

**Supporting Statement for the
Request for Proposal and Request for Price Quotation
(RFP and RFPQ; OMB No. 7100-0180)**

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, with revision, the Request for Proposal (RFP) and Request for Price Quotations (RFPQ) (OMB No. 7100-0180). The Federal Reserve Board uses the RFP and the RFPQ as appropriate to obtain competitive proposals and contracts from approved vendors of goods and services. This information collection is required to collect data on prices, specifications of goods and services, and qualifications of prospective vendors.

The RFP document for the procurement of goods, services and construction that are not off-the-shelf items is called the *Solicitation, Offer, and Award*. When procuring off-the-shelf goods and services using the RFPQ, Board staff partially completes a Purchase Order that is sent to prospective vendors. Prospective vendors then fill in the price column and return the Purchase Order to the Federal Reserve.

In connection with the RFP and RFPQ process, Board staff proposes to require prime contractors to submit a Subcontracting Report that would collect information about their subcontractors' commitments toward diversity and inclusion of minority-owned and women-owned vendors in the subcontractor's activities. The total annual paperwork burden is estimated to be 21,950 hours and would increase by 50 hours with the proposed revision. A copy of the draft subcontractor report is attached.

Background and Justification

The RFP and the RFPQ collect information used in evaluating the competitive bids and contracts submitted by vendors (offerors). Depending upon the goods and services for which the Federal Reserve Board is seeking bids, the offeror is requested to provide either prices for providing the goods or services (RFPQ) or a document covering not only prices, but the means of performing a particular service and a description of the qualification of the staff of the offeror who will perform the service (RFP). The Board staff uses this information to analyze the proposals and select the offer providing the best value.

Description of Information Collection

Board staff uses various resources to select appropriate potential offerors for providing a particular good or service. The Board has expanded its Diversity Program over the last three years. Board staff uses minority/diversity conferences and an internal vendor fair in combination with existing lists of qualified vendors to find and recruit new companies that are capable of providing goods and services to the Federal Reserve Board. Board staff compiles source lists of approved vendors for the goods and services that the Federal Reserve Board requires in its operations. Board staff interviews vendors who express interest in doing business with the

Federal Reserve Board and adds to the source lists those vendors that prove to be satisfactory. In addition to source lists, Board staff uses the national *Thomas Register*,¹ the internet, the Yellow Pages, and lists from other government agencies that have acquired similar goods or services.

In announcing either an RFP or an RFPQ, Board staff contacts, via U.S. mail, the internet, or telephone, vendors selected from the relevant source list. Purchases of commercially available goods or services that amount to \$25,000 or less annually are usually solicited orally under the Acquisition Policy's simplified procedures. For more complex goods and services, Board staff sends the RFP or RFPQ to vendors.

The RFP includes a cover letter and sections that describe:

- the goods or services desired,
- how the Federal Reserve Board will evaluate the prospective offerors,
- how the Federal Reserve Board will evaluate the offers,
- solicitation instructions (how to prepare and submit the offer, including all deadlines),
- contract terms (work standards, inspections, work delays, work change orders, payment, taxes, and compliance with various small business and labor laws), and
- presentations and certifications offerors make on their own behalf.

This information allows Board staff to fairly and accurately assess the merits of offerors' proposals and to select the proposal most advantageous to the Federal Reserve Board, taking into account price and other factors.

The RFPQ describes the goods or services desired, requests the price of the goods or services, and may request a sample of the goods or services. The Board staff uses the sample to evaluate the quality of the product, and thus is able to identify the offer that is most advantageous to the Federal Reserve Board.

Proposed Revisions

Section 342(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) requires the Federal Reserve to develop and implement standards and procedures to assess the diversity policies and practices in all business and activities of the agency at all levels, including procurement, insurance, and all types of contracts. In order to comply with the mandate of the Dodd-Frank Act, Board staff has developed a Subcontracting Report to collect information regarding the Federal Reserve's contractors subcontracting commitments toward diversity and inclusion of minority-owned and women-owned vendors in the contractor's subcontracting activities.

Board contracts (except for purchase card orders) contain a written statement whereby the contractor affirms its commitment, to the maximum extent possible, to the fair inclusion of women and minorities in its own workforce and, as applicable, in the selection and work force of its subcontractors. Board contracts whose annual value exceeds \$100,000 contain a broader

¹ The Thomas Register of American Manufacturers is a multi-volume directory of suppliers of industrial products and manufacturers, http://www.thomasnet.com/companyhistory/ThomasRegister_today.html.

clause whereby the Contractor acknowledges that it will provide evidence of the good faith efforts it has made in support of its commitment to diversity in its workforce and contracting practices and flows down the diversity commitments to its subcontractors. Among those efforts is the requirement to report on a prime contractor's subcontracts. The contract provision states:

M.26 IDENTIFICATION OF SUBCONTRACTORS

Note: This clause is applicable to contracts and subcontracts in excess of one hundred thousand dollars (\$100,000).

After Contract award and upon the Contracting Officer's request, the Contractor shall submit to the Contracting Officer a list of the subcontracts it has awarded to perform the work described in Section C of this Contract that includes: subcontractor name, dollar amount of the subcontract, date of award of the subcontract, description of the activities performed by the subcontractor, and the subcontractor's ownership status by race, ethnicity, and gender.

