

**SUPPORTING STATEMENT
FOR INFORMATION COLLECTION
OMB CONTROL 9000-0045, BID GUARANTEES, PERFORMANCE AND PAYMENT
BONDS, AND ALTERNATIVE PAYMENT PROTECTION**

A. Justification.

1. Circumstances that make the collection of information necessary. This is a request for extension of the expiration date of the information collection requirement currently approved under OMB Control Number 9000-0045 for Bid Guarantees, Performance and Payment Bonds, and Alternative Payment Protections (FAR Subparts 28.1 and 28.2; clauses at 52.228-1, 52.228-2, 52.228-13, 52.228-15, 52.228-16; and associated standard forms).

These regulations implement the statutory requirements of the Miller Act (40 U.S.C. §§ 3131 to 3134), which requires performance and payment bonds for any construction contract exceeding \$150,000 unless it is impracticable to require bonds for work performed in a foreign country, or it is otherwise authorized by law. In addition, the regulations implement the notice to 40 U.S.C. § 3132, entitled "Alternatives to Payment Bonds Provided by the Federal Acquisition Regulation," which requires alternative payment protection for construction contracts that exceed \$30,000 but do not exceed \$150,000. Although not required by statute, under certain circumstances the FAR permits the Government to require bonds on other than construction contracts.

FAR clause 52.228-1, Bid Guarantee, as prescribed in FAR 28.101-2, requires the bidder to furnish a bid guarantee in the proper form and amount. (SF 24, Bid Bond; SF 34, Annual Bid Bond).

FAR clause 52.228-2, Additional Bond Security, as prescribed in FAR 28.106-4(a), requires the Contractor to furnish additional bond security under certain circumstances. This clause is used both for construction and other than construction contracts.

FAR clause 52.228-13, Alternative Payment Protections, as prescribed in FAR 28.102-3(b), requires the Contractor to submit one of the payment protections listed in the clause by the Contracting officer, in construction contracts greater than \$30,000 but not exceeding \$150,000.

FAR clause 52.228-15, Performance and Payment Bonds-Construction, as prescribed in FAR 28.102-3(a), requires the contractor to provide performance and payment bonds in construction contracts exceeding \$150,000. (SF 25, Performance Bond; SF 25A, Payment Bond; SF 25B, Continuation Sheet (for SF's 24, 25, and 25A); SF 273, Reinsurance Agreement for a Miller Act Performance Bond; SF 274, Reinsurance Agreements for a Miller Act Payment Bond).

FAR clause 52.228-16, Performance and Payment Bonds-Other than Construction, as prescribed by 28.103-4, requires performance and payment bonds for other than construction contracts. This clause is only used in limited circumstances. (SF 35, Annual Performance Bond; SF 1416, Payment Bond for Other Than Construction Contracts; SF 275, Reinsurance Agreement in Favor of the United States; SF 1418, Performance Bond for Other than Construction Contracts).

2. **Uses of information.** The bid guarantees, bonds, or alternative payment protections are retained by the Government until the contractor's obligation is fulfilled.

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. **Describe efforts to identify duplication.** 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 information is required in specific circumstances, as statutorily required by the Miller Act. Not conducting or conducting this collection of information less frequently, could subject the Government to substantial losses because this information collection provides the Government with a form of security that the contractor will not withdraw a bid or assures

that the contractor will perform its obligations under the contract. Therefore, collection is conducted only as necessary on a contract-by-contract basis.

7. **Special circumstances for collection.** Collection is generally consistent with guidelines in 5 CFR 1320.6.

8. **Efforts to consult with persons outside the agency.** A notice published in the *Federal Register* at 77 FR 61580, on October 10, 2012. One comment was received, in which the respondent requested that certain revisions be made to various FAR standard forms covered by this information collection. The respondent's suggestions did not question nor affect the information collection estimate included in this request for extension.

9. **Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or guarantees.** Not applicable.

10. **Describe assurance of confidentiality provided to respondents.** This information is disclosed only to the extent consistent with prudent business practices and current regulations.

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

12 & 13. **Estimated total annual public hour burden.**

FAR 52.228-1 Bid Guarantee & FAR 52.228-15 Performance and Payment Bonds - Construction: The estimated number of respondents per year is based on the total number of government contracts awarded in fiscal year 2011 dealing with construction, using the following Product Service Codes (PSC): Y199 and Y111. Using data derived from the Federal Procurement Data System (FPDS), during this time period, the total number of actions completed by the Government is 24,202. It is estimated that 10% (or 2,420) of these actions were a result of Recovery Act funding and are not reoccurring actions. An additional 10% (or 2,178) of these actions are below the \$150,000 threshold. Therefore, the number of respondents per year is estimated at 19,604.

Actions: PSC Y199	15,440
Actions: PSC Y111	<u>8,762</u>
Total Number of Actions	24,202
10% Reduction for	<u>(2,420)</u>

Recovery Act Actions	
	21,782
10% Reduction for Actions Above \$150K	(2,178)
Estimated # of Respondents per Year	19,604

FAR 52.228-2 Additional Bond Security: This clause applies to limited contracts. It is estimated that this clause applies in half of the total number of actions per year, as described above. Therefore, the estimated number of respondents per year is 9,802.

FAR 52.228-13 Alternative Payment Protections: This clause only applies to actions below the \$150,000 threshold. Therefore, the estimated number of respondents per year is 2,178.

