

SUPPORTING STATEMENT
U. S. Department of Agriculture
Maximum Workweek – Construction Schedule
OMB Control No. 0505-0011

A. Justification.

1. Need for information collection. In order to obtain goods or services such as construction services, the Department of Agriculture (USDA), like other Federal agencies, has established agency contracting offices to enter into Federal contracts. These offices employ contracting officers, who solicit bids or offers for work from businesses in the private sector. Contracting officers award contracts to successful bidders or offerors (contractors) based on their bids or offers, which use the government solicitation as a bid or offer form. Requirements for the offeror in the solicitation are called "provisions" when they are used only for the solicitation phase and are not incorporated into any subsequent contract. These terms are called "clauses" when they become parts of the contract. After award of a contract, the contracting officer, or a designee, monitors and manages the contract; i.e., performs contract administration. Contract administration, among other functions includes quality assurance.

When USDA contracts for construction services, both the contracting officer and the contractor need to establish a schedule for the work. The contractor needs to ensure that his weekly work schedule will not conflict with the time during which USDA may allow him access to the work site. The contracting officer needs to know when the contractor will be working in order to schedule on-site conferences, to perform quality assurance inspections, and to perform compliance checks required in order to enforce the Davis Bacon Act (40 U.S.C. 276a - 276a-7). Such compliance checks are specifically required by the Federal Acquisition Regulation (FAR) to conduct employee interviews, to check the type of work being performed, to verify the number and pay classification of workers at the site, and to verify that posters informing workers of their rights are displayed at the site (see FAR 22.406-7(b)). Contracting officers put the "Maximum Workweek - Construction Schedule" clause in solicitations and contracts for construction when the contractor's access to the work site may be restricted to certain times of the day or week. Contracting officers also use this clause when budgetary or staffing constraints prevent a contracting office from assigning inspectors or representatives to a construction site on an unlimited basis. Schedule information provided by the contractor allows the office to assign inspectors or representatives to the site when the contractor is actually working on the site.

A copy of the Davis Bacon Act and a copy of FAR 22.406-7(b) are attached as Attachment A. A copy of the "Maximum Workweek - Construction Schedule" clause (48 CFR 452.236-75) and the prescription for its use (48 CFR 436.575) are attached as Attachment B.

2. Purpose for which information will be used. This information is collected from contractors performing construction work for USDA. The USDA contracting officer uses the information to determine when government inspectors or representatives will be needed at the site, and to schedule contractor access to the work site. The information is not collected unless the contracting officer anticipates problems with contractor access or scheduling government inspections.

3. Use of improved information technology. This clause supplements a similar collection in the Federal Acquisition Regulation which requires the contractor to provide written copies of a construction

schedule to the Government. Oral transmission is impracticable. Transmission as an electronic file may be practicable, but would not reduce the information collection burden. Furthermore, the clause does not preclude acceptance of such a file as a submission in writing. We do not consider it advisable to require submission of the information as an electronic file. Such a requirement would restrict the contractor and the contracting officer without achieving any reduction in collection burden.

4. Efforts to identify duplication. No similar information is available. Information is unique to each project and must be collected for each contract, as applicable.

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 for projects when needed, and usually is collected once per contract. If the information were not collected, contracting offices would be unable to allocate contract administration resources efficiently.

7. Special circumstances.

Requiring respondents to prepare a written response to the collection of information in fewer than 30 days after receipt of the information collection request.

The “Maximum Workweek - Construction Schedule” clause allows contracting officers to set the time within which contractors must provide work schedule information. Generally the time allowed for a response will be less than 30 days. The standard period, established by FAR clause 52.236-15, “Schedule for Construction Contracts” (included as Attachment C), is five days. Requiring contracting officers to allow contractors 30 or more days to provide work schedule information would lead to unacceptable delays and would increase performance costs for both contractors and the Government.

There are no other 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 November 30, 2009, Vol. 74, No. 228, page 62552. No public comments were received in response to that notice.

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

10. Confidentiality. The information collection involves performance schedules, which are not confidential in nature.

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

12. Estimation of information collection burden. The information collected consists of the hours and days of the week the contractor proposes to carry out construction, with starting and stopping times. Normally, such information would be collected once per contract containing the Maximum Workweek - Construction Schedule clause. USDA awarded approximately 776 contracts for construction over \$100,000 in Fiscal Year 2009. As inclusion of the clause is not required in all construction contracts, but only in the circumstances prescribed by the clause (“the contractor’s work schedule is restricted by access to the facility or must be coordinated with the schedule of contract administration personnel”), the 776 contracts is an estimated maximum number. As previously estimated, the time required for preparation of a schedule and transmission to the contracting officer is 15 minutes per response. Based on one response per each contract containing the clause, the estimated annual burden hours for all respondents is approximately 194 hours. The estimated total annual burden hour cost for all respondents is \$5,684, calculated as follows:

Burden hours are estimated at 75 percent professional hours and 25 percent clerical hours. Hourly federal employee equivalent pay rates (January 2009) at GS 11/1 and GS 4/1 respectively (based on Washington DC area rates) were used in calculations.

Direct costs (labor):

Professional:	(75% of 194 hrs @ 29.22) =	\$ 4,252
Clerical:	(25% of 194 hrs @ 14.25) =	<u>691</u>
Subtotal:		\$ 4,943

Indirect Costs:

Overhead @ 15% of direct costs		\$ <u>741</u>
Total Estimated Respondent costs:		\$ 5,684

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

(a) There is no capital or start up costs associated with this collection.

(b) There are no operation and maintenance costs associated with this collection. Preparation of construction schedules and providing information to developers concerning work schedules is a customary and usual business practice in the construction industry.

14. Estimates of annualized cost to the Federal Government. The estimated annual cost to the Federal Government is \$5,117, calculated as follows:

Government burden hours are estimated as equal to the number of respondent burden hours; i.e. 194 hours. Burden hours are split 75 percent at an average GS-1102-10/2 and 25 percent clerical at an average GS 4/1 (based on Washington DC area salary rates). USDA solicitations are available to prospective offerors electronically through a single Government-wide point of entry (FedBizOpps), thus requiring neither printing nor mailing of the solicitation. Labor costs attributable to the collection are estimated as follows:

Direct costs (labor):

Professional:	(75% of 194 hrs @ 27.49) =	\$ 4,000
Clerical:	(25% of 194 hrs @ 12.14) =	<u>589</u>
Subtotal:		\$ 4,589

Indirect Costs:

Benefits @ 11.5% of direct costs		\$ <u>528</u>
Total Estimated Government costs:		\$ 5,117

15. Reasons for changes in items 13 or 14 of the OMB Form 83-1. The burden hours increased from 100 to 194 due to an increase in the number of contracts awarded (400 to 776), since the previous submission.

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. No exceptions to the certification statement are requested.