

SUPPORTING STATEMENT

ACQUISITION SERVICES INFORMATION REQUIREMENTS

(OMB No. 3064-0072)

BACKGROUND

The collection of information involves the submission of various forms by contractors who wish to do business with the FDIC or are currently under contract with the FDIC, and by government agencies or commercial businesses that provide FDIC with past performance information. The information is used to ensure compliance with established contractor ethics regulations (12 CFR Part 366); obtain information on a contractor's past performance for proposal evaluation purposes; review a potential lessor's fitness and integrity prior to entering into a lease transaction; and perform background investigations on contractors and contractor personnel.

The FDIC is seeking OMB approval to revise three of the six forms in the collection.

A. JUSTIFICATION

1. Circumstances and Need

The Federal Deposit Insurance Act (12 U.S.C. Section 1819) empowers the FDIC to enter into contracts using private sector contractors to provide goods or services. This Act also provides that FDIC may promulgate policies and procedures to administer the powers granted to it, including the power to enter into contracts. The authority to establish policies and procedures and generate the contracting program has been re delegated by the Board of Directors to the Director, Division of Administration. Therefore, pursuant to such policies, the Acquisition and Corporate Services Branch, Division of Administration, FDIC Headquarters in Washington D.C., has developed forms and clauses to facilitate the procurement of goods and services from private sector contractors.

The FDIC Fitness and Integrity Certifications, the FDIC Leasing Representations and Certifications and the FDIC Background Investigation Questionnaires for Contractors and Contractor Personnel are a result of the implementation of 12 CFR Part 366. The FDIC adopted 12 CFR Part 366 pursuant to Section 12(f)(3) and (4) of the Federal Deposit Insurance Act, 12 U.S.C. 1822(f)(3) and (4), and the rulemaking authority of the FDIC found at 12 U.S.C. 1819. Pursuant to those sections and consistent with the goals and purposes of titles 18 and 41 of the U.S. Code, the rule establishes the minimum standards of integrity and fitness that contractors, subcontractors, and employees of contractors and subcontractors must meet if they perform any service or function on behalf of the FDIC. This rule includes regulations governing conflicts of interest, ethical responsibility, and use of confidential information in accordance with 1822(f)(3); and the prohibitions and the submission of information in accordance with 1822(f)(4). This rule applies to a person who submits an offer to perform or performs, directly or indirectly, a contractual service or function on behalf of the FDIC.

In addition, the FDIC's Acquisition Policy Manual requires the evaluation of an offeror's past performance under formal contracting procedures and is a mandatory technical evaluation criterion in our standard solicitation document. In support of the evaluation of the past performance criterion, the FDIC Past Performance Questionnaire was developed to be submitted by other

government agencies or commercial businesses who are doing business, or have done business, with the contractor FDIC is evaluating.

Currently, the FDIC seeks to modify the following three forms: Contractor Representations and Certifications, Form 3700/4A; Integrity and Fitness Representations, Form 3700/12; and Leasing Representations Certifications, Form 3700/44. Specifically, in Form 3700/4A, the FDIC is proposing to eliminate the “Duplication of Cost” representation as unnecessary; remove the “Clean Air and Water Certification” based on its removal from the Federal Acquisition Regulation (FAR) in response to a recommendation by the Environmental Protection Agency; modify the “Small Disadvantaged Business (SDB) Concern Certification” to reflect the Small Business Administration’s recent announcement that it will discontinue SDB certifications; modify the “Equal Opportunity Certification” and the “Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions” to mirror related FAR provisions; and substitute an offeror’s Data Universal Numbering System (DUNS) number for the previously requested Tax Identification Number (TIN) in the “Signature” section of the form. In Form 3700/12, Integrity and Fitness Representations, the FDIC proposes to insert a sentence in the preamble referencing FDIC regulations on *Minimum Standards of Integrity and Fitness For An FDIC Contractor* at 12 CFR Part 366; add a “Retention of Information” paragraph in Section III, instructing contractors on the retention period for records; and substitute a contractor’s DUNS number for the previously requested TIN in the “Signature” section of the form. Finally, in Form 3700/44, Leasing Representations and Certifications, the FDIC proposes to clarify and highlight the various certifications currently covered under the general heading “Environmental Condition” by reclassifying them as certifications related to “Asbestos-Containing Materials,” “Water Quality,” “Indoor Air Quality,” and “Hazardous Substances.”

