

**Supporting Justification Statement for OMB Control Number 0990-0430
HHSAR 337.103(d)(3)**

1. Circumstances Making the Collection of Information Necessary

The Department of Health and Human Services (HHS), Office of the Assistant Secretary for Financial Resources, Office of Acquisitions is requesting the Office of Management and Budget (OMB) grant an extension on a previously approved information collection request, OMB control number 0990-0430, Crime Control Act—Requirement for Background Checks.

Performance of HHS mission requires the support of contractors. In some circumstances, depending on the requirements of the specific contract, the contractor is tasked to provide a list of its personnel who will be dealing with children under the age of 18. After contract award, relevant contractor personnel must undergo a criminal background check as required by HHS Acquisition Regulation (HHSAR) at 337.103(d)(3) (Contracting officer responsibility) and the clause at HHSAR 352.237-72 (Crime Control Act—Requirement for Background Checks) before working on the contract as required by Section 231 of Public Law 101-647, also known as the Crime Control Act of 1990, as amended (currently codified at 34 U.S.C. 20351). The contractor is, therefore, required to provide HHS with a list of the names and other identifying information of its relevant personnel for purposes of enabling HHS to conduct a criminal background check on those individuals.

The Agency is requesting a 3-year extension to collect this information from public or private businesses.

2. Purpose and Use of Information Collection

The purpose of this information collection is to ensure that criminal background checks are performed during the on-boarding process for all contractor personnel intended to deal with children under the age of 18 to confirm that such personnel do not have criminal histories.

3. Use of Improved Information Technology and Burden Reduction

All data submitted by contractors (100 percent) is requested to be submitted electronically. We use improved information technology to the maximum extent practicable. Where contractors are capable of electronic interchange, the contractors may submit this information collection requirement electronically. Nothing in the HHSAR precludes the use of electronic interchange where the requirement is for written documents. To promote efficiency and reduce burden, the information necessary for the purposes of the Crime Control Act—Requirement for Background Checks is being collected at the same time as other “on-boarding information” such as Homeland Security Presidential Directive-12 information.

4. Efforts to Identify Duplication and Use of Similar Information

The particular names and other identifying information on each list are contract-specific and are typically collected only once during contract performance. The type of information collected from each contractor personnel who will interact with children under the age of 18 is the same for each of the estimated 160 contracts.

5. Impact on Small Businesses or Other Small Entities

The requirements of the Crime Control Act apply regardless of the size of the contractor. The data being requested is being provided by the contractor pursuant to the contract requirements and is the requisite information to conduct a criminal background check. Any burden would be the same for any size entity and is necessary for performance of the specific contract. The contract price would reflect the contract requirements. Thus, there is no additional burden or excessive burden placed on small businesses.

6. Consequences of Collecting the Information; Less Frequent Collection

Collection efforts by contractors are in response to specific federal laws that are drafted to address specific missions of HHS; in this case those who are interacting with children under the age of 18.

7. Special Circumstances Relating to the Guidelines of 5 CFR Part 1320.5

- There are no special circumstances related to collection of this information.
- There are no requirements to report information to the agency more often than quarterly.
- Generally, contractors will be required to provide the requisite information after award. In certain specific situations within HHS emerging requirements could dictate a quicker turnaround to allow the personnel to report for contract performance more quickly. In those cases, the data might be required to be submitted with proposals or shortly after contract award. These situations would be the exception to the general practice and would be justified within the contract file documentation.
- Contractors will not be required to submit more than an original and two copies of any document. In virtually all cases, an electronic submission is sufficient.
- Contract laws and regulations specify record retention requirements for contracts.
- It is not expected that any contractor would be required to use a statistical data classification that has not been reviewed and approved by OMB. The information collected does not include statistical data.

- The protection of contractor proprietary, trade secret, or other confidential information and the Government's right to use that data are covered by contract-specific clauses.
- The request fully complies with the regulation.

