

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
9000-0149, Subcontract Consent**

A. Justification.

1. Circumstances that make the collection of information necessary. "Consent to subcontract" means the contracting officer's written consent for the prime contractor to enter into a particular subcontract. In order for the contracting officer responsible for consent to make an informed decision, the prime contractor must submit adequate information to ensure that the proposed subcontract is appropriate for the risks involved and consistent with current policy and sound business judgment. The review allows the Government to determine whether the contractor's purchasing policies and practices are efficient and adequately protect the government's interests.

If the contractor has an approved purchasing system, consent is required for subcontracts specifically identified by the contracting officer in the subcontracts clause of the contract. The contracting officer may require consent to subcontract if the contracting officer has determined that an individual consent action is required to protect the Government adequately because of the subcontract type, complexity, or value, or because the subcontract needs special surveillance. These can be subcontracts for critical systems, subsystems, components, or services.

If the contractor does not have an approved purchasing system, consent to subcontract is required for cost-reimbursement, time-and-materials, labor-hour, or letter contracts, and also for unpriced actions under fixed-price contracts that exceed the simplified acquisition threshold.

FAR 44.204 Contract clauses, prescribes when the contracting officer shall insert the clause at 52.244-2, Subcontracts, in solicitations and contracts.

2. Uses of information. "Consent to subcontract" as discussed in FAR Part 44, is used to evaluate the efficiency and effectiveness with which the contractor spends Government funds, and complies with Government policy when subcontracting. The information in the consent package provides the administrative contracting officer (ACO)(unless

the contracting officer retains the contract for administration or withholds the consent responsibility from delegation to the ACO) a basis for granting, or withholding consent to subcontract.

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. Describes efforts to identify duplication. There is no duplication of information under this collection. This requirement is being issued under the Federal Acquisition Regulation (FAR), which 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. The burden applied to small businesses is the minimum consistent with applicable laws, executive orders, regulations, and prudent business practices.

6. Describe the consequences to Federal activities if the collection is not conducted or is conducted less frequently. Collection of this information on other than an individual contract basis is not practicable. Collecting this information less frequently would impede contracting officers from performing their administrative functions in an effective and efficient manner.

7. Special circumstance for collection. Collection is consistent with the guidelines in 5 CFR 1320.6.

8. Efforts to consult with persons outside the agency. A notice and request for comments was published in the *Federal Register* at 77 FR 29983, on May 21, 2012. One respondent submitted comments. The comments were addressed in the second notice published in the *Federal Register* at 77 FR 56644, on 09/13/2012. The comment did not result in a change to the estimated annual burden.

Comment: The respondent questioned whether the extension of the information collection would violate the fundamental purposes of the Paperwork Reduction Act because

of the burden it puts on the entity submitting the information and the agency collecting the information.

Response: In accordance with the Paperwork Reduction Act (PRA), agencies can request OMB approval of an existing information collection. The 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 FAR Subpart 44.2, Consent to subcontract and the contract clause at FAR 52.244-2, Subcontracts. The purpose of the clause is to provide the prime contractor with consent to perform some requirements of the contract through the use of a subcontract or subcontractor. Prime contractors and the government have a direct legal relationship; however, the government does not have such a relationship with subcontractors. As a result, the prime contractor is obligated to ensure that the requirements of the contract are met properly, including those requirements performed by the subcontractor. Failure to grant this extension would have a detrimental impact on a contractor's ability to provide goods and services to the Federal Government.

Comment: The respondent questioned that the agency did not accurately estimate the public burden challenging that the agency's methodology for calculating it is insufficient and inadequate and does not reflect the total burden. For this reason, the respondent provided that the Agency should reassess the estimated total burden hours and revise the estimate upwards to be more accurate, as was done in FAR Case 2007-006. The respondent also provided that the burden of compliance with the information collection requirement greatly exceeds the agency's estimate and outweighs any potential utility of the extension.

Response: Serious consideration is given, during the open comment period, to all comments received and adjustments are made to the paperwork burden estimate based on reasonable considerations provided by the public. This is evidenced, as the respondent notes, in FAR Case 2007-006 where an adjustment was made from the total preparation hours from three to 60. This change was made based on the comment considering particularly the hours that would be required for review within the company, prior to release to the Government. The burden is prepared taking into consideration the necessary criteria in OMB guidance for estimating the paperwork burden put on the entity submitting

the information. For example, consideration is given to an entity reviewing instructions; using technology to collect, process, and disclose information; adjusting existing practices to comply with requirements; searching data sources; completing and reviewing the response; and transmitting or disclosing information. The estimated burden hours for a collection are based on an average between the hours that a simple disclosure by a very small business might require and the much higher numbers that might be required for a very complex disclosure by a major corporation. Also, the estimated burden hours should only include projected hours for those actions which a company would not undertake in the normal course of business. Careful consideration went into assessing the estimated burden hours for this collection, and it is determined that an upward adjustment is not required at this time. However, at any point, members of the public may submit comments for further consideration, and are encouraged to provide data to support their request for an adjustment.

9. Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or guarantees. There will be no payment or gift to respondents, other than remuneration of contractors.

10. Describe assurance of confidentiality provided to respondents. This information is disclosed only to the extent consistent with prudent business practice, current regulations and statutory requirements.

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

12 & 13. Estimated total annual public hour burden.
Advance notification only. Where contractor has an approved purchasing system.

| | |
|---|----------------|
| Estimated number of respondents..... | 780 |
| Number of responses per respondent per year...x | <u>15.22</u> |
| Total annual responses..... | 11,872 |
| Review time per response.....x | <u>15min</u> |
| Total burden hours..... | 2,968 |
| Average wages.....x | <u>\$30.00</u> |
| Total public cost for advance notification.... | \$89,037 |

Estimated total annual public cost burden.

Consent requirement. Where contractor does not have an approved purchasing system.

| | |
|---|----------------|
| Estimated number of respondents..... | 3,472 |
| Number of responses per respondent per year...x | <u>1</u> |
| Total annual responses..... | 3,472 |
| Review time per response.....x | <u>3-hrs</u> |
| Total burden hours..... | 10,416 |
| Average wages.....x | <u>\$30.00</u> |
| Total public cost for advance notification.... | \$312,480 |

Wages based on the equivalent of a GS-9, Step 5, of \$22.57, plus overhead of 33%, rounded to the nearest dollar.

14. Estimated annual reporting cost to the Government.

Advance notification only. Where contractor has an approved purchasing system.

| | |
|---|----------------|
| Total Annual Responses..... | 11,872 |
| Review time per response.....x | <u>10min</u> |
| Total burden hours..... | 2,018 |
| Average wages.....x | <u>\$30.00</u> |
| Total Government cost for advance notification..... | \$60,547 |

Consent requirement. Where contractor does not have an approved purchasing system.

| | |
|--------------------------------|----------------|
| Total annual responses..... | 3,472 |
| Review time per response.....x | <u>3-hrs</u> |
| Total burden hours..... | 10,416 |
| Average wages.....x | <u>\$30.00</u> |

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| Total Government cost for advance Notification | \$312,480 |
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Wages based on the equivalent of a GS-9, Step 5, of \$22.57, plus overhead of 33%, rounded to the nearest dollar.

15. Explain reasons for program changes or adjustments reported in Item 13 or 14. This is an updated information collection requirement.

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. Collection of Information Employing Statistical Methods
Statistical methods are not used in this information collection.