

Supporting Statement for Department of Veterans Affairs Acquisition Regulation
Sections 832.006-4 and 832.202-4
OMB 2900-0688

A. Justification

1. This Paperwork Reduction Act (PRA) submission seeks an extension of Office of Management and Budget (OMB) approval No. 2900-0688 for the following two sections of the Department of Veterans Affairs (VA) Acquisition Regulation (VAAR):

a. VAAR 832.006-4 Procedures

Federal Acquisition Regulation (FAR) section 32.006 authorizes agencies to reduce or suspend contract payments to a contractor upon finding of fraud. FAR 32.006-3(a) requires agencies to establish appropriate procedures to implement the policies and procedures of section 32.006. VAAR 832.006-4 Procedures, authorizes VA to reduce or suspend contract payments when there has been a finding of fraud. However, in order to provide contractors due process, VA must give the contractor notice of that intent and permit the contractor an opportunity to submit information or argument in opposition to the proposed action.

b. VAAR 832.202-4 Security for Government Financing

FAR subpart 32.2 authorizes the use of certain types of Government financing on commercial item purchases. 41 United States Code (U.S.C.) 255(f) requires the Government to obtain adequate security for Government financing. However, FAR 32.202-4(a)(2) provides that, subject to agency regulations, the contracting officer may determine that an offeror's financial condition is adequate security. VAAR 832.202-4 Security for Government Financing specifies the type of information that the contracting officer may obtain to determine the offeror's financial condition constitutes adequate security.

2.

a. The information that is gathered under section 832.006-4 will be used by the VA Senior Procurement Executive to assess the contractor's overall financial condition, the contractor's ability to continue contract performance if payments are reduced or suspended, and any other extenuating circumstances that may impact the Department's decision.

b. The information that is gathered under section 832.202-4 will be used by the VA contracting officer to assess whether the contractor's overall financial condition represents adequate security to warrant paying the contractor in advance.

3. The collection of information will not involve automated, electronic, mechanical, or other technological collection techniques. However, contractors may elect to submit data via e-mail.

4. There are no duplicated efforts. The information collected is specific to the given situation.

5. There will be only minimal impact on any business, whether small or large. The amount of data submitted is at the discretion of the contractor. The contractor can choose to submit no data.

6.

a. The consequences if the data under section 832.006-4 is not collected could include VA being unable to reduce or suspend payments to a contractor who has committed or is committing fraud against the Department. VA could be obligated to continue paying a contractor that is fraudulently receiving funds.

b. The consequences if the data under section 832.202-4 is not collected may be that a contractor would not qualify for advance payment under a contract and might thereby experience difficulty completing the contract.

7.

a. Information is collected as needed, and only at the discretion of the contractor.

b.

(1) Information may be required in less than 30 days under section 832.006-4 to allow VA to make a decision on whether or not to reduce or suspend payments. A quick decision may be necessary in order to ensure that further fraudulent payments are not made.

(2) Information may be required in less than 30 days under section 832.202-4 to allow VA to make a decision on whether or not to make payments in advance. A quick decision may be necessary in order to ensure that the contractor has sufficient assets to perform the contract. A fast decision would be a benefit to the contractor.

c. No more than an original will be required.

d. There are no record retention requirements.

e. This is not a statistical survey.

- f. This does not require the use of statistical data classification.
- g. This does not include a pledge of confidentiality.
- h. This does not require the submission of proprietary information.

8. The Department notice was published in the Federal Register on November 26, 2008, 73 FR No. 229, pages 72116-72117. There were no comments received.

9. No payments or gifts will be provided.

10. No assurances of confidentiality will be provided to respondents.

11. N/A. The request for information does not include any questions of a sensitive nature.

12.

For section 832.006-4:

a. Estimated number of respondents: 10.

b. Estimated frequency of responses: On occasion. A response will be requested any time there is a proposal to reduce or suspend payments to a contractor based on a finding of fraud. To our knowledge, VA has never used this authority.

c. Estimated average burden per collection: 5 hours.

d. Estimated total annual reporting burden: 50 hours.

e. Estimated annualized cost: \$1,750 (50 hours at \$35 per hour, estimated salary rate, including benefits, based on the likelihood that an individual at a level similar to a GS-9, Step 5, Management Analyst will gather and prepare the data).

For section 832.202-4:

a. Estimated number of respondents: 10.

b. Estimated frequency of responses: On occasion. A response will be requested any time a contractor requests payment in advance and the contracting officer agrees to consider the request.

c. Estimated average burden per collection: 1 hour.

d. Estimated total annual reporting burden: 10 hours.

e. Estimated annualized cost: \$350 (10 hours at \$35 per hour, estimated salary rate, including benefits, based on the likelihood that an individual at a level similar to a GS-9, Step 5, Management Analyst will gather and prepare the data).

13.

a. There are no capital costs or operating or maintenance costs.

b. Costs are not expected to vary widely.

c. There are no equipment costs.

14. Estimated annualized cost to the Government:

a. For 832.006-4, annual estimated salary rate to analyze the data (10 hours at \$35 per hour): \$3,500

The information will be evaluated upon receipt and presented to the Senior Procurement Executive for a final decision.

b. For 832.202-4, annual estimated salary rate to analyze the data (10 hours at \$35 per hour): \$3,500

The information will be evaluated upon receipt by the contracting officer.

15. This is no change in burden.

16. The results will not be published.

17. This request seeks approval to not display the expiration date of OMB approval. This is an on-going requirement. There is a continuing and reoccurring need for this data whenever there is a finding of fraud and a proposal to reduce or suspend payments to a contractor as a result of that finding (832.006-4) or whenever a contractor requests payment in advance and the contracting officer agrees to consider the request (832.202-4). VA anticipates allowing contractors to submit data as necessary for the foreseeable future and an expiration date would only tend to confuse the public.

18. This submission does not contain any exceptions to the certification statements.

B. Collection of Information Employing Statistical Methods

The data collection does not employ statistical methods.