8. Comments in Response to the Federal Register Notice/Outside Consultation

A 60-day Federal Register Notice was published in the *Federal Register* on August 16, 2021, vol. 86, No. 155; pp: 45740-45742 (see attachment 0990-0430-resources.docx). One comment related to the data collection was received. The commenter wished to remain anonymous and requested that if it is necessary for the individual to disclose previous name(s) as part of the background investigation, that an option be provided where the individual can deliver such name(s) directly to the investigator and kept confidential in cases such as when one changed their name due to gender identity issues. HHS is cognizant of the sensitive and confidential nature of the information. Section 231 of Public Law 101-647, as amended, currently codified at 34 U.S.C. 20351, identifies the methods by which backgrounds checks will be conducted. HHS intends to comply with all applicable federal legislation regarding this subject. Changing the way background checks are conducted is outside the scope of this information collection request. Therefore, no change is being made to the coverage.

9. Explanation of any Payment/Gift to Respondents

There will be no payments or gifts offered to the respondents for this collection of information. This collection of information will be part of the requirements of a federal contract.

10. Assurance of Confidentiality Provided to Respondents

Data will be kept private to the extent allowed by law. The information requested is a list of names and other identifying information of the contractor personnel for whom the criminal background check is necessary. The contracting activity adheres to HSPD-12 processes and procedures. The COR in conjunction with HHS Office of Security and Strategic Information (OSSI) provides information for the contractor personnel to begin the on-boarding process. From that point forward the contractor personnel works closely with OSSI. The criminal background check is performed concurrently with HSPD-12. The Contracting Office receives a confirmation when the individual's background investigation has been completed and the individual is cleared. This ICR does not require the Contracting Office to store more specific PII about each individual's background check. Information provided to HHS by a contractor is subject to being requested by third parties under the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552), but business proprietary information and personal privacy information are generally exempt from public disclosure under the FOIA. The information in this supporting statement has been reviewed by HHS privacy personnel.

11. Justification for Sensitive Questions

No sensitive questions are asked of contractor personnel under this data collection.

12. Estimates of Annualized Hour and Cost Burden

12.A. Estimated Annualized Burden Hours

Type of Respondent	No. of Respondents	No. Responses per Respondent	Average Burden per Response (in hours)	Total Burden Hours
Business (contractor)	160	1	1	160
Total	160	1	1	160

12.B. Estimated Annualized Burden Costs

Type of Respondent	Total Burden Hours	Hourly Wages	Total Cost to the Respondents
Business (contractor)	160	\$61.00	\$9,760.00

13. Estimates of Other Total Annual Cost Burden to Respondents or Recordkeepers/Capital Costs

There are no capital costs associated with this collection.

14. Annualized Cost to Federal Government

There are no equipment or overhead costs. Government FTEs and contractors, however, are being used to support the data collection. The cost to the federal government would be the cost of the salaries of the HHS staff that collects and disseminates the data and the cost of the contractor staff that supports the analysis and submission of the data.

The total estimated annualized cost to the federal government is \$7,761.00. Table A-14 describes how this cost estimate was calculated and the roles.

Table A-14: Estimated Annualized Cost to the Federal Government

Organization	Role	Rate	Hours	Cost
OS/ASFR/ OA	Federal SME	\$82.65	40	\$3,306.00
Contractor	Contractor Analyst	\$104.00	30	\$3,120.00
Contractor	Contractor Staff Support	\$89.00	15	\$1,335.00
Total			85	\$7,761.00

15. Explanation for Program Changes or Adjustments

This is an extension of the current collection effort. There was no change to the current OMB inventory burden hours of 160 hours.

16. Plans for Tabulation and Publication and Project Time Schedule

Approval is requested by February 16, 2022 to allow for continued use of the HHSAR clause.

17. Reason(s) Display of OMB Expiration Date is Inappropriate

There is no request to not display the OMB Expiration Date.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

There are no exceptions to the certification.

SECTION B STATISTICAL METHODOLOGY

This does not require any statistical or other analysis.