Although this contract provision will not be revised, the Subcontracting Report is proposed to implement the provision by obtaining information about subcontracts. The Subcontracting Report would be divided into three sections. The first section would collect identifying information about the prime contractor, such as company name, address, and contact information, as well as the amount of the contract and the reporting year period. The second section would collect information pertaining to the subcontractor(s). This information would include the company name of each subcontractor; whether the subcontractor is a large or small business as defined by North American Industry Classification² (NAICS codes); whether the subcontractor is owned by a woman, veteran, or service disabled veteran; business classification by ethnicity; dollar amount of the subcontract; and the subcontract's value relative to the total contract value (expressed as a percentage of the total award). The third section would collect the address of the subcontractor(s) and a description of the services provided.

Time Schedule for Information Collection and Publication

When the Board staff requests bids, prospective offerors are told when the product is needed or when the service is to be performed and are given deadlines for inquiries concerning the RFP or RFPQ as well as for submitting offers. When possible, the RFP or RFPQ specifies the date by which the Board staff will award the contract. When Board staff has decided which contract to accept, all offerors are notified of the decision. The proposed Subcontracting Report would be due following contract award and would be submitted electronically by the prime contractor. Information from the Subcontracting Report would be used to assist the Federal Reserve in fulfilling the requirement in Section 342(e) of the Dodd-Frank Act that requires the Board to submit to Congress an annual report regarding the fair inclusion of minorities and women in contracting.

² See http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.

Legal Status

The Board's Legal Division has determined that the RFP and RFPQ are required to obtain a benefit and are authorized by sections 10(3), 10(4), and 11(1) of the Federal Reserve Act (12 U.S.C. §§ 243, 244, and 248(1)). With regard to the Subcontracting Report, section 342(c) of Dodd-Frank requires the Federal Reserve to develop and implement standards and procedures to assess the diversity policies and practices in all business and activities of the agency at all levels, including procurement, insurance, and all types of contracts. (12 U.S.C. § 5452(c)(1)). "Such procedure shall include a written statement, in a form and with such content as the Director [of OMWI] shall prescribe ... that a contractor shall ensure ... the fair inclusion of women and minorities in the workforce of the contractor and, as applicable, subcontractors." (12 U.S.C. § 5452(c)(2)).

Proposals from vendors that are not accepted and incorporated into contracts with the Board would be protected from Freedom of Information (FOIA) disclosure by 41 U.S.C. § 4702, which expressly prohibits FOIA disclosure of these proposals. Moreover, during the solicitation process vendors are permitted to mark information contained in their proposals that is proprietary or confidential with the label "RESTRICTED DATA". For information so marked, the Board also may determine on a case-by-case basis whether FOIA exemption 4, which applies to "trade secrets and commercial or financial information," would protect information from disclosure pursuant to a FOIA request (5 U.S.C. §552(b)(4)).

Consultation Outside the Agency

On July 23, 2015, the Federal Reserve published a notice in the *Federal Register* (80 FR 43777) requesting public comment on the proposed extension, with revision, of the RFP and RFPQ. The comment period for the notice expired on September 21, 2015. The Federal Reserve received one comment, which stated that contracting programs should be open to all and that no one should be discriminated against nor granted preferential treatment because of skin color, national origin, or sex. The RFP and RFPQ will be extended with revision as proposed. On October 8, 2015, the Federal Reserve published a final notice in the *Federal Register* (80 FR 60901).

Estimate of Respondent Burden

As shown in the table below, the current annual reporting burden for this information collection is estimated to be 21,900 hours, based on actual submissions during the past three years. Board staff expects to receive 150 Subcontracting Reports per year and estimate it would take an average of 20 minutes to complete the report, which would result in an annual burden increase of 50 hours. This information collection represents less than 1 percent of total Federal Reserve System paperwork burden.

RFP RFPQ	<i>Number of respondents</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Current				
RFP	350	1	50	17,500
RFPQ	2,200	1	2	<u>4,400</u>
				21,900
Proposed				
RFP	350	1	50	17,500
RFPQ	2,200	1	2	4,400
Subcontract Report	150	1	20 minutes	<u>50</u>
				21,950
<i>Change</i>				50

The total cost to the public is estimated to increase from the current level of \$1,133,325 to \$1,135,913 with the proposed revision.³

Sensitive Questions

This collection of information contains no questions of a sensitive nature, as defined by OMB guidelines.

Estimate of Cost to the Federal Reserve Board

The total annual cost to the Federal Reserve Board for obtaining and evaluating the RFPs and RFPQs is estimated to be \$2,869,241. This cost is a combination of the cost of staffing the Procurement Function (approximately 75 percent) plus labor costs of technical staff in other Board functional areas who prepare statements of work and related requirements documents (approximately 25 percent).

³ Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rates (30% Office & Administrative Support at \$17, 45% Financial Managers at \$63, 15% Lawyers at \$64, and 10% Chief Executives at \$87). Hourly rates for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor and Statistics (BLS), *Occupational Employment and Wages May 2014*, published March 25, 2015, www.bls.gov/news.release/ocwage.t01.htm. Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/.