

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
OMB CONTROL NO. 9000-0188
Combating Trafficking in Persons**

FAR sections affected: 52.222-50 and 52.222-56

A. Justification.

1. Administrative requirements.

This clearance covers the information that offerors and contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

52.222-50, Combating Trafficking in Persons.

- ***Notification.*** Paragraph (d) of this clause requires contractors to notify the contracting officer and the agency Inspector General of—
 - Any credible information they receive from any source that alleges a contractor employee, subcontractor, or subcontractor employee, or their agent has engaged in conduct that violates the policy in paragraph (b) of the clause 52.222-50; and
 - Any actions taken against a contractor employee, subcontractor, subcontractor employee, or their agent pursuant to this clause.
- ***Compliance Plan and Annual Certification.*** Paragraph (h) of the clause contains an additional requirement for contracts for supplies (other than commercially available off-the-shelf (COTS) items) to be acquired outside the United States and contracts for services to be performed outside the United States, with an estimated value exceeding \$550,000, where the contractor is to maintain a compliance plan during the performance of the contract. This compliance plan must include an awareness program, a process for employees to report activity inconsistent with the zero-tolerance policy, a recruitment and wage plan, a housing plan, and procedures to prevent subcontractors from engaging in trafficking in persons.
 - Contractors are required to provide the compliance plan to the contracting officer upon request.

- Contractors are required to submit a certification to the contracting officer annually after receiving an award, asserting that they have the required compliance plan in place and that there have been no abuses, or that appropriate actions have been taken if abuses have been found.
- For those subcontractors required to submit a certification (see next bullet on flow down), contractors shall require that submission prior to award of the subcontract and annually thereafter.
- Portions of this clause flows down to all subcontractors. The requirements related to the compliance plan only flow down to subcontracts exceeding \$550,000 for supplies (other than COTS items) acquired and services performed outside the United States.
- This clause applies to commercial item acquisitions, except the portions related to the compliance plan do not apply to acquisitions of COTS items.

52.222-56, Certification Regarding Trafficking in Persons Compliance Plan.

- This provision requires apparent successful offerors to submit a certification, prior to award, that they have implemented a compliance plan and that there have been no abuses, or that appropriate actions have been taken if abuses have been found.
- The provision requires this certification for the portion of contracts exceeding \$550,000 for supplies (other than COTS items) acquired and services performed outside the United States.
- This provision applies to commercial item acquisitions, except acquisitions of COTS items.

2. Uses of information.

FAR 52.222-50, paragraph (d) - Notification. The Government uses this notification of potential violations of trafficking in persons requirements to investigate and take appropriate action if a violation has occurred.

FAR 52.222-50, paragraph (h) - Compliance Plan. The Government uses the compliance plan to ascertain compliance with the

Trafficking Victims Protection Act (22 U.S.C. 7104), Executive Order 13627, Strengthening Protections Against Trafficking in Persons in Federal Contracts dated September 25, 2012 (77 FR 60029, October 2, 2012) and Title XVII of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013) or any other applicable law or regulation.

FAR 52.222-50, paragraph (h) and FAR 52.222-56 - Certification.

The Government uses the certification to obtain reasonable assurance that the contractor and its subcontractors are aware of and complying with the requirements of the Executive Order and statute.

3. Consideration of information technology. We use improved information technology 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. These requirements are issued under the FAR, which has been developed to standardize Federal procurement practices and eliminate unnecessary duplication.

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. Collection of information on a basis other than solicitation-by-solicitation or contract-by-contract 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. A 60-day notice was published in the Federal Register at 86 FR 8360, on February 5, 2021. No comments were received.
- B. A 30-day notice was published in the *Federal Register* at 86 FR 19621, on April 14, 2021.

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, current regulations, and statutory requirements.

