

**Supporting Statement for Information Collection
9000-0175, Use of Project Labor Agreements for Federal
Construction Projects**

A. JUSTIFICATION

1. Administrative requirements. This is a request for extension of an existing information collection requirement.

The FAR at 22.5, implements Executive Order 13503, which encourages agencies to consider requiring project labor agreements for large scale construction projects. The FAR coverage gives agencies the discretion to determine if using project labor agreements in connection with large scale construction contracts (over \$25M) will promote economy and efficiency by minimizing labor-management unrest.

The decision to use or not use a project labor agreement is completely discretionary on the part of the agency under the final rule, agencies may choose from among three options. Submission may be required: (1) when offers are due, (2) prior to award (by the apparent successful offeror), or (3) after award.

Providing these three options allows agencies with project labor agreement experience to continue with the model they have found most helpful, and other agencies to craft an approach unique to each project, and, as experience is gained, follow best demonstrated practices. If an agency decides that permitting execution of the PLA after award is the best approach, the contractor will be required to submit an executed copy of the agreement to the contracting officer.

2. Use of information. This information is required to determine if the otherwise apparently successful offeror has submitted a sufficient project labor agreement that conforms with all statutes, regulations and Executive Orders. Failure to collect this information would result in a lack of sufficient information needed by the contracting officer to make an award decision.

3. Use of information technology. Improved information technology will be used to the maximum extent practicable. Where offerors or contractors have automated systems that

contain the information needed to report this requirement, they may submit the information in formats that are compatible with the automated systems.

4. Describe efforts to identify duplication. This information collection does not duplicate any other requirement.

5. If the collection of information impacts small businesses (item 5) describes any methods used to minimize the burden. The rule will apply to large-scale construction projects where the cost to the Government is \$25 million or more and where agencies have determined that use of a project labor agreement will promote economy and efficiency in the resulting procurement by minimizing labor-management unrest. Most prime contractors for such projects are large business concerns, and only the prime contractor is responsible for the collection of information. Additionally, the rule gives agencies the flexibility to consider additional criteria to minimize the rules impact of non-unionized contractors and subcontractors, both small and large businesses.

6. Describe the Consequences to Federal activities if the collection is not conducted or is conducted less frequently. Collection frequency is minimal, but required as directed by Federal agencies in their solicitation documents. If the collection is not conducted as required, work on the agency's construction project could be delayed.

7. Special circumstances for collection. Collection is consistent with the guidelines in 5 CFR 1320.5(d). The information will not be collected in a manner that requires an explanation of special circumstances.

8. Efforts to consult with persons outside the agency. A notice was published in the Federal Register at 77 FR 69627, on November 20, 2012. One comment was received.

Comment: The respondent commented that the extension of the information collection would violate the fundamental purposes of the Paperwork Reduction Act.

Response: In accordance with the Paperwork Reduction Act (PRA), agencies can request OMB approval on an existing information collection. PRA requires that agencies use the Federal Register notice and comment process, to extend OMB's

approval, at least every three years. This extension, to a previously approved information collection, pertains to the requirement to submit a project labor agreement to the Government when such an agreement is deemed needed. Absent this information the Government would be lacking in information governing the labor agreements governing a major construction project.

Comment: The respondent commented that the collective burden of compliance with the information collection requirement greatly exceeds the agency's estimate and outweighs any potential utility of the extension.

Response: The Paperwork Reduction Act (PRA) was designed to improve the quality and use of Federal information to strengthen decision-making, accountability, and openness in government and society. Central to this process is the solicitation of comments from the public. This process incorporates and enumerated specification of targeted information and provides interested parties a meaningful opportunity for comment on the relevant compliance cost. This process has led to decreases in the overall collection requirement in regards to the public. Based on OMB estimates, in FY 2010, the public spent 8.8 billion hours responding to information collections. This was a decrease of one billion hours, or ten percent from the previous fiscal year. In effect, the collective burden of compliance for the public is going down as the Government publishes rule that make the process less complex, more transparent, and reduces the cost of federal regulations to both the Contractor community and Government.

