

Respond to a Pandemic” (Voluntary Agreement).<sup>4</sup> Unless terminated prior to that date, the Voluntary Agreement is effective until August 17, 2025, and may be extended subject to additional approval by the Attorney General after consultation with the Chairman of the Federal Trade Commission. The Agreement may be used to prepare for or respond to any pandemic, including COVID-19, during that time.

On December 7, 2020, the first plan of action under the Voluntary Agreement—the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Personal Protective Equipment (PPE) to Respond to COVID-19 (Plan of Action)—was finalized.<sup>5</sup> The Plan of Action established several subcommittees under the Voluntary Agreement, focusing on different aspects of the Plan of Action.

The meetings were chaired by the FEMA Administrator or his delegate, and attended by the Attorney General or his delegate and the Chairman of the Federal Trade Commission or his delegate. In implementing the Voluntary Agreement, FEMA adheres to all procedural requirements of 50 U.S.C. 4558 and 44 CFR part 332.

*Meeting Objectives:* The objectives of the meetings were to:

(1) Establish priorities for COVID-19 PPE under the Voluntary Agreement;

(2) Identify tasks that should be completed under specific subcommittees; and

(3) Identify information gaps and areas that merit sharing (from both FEMA to private sector and vice versa).

*Meetings Closed to the Public:* By default, the DPA requires meetings held to implement a voluntary agreement or plan of action be open to the public.<sup>6</sup> However, attendance may be limited if the Sponsor<sup>7</sup> of the voluntary agreement finds that the matter to be discussed at a meeting falls within the purview of matters described in 5 U.S.C. 552b(c). The Sponsor of the Voluntary Agreement, the FEMA Administrator, found that these meetings to implement

the Voluntary Agreement involved matters which fell within the purview of matters described in 5 U.S.C. 552b(c) and were therefore closed to the public.<sup>8</sup>

Specifically, the meetings to implement the Voluntary Agreement could have required participants to disclose trade secrets or commercial or financial information that is privileged or confidential. Disclosure of such information is a basis for closing meetings pursuant to 5 U.S.C. 552b(c)(4). In addition, the success of the Voluntary Agreement depends wholly on the willing and enthusiastic participation of private sector participants. Failure to close these meetings could have had a strong chilling effect on participation by the private sector and caused a substantial risk that sensitive information would be prematurely released to the public, resulting in participants withdrawing their support from the Voluntary Agreement and thus significantly frustrating the implementation of the Voluntary Agreement. Frustration of an agency’s objective due to premature disclosure of information allows for the closure of a meeting to pursuant to 5 U.S.C. 552b(c)(9)(B).

**Pete Gaynor,**

*Administrator, Federal Emergency Management Agency.*

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## DEPARTMENT OF HOMELAND SECURITY

[Docket Number DHS-2021-0004]

### Agency Information Collection Activities: COVID-19 Contact Tracing, COVID-19 Contact Tracing Scripts, COVID-19 Contact Tracing Form

**AGENCY:** Department of Homeland Security (DHS).

**ACTION:** 60-day notice and request for comments; extension without change of a currently approved collection, 1601-0027.

**SUMMARY:** The Department of Homeland Security, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in

<sup>8</sup> Under 50 U.S.C. 4558(h)(8), the Sponsor generally must publish in the **Federal Register** prior notice of any meeting held to carry out a voluntary agreement or plan of action. However, when the Sponsor finds that the matters to be discussed at such meeting fall within the purview of matters described in 5 U.S.C. 552b(c), notice of the meeting may instead be published in the **Federal Register** within ten days of the date of the meeting. See 50 U.S.C. 4558(h)(8).

accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted until March 16, 2021. This process is conducted in accordance with 5 CFR 1320.1

**ADDRESSES:** You may submit comments, identified by docket number Docket # DHS-1601-0027, at:

○ *Federal eRulemaking Portal:* <http://www.regulations.gov>. Please follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name and docket number Docket # DHS-1601-0027. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

