications, if any laborer or mechanic is to be employed in a classification that is not listed in the wage determination applicable to the contract. The contractor submits to the contracting officer a **Standard Form (SF) 1444**, Request for Authorization of Additional Classification and Rate, along with other pertinent data, containing the proposed additional classification and minimum wage rate including any fringe benefits payments. OMB control numbers 1235-0023, 1235-0008, and 1235-0018 account for records to be kept by employers under the Fair Labor Standards Act (FLSA), 29 CFR 516, which is the basic recordkeeping regulation for all the laws administered by the Department of Labor (DOL) Wage and Hour Division. 29 CFR 516, prescribes labor standards for federally financed and assisted construction contracts subject to the Davis-Bacon and Related Acts (DBRA), as well as labor standards for non-construction contracts subject to the Contract Work Hours and Safety Standards Act (CWHSSA).
- c. **52.222-11**, Subcontracts (Labor Standards). This clause requires contractors to submit **SF 1413**, Statement and Acknowledgment, for each subcontract for construction within the United States, including the subcontractor's signed and dated acknowledgment that the required labor clauses have been included in the subcontract. DOL regulations at 29 CFR Subpart 5.6 require Federal agencies to ascertain compliance with statutes such as the Wage Rate Requirements (Construction) (formerly known as the Davis-Bacon Act) (40 U.S.C. chapter 31), the Copeland Act (Anti-Kickback) (18 U.S.C. 874 and 40 U.S.C. 3145), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 et seq.)
- d. **52.222-18**, Certification Regarding Knowledge of Child Labor for Listed End Products. This provision requires offerors to certify they will not supply an end product of a type identified on the DOL List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, or that the offeror will supply such product, but made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under the contract and is unaware of any such use of child labor. For solicitations for commercial items, the Certification Regarding Knowledge of Child Labor for Listed End Products is at paragraph (i) of the provision at 52.212-3, Offeror Representations and Certifications - Commercial Items. This requirement is necessary to comply with Executive Order 13126, Prohibition of Acquisition of

Products Produced by Forced or Indentured Child Labor, signed by President Clinton on June 12, 1999.

- e. **52.222-33**, Notice of Requirement for Project Labor Agreement, and **52.222-34**, Project Labor Agreement, require offerors (provision) to submit, and contractors (clause) to maintain, a copy of the project labor agreement (PLA). Agencies have discretion on whether or not to use a PLA in connection with large-scale construction contracts, valued at or above \$25M. Agencies may require the PLA be submitted: (1) when offers are due, (2) prior to award (by the apparent successful offeror), or (3) after award.
- f. **52.222-46**, Evaluation of Compensation for Professional Employees. This provision requires offerors to submit for evaluation a total compensation plan setting forth proposed salaries and fringe benefits for professional employees working on the contract. This is required for negotiated service contracts when the contract amount is expected to exceed \$700,000 and the service to be provided will require meaningful numbers of professional employees.

2. Uses of information.

- a. **52.222-2**. Contracting officers use this information to establish the overtime premium to be used during the life of the contract to the extent that the overtime can be estimated with reasonable certainty.
- b. **FAR 52.222-6 and SF 1444**. The information contained on SF 1444 will be transmitted to DOL for review by their Wage and Hour Division to determine the appropriateness of the request (29 CFR 5.5(a)(1)(ii)(B) and (C)).
- c. **FAR 52.222-11 and SF 1413**. Contracting officers use this information to ascertain whether or not the contractors have included the proper clauses in subcontracts.
- d. **FAR 52.222-18**. This information is used by Government contracting officers to ensure that a good faith effort has been made to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product on the List furnished under the contract.
- e. **FAR 52.222-33 and 52.222-34**. This information is required to determine if the otherwise apparently successful offeror has submitted a project labor agreement that conforms with all statutes, regulations and Executive Orders. Failure to collect this information would result in a lack of sufficient information needed by the contracting officer to make an award decision.
- f. **FAR 52.222-46**. The Government will use this information to determine if professional employees are compensated fairly and properly. Plans indicating unrealistically low professional employees' compensation may be assessed adversely as one of the factors considered in making a contract award.

3. Consideration of information technology. Information technology is used 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 issued under the FAR, which has been developed to standardize Federal procurement practices and eliminate unnecessary duplication. Similar information is not already available to the Government.

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.

