

SUPPORTING STATEMENT- PART A

Requests for Reimbursement under Section 3610 of the CARES Act OMB Control Number 0750-000X

A. JUSTIFICATION

1. Need for the Information Collection

Section 3610 of the Coronavirus Aid, Relief and Economic Security (CARES) Act (Pub. L. 116-136), enacted on March 27, 2020, authorizes, but does not require, 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).

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, a contractor's reimbursement request will fall into one of three different categories and contracting officers will use one of the following checklists will be used to advise contractors of the information needed to support their request:

- *Abbreviated Reimbursement Checklist.* Guidance for section 3610 reimbursement requests when the request applies only to reimbursement under a single contract of direct charged employees provided with paid leave, and the amount of reimbursement requested is below \$2,000,000 in total. This checklist may also be used in conjunction with either the multipurpose or global reimbursement checklist for subcontractor reimbursement requests that meet the conditions of this checklist. Section 3610 reimbursement requests meeting these conditions should be provided to the contracting officer.
- *Multipurpose Reimbursement Checklist.* Guidance for section 3610 reimbursement requests that apply to a single contract, when the

Abbreviated Reimbursement Checklist is not applicable and when the Global Settlement Checklist is not being used. Section 3610 reimbursement requests using this checklist should include homogeneous groups of contracts, such as contracts for a single program or with a single contracting activity or DoD Component. Section 3610 reimbursement requests meeting these conditions should be provided to a contracting officer in the applicable contracting activity or Component. At their discretion, when multiple contracts are involved, contracting activities or DoD Components may appoint a lead contracting officer to ensure consistency and efficiency in considering the section 3610 reimbursement request.

- *Global Reimbursement Checklist.* Guidance for section 3610 reimbursement requests that seek a global reimbursement at a business unit (or segment) level. Section 3610 reimbursement requests meeting these conditions should be provided to the contractor's assigned Cognizant Federal Agency Official (CFAO).

The information described in the checklists are necessary to collect from contractors in order to ensure that contracting officers are able to determine whether to approve the request for reimbursement and expediently modify the affected contract(s) for the authorized reimbursement amount. The information described in the checklists is not all inclusive and the contracting officer may request additional documentation from the contractor to support its request, as necessary.

Section 3610 also requires that any reimbursements made under its authority are reduced by the amount of credit a contractor is allowed under other provisions of the CARES Act and division G of the Families First Coronavirus Response (FFRCA) (Pub. L. 116-127). As the status of such credits may not be known at the time of reimbursement, a new DFARS clause 252.2XX-700X is created to require contractors to notify the contracting officer of any credits received after receiving reimbursement under section 3610 and make any repayment, as necessary, to comply with the requirements of section 3610.

2. Use of the Information

The information described in the checklists and provided by contractors in their requests for section 3610 reimbursement is used by the contracting officer to make an "affected contractor" determination and establish the amount of any reimbursement. The contracting officer must be able to determine, from the information provided, that—

a. The contractor has provided paid leave to its employees or subcontractor employees “to maintain a ready state, including to protect the life and safety of Government and contractor personnel,” due to the Public Health Emergency (PHE) declared on January 31, 2020 for COVID-19;

b. The leave was taken between March 27, 2020 and September 30, 2020, and all costs for which the contractor requests reimbursement are incurred and paid prior to the date of the contractor’s reimbursement request;

c. The contractor has not been reimbursed for the same costs for which it is requesting reimbursement;

d. The leave was paid because the contractor’s employees or subcontractors could not perform work on a Government-owned; Government-leased, contractor-owned, or contractor-leased facility or site, approved by the Federal Government for contract performance, due to COVID-19-related closures or other restrictions;

e. The employees or subcontractors were unable to telework because their job duties could not be performed remotely; and

f. The requested reimbursement does not result in a total of paid work and paid leave charges for any employee or subcontractor employee exceeding an average of 40 hours per week.