Given that the final rule for Project Labor Agreements for Federal Construction Projects was published at 75 FR 19168 on April 13, 2010, with an effective date of May 13, 2010, for new solicitations for Federal Construction Projects, the rule has not been in effect for a sufficient time to collect meaningful objective data. There is no existing Governmentwide data base that collects PLAs and specifically the number submitted under the various options included in the existing rule. With regard to the use of one hour preparation time per response, the commenter has not considered that the FAR case does not require the preparation or submission of a Project Labor Agreement as a paperwork exercise. Project Labor Agreements are mandated by an Executive order, not by the FAR. Therefore, the time required to negotiate a Project Labor Agreement was never

intended to be included in this renewal request. Further, the FAR requires only that a Project Labor Agreement be submitted to the Government on an exception basis and only in order to confirm the existence of a negotiated Project Labor Agreement when someone or some circumstance has cast doubt on whether there is a Project Labor Agreement on a particular Federal construction project. The allotted hour is the time required to copy an existing document and mail it to the Government, essentially a clerical task. Because the commenter did not provide any creditable data to support the use of more time per response in terms of submitting the PLA (not developing the PLA), one hour per response is retained in this information collection renewal request.

9. Explanation of any decision to provide any payment or gift to respondents, other than re-enumeration of contractors or guarantees. No payment or gift will be provided to respondents, other than remuneration of contractors under their contracts.

10. Describe assurance of confidentiality provided to respondents. The information collected will be disclosed only to the extent consistent with prudent business practice, current regulations, and statutory requirements. No assurance of confidentiality is provided to respondents.

11. Additional justification for questions of a sensitive nature. No sensitive questions are involved.

12. Estimated total annual public hour burden. In FY 2008 and 2009, a two year average of 246 large-scale construction contracts, were awarded. Of these, 14 were made to small businesses. The small business size standard for general building and heavy construction contractors is \$33.5 million. Most prime contractors for such projects are large businesses, but the majority of the subcontractors under these large-scale contracts will be small businesses. For FY 2010 and 2011, there is a two year average of 258. Of these, 16 were awarded to small business. However, the GSA, DoD, and NASA continue to maintain the estimate of about 30 project labor agreements per year (that would now be 11.6 percent of all large-scale construction contracts).

The rule and the burden does not require the contractor to keep records regarding the development, negotiation, or submission of the PLA.

13. Estimated total annual public cost burden. We estimate that the contracting officer will be able to determine whether the project labor agreement is compliant without requesting additional evidence from the offeror. Therefore, we estimate 70 respondents, 1 response per respondent and .5 hours per response, and an estimated cost of \$36 per hour (the equivalent of a GS-11 step 5 salary plus 36.45 percent burden):

Respondents	70
Responses/respondent	x <u>1</u>
Responses	70
Hours per response	x <u>1</u>
Total hours	70
Cost per hour	x <u>\$49</u>
Total annual cost to the Gov't	\$ 3430

14. Estimated cost to the Government. Time required for Government review is estimated to be 30 minutes.

Number of respondents	70
Responses per respondent	x <u>1</u>
Total responses	70
Estimated total burden hours	70
Average cost per hour	x <u>45¹</u>
Total Government cost	\$3150

15. Explain reasons for program changes or adjustment reported in Item 13 or 14. Data was estimated using the Federal Procurement Data System (FPDS) for FY10 and FY11 and reflects current labor and overhead rates.

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

17. Approval not to display expiration date. Results of this information collection will not be tabulated or published.

18. Explanation of exception to certification statement. The FAR Council does not seek approval to not display the expiration dates for OMB approval of the information collection.

¹ Based on 2012 OPM General Schedule salary tables. Used salary for the equivalent of a GS-12, Step 5, or \$32.73/hour, plus an overhead rate of 36.25%, based on OMB Memorandum M-08-13, rounded to the nearest dollar, or \$45/hour.

B. Collections of Information Employing Statistical Methods. Statistical methods will not be employed.