- a. **FAR 52.222-2.** Collection of information on a basis other than solicitation-by-solicitation is not practical.
- b. **FAR 52.222-6 and SF 1444.** Collection of information on a basis other than solicitation-by-solicitation is not practical.
- c. **FAR 52.222-11 and SF 1413.** Information collection will be conducted on an occasional basis within 14 days after contract award and within 14 days after the award of any subsequently awarded subcontract. Less frequent collection or no collection of information would impede contracting officers from performing their administrative functions in an effective and efficient manner and would not comply with DOL regulations.
- d. **FAR 52.222-18.** This information is collected on occasion, only when an item is acquired on the DOL list. Collecting this information less frequently would render the requirement of the Executive Order unenforceable.
- e. **FAR 52.222-33 and 52.222-34.** Collection frequency is minimal, but required as directed by Federal agencies in their solicitation documents. If the collection is not conducted as required, work on the agency's construction project could be delayed.
- f. **FAR 52.222-46.** Collection of information on a basis other than solicitation-by-solicitation is not practical.

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 60-day notice was published in the *Federal Register* at 83 FR 53876, on October 25, 2018. No comments

were received. A 30-day notice was published in the *Federal Register* at 84 FR 5436 on February 21, 2019.

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. No sensitive questions are involved.

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

a. 52.222-2, Payment for Overtime Premiums.

Estimated respondents*	2,098
Annual responses per respondent	x 1
Total annual responses	2,098
Estimated hours per response	x 0.25
Estimated total burden hours	525
Average wages and overhead**	\$54
Estimated total cost to the public	\$28,350

* The respondents per year are the number of cost-reimbursement contracts that exceed the simplified acquisition threshold in FY 17, which are 2,098.

** The average hourly wage is based on OMB Circular A-76 guidance for quantifying the cost of efforts: (1) the complexity level was deemed to be at the GS-12/step 5 level, so the 2018 hourly rate (\$39.85 an hour) was applied to the estimated hours; and (2) a 36.25% fringe and overhead burden (OMB memorandum M-08-13) was added to the hourly rate, rounded to the nearest dollar, equals \$54 per hour. Reference Salary Table 2018-RUS, Effective January 2018, found at www.opm.gov). The estimated cost per response is \$13.51.

b. FAR 52.222-6 and SF 1444 Request for Authorization of Additional Classification and Rate. In accordance with information provided by DOL, for 2016, the Wage and Hour Division received 7,662 SF 1444s.

Estimated respondents	3,831
Annual responses per respondent	x 2
Total annual responses	7,662
Estimated hours per response	x 0.5
Estimated total burden hours	3,831
Average wages and overhead*	\$65

Estimated total cost to the public

\$249,015

* The average hourly wage is based on OMB Circular A-76 guidance for quantifying the cost of efforts: (1) the complexity level was deemed to be at the GS-13/step 5 level, so the 2018 hourly rate (\$47.38 an hour) was applied to the estimated hours; and (2) a 36.25% fringe and overhead burden (OMB memorandum M-08-13) was added to the hourly rate, rounded to the nearest dollar, equals \$65 per hour. Reference Salary Table 2018-RUS, Effective January 2018, found at www.opm.gov). The estimated cost per response is \$32.50.

c. FAR 52.222-11, Subcontracts (Labor Standards), and SF 1413, Statement and Acknowledgment. Time required to read and prepare information is estimated at 0.05 hours per response. DoD, GSA and NASA analyzed the FY 2017 data from the Federal Procurement Data System (FPDS) to develop the estimated burden hours as shown below:

Estimated respondents*	36,553
Annual responses per respondent**	x 2
Total annual responses	73,106
Estimated hours per response	x 0.05
Estimated total burden hrs	3,655
Average wages and overhead***	x \$54
Estimated total cost to the public	\$197,370

* The respondents per year are the number of construction contracts that exceed \$2,000 in FY 17, which are 36,553.

** The responses per respondent are the number of subcontracts per contract. Many contracts do not have any subcontracts but after consulting experienced contracting officers, an assumption is made that it is reasonable to estimate 2 subcontracts per contract.

*** The average hourly wage is based on OMB Circular A-76 guidance for quantifying the cost of efforts: (1) the complexity level was deemed to be at the GS-12/step 5 level, so the 2018 hourly rate (\$39.85 an hour) was applied to the estimated hours; and (2) a 36.25% fringe and overhead burden (OMB memorandum M-08-13) was added to the hourly rate, rounded to the nearest dollar, equals \$54 per hour. Reference Salary Table 2018-RUS, Effective January 2018, found at www.opm.gov). The estimated cost per response is \$2.69.

d. FAR 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products. As of July 10, 2018, there are 438,216 active registrants in the System for Award Management (SAM). Those registrants are required to complete the Representations and Certifications section of SAM. Of the 438,216 active registrants in SAM, 1,104 registrants identified their business concern as one that may supply an end product that is on the list of products requiring contractor certification as to forced or indentured child labor. The 1,104 registrants will be used as the basis for the number of respondents. We estimate that of those respondents, only 20 percent are responding to the certification for the first time. For those first-time respondents, it may take an

average of 30 minutes to review the instructions and respond to the provisions. However, for the 80 percent of respondents that has responded previously, it should not take more than 6 minutes to check for any change to the DOL List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor and complete the certificate.

