

**Federal Acquisition Regulation (FAR)**  
**Part 26 Requirements**  
**OMB Control No. 9000-XXXX**  
**Justification – Part A Supporting Statement**

**FAR section affected: 52.226-XX**

Overview of Information Collection:

This justification supports clearance of a new OMB control number due to a revision to an existing collection requirement currently approved under OMB Control No. 9000-0107 that is being transferred to a new FAR part through rulemaking. Under FAR Case 2022-006, Sustainable Procurement, the Department of Defense, General Services Administration, and National Aeronautics and Space Administration amended the FAR to restructure and update FAR part 23 to focus on current environmental and sustainability matters. As part of that effort, the FAR rule transferred the clause at FAR 52.223-6, Drug-Free Workplace, and the associated reporting requirements to FAR part 26, Other Socioeconomic Programs, and renumbered the clause as FAR 52.226-XX. There are no program changes to this clause; the FAR requirements remain the same.

1. Needs & Method for the Information Collection. This clearance covers the information that contractors must submit to comply with the following FAR part 26 requirements:

*FAR 52.226-XX, Drug-Free Workplace.* This clause requires a contractor to require its employees to notify it of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction. The contractor is further required to notify the contracting officer in writing within ten days after receiving notice of an employee conviction.

2. Use of the Information. The Government uses this information to ensure contractor compliance with the statutory requirements to maintain a drug-free workplace. The information is also used by the contracting officer to understand any impacts on contract performance.

3. Use of Information Technology. Federal agencies use 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. Non-duplication. These requirements are issued under the FAR, which has been developed to standardize Federal procurement practices and eliminate unnecessary duplication.

5. Burden on Small Business. The burden applied to small businesses is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

6. Less Frequent Collection. Collection of information on a basis other than contract-by-contract is not practical.

7. Paperwork Reduction Act Guidelines. Collection is consistent with guidelines in 5 CFR 1320.5(d)(2).

8. Consultation and Public Comments.

A 60-day notice was published in the *Federal Register* at 88 FR 51672, on August 3, 2023, as part of a proposed rule under FAR case 2022-006.

9. Gifts or Payment. This collection does not provide any payment or gift to respondents, other than remuneration of contractors.

10. Privacy & Confidentiality. This information is disclosed only to the extent consistent with prudent business practices, current regulations, and statutory requirements.

11. Sensitive Questions. No sensitive questions are involved.

12. Burden Estimate. The following estimates of annual public hour and cost burden are based on averages of historical award data available in the Federal Procurement Data System (FPDS) for fiscal years 2019 through 2021. The hourly rate of pay is based on the Office of Personnel Management (OPM) 2022 General Schedule (GS) 9/step 5 salary for the rest of the United States (\$29.72 per hour) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar (\$41). The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition.

*FAR 52.226-XX, Drug-Free Workplace.* This clause is prescribed in FAR 26.506 for use in all contracts except those that are: valued at or below the simplified acquisition threshold (unless the contract is with an individual); for the acquisition of commercial products and commercial services; performed outside the United States and its outlying areas; or, by law enforcement agencies, if application would be inappropriate in connection with the agency's undercover operations. On average per year, the Government awards 21,352 non-commercial contracts valued at greater than the simplified acquisition threshold with performance inside the United States to 7,444 unique awardees. The Government estimates that 252 of these contractors (~3.4 percent)

may have employees that fall under this statistic.<sup>1</sup> The Government further estimates that 228 of these contractors (90 percent) may receive notice of an employee drug conviction and that it takes thirty minutes to prepare the notice.

Estimated respondents/year		228
Responses/respondent annually	x	<u>1</u>
Total annual responses		228
Estimated hours/response	x	<u>0.5</u>
Estimated total burden hours		114
Hourly rate (GS-9/Step 5 + 36.25%)	x	<u>\$41</u>
Estimated cost to public		\$4,674

13. Estimated nonrecurring costs. Not applicable.

14. Estimated cost to the Government.

*FAR 52.226-XX, Drug-Free Workplace.* It is estimated that it takes the contracting officer thirty minutes to review the information provided by the contractor.

Total annual responses		228
Review time/response	x	<u>0.5</u>
Review time/year		114
Hourly rate (GS-13/Step 5 + 36.25%)	x	<u>\$70</u>
Estimated cost to Government		\$7,980

15. Reason for Changes. FAR Case 2022-006, Sustainable Procurement, transferred the FAR clause 52.223-6, Drug-Free Workplace, from FAR part 23 to FAR part 26, Other Socioeconomic Programs, and renumbered the clause as FAR 52.226-XX. As such, the existing collection requirements associated with the clause are being transferred from OMB Control No. 9000-0107 to this new OMB Control No. for FAR part 26 Requirements. There are no program changes; the rule simply renumbered the clause and changed the location of the collection requirement within the FAR.

16. Publicizing Results. Results will not be tabulated or published.

17. OMB Not to Display Approval. Approval to *not* display the expiration date for OMB approval of the information collection is not sought.

<sup>1</sup> A study of the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services, National Household Surveys on Drug Use and Health, indicated that 8.2 percent of full-time workers were illicit drug users; however, only 3.4 percent of workers in a protective service occupation were likely to be illicit drug users (see <https://bjs.ojp.gov/drugs-and-crime-facts/drug-use> <https://bjs.ojp.gov/drugs-and-crime-facts/drug-use>). For the purposes of this analysis, the Government is using the lower percentage.

18. Exceptions to “Certification for Paperwork Reduction Submissions.” There is no exception to the certification statement.

19. Surveys, Censuses, and Other Collections that Employ Statistical Methods. Statistical methods are not used in this information collection. A Part B supporting statement is not needed, or required, and therefore was not complete.