

STATEMENT OF DETERMINATION

1. In accordance with 5 CFR 1320.13, a senior official or designee, of the Department of Defense has determined that this collection of information is needed prior to the expiration of the time periods under 5 CFR 1320, and it is essential to the mission of the agency. The agency cannot reasonably comply with the normal clearance procedures under Part 1320 since such compliance could cause public harm to the Defense Industrial Base and impact Department of Defense readiness.
2. The Principal Director, Defense Pricing and Contracting in the Office of the Under Secretary of Defense for Acquisition and Sustainment, is submitting the subject requirement for emergency review and approval. This emergency submission is necessary and appropriate to avoid delays in accomplishing the requirement outlined in section 3610 of the Coronavirus Aid, Relief and Economic Security (CARES) Act (Pub. L. 116-136). Section 3610 authorizes contracting officers to modify contracts and other agreements, without consideration, to reimburse contractors for paid leave a contractor provides to keep its employees or subcontractors in a ready state, including to protect the life and safety of Government and contractor personnel, during the public health emergency declared for Coronavirus Disease (COVID-19).
3. DoD is implementing section 3610 via a class deviation that provides policy and guidance to DoD contracting officers on the reimbursement of contractor paid leave to employees who cannot perform work onsite due to facility closures or restrictions and are unable to telework because their jobs cannot be performed remotely. A contractor request for reimbursement under section 3610 must include sufficient documentation to support the request and enable the contracting officer to determine whether a contractor is eligible for reimbursement under section 3610 and, if so, the amount of reimbursement to provide to a contractor. Contractors' requests for reimbursement under section 3610 will vary in dollar amount and complexity; as such, so will the amount and type of information needed from a contractor to support their reimbursement request. Based on this variation, contracting officers will use one of the three checklists provided in the class deviation to advise contractors of the information needed to support their request. A contract clause is also provided to require affected contractors to notify the contracting officer within 30 days of receiving any credits or loan forgiveness for the same paid leave costs reimbursed under section 3610.
4. The information to be collected from contractors is urgently needed to facilitate reimbursement of contractor paid leave under section 3610 in order to prevent the loss of critical skilled labor, sources of supply, and warfighter capabilities due to reduced cash flow that can have an impact on payroll payments, reduced manning, and material throughput within the Defense Industrial Base. Continuing payments to contractors under these conditions enables contractors to keep its employees in a ready state.
5. This emergency clearance has coordinated this submission with the DoD Clearance Officer. The information that is requested is the minimum necessary to comply with the provisions of 10 U.S.C. 1554(a). A Federal Register notice will be published in the Federal Register prior to the submission of a subsequent information collection package to OMB under regular processing timeframes.