	Initial	Update	Total
Estimated respondents	221	883	1,104
Annual responses per respondent	x 1	x 1	x 1
Total annual responses	221	883	1,104
Estimated hours per response	x 0.5	x 0.1	x .18
Estimated total burden hrs	110	88	198
Average wages and overhead*	x 45	x 45	\$45
Estimated total cost to public	\$4,950	\$3,960	\$8,910

* The average hourly wage is based on OMB Circular A-76 guidance for quantifying the cost of efforts: (1) the complexity level was deemed to be at the GS-11/step 5 level, so the 2018 hourly rate (\$33.24 an hour) was applied to the estimated hours; and (2) a 36.25% fringe and overhead burden (OMB memorandum M-08-13) was added to the hourly rate, rounded to the nearest dollar, equals \$45 per hour. Reference Salary Table 2018-RUS, Effective January 2018, found at www.opm.gov). The estimated cost per response is \$8.07.

e. FAR 52.222-33 and 52.222-34, Project Labor Agreement.

Estimated respondents*	45
Annual responses per respondent	x 1
Total annual responses	45
Estimated hours per response	x 1
Estimated total burden hrs	45
Average wages and overhead**	x \$45
Estimated total cost to public	\$2,025

* The number of respondents is estimated to be 11.6 percent of the total number of contractors with unique DUNS numbers awarded construction contracts with a total contract value over \$25M in Fiscal Year 2017, according to FPDS data, 390 x 11.6 percent rounded equals 45.

** The average hourly wage is based on OMB Circular A-76 guidance for quantifying the cost of efforts: (1) the complexity level was deemed to be at the GS-11/step 5 level, so the 2018 hourly rate (\$33.24 an hour) was applied to the estimated hours; and (2) a 36.25% fringe and overhead burden (OMB memorandum M-08-13) was added to the hourly rate, rounded to the nearest dollar, equals \$45 per hour. Reference Salary Table 2018-RUS, Effective January 2018, found at www.opm.gov). The estimated cost per response is \$45.

f. FAR 52.222-46, Evaluation of Compensation for Professional Employees.

Recordkeeping Burden:

Number of respondents*	3,136
Responses per respondent	<u>x 1</u>
Total annual responses	3,136
Estimated hours/response	<u>x 3</u>
Estimated total burden hours	9,408
Average wages and overhead**	<u>x \$54</u>
Total recordkeeping cost to the public	\$508,032

Reporting Burden:

Number of respondents*	3,136
Responses per respondent	<u>x 2</u>
Total annual responses	6,272
Estimated hours per response	<u>x 0.5</u>
Estimated total burden hours	3,136
Average wages and overhead***	<u>x \$31</u>
Total reporting cost to the public	\$97,216

Total public burden:

Number of respondents	3,136
Responses per respondent	<u>x 3</u>
Total responses	9,408
Estimated hours per response	x 1.3333
Estimated total burden hours	12,544
Total cost to the public	\$605,248

* Number of contractors with unique DUNS numbers awarded services contracts with a total contract value over \$700,000 in Fiscal Year 2017, according to FPDS data.

** The average hourly wage is based on OMB Circular A-76 guidance for quantifying the cost of efforts: (1) the complexity level was deemed to be at the GS-12/step 5 level, so the 2018 hourly rate (\$39.85 an hour) was applied to the estimated hours; and (2) a 36.25% fringe and overhead burden (OMB memorandum M-08-13) was added to the hourly rate, rounded to the nearest dollar, equals \$54 per hour. Reference Salary Table 2018-RUS, Effective January 2018, found at www.opm.gov).

*** The average hourly wage is based on OMB Circular A-76 guidance for quantifying the cost of efforts: (1) the complexity level (essentially a clerical duty) was deemed to be at the GS-7/step 5 level, so the 2018 hourly rate (\$22.46 an hour) was applied to the estimated hours; and (2) a 36.25% fringe and overhead burden (OMB memorandum M-08-13) was added to the hourly rate, rounded to the nearest dollar, equals \$31 per hour. Reference Salary Table 2018-RUS, Effective January 2018, found at www.opm.gov). The estimated cost per response is \$64.33.

g. Summary.

Estimated total number of respondents	46,767
Total annual responses	93,423
Estimated total burden hours	20,798
Estimated total annual cost to the public	\$1,090,918

14. Estimated cost to the Government.

a. 52.222-2, Payment for Overtime Premiums.