### SUPPLEMENTARY INFORMATION:

COVID-19 Contact Tracing information is necessary to support the President’s National Guidelines for all phases of *Opening Up America Again*. The Office of Management and Budget (OMB) M-20-23 Memorandum for Heads of Executive Department requires employers to develop and implement policies and procedures for workforce contact tracing following an employee’s COVID-19 positive test. The M-20-23 Memorandum requires symptomatic Federal employees and contractors to follow their Agency’s process if they are symptomatic or test positive for COVID-19. It specifies that the agency processes should protect the anonymity and privacy of Federal employees and contractors, to the extent possible, while disclosing only the information necessary for agencies to take appropriate actions of notifying potentially affected employees and cleaning the facility. Additionally, per the Centers for Disease Control and Prevention guidance entitled *Get and Keep America Open*, COVID-19 Contact Tracing is essential to reduce the spread of COVID-19. Furthermore, in response to the Coronavirus Pandemic, public health leaders are calling for communities around the country to ramp up capacity and implement a massive contact tracing effort to control spread of the Coronavirus. The response and recovery from the effect of COVID-19 will continue to present Federal agencies with unprecedented challenges, as well as opportunities for improvement, that require new processes and practices such as COVID-19 Contact Tracing to keep the workforce and the public safe. As DHS plans to reconstitute the workforce, it is

<sup>4</sup> 85 FR 50035 (Aug. 17, 2020). The Attorney General, in consultation with the Chairman of the Federal Trade Commission, made the required finding that the purpose of the voluntary agreement may not reasonably be achieved through an agreement having less anticompetitive effects or without any voluntary agreement and published the finding in the **Federal Register** on the same day. 85 FR 50049 (Aug. 17, 2020).

<sup>5</sup> See 85 FR 78869 (Dec. 7, 2020). See also 85 FR 79020 (Dec. 8, 2020).

<sup>6</sup> See 50 U.S.C. 4558(h)(7).

<sup>7</sup> “[T]he individual designated by the President in subsection (c)(2) [of section 708 of the DPA] to administer the voluntary agreement, or plan of action.” 50 U.S.C. 4558(h)(7).

essential to have an internal DHS Contact Tracing Program that protects the workforce and our families by preventing further spread of COVID-19.

Note: In the following responses the term employee is used to include federal employee, contractor, detailee, volunteer, and intern.

#### Authority

DHS is authorized to collect the information pursuant to Section 319 of the Public Health Service (PHS) Act (42 U.S.C. 274d); DHS Chief Medical Officer's authorities pursuant to 6 U.S.C. 350 and 6 U.S.C. 597; 6 U.S.C. 464; 21 U.S.C. 360bbb-3; 40 U.S.C. 1315; 42 U.S.C. 97; American with Disabilities Act, including 42 U.S.C. 12112(d)(3), 29 CFR 1630.2(r), 1630.14(b), (c) Workforce safety federal requirements, including the Occupational Safety and Health Act of 1970, Executive Order 12196, 5 U.S.C. 7902; 29 U.S.C. Chapter 15 (e.g., 29 U.S.C. 668), 29 CFR part 1904, 29 CFR 1910.1020, and 29 CFR 1960.66.

This is a new collection for the agency. The contact tracing process is triggered when an employee voluntarily self-reports to their supervisor that they are COVID-19 positive. The supervisor will provide the employee's name and contact information to a DHS Supervisory Contact Tracer. The Supervisory Contact tracer will assign a Contact Tracer to contact and interview the COVID-19 positive employee and obtain a list of employees the COVID-19 positive employee was in close contact with, as well as locations in the DHS worksite that the COVID-19 positive employee visited for 15 minutes or more. The Contact Tracer will call the exposed employees to inform them that were exposed by a DHS COVID-19 positive employee so they can take appropriate precautions in minimizing exposure to other DHS personnel and speak with their supervisor to discuss their work status. The contact tracer will not disclose the name or any other personally identifiable information regarding the COVID-19 positive employee to the exposed employees. The contact tracer will inform the exposed employee to notify their supervisor, contracting company (contractors only), medical provider, and local public health authorities to get instructions. The purpose of contact tracing is to control the spread of COVID-19 in the workforce.

