

**Supporting Justification Statement for OMB Control Number 0990-0433  
HHSAR 337.103(d)(4)**

**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 0990-0433, Indian Child Protection and Family Violence Act.

Performance of the Indian Health Service (IHS) mission requires the support of contractors. In some circumstances, depending on the requirements of the specific contract, the contractor is tasked to provide personnel who will be working with Indian children under the age of 18, which is subject to the Indian Child Protection and Family Violence Act, Public Law 101-630 (25 U.S.C. 3201 et seq.). After contract award, relevant contractor personnel must undergo a criminal background check as required by HHS Acquisition Regulation (HHSAR) at 337.103(d)(4) (Contracting officer responsibility) and the clause at HHSAR 352.237-73 (Indian Child Protection and Family Violence Act (ICPFVA)) before working on the contract as required by federal law. The contractor is, therefore, required to provide HHS with a list of the names of its relevant personnel for purposes of enabling HHS to conduct a criminal background check on those individuals, as stated in the HHSAR.

**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 ICPFVA requirement is being collected at the same time as other "on-boarding information" such as Homeland Security Presidential Directive-12 information is being collected.

**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 Indian children under the age

of 18 will be the same on the contracts that will require the criminal background checks for those personnel who will work with children under 18 years of age.

#### **5. Impact on Small Businesses or Other Small Entities**

The requirements of the ICPFVA apply regardless of the size of the contractor. The data being requested is being provided by the contractor pursuant to the contract requirements and the requisite information to conduct a proper 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 IHS; 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 IHS 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 0990-0433-resources.docx). No public comments related to data collection were received.

**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. The information in this supporting statement has been reviewed by HHS privacy personnel.

**11. Justification for Sensitive Questions**

No sensitive questions are asked of contractors 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)	2,000	1	0.033	67
Total	2,000	1	0.033	67

<b>13. <u>Estimates of Other Total Annual Cost Burden to Respondents or Recordkeepers/Capital Costs</u></b>				
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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**

<b>Organization</b>	<b>Role</b>	<b>Rate</b>	<b>Hours</b>	<b>Cost</b>
OS/ASFR/OA	Federal SME	\$82.65	40	\$3,306.00
Contractor	Contractor Analyst	\$104.00	30	\$3,102.00
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 a reduction in OMB inventory burden hours from 160 hours to 67 hours due to an adjustment in the agency estimate. The requirement for criminal background checks is routinely included in contracts/orders for medical providers including those providers intended to deal with children under the age of 18. Furthermore, many medical providers on existing contracts/orders already had successful background checks and continue to provide services.

**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.