Responses per year	2,098
Review hours per response	<u>x 1</u>
Estimated total burden hours	2,098
Average wages and overhead*	<u>x \$54</u>
Estimated total annual cost to the Government	\$113,292

* The average hourly wage is based on OMB Circular A-76 guidance for quantifying the cost of efforts: (1) the complexity level was deemed to be at the GS-12/step 5 level, so the 2018 hourly rate (\$39.85 an hour) was applied to the estimated hours; and (2) a 36.25% fringe and overhead burden (OMB memorandum M-08-13) was added to the hourly rate, rounded to the nearest dollar, equals \$54 per hour. Reference Salary Table 2018-RUS, Effective January 2018, found at www.opm.gov).

b. FAR 52.222-6 and SF 1444 Request for Authorization of Additional Classification and Rate. Under the collection, costs to the Government include cost necessary to record the submitted SF 1444 and for the Government to prepare a response to the request based on the number of SF 1444's received by DOL for 2016. It is estimated that the recording and response time for the Government action is 1.5 hours. It is estimated that the cost is based on the average hourly wage salary of GS 13, plus 100% overhead.

Responses per year	7,662
Review hours per response	<u>x 1.5</u>
Estimated total burden hours	11,493
Average wages and overhead*	<u>x \$65</u>
Estimated total annual cost to the Government	\$747,045

* The average hourly wage is based on OMB Circular A-76 guidance for quantifying the cost of efforts: (1) the complexity level was deemed to be at the GS-13/step 5 level, so the 2018 hourly rate (\$47.38 an hour) was applied to the estimated hours; and (2) a 36.25% fringe and overhead burden (OMB memorandum M-08-13) was added to the hourly rate, rounded to the nearest dollar, equals \$65 per hour. Reference Salary Table 2018-RUS, Effective January 2018, found at www.opm.gov).

c. FAR 52.222-11, Subcontracts (Labor Standards), and SF 1413, Statement and

Acknowledgment. Time required for Government review is estimated at 0.05 hours per response.

Responses per year	73,106
Review hours per response	<u>x 0.05</u>
Estimated total burden hours	3,655
Average wages and overhead*	<u>x \$54</u>
Estimated total annual cost to the Government	\$197,370

* The average hourly wage is based on OMB Circular A-76 guidance for quantifying the cost of efforts: (1) the complexity level was deemed to be at the GS-12/step 5 level, so the 2018 hourly rate (\$39.85 an hour) was applied to the estimated hours; and (2) a 36.25% fringe and overhead burden (OMB memorandum M-08-13) was added to the hourly rate, rounded to the nearest dollar, equals \$54 per hour. Reference Salary Table 2018-RUS, Effective January 2018, found at www.opm.gov).

d. FAR 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.

Responses per year	1,104
Review hours per response	<u>x 0.325</u>
Estimated total burden hours	359
Average wages and overhead*	<u>x \$45</u>
Estimated total annual cost to the Government	\$16,155

* The average hourly wage is based on OMB Circular A-76 guidance for quantifying the cost of efforts: (1) the complexity level was deemed to be at the GS-11/step 5 level, so the 2018 hourly rate (\$33.24 an hour) was applied to the estimated hours; and (2) a 36.25% fringe and overhead burden (OMB memorandum M-08-13) was added to the hourly rate, rounded to the nearest dollar, equals \$45 per hour. Reference Salary Table 2018-RUS, Effective January 2018, found at www.opm.gov).

e. FAR 52.222-33 and 52.222-34, Project Labor Agreement.

Responses per year	45
Review hours per response	<u>x 1</u>
Estimated total burden hours	45
Average wages and overhead*	<u>x \$45</u>
Estimated total annual cost to the Government	\$2,025

* The average hourly wage is based on OMB Circular A-76 guidance for quantifying the cost of efforts: (1) the complexity level was deemed to be at the GS-11/step 5 level, so the 2018 hourly rate (\$33.24 an hour) was applied to the estimated hours; and (2) a 36.25% fringe and overhead burden (OMB memorandum M-08-13) was added to the

hourly rate, rounded to the nearest dollar, equals \$45 per hour. Reference Salary Table 2018-RUS, Effective January 2018, found at www.opm.gov).

f. FAR 52.222-46, Evaluation of Compensation for Professional Employees. Time required for Government review is estimated to be 30 minutes.

Responses per year	9,408
Review hours per response	$\times 0.5$
Estimated total burden hours	4,704
Average wages and overhead*	$\times \$45$
Estimated total annual cost to the Government	\$581,445

g. Summary.

Total annual responses	93,423
Estimated total burden hours	22,354
Estimated total annual cost to the Government	\$1,657,332

15. Explain reasons for program changes or adjustments reported in Item 13 or

14. The FAR requirements remain the same. The burden was updated with the latest data available in FPDS. The responses per year did not change significantly except for the estimated number of responses for the provision at 52.222-46. The decrease in responses for this provision is an adjustment due to including only those contracts with a total contract value over \$700,000 as prescribed by 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. 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.