The contracting officer documents the contract file with a written determination of a contractor’s “affected” status and includes the information provided by the contractor with the determination. The contracting officer also uses the information provided by the contractor to establish any applicable reimbursement amount includes the information in the contract file to support the established reimbursement amount. The contracting officer must also note in the contract file and/or contract modification their reliance on the contractor’s representation that the information submitted is accurate and complete. All of the documentation provided by contractors in their request for reimbursement also facilitates and supports any contract file reviews or audits.

3. Use of Information Technology

Information technology is used to maximum extent practicable. Contractors can email their requests for reimbursement and utilize Wide Area Workflow to submit any subsequent invoices to be reimbursed under section 3610.

4. Non-duplication

As a matter of policy, DoD reviews the DFARS to determine whether adequate language already exists. This information collection does not duplicate any other requirement.

5. Burden on Small Business

The burden applied to small business is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

6. Less Frequent Collection

The proposed collection of information will be conducted on an occasional basis when contractors choose to submit a request for reimbursement under section 3610. Less frequent collection or no collection of information would result in delays in DoD's ability to process contractor requests for reimbursement.

7. Paperwork Reduction Act Guidelines

There are no special circumstances for collection. Collection of this information is consistent with the guidelines at 5 CFR 1320.5(d)(2).

8. Consultation and Public Comments

a. Defense Pricing and Contracting has engaged with industry on ways to implement section 3610 of the CARES Act.

i. DPC posted an early engagement opportunity related to the CARES Act, which was announced in the *Federal Register* on April 22, 2020, at [85 FR 22410](#). 19 responses from industry partners have been received, which were considered in drafting the guidance.

ii. In addition, DoD provided industry partners an early engagement opportunity to review the overarching guidance, checklist, and checklist instructions for the DoD Process for Section 3610 Reimbursement and submit additional feedback, which was considered in the finalization of the overarching policy guidance and contents of the checklist and instructions.

b. This information collection is consistent with the guidelines in 5 CFR 1320.6.

i. A notice requesting OMB emergency clearance of the collections of information was published in the *Federal Register* on _____, at _____, which solicited public comments on the collection of information. ____ comments were received in response to the notice.

ii. A notice of submission to OMB for clearance of this information collection was published in the *Federal Register* _____, at _____.

9. Gifts or Payment

DoD will not provide payment or gift to respondents of this information collection requirement.

10. Confidentiality

This information is disclosed only to the extent consistent with statutory requirements, current regulations, and prudent business practices. The collection of information includes personally identifiable information (PII) in that it requests information on sick leave by employee to support an affected contractor's request for reimbursement of paid sick leave under section 3610 of the CARES Act. After consultation with the Privacy Officer it was determined that a privacy impact assessment and system of records notices is not necessary; the PII being requested is part of a proposal being reviewed by a contracting officer and will be handled, stored, and protected in contract files in the same manner other proposal information in the contract file.

11. Sensitive Questions

No sensitive questions are involved in the information collection.

12. Respondent Burden, and its Labor Costs

A. *Abbreviated Reimbursement Checklist*

The following is a summary of the estimated burden associated with contractors gathering the information described in the abbreviated reimbursement checklist to include in their request for reimbursement under section 3610 of the CARES Act:

Estimation of Respondent Burden – Abbreviated Reimbursement Checklist	
Number of respondents	12,655
Responses per respondent	1
Number of responses	12,655
Hours per response	20
Estimated hours	253,100
Cost per hour (hourly wage)	\$56.76
Cost per response	\$1,135.20
Annual public burden	\$14,365,956

i. OMB Control Number 9000-0013 covers the burden associated with contractor submissions of certified cost and pricing data or other than certified cost or pricing data. Since the knowledge and expertise needed to collect, format, and submit the data described in the abbreviated checklist is similar to the knowledge and expertise needed to perform similar efforts under 9000-0013, DoD used the cost per hour under that clearance as the basis for the burden estimate for the checklist. The cost per hour is the Office of Personnel Management (OPM) General Schedule (GS) hourly rate of \$41.66 for a GS-12, step 5, employee (Salary Table 2020-RUS) plus the 36.25% civilian personnel full fringe benefit rate from Office of Management and Budget (OMB) memorandum M-08-13 ($\$41.66 + \$15.10 = \$56.76$).