The following information will be collected from the respondent:

- Name (first and last)
- COVID-19 lab test result
- Component Name
- Office address

- Personal phone number (Mobile or Home)
- Work phone number
- Work email address
- Where is your primary site of work (e.g., department, floor, field desk location)
- Supervisor Name (First and Last)
- Supervisor's Phone Number
- Supervisor's Email
- All activities, floors visited in the DHS work site, meeting attended (including lunches, etc.) that the COVID-19 positive employee participated in starting 48 hours before their first COVID-19 symptoms began
- Last date worked in a DHS worksite
- Names (first and last) of federal employees, contractors, detailees, interns, volunteers who the COVID-19 positive employee was in close contact with, along with the close contacts' work email addresses, work phone numbers, and the last dates of contact.

The collection of information will be automated using Service Now, the existing DHS Information Technology Help desk ticketing platform. Service Now will be modified to be used as the COVID-19 reporting tool. The COVID-19 positive employee will voluntarily inform their supervisor that they are COVID-19 positive. The COVID-19 positive employee or their supervisor will create a new ticket in the COVID-19 reporting tool and include locations in the office that they were in for 15 minutes or more (to initiate facility cleaning) and names of employees they were in close contact with for 15 minutes or more (to identify exposed individuals to notify). The COVID-19 reporting tool will create a ticket and route this to the employee's supervisor and the supervisory contact tracer. The supervisory contact tracer will assign the case (ticket) to the contact tracer. The contact tracer will call the COVID-19 positive employee to verify information submitted by the employee. The Contact Tracer will call the exposed employees to inform them that were exposed to a DHS COVID-19 positive employee so they can take appropriate precautions in minimizing exposure to other DHS personnel and speak with their supervisor to discuss their work status as detailed in response #2.

The basis of the decision for adopting Service Now as a contact tracing reporting/collection tool are: Service now is an existing operating system with an approved Authority to Operate and is in accordance with DHS IT policies, procedures, and controls. Using information technology helps to

streamline the process, adds uniformity, and reduces the burden on the contact tracer. The system includes an active directory for all DHS personnel, and contains the data collection, routing, reporting, and tracking capability required to automate contact tracing reporting, case (ticket) assignment and disposition.

This information collection request will not impact small businesses or other small entities.

In response to the Coronavirus Pandemic, public health leaders are calling for communities around the country to ramp up capacity and implement a massive contact tracing effort to control spread of the Coronavirus. The response and recovery from the effect of COVID-19 will continue to present Federal agencies with unprecedented challenges, as well as opportunities for improvement, that require new processes and practices such as COVID-19 Contact Tracing to keep the workforce and the public safe. As DHS plans to reconstitute the workforce, it is essential to have an internal DHS Contact Tracing Program that protects the workforce and our families. It is also essential to comply with requirements in the President's National Guidelines for all phases of *Opening Up America Again*, the Office of Management and Budget (OMB) M-20-23 Memorandum for Heads of Executive Department, the Centers for Disease Control and Prevention guidance entitled *Get and Keep America Open*, and for DHS to fulfill its overall mission. If DHS does not establish an internal COVID-19 Contact Tracing program capable of quickly identifying, isolating, tracking, and being aware of potential office outbreaks and workforce exposures, COVID-19 can unknowingly spread throughout the DHS workspace and negatively impact mission readiness and National Security.

As required by the COVID-19 Contact Tracing Script, the Contact Tracer is required to read the following statement at the beginning of the call with each respondent:

*"Before we begin, I would like to provide you with the following privacy notice: DHS is requesting information as part of this call for the purpose of maintaining and ensuring a healthy workforce and a safe DHS workspace. Further, this information will help the Department in slowing down the spread of COVID-19 by notifying those individuals who may have been exposed to the disease so that they can take appropriate precautions in minimizing exposure to other DHS personnel and DHS-affiliated personnel. As such, DHS may use the information*

*I collect from you to provide notifications to other potentially exposed personnel. No personally identifiable information will be shared on you to those personnel in an identifiable format. However, information contained from this call may be shared with my supervisory contact tracer to ensure data is appropriately collected. In addition, if you report symptoms of COVID-19, this information may be shared with your supervisor so that he or she may work with you on your work status. Further, no personally identifiable information collected from this call will be shared outside of DHS. This collection is voluntary. However, your participation is requested because contact tracing is a key strategy for preventing further spread of COVID-19.”*

**The following Privacy Notice is Imprinted on the COVID-19 Contact Tracing Script and Form**

WARNING: This document is FOR OFFICIAL USE ONLY (FOUO). It contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information and is not to be released to the public or other personnel who do not have a valid “need-to-know” without prior approval of an authorized DHS official.

