

## SUPPORTING STATEMENT FOR 0505-0015

### Procurement: Key Personnel Clause

#### A. Justification.

1. Need for data collection. In order to obtain goods or services, USDA, like other Federal agencies, has established agency contracting offices to enter into Federal contracts. These offices employ contracting officers, who issue solicitations to request offers (proposals) for required products or services from businesses in the private sector. Nonprofit institutions or state or local governments may also submit proposals in response to solicitations. Clauses in the solicitation are called "provisions" when they are not to be incorporated in the contract and "clauses" when they become part of the contract terms and conditions.

When USDA wishes to acquire research and development services (R&D), Information Technology (IT) design or support services, or advisory and assistance (e.g., consultant) services, it must consider the capabilities of the personnel whom the contractor assigns to the job. The contributions of certain contractor employees may be critical to the success of the work. Such employees are designated "key personnel." The Agriculture Acquisition Regulation (AGAR) (48 CFR ch. 4) prescribes the Key Personnel clause to collect information about key contractor personnel. A copy of the prescription (48 CFR 437.110) and the Key Personnel clause (48 CFR 452.237-74) are included as Attachment A. The contracting officer uses the Key Personnel clause to require the contractor to inform USDA if a key person will no longer be available to perform work on the contract. The contracting officer needs this information to determine whether the departure of a key person from the contractor's staff could jeopardize contract performance, and to determine what accommodations or remedies may be taken. If the contracting agency could not obtain information about departing key personnel, it could not ensure that qualified personnel continue to perform contract work.

2. Purpose for which information will be used. Contractors whose contracts include the key personnel clause are required to notify the contracting officer about proposed substitutions for key personnel identified in the contract. Contracting officers insert the key personnel clause in contracts for advisory and assistance services, research and development, information technology support and development services, and studies. Contracting officers use information furnished concerning a proposed substitution to evaluate whether the substitution would impede the contractor's ability to perform the contract.

3. Use of improved information technology. The clause does not require the use of any specific information technology, although it contemplates receiving the information in hard copy for the contract file. Contracting officers have flexibility to obtain the information through any appropriate communication mechanism.

4. Efforts to identify duplication. The information required about the contractor's key personnel is unique to each contract which contains the clause. It is not duplicated elsewhere.

5. Impact on small entities and efforts to minimize burden. This information collection will not have a significant economic impact on a substantial number of small entities.

6. Program consequences if collection is not conducted or conducted less frequently. Information is only collected when needed. If the information is not collected, contracting offices cannot ensure that qualified personnel continue to perform contract work.

7. Special circumstances. There are no special circumstances that require information collection inconsistent with 5 CFR 1320.5.

8. 5 CFR 1320.8(d) Solicitation of Comments. A 60 day Notice was published in the Federal Register on May 30, 2006, pages 30650 and 30651. No public comments were received in response to the Notice. A copy of the Notice is attached as Attachment B.

9. Payments or gifts to respondents. No payments or gifts have been, or will be, made to respondents.

10. Confidentiality. No assurance of confidentiality is included in the Key Personnel clause or in the AGAR. However, business information provided by contractors is protected by the Trade Secrets Act (18 U.S.C. 1905), and exception 4 to the Freedom of Information Act (5 U.S.C. 552(b)(4)). The FAR protects the confidentiality of business, cost and technical information by restricting the disclosure of such information (see 48 CFR subpart 3.1).

11. Sensitive questions. There are no sensitive questions involved in this information collection.

12. Estimation of information collection burden. The information collected is submitted by the contractor to justify substituting another employee for a key person. Such information includes an explanation of the reason for the substitution and a complete resume for the proposed substitute. In FY 2005, there were less than 300 contracts which were required to include a key personnel clause. The information collection occurs only if there is a change in key personnel for a contract. While several substitutions may occur during performance of some contracts, no substitutions at all may occur during performance of other contracts. Accordingly,

we estimate that, on average, there may be one substitution per covered contract. Therefore we estimate that number of respondents is 300 annually. The estimated time to furnish the information required is one hour per response, for an estimated annual collection burden of 300 hours. The estimated annualized burden hour cost to respondents is \$7,491, calculated as follows:

Burden hours are estimated at 75 percent professional hours and 25 percent clerical hours. Hourly Federal equivalent pay rates (January 2006) at GS 11/1 and GS 4/1 respectively were used in calculations.

Direct costs (labor):

Professional: (75% of 300 hrs @ 24.90) =	\$ 5,603
Clerical: (25% of 300 hrs @ 12.14) =	<u>911</u>
Subtotal:	\$ 6,514

Indirect Costs:

Overhead @ 15% of direct costs	<u>977</u>
Total Respondent costs:	\$ 7,491

13. Estimates of annualized cost to respondents (excluding burden hour costs).

- (a) There are no capital or start up costs associated with this collection.
- (b) There are no operation and maintenance costs associated with this collection.

14. Estimates of annualized cost to the Federal Government. The estimated annual cost to the Federal Government, is \$6,892, calculated as follows:

Government burden is estimated as equal to the number of respondent burden hours. Burden hours are split 75 percent at an average GS-1102-10/2 and 25 percent clerical at an average GS 4/1. USDA solicitations are available to prospective offerors electronically through a single Government-wide point of entry (FedBizOpps), thus requiring neither printing nor mailing. Labor costs attributable to the collection are estimated as follows:

Direct costs (labor):

Professional: (75% of 300 hrs @ 23.42) =	\$ 5,270
Clerical: (25% of 300 hrs @ 12.14) =	<u>911</u>

Subtotal:	\$ 6,181
Indirect Costs:	
Benefits @ 11.5% of direct costs	<u>711</u>
Total Government costs:	\$ 6,892

15. Reasons for changes in items 13 and 14. There is no change in burden from the last approval.

16. Planned publication. The results of this collection of information will not be published.

17. Expiration date on form. The requested information collection is required by contract clause and does not involve a form.

18. Exception(s) to certification statement.

We are able to certify compliance with all the provisions of the Act.