ii. OMB Control Number 9000-0013 (FAR clause 52.215-21) estimates 20 hours per response to execute a priced contract modification when the requirement to submit certified cost or pricing data is waived and only an update to the contract information is necessary from the contractor. DoD estimates that the abbreviated reimbursement checklist, which only applies to direct labor rates and does not require the submission of certified cost or pricing data, requires a similar burden per response to a response in which the submission of certified cost and pricing data is waived under 9000-0013.

iii. Data from the Federal Procurement Data System (FPDS) for Fiscal Years (FYs) 2017 – 2019 and the advice of DoD subject matter experts were used to estimate the number of responses. The estimated number of responses is the sum of a percentage (10%) of commercial service contracts awarded annually that are valued greater than the simplified acquisition threshold (SAT), and a percentage (approximately 35%) of non-commercial supply and service contracts awarded annually that are valued greater than the SAT. The estimated number of responses excludes commercial supply contracts and contracts with an estimated value less than the SAT, in consideration of the shorter delivery timeframes and off-the-shelf properties of many commercial supply contracts and the cost to a contractor to submit a request versus the benefit to be recognized from that request on lower valued contracts.

a. FPDS data for FYs 2017 – 2019 indicates that DoD awards an average of 8,634 commercial service contracts annually. DoD estimates that 10 percent (or 863 requests) of these contracts/contractors will submit a request for reimbursement. In estimating the percentage, DoD considered that the Government is not the primary market for most commercial entities and the data required with a request is not of a type typically provided by commercial entities.

b. FPDS data for FYs 2017 – 2019 indicates that DoD awards an average of 33,693 non-commercial service and supply contracts annually. DoD estimates that 35 percent (or 11,792 requests) of these contract/contractors will submit a request for reimbursement. In estimating the percentage, DoD considered the complexity of non-commercial supplies and services, the ability of contractors to telework, the cost to a contractor to submit a request versus the benefit to be recognized from that request on lower valued contracts, and the amount of data and information required from respondents per response.

c. The number of respondents is equivalent to the number of responses, as DoD does not have data readily available to approximate the number of unique entities that will

submit a response. DoD considered the number of unique entities in developing the percentages described in paragraphs c.i. and c.ii. of this supporting statement.

B. Multipurpose Reimbursement Checklist

i. *When the submission of certified cost and pricing data is required.* The following is a summary of the estimated burden associated with contractors gathering the certified cost and pricing data described in the multipurpose reimbursement checklist to include in their request for reimbursement under section 3610 of the CARES Act:

Estimation of Respondent Burden – Multipurpose Reimbursement Checklist- Certified Cost and Pricing Data	
Number of respondents	404
Responses per respondent	1
Number of responses	404
Hours per response	160
Estimated hours	64,640
Cost per hour (hourly wage)	\$56.76
Cost per response	\$9,081.60
Annual public burden	\$3,668,966

a. The cost per hour, number of responses, and number of respondents is based in the rationale described in paragraph 12A above.

b. OMB Control Number 9000-0013 (FAR clause 52.215-21) estimates 160 hours per response to request a priced contract modification in which the submission of certified cost and pricing data in accordance with Table 15-2 at FAR 15.408, as necessary. Table 15-2 requires contractor data/information on (when applicable) general contract data, material, direct labor, indirect costs, other costs, royalties, and facilities capital cost of money. DoD estimates that a submission of certified cost or pricing data under the multipurpose reimbursement checklist, which also requires general contract(s) data, direct labor, indirect labor, other costs and contractor-specific information related to section 3610 requirements, requires a similar burden per response to a response in which the submission of certified cost and pricing is required under 9000-0013.

