

**SUPPORTING STATEMENT FOR
Aligning Federal Contracting and Hiring Practices With the Interests of American
Workers**

OMB CONTROL NUMBER: 1291-0NEW

This ICR seeks emergency clearance for the information collection requirements contained and described within Executive Order 13940¹. This information collection will be designated as a common form.

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.

On August 3, 2020, President Trump issued Executive Order 13940, *Aligning Federal Contracting and Hiring Practices With the Interests of American Workers* (the Order) to create opportunities for United States workers to compete for jobs, including jobs created through Federal contracts. This Order further bolsters a series of executive actions taken to strengthen the Administration's policy to buy American and hire American. These actions are especially critical to the Nation as we work to boost economic activity.

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.

Section 2(a) and (b) of the Order require agencies to review their federal contractors' use of temporary foreign labor or offshoring practices, where contract work is moved from domestic to foreign performance. Section 2(c) of the Order requires agencies to review whether their federal hiring practices are compliant with U.S. citizenship requirements. Finally, Section 2(d) requires agencies to submit a report to the Office of Management and Budget (OMB) by December 1, 2020, summarizing the results of these reviews and discussing any planned follow-up actions and recommendations for executive or other action. This memorandum provides guidance for conducting reviews and developing reports.

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.

¹ 85 FR 47879 (issued 8/3/2020)

Responses to this information collection will be collected by the Department of Labor (or the Department) administrative contracting officers and provided to the Office of the Senior Procurement Executive (OPSE). OPSE will compile the data and provide any requisite reports in compliance with the Order.

The Department will not collect physical documents/responses in compliance with this information collection.

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 A.2 above.

Information regarding federal contractors' use of temporary foreign labor or offshoring practices is not normally collected in current contracting processes, nor is it captured by programs in other Federal agencies in a manner that could provide insight into federal contractors' hiring practices in the allotted timeframe. As such, these data are not already available and cannot be used or modified for the purposes stated in Question #2 of this supporting statement.

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

This collection will not impact small business or small entities in any significant way.

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.

This will be a one-time information collection. If the information collection is conducted any less frequently, federal agencies will not be able to perform the impact analysis required by the Executive Order.

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 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 secret, 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.**

There are no special circumstance 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.

The Department is requesting an emergency clearance for this information collection. As such, the Department is requesting that OMB waive the Federal Register Notice requirements set forth in 5 Code of Federal Regulations 1320.5(a)(1)(iv) per 5 CFR 1320.13(d).

9. Explain any decision to provide any payments or gifts to respondents, other than remuneration of contractors or grantees.

Neither payments nor gifts are provided to respondents.

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

The Department generally does not consider the data to be confidential. Thus, the Department provides no assurance of confidentiality to respondents.

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 does not consider any of the proposed questions sensitive or private in nature.

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.**
- **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 in Item 14.**

Estimated Annualized Respondent Cost and Hour Burden

Executive Order 13940 Information Collection Requirements				
Number of Respondents (1)	Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden Hrs. & Cost Per Response ² (4)	Total Burden Hours & Total Cost (3)*(4)=(5)
12	2 ³	24	40 hrs.; \$63.95	960 hrs.; \$1,534.80

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **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 service 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 collection 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)**

² The estimated hourly cost (salary plus benefits) provided in this section is based on the salary figures for a GS-13 (Step 10) federal employee in CY2020 (https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf). DOL staff estimates that this salary is representative of the average vendor's employee involvement and compensation for each response. The hourly estimates for salary plus benefits are \$63.95/hour.

³ Each affected respondent is expected (on average) to have more than one contract. Each contract will necessitate a response to this information collection.

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 foresee any capital or start-up costs related to this information collection nor does the Department foresee any requisite purchase of equipment or contracted services outside of normal business activities.

14. Provide estimates of the annualized cost 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), any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 into a single table.

The costs incurred by the Department due to this information collection are considered de minimis.

15. Explain the reasons for any program changes or adjustments.

This is a new, one-time information collection. The Department does not intend to continue this information collection past the approved clearance period. If, however, the Department intends to continue these reporting requirements, Department staff will initiate the normal clearance process in compliance with the Paperwork Reduction Act of 1995⁴ and OIRA's regulations⁵.

16. For collections of information whose results will be published, outline plans for tabulations, 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.

There are no tabulating, statistical, tabulating analysis, or publication plans for the collection of information.

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

Not applicable. The Department is not seeking to display the expiration date of this collection nor is any format proposed that would support displaying the expiration date.

18. Explain each exception to the certification statement.

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

⁴ 44 USC Chapter 35.

⁵ 5 CFR 1320

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OMB Expiration Date: TBD