

**SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION  
9000-0135, PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS**

**A. Justification.**

1. **Administrative requirements.** This is a request for extension of an existing information collection requirement. Part 28 of the Federal Acquisition Regulation (FAR) contains guidance related to obtaining financial protection against damages under Government contracts (e.g., use of bonds, bid guarantees, insurance etc.). Part 52 contains the texts of solicitation provisions and contract clauses. These regulations implement a statutory requirement for information to be provided by Federal contractors relating to payment bonds furnished under construction contracts which are subject to the Miller Act (40 USC 270a-270d). This collection requirement is mandated by Section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (P.L. 102-190), as amended by Section 2091 of the Federal Acquisition Streamlining Act of 1994 (P.L. 103-335). The clause at 52.228-12, Prospective Subcontractor Requests for Bonds, implements Section 806(a)(3) of P.L. 102-190, as amended, which specifies that, upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of a construction contract for which a payment bond has been furnished to the United States pursuant to the Miller Act, the contractor shall promptly provide a copy of such payment bond to the requestor.

2. **Uses of information.** In conjunction with performance bonds, payment bonds are used in Government construction contracts to secure fulfillment of the contractor's obligations under the contract and to assure that the contractor makes all payments, as required by law, to persons furnishing labor or material in performance of the contract. This regulation provides prospective subcontractors and suppliers a copy of the payment bond furnished by the contractor to the Government for the performance of a Federal construction contract subject to the Miller Act. It is expected that prospective subcontractors and suppliers will use this information to determine whether to contract with that particular prime contractor. This information has been and will continue to be available from the Government. The requirement for contractors to provide a copy of the payment bond upon request to any prospective subcontractor or supplier under

the Federal construction contract is contained in Section 806(a)(3) of P.L. 102-190, as amended by Sections 2091 and 8105 of P.L. 103-355.

**3. Consideration of information technology.** We use improved 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. Efforts to identify duplication.** This requirement is issued under the Federal Acquisition Regulation that has been developed to standardize Federal procurement practices and eliminate unnecessary duplication.

**5. If the collection of information impacts small businesses or other entities, describe methods used to minimize burden.** P.L. 102-190, as amended by P.L.103-335, requires that Federal prime contractors provide this information to prospective subcontractors or suppliers, at their request, under a construction contract that is subject to the Miller Act. This information is already available to subcontractors from the contracting officer, but the statute placed this responsibility upon the prime contractor to provide the information directly to prospective subcontractors or suppliers. This statute imposes the same information collection requirement on both large and small businesses.

**6. Describe consequence to Federal program or policy activities if the collection is not conducted less frequently.** This collection of information is imposed upon Federal contractors upon award of each contract for construction subject to the Miller Act, who must provide the information upon request of any prospective subcontractor or supplier under the Federal contract.

**7. Special circumstances for collection.** Collection is not inconsistent with the guidelines in 5 CFR 1320.6.

**8. Efforts to consult with persons outside the agency.** Under the procedures established for development of the FAR, agency and public comments must be solicited and each comment received addressed before finalization of the text. A notice published in the *Federal Register* at 72 FR 19187, April 17, 2007 made this requirement available to the public

and requested comments. No comments were received and no major problems regarding this requirement were reported.

**9. Explanation of any decision to provide any payment or gift to respondents other than reenumeration of contractors or guarantees.** Not applicable.

**10. Describe assurance of confidentiality provided to respondents.** This information is disclosed only to the extent consistent with prudent practices and current regulations.

**11. Additional justification for questions of a sensitive nature.** The collection requirement does not solicit any sensitive or personal information.

**12 & 13 Estimated total annual public hour and cost burden.**

|   |           |
|---|-----------|
| Number of respondents                       | 12,000    |
| Number of responses per respondent per year | <u>5</u>  |
| Total annual responses                      | 60,000    |
| Preparation time per response               | <u>.5</u> |
| Total response burden hours                 | 30,000    |

**14. Estimated Cost to the Government.**

|                          |                |
|--------------------------|----------------|
| Total annual responses   | 6,000          |
| Review time per response | <u>x .15</u>   |
| Total burden hours       | 750            |
| Average cost per hour    | x \$ <u>25</u> |
| Total Government cost    | \$22,500       |

**Estimated Annual Cost to Respondents.**

|                        |                |
|------------------------|----------------|
| Total annual responses | 50,000         |
| Hours per response     | <u>x .5</u>    |
| Total annual hours     | 25,000         |
| Average cost per hour  | x \$ <u>20</u> |
| Cost to respondents    | \$500,000      |

**15. Explain reasons for program changes or adjustments reported in Item 13 or 14.** This submission requests an extension of OMB approval of an information collection requirement in the FAR. The information collection requirement in the FAR remains unchanged.

16. **Outline plans for published results of information collections.** Results will not be tabulated or published.

17. **Approval not to display expiration date.** Not applicable.

18. **Explanation of exception to certification statement.** Not applicable.

**B. Collections of Information Employing Statistical Methods.**

Statistical methods are not used in this information collection.