c. FPDS data for FYs 2017 – 2019 indicates that DoD awards an average of 33,693 non-commercial service and supply contracts annually. DoD estimates that 1 percent (or 404 requests) of these contract/contractors will submit a request for reimbursement using the multipurpose checklist and be required to provide certified cost and pricing data. In estimating the percentage, DoD considered: the estimated percentage of contract modifications that require the submission of certified cost and pricing data under 9000-0013; the complexity of non-

commercial supplies and services, that the combined amount of some contractor’s reimbursement requests (across contracts) will be large enough to justify the time/cost burden to submit a consolidated request requiring additional data and information, contract administration may, in certain instances, retained by the Component or contracting activity, and the amount of data and information required from respondents per response.

ii. *When the submission of other than certified cost and pricing data is required.* The following is a summary of the estimated burden associated with contractors gathering the other than certified cost and pricing data described in the multipurpose reimbursement checklist to include in their request for reimbursement under section 3610 of the CARES Act:

Estimation of Respondent Burden – Multipurpose Reimbursement Checklist – Other than Certified Cost and Pricing Data	
Number of respondents	2,965
Responses per respondent	1
Number of responses	2,965
Hours per response	80
Estimated hours	237,200
Cost per hour (hourly wage)	\$56.76
Cost per response	\$4,540.80
Annual public burden	\$13,463,472

a. The cost per hour, number of responses, and number of respondents is based in the rationale described in paragraph 12A above.

b. OMB Control Number 9000-0013 (FAR clause 52.215-21) estimates 80 hours per response to request a priced contract modification in which the submission of other than certified cost and pricing data in accordance with Table 15-2 at FAR 15.408 in necessary.

DoD estimates that a submission of other than certified cost or pricing data under the multipurpose reimbursement checklist, which also requires general contract(s) data, direct labor, indirect labor, other costs and contractor-specific information related to section 3610 requirements, requires a similar burden per response to a response in which the submission of other than certified cost and pricing is required under 9000-0013.

c. FPDS data for FYs 2017 – 2019 indicates that DoD awards an average of 33,693 non-commercial service and supply contracts annually. DoD estimates that 9 percent (or 2,965 requests) of these contract/contractors will submit a request for reimbursement using the multipurpose checklist and be required to provide other than certified cost and pricing data. In estimating the percentage, DoD considered: the estimated percentage of contract modifications that require the submission of other than certified cost and pricing data under 9000-0013; the complexity of non-commercial supplies and services, that the combined amount of some

contractor’s reimbursement requests (across contracts) will be large enough to justify the time/cost burden to submit a consolidated request requiring additional data and information, contract administration may, in certain instances, retained by the Component or contracting activity, and the amount of data and information required from respondents per response.

C. Global Reimbursement Checklist

The following is a summary of the estimated burden associated with contractors gathering the information described in the global reimbursement checklist to include in their request for reimbursement under section 3610 of the CARES Act. This global reimbursement checklist is significantly different than the other two as it introduces a companywide approach which a very general understanding of the entire segment is necessary to facilitate a global perspective. These settlement actions have the potential to be a significant amount of money.

Estimation of Respondent Burden – Global Reimbursement Checklist	
Number of respondents	200
Responses per respondent	1
Number of responses	200
Hours per response	4,800
Estimated hours	960,000
Cost per hour (hourly wage)	\$56.76
Cost per response	\$277,448
Annual public burden	\$54,489,600

i. The cost per hour, number of responses, and number of respondents is based in the rationale described in paragraph 12A above.

ii. Estimate of 200 global reimbursement requests is based on the Defense Contract Management Agency having approximately 100 Divisional Administrative Contracting Officers (ACOs) and 20 Corporate ACOs with some responsible for more than one contractor or contractor segment. Not all will likely submit. This estimates that there might be another 100 or so global requests submitted to ACOs or component contracting officers.

iii. Estimate of 4800 hours per global reimbursement requests is based on 20 full-time equivalent (FTE) employees and 40 hour weeks over a 6 week period. There might be significantly more than 20 employees supporting the project, but not all would be anticipated to support full time (i.e. management and legal reviews). The majority of time estimated is based on the contractor's responsibilities in the area of supply chain and evaluation of the subcontractor

requests being submitted through prime contractor. There is a wide possibility in range for this effort.