11. Additional justification for questions of a sensitive nature. No sensitive questions are involved.

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

Total Public Burden: Reporting and Recordkeeping

Estimation of Public Burden: Total Reporting and Recordkeeping	
Number of Respondents/Recordkeepers	5,876*
Responses per Respondent (approximately)	1.99**
Number of Responses (5,934 responses + 5,768 recordkeepers)	11,702
Hours per Response (approximately)	12.3**

Total Estimated Hours (25,722 reporting + 138,432 recordkeeping)	164,154
Average Cost per Hour (approximately)	\$82.97**
Annual public burden \$2,406,490 reporting + \$11,212,992 recordkeeping)	\$13,619,482

* Respondents providing plans and certifying are the same as the recordkeepers, therefore not additive.

** Derived mathematically.

Reporting

(a) Notification (paragraph (d) of FAR 52.222-50). According to the 2020 Trafficking in Persons Report: United States¹ issued by the Department of State, in fiscal year 2019, the Department of Defense (DoD) “reported investigating 65 human trafficking-related cases involving DoD military, civilian, and contractor personnel.” Data specific to the combined cases of human trafficking reported by civilian agencies’ contractors and subcontractors was not included in the report. Considering that DoD represents 60% of federal spend, it is estimated that civilian agencies had a combined 43 (.04 x (65 ÷ .06)) cases for a total estimate of 108 (65 (DoD) + 43 (civilian agencies)) notifications.

The Government estimates a burden of 24 hours to collect and review the data and draft the notification to the contracting officer and agency Inspector general of a potential violation.

Estimated respondents/yr.....	108
Responses annually.....	<u>x 1</u>
Total annual responses.....	108
Estimated hrs/response.....	<u>x 24</u>
Estimated total burden/hrs.....	2,592
Hourly rate*.....	<u>x \$81</u>
Estimated cost to public.....	\$209,952

¹ Latest report published as of the drafting of this Supporting Statement. Report is found at <https://www.state.gov/reports/2020-trafficking-in-persons-report/united-states/>

* Based on the Office of Personnel Management (OPM) 2021 General Schedule (GS) 14/step 5 salary for the rest of the United States (\$59.13 per hour) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar. The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition. The respondent is expected to be a high-level administrator or program manager.

(b) Compliance Plan (paragraph (h) of FAR 52.222-50). Data from the Federal Procurement Data System (FPDS) revealed that there were 4,924 new contracts and task/delivery orders awarded in fiscal year 2020 that exceeded \$550,000, for performance outside of the United States.²

These 4,924 contracts and task/delivery orders were awarded to 1,442 unique entities. There are an estimated 3 subcontractors per prime contractor for a total estimate of 5,768 (1,442 x 4 (3 subcontractors + 1 contractor)) affected contractors and subcontractors.

The Government estimates that a copy of the compliance plan will be requested by the Government from about 58 contractors (about 1% of the time). Contracting officers will usually request copies of compliance plans only if the contracting officer has reason to believe that there may be trafficking in persons activities in violation of the Government's zero-tolerance policy. Generally, this will occur when the contracting agency or an enforcement agency is conducting an audit, investigation, or a formal action. The Government estimates that it should not require more than one hour to send a copy of the pre-existing compliance plan.

Estimated respondents/yr.....	58
Responses annually.....	<u>x 1</u>
Total annual responses.....	58
Estimated hrs/response.....	<u>x 1</u>
Estimated total burden/hrs.....	58
Hourly rate*.....	<u>x \$81</u>
Estimated cost to public.....	\$4,698

² While the FAR applies this requirement to supplies (except for COTS), there is no way to identify a COTS acquisition in FPDS. While it is possible to identify when an acquisition is for a commercial item, even a commercial product, there is no way to further drill down to which of the commercial products are COTS items. As such, the FPDS data provided does not exclude COTS acquisitions.

* Based on the OPM 2021 GS 14/step 5 salary for the rest of the United States (\$59.13 per hour) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar. The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition. The respondent is expected to be a high-level administrator or program manager.

(c) Certification (paragraph (h) of FAR 52.222-50 and FAR 52.222-56).