**The Following Privacy Act Statement is for the Service Now COVID-19 Contact Tracing Reporting Tool**

**Contact Tracing Privacy Act Statement**

Pursuant to 5 U.S.C. 552a(e)(3), this Privacy Act Statement serves to inform you of why DHS is requesting the information that will be collected by this information system.

**Authority**

DHS is authorized to collect the information pursuant to Section 319 of the Public Health Service (PHS) Act (42 U.S.C. 274d); DHS Chief Medical Officer’s authorities pursuant to 6 U.S.C. 350 and 6 U.S.C. 597; 6 U.S.C. 464; 21 U.S.C. 360bbb-3; 40 U.S.C. 1315; 42 U.S.C. 97; American with Disabilities Act, including 42 U.S.C. 12112(d)(3)(B), 29 CFR 602.14, 1630.2(r), 1630.14(b)(1), (c)(1), (d)(4); Medical Examinations for Fitness for Duty Requirements, including 5 CFR part 339; Genetic Information Nondiscrimination Act (GINA), including 42 U.S.C. Chapter 21f, 29 CFR part 1635; Workforce safety federal requirements, including the

Occupational Safety and Health Act of 1970, Executive Order 12196, 5 U.S.C. 7902; 29 U.S.C. Chapter 15 (e.g., 29 U.S.C. 668), 29 CFR part 1904, 29 CFR 1910.1020, and 29 CFR 1960.66.

**Purpose**

DHS will be collecting the information for the purpose of maintaining and ensuring a healthy workforce and a safe DHS workspace. This information will help the Department to prevent the spread of infectious disease by notifying those individuals who may have been exposed so they can take appropriate precautions in minimizing exposure to other DHS personnel and DHS-affiliated personnel.

**Routine Uses**

The information will not be shared externally or with any third parties. It will only be used by the DHS Component or Office who employs the individual about whom the information will be collected. Further, no personally identifiable information will be shared with anyone other than the individual’s supervisor and the assigned contact tracer. A complete list of routine uses for the information this system will collect can be found in the system of records notice associated with the system “Office of Personnel Management/GOVT—10—Employee Medical File System Records.” The Department’s full list of system of records notices can be found on the Department’s website at <http://www.dhs.gov/system-records-notices-sorns>.

**Consequences of Failure To Provide Information**

Providing information via this system is completely voluntary and no adverse action will be taken against individuals who refuse to participate. However, participation is requested because contact tracing is a key strategy in preventing further spread of infectious disease among the DHS workforce.

The Contact Tracer is required to sign a DHS non-Disclosure Agreement and take the following DHS Training—Privacy and Protecting Personal Information, IT Security Awareness and Rules of Behavior, Cybersecurity Awareness and one of the following Contact Tracer Trainings offered by the Michigan Department of Public Health Michigan Department of Public Health <https://www.train.org/wv/course/1091008/>. Additional contact tracing will be available from the Association of State and Territorial Health Officials <https://learn.astho.org/p/ContactTracer> and Johns Hopkins University <https://>

[www.coursera.org/learn/covid-19-contact-tracing?action=enroll&edocomorp=covid-19-contact-tracing](https://www.coursera.org/learn/covid-19-contact-tracing?action=enroll&edocomorp=covid-19-contact-tracing).

The Supervisory Contact Tracer is required to review a minimum of 10% of interview calls with Contact Tracers to ensure comprehensive and high-quality interviews and compliance with privacy and confidentiality.

Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

**Analysis**

**Agency:** Department of Homeland Security (DHS).

**Title:** COVID-19 CONTACT TRACING.

**OMB Number:** 1601-0027.

**Frequency:** Annually.

**Affected Public:** Affected Public.

**Number of Respondents:** 500.

**Estimated Time Per Respondent:** 1.

**Total Burden Hours:** 167.

**Robert Dorr,**

*Acting Executive Director, Business Management Directorate.*

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