iv. This global reimbursement checklist is significantly different than the other two as it introduces a companywide approach which a very general understanding of the entire segment is necessary to facilitate a global perspective. These actions also have the potential to be a significant amount of money. One difference from the other submissions, is the inclusion of the rough order of magnitude (ROM) section. The intent of the ROM is not to support reimbursement for the contractor but instead be prepared to seek funding. The ROM will also provide indicators that will support the evaluation of the contractors reimbursement requests. The section specific to the ROM information for the breakdown of subcontracts that the contractor performs under another contractor’s contract by significant Agency is intended to maintain a consistent understanding the contractors overall business make-up. The intent is not to seek reimbursement of these costs but to use this information as indicators to support the overall evaluation of the section 3610 costs. Section 3610 costs are similar to costs which would normally be charged as indirect and these indicators can help understand the proper flow and allocation of the paid leave costs, which will help to limit the risk of duplication. An understanding of the breakdown in costs in this manner will also help if there is a need to pursue funding through multiple Services/Agencies as it can answer roughly how much a single contractor incurred by service/agency. Many major subcontractors will not provide the details to the prime contractor due to competition and this data will help provide indicators if the DoD is requested to support the evaluation of the major subcontractor. This is common for major proposal efforts.

D. DFARS clause 252.XXX-700X

The following is a summary of the estimated burden associated with contractors providing the Department with the status of any loan forgiveness received pursuant to division G of the FFCRA or the CARES Act, or any other credits permitted by law, after receiving reimbursement under section 3610:

Estimation of Respondent Burden – DFARS Clause 252.2XX-700X	
Number of respondents	8,113
Responses per respondent	1
Number of responses	8,113
Hours per response	1
Estimated hours	8,113
Cost per hour (hourly wage)	\$56.76
Cost per response	\$56.76
Annual public burden	\$460,494

i. The cost per hour and number of respondents is based on the rationale described in paragraph 12A above.

ii. DoD estimates that 50% of the total number of respondents to the abbreviated, multipurpose, and global checklist or 8,113 respondents will be required to notify and provide information to the contracting officer, after a contract modification, as required by the clause. In estimating the percentage, DoD considered the availability of various credits and assistance programs available to contractors in response to the PHE declared for COVID-19, and the timeframe in which it may take contractors to receive and/or finalize the amount of applicable credits and or loans for which the clause requires notification to the Department.

iii. DoD estimates that it will take approximately one hour to prepare and submit a notification to the contracting officer.

E. Estimate of Total Respondent Burden

The following is a summary of the estimated burden associated with contractors gathering the requested information to include in their request for reimbursement under section 3610 of the CARES Act:

Estimation of Respondent Burden	
Number of responses	24,337
Estimated hours	1,523,053
Annual public burden	\$87,448,488

13. Estimated nonrecurring costs.

There are no nonrecurring costs, i.e., capital and start-up, or operation and maintenance costs for contractors.

14. Estimated cost to the Government.

The following is a summary of the estimated burden for DoD contracting officers to review of potential contractor submissions of requests for reimbursement:

Estimation of Government Burden	
Number of responses	24,337
Hours per response	5
Estimated hours	121,885
Cost per hour (hourly wage)	\$56.76

Cost per response (rounded to the nearest \$)	\$283.35
Annual Government burden	\$6,907,223

The estimated hours per response and cost per hour are the same as the Government estimate under OMB Control Number 9000-0013. While review of contractor submissions under a global settlement may be significantly more than 5 hours, it is expected that the majority of submissions would take much less time of a contracting officer to review.

15. Reasons for changes in burden.

This is a new collection of information necessary to implement section 3610 of the CARES Act.

16. Publication.

Results of this information collection will not be published.

17. Non-Display of OMB Expiration date.

DoD does not seek approval to not display the expiration date for OMB approval of the information collection.

18. Exceptions to “Certification for Paperwork Reduction Submissions”.

There are no exceptions to the certification accompanying this Paperwork Reduction Act submission.