As mentioned in the previous burden calculation, there were 4,924 new contracts and task/delivery orders awarded in fiscal year 2020 that exceeded \$550,000, for performance outside of the United States, reflecting 1,442 unique entities. The number of respondents for the certification requirement is estimated to be four times the number of unique entities to include three subcontractors per prime contractor (3 subcontractors + 1 contractor) in the estimate (1,442 x 4 = 5,768). Each respondent is required to submit an one certification.

The Government estimates 4 hours for certification, including appropriate review and approvals, and the estimated time necessary to review instructions and to gather the data internally and from subcontractors.

Estimated respondents/yr.....	5,768
Responses annually.....	<u>x 1</u>
Total annual responses.....	5,768
Estimated hrs/response.....	<u>x 4</u>
Estimated total burden/hrs.....	23,072
Hourly rate*.....	<u>x \$95</u>
Estimated cost to public.....	\$2,191,840

* Based on the OPM 2021 GS 15/step 5 salary for the rest of the United States (\$69.55 per hour) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar. The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition. The certifier is expected to be a high-level administrator or attorney.

(d) Total Public Reporting Burden

	Notification	Compliance Plan	Certification	Total
Estimated	108	58	5,768	5,876*

respondents /yr				
Total annual responses	108	58	5,768	5,934
Estimated hrs/response	24	1	4	4.33**
Estimated total burden hrs	2,592	58	23,072	25,722
Hourly rate	\$81	\$81	\$95	\$93.56**
Estimated cost to the public	\$209,952	\$4,698	\$2,191,840	\$2,406,490

* Respondents providing plans are the same respondents as those certifying and therefore not additive.

** Derived mathematically: Hours per response is calculated by dividing total hours by total responses and Hourly rate is calculated by dividing estimated cost to the public by total hours.

Recordkeeping

There is a recordkeeping burden associated with the compliance plan and certification requirements of FAR clause 52.222-50.

The number of recordkeepers is estimated to be four times the number of unique entities awarded the 4,924 contracts and task/delivery orders in fiscal year 2020 that exceeded \$550,000, for performance outside of the United States: 4 X 1,442 unique entities = 5,768 recordkeepers.

It is estimated that each recordkeeper will take 24 hours to review instructions, search existing data sources, gather the data, and maintain the information internally.

Estimated Recordkeepers/yr..... 5,768
Estimated hrs/record..... x 24
Estimated total burden/hrs..... 138,432
Hourly rate*..... x \$81
Estimated cost to public..... \$11,212,992

* Based on the OPM 2021 GS 14/step 5 salary for the rest of the United States (\$59.13 per hour) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar. The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition. The respondent is expected to be a high-level administrator or program manager.

14. Estimated cost to the Government.

The estimated cost to the Government for responding to notifications, reviewing the compliance plans, and certifications are as listed in the table below.

The time estimates are based on receiving, reviewing and analyzing the information submitted by the contractor.

It is estimated that the Government reviewer of notifications and compliance plans will be a high-level administrator or attorney (i.e. GS-15/step 5) and the Government review of certifications will be a mid-level contracting officer (i.e. GS-14/step 5).

	Notification	Compliance Plan	Certification	Total
Total annual responses	108	58	5,768	5,934
Estimated hrs/response	17.6	17.6	0.5	0.98**
Estimated total burden hrs	1900.8	1,020.8	2884	5,805.6
Hourly rate	\$95	\$95	\$81	\$88.04**
Estimated cost to the Government	\$180,576	\$96,976	\$233,604	\$511,156

** *Derived mathematically.*

15. Explain reasons for program changes or adjustments reported in Item 13 or 14. The decrease of responses from 8,536 to 5,934

and the associated decrease in the estimated burden hours for the reporting requirements from 35,764 to 25,722 is an adjustment due to the following:

- Use of the most current data available; and
- A different methodology for estimating the number of notifications that uses data from Department of State's annual Trafficking in Persons report resulting in a more accurate burden estimate.

The decrease of recordkeepers from 5,864 to 5,768 and the associated decrease in the estimated burden hours from 140,736 to 138,432 is an adjustment to use of the most current data available.

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.