FAR 52.228-16 Performance and Payment Bonds - Other than Construction: The estimated number of respondents per year is based the total number of government contracts awarded in 2011. During this time period, the government awarded contracts to 193,000 unique vendors. It is estimated that this clause applies in 2.5% of the actions. Therefore, the estimated number of respondents per year is 4,825.

In all cases, it is estimated that only one (1) response would be reported annually per respondent. The amount of time required to read and prepare this information is estimated at one (1) hour per response. This is based on the estimated time it would take to complete the forms and then provide the information to the contracting officer.

There is no requirement in the above clauses for recordkeeping, only a reporting burden.

52.228-1 Bid Guarantee

Estimated respondents/yr	19,604
Responses annually	1
	19
Total annual responses	,604
Estimated hrs/response	1
	19
Estimated total burden/hrs	,604
Total response and recordkeeping burden hours	19,604

Average wages + overhead (\$22.57/hr. + 36.45% OH)*	\$ <u>31</u>
Total cost to public	\$607,724

52.228-2 Additional Bond Security

Estimated respondents/yr Responses annually	9 ,802 <u>1</u> 9
Total annual responses	,802
Estimated hrs/response	<u>1</u> 9
Estimated total burden/hrs	,802
Total response and recordkeeping burden hours	9 ,802
Average wages + overhead (\$22.57/hr. + 36.45% OH)*	\$ <u>31</u>
Total cost to public	\$303,862

52.228-13 Alternative Payment Protections

Estimated respondents/yr Responses annually	2 ,178 <u>1</u> 2
Total annual responses	,178
Estimated hrs/response	<u>1</u> 2
Estimated total burden/hrs	,178
Total response and recordkeeping burden hours	2 ,178
Average wages + overhead (\$22.57/hr. + 36.45% OH)*	\$ <u>31</u> \$
Total cost to public	67,518

52.228-15 Performance and Payment Bonds - Construction

Estimated respondents/yr Responses annually	19 ,604 <u>1</u> 19
Total annual responses	19

	, 604
Estimated hrs/response	<u>1</u>
Estimated total burden/hrs	19,604
Total response and recordkeeping burden hours	1 9,604
Average wages + overhead (\$22.57/hr. + 36.45% OH)*	\$ <u>31</u>
Total cost to public	\$607,724

52.228-16 Performance and Payment Bonds - Other than Construction

	4
Estimated respondents/yr Responses annually	, 825 <u>1</u>
	4
Total annual responses	, 825
Estimated hrs/response	<u>1</u>
	4
Estimated total burden/hrs	, 825
Total response and recordkeeping burden hours	4 , 825
Average wages + overhead (\$22.57/hr. + 36.45% OH)*	\$ <u>31</u>
	\$
Total cost to public	149,575

*Based on the OPM salary tables for Calendar Year 2012, we used an hourly rate equivalent to a GS-9, Step-5, or \$22.57/hour, plus a burden rate mandated by OMB for A-76 public-private competitions, or 36.45%, and rounded the total to the nearest whole dollar, or \$31.00.

14. **Estimated cost to the Government.** Time required for Governmentwide review is estimated at 10 minutes per response.

Annual Recordkeeping Burden and Cost

52.228-1 Bid Guarantee	
Total annual responses.....	19,604
Review time per response (hours).....	x. 06
Total burden hours.....	1,176
Average wages and overhead ** (22.57/hr + 36% OH)....	<u>\$31</u>
Total Government Cost.....	\$36,456

52.228-2 Additional Bond Security

Total annual responses.....	9,802
Review time per response (hours).....	<u>X .06</u>
Total burden hours.....	588
Average wages and overhead ** (22.57/hr + 36% OH)....	<u>\$31</u>
Total Government Cost.....	\$18,228

52.228-13 Alternative Payment Protections

Total annual responses.....	2,178
Review time per response (hours).....	<u>X .06</u>
Total burden hours.....	131
Average wages and overhead ** (22.57/hr + 36% OH)....	<u>\$31</u>
Total Government Cost.....	\$4,061

52.228-15 Performance and Payment Bonds - Construction

Total annual responses.....	19,604
Review time per response (hours).....	<u>X .06</u>
Total burden hours.....	1,176
Average wages and overhead ** (22.57/hr + 36% OH)....	<u>\$31</u>
Total Government Cost.....	\$36,456

52.228-16 Performance and Payment Bonds - Other Than Construction

Total annual responses.....	4,825
Review time per response (hours).....	<u>X .06</u>
Total burden hours.....	289
Average wages and overhead ** (22.57/hr + 36% OH)....	<u>\$31</u>
Total Government Cost.....	\$ 8,959

**Based on the OPM salary tables for Calendar Year 2012, we used an hourly rate equivalent to a GS-9, Step-5, or \$22.57/hour, plus a burden rate mandated by OMB for A-76 public-private competitions, or 36.45%, and rounded the total to the nearest whole dollar, or \$31.00.

15. Explain reasons for program changes or adjustments reported in Item 13 or 14. This submission requests an extension of OMB approval of an information collection requirement in the FAR. Where the previous information collection Supporting Statement provided an estimated cost to the Government of 0 hours per response in Item 14, this request for extension corrects the estimated cost to the Government by including a time required for Governmentwide review estimated at 10 minutes per response

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