2. Use of Information Collected

The information requested is used to determine the qualifications, fitness and integrity of contractors wishing to enter into contracts or leases with the FDIC and to obtain past performance information pertaining to specific contractors. The forms have legal significance since their submission represents formal offers and/or averments, which, if fraudulent, are punishable under provisions of both civil and criminal law. The past performance information collected is used to compare and evaluate technical capabilities of multiple offerors. Such evaluations may take place on items ranging in complexity from routine office equipment to highly specialized services.

3. Use of Technology to Reduce Burden

Electronic copies of the following forms are available on FDIC's external website. These forms will be used by contractors that propose on FDIC contracts, contractors doing business with FDIC, and government agencies or commercial businesses that provide past performance information to FDIC. All of the forms except 3700/57 require a signature. FDIC currently does not have electronic signature capability.

- FDIC Background Investigation Questionnaire for Contractor Personnel and Subcontractors, Form 1600/04
- FDIC Background Investigation Questionnaire for Contractors, Form 1600/07
- FDIC Contractor Representations and Certifications, Form 3700/04A
- FDIC Integrity and Fitness Representations and Certifications, Form 3700/12
- FDIC Leasing Representations and Certifications, Form 3700/44
- FDIC Past Performance Questionnaire, 3700/57

4. Efforts to Identify Duplication

The information collected does not duplicate information existing elsewhere. In addition, the FDIC uses option provisions in contracts when an increase in the same or similar products and services can be reasonably anticipated. This approach eliminates excessive solicitation of the same or similar items when competition was used initially and a determination that the price obtained through the option is reasonable.

5. Minimize the Burden on Small Entities

The amount of information collected varies with the competitiveness and complexity of the procurement. In general, procurement requirements are less complex for small firms. Therefore, the amount of information collected from a small firm is generally less burdensome than for a major solicitation responded to by a large firm.

6. Consequences of Less Frequent Collections

The information is collected on an "as-needed" basis.

7. Special Circumstances

None.

8. Summary of Public Comments; Consultation

None

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality

The FDIC considers all information submitted on the forms that are the basis of this submission to be confidential in nature.

11. Information of a Sensitive Nature

No information of a sensitive nature is collected.

12. Estimates of Annualized Burden

The proposed revisions to Forms 3700/4A, 3700/12, and 3700/44 will not impact existing burden estimates. The burden for this collection is as follows:

<u>FDIC Document</u>	<u>Hours Per Unit</u>	<u>No. of Respondents</u>	<u>Burden Hours</u>
Background Investigation Questionnaire Contractor	.33	4,000	1,320

Personnel & Subcontractors (1600/04)

Background Investigation Questionnaire Contractors (1600/07)	.50	200	100
Contractor Representations & Certifications (3700/04A)	.50	360	180
Integrity and Fitness Representations & Certifications (3700/12)	.33	360	119
FDIC Past Performance Questionnaire (3700/57)	.75	1,080	810
Leasing Representations and Certifications (3700/44)	1.0	35	35
Total		10,035	2,564

13. Total Annual Cost Burden

None.

14. Annual Cost to the Federal Government

<u>FDIC Document</u>	<u>Hourly Rate (\$)</u>	<u>Hours Per Unit</u>	<u>No. of Units Per Year</u>	<u>Annual Cost (\$)</u>
Background Investigation Questionnaire Contractor Personnel & Subcontractors (1600/04)	20.82	.50	4,000	41,640
Background Investigation Questionnaire Contractor (1600/07)	20.82	.50	200	2,082
Contractor Representations & Certifications (3700/04A)	44.50	.50	360	8,010
Integrity and Fitness Represent- ations & Certifications (3700/12)	44.50	.50	360	8,010

FDIC Past Performance Questionnaire (3700/57)	44.50	.25	1,080	12,015
Leasing Representations and Certifications (3700/44)	58.49	.25	35	512
Total				72,269

15. Reason for Program Changes or Adjustments

There is no change in burden.

16. Publication

The information collected is for internal use and is not published.

17. Display of Expiration Date

The OMB Number and expiration date is displayed on all forms.

18. Exceptions to Certification

None.

B. STATISTICAL METHODS

Not applicable.