

**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.

The subcontract consent requirement is implemented through Federal Acquisition Regulation (FAR) clause at 52.244-2, Subcontracts, in solicitations and contracts.

FAR clause 52.244-2 also requires prime contractors to provide contracting officers notification before the award of any cost-plus-fixed-fee subcontract, or certain fixed-price subcontracts. This requirement for advance notification is driven by statutory requirements in 10 U.S.C. 2306 and 41 U.S.C. 3905.

2. Uses of information. "Consent to subcontract" as implemented through FAR clause 52.244-2, 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 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 60-day notice was published in the *Federal Register* at 80 FR 41501, on July 15, 2015. No comments were received. A 30-day notice was published in the *Federal Register* at 80 FR 67405, on November 2, 2015.

9. Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees. 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 and cost burden. Based on the calculations below, the annual burden associated with the reporting requirements of FAR 52.244-2 is estimated to be 36,557 hours or \$1,133,267. The cost per response is estimated to be \$

Advance notification only. Advance notification of cost-plus-fixed-fee and certain fixed-price subcontracts is required of prime contractors with non-commercial, cost-reimbursable contracts over the simplified acquisition threshold (SAT). This requirement is generally for contractors without an approved purchasing system. According to the Federal Procurement Data System (FPDS), there were 9,368 prime contracts awarded in fiscal year (FY) 2014 that met the criteria for requiring the advance notification. These 9,368 contracts represented 3,499 companies (respondents). The Defense Contract Management Agency (DCMA) currently has 729 approved purchasing systems on file, which results in the estimated number of annual respondents to be 2,770 (3,499 minus 729). Of these respondents, it is estimated that each will award approximately three subcontracts per year meeting the advance notification requirement (responses). Since the advance notification entails that the prime contractor only provide the name of subcontractor, the type and price of the subcontract, and what is being subcontracted, it is estimated that it will take 15 minutes per response. The estimated cost per response is \$7.75.

Estimated number of respondents.....	2,770
Number of responses per respondent per year.....	<u>x 3</u>
Total annual responses.....	8,310
Review time per response.....	<u>x 15min</u>
Total burden hours.....	2,078.5

Average wages.....x \$31.00*
 Total public cost for advance notification.....\$64,403

Consent to subcontract. According to FPDS, there were 13,649 non-commercial, cost-reimbursement, time-and-materials, labor-hour, and letter contracts awarded in FY 2014, over the SAT. These 13,649 contracts represented 4,560 companies (respondents). DCMA currently has 729 approved purchasing systems on file. This results in an estimated number of annual respondents to be 3,831 (4,560 minus 729). Of these respondents, it is estimated that each will award approximately three subcontracts per year meeting the requirement for a consent to subcontract (responses). Information required to be submitted by the prime in order to receive consent is found in paragraph (e)(1) of clause 52.244-2. It is estimated that it will take 3 hours per response. The cost per response is estimated to be \$93.

Estimated number of respondents.....3,831
 Number of responses per respondent per year.....x 3
 Total annual responses.....11,493
 Review time per response.....x 3 hrs
 Total burden hours.....34,479
 Average wages.....x \$31.00*
 Total public cost for advance notification...\$1,068,849

*Based on the OPM GS-9/step 5 salary (\$23.02 an hour) plus 36.25% burden, rounded to the nearest dollar, or \$31 an hour. The burden rate uses is that mandated by OMB memorandum M-08-13 for use in public-private competition. Reference Salary Table 2015-GS, Effective January 2015, found at www.opm.gov .

Estimated total number of respondents.....6,601
 Total annual responses.....19,803
 Estimated total burden hours.....36,557
 Estimated total annual cost.....\$1,133,252

14. Estimated cost to the Government. The estimated burden to the Government is 35,864 hours or \$1,111,784.

Advance notification only.

Total Annual Responses.....8,310
 Review time per response.....x 0.167 hours
(10min)

Total burden hours.....1,385
Average wages.....x \$31.00*
Total Government cost for.....\$42,935
advance notification

Consent to subcontract.

Total annual responses.....11,493
Review time per response.....x 3 hrs
Total burden hour.....34,479
Average wages.....x \$31.00*
Total Government cost for.....\$1,068,849
consent requirement

*Based on the OPM GS-9/step 5 salary (\$23.02 an hour) plus 36.25% burden, rounded to the nearest dollar, or \$31 an hour. The burden rate uses is that mandated by OMB memorandum M-08-13 for use in public-private competition. Reference Salary Table 2015-GS, Effective January 2015, found at www.opm.gov .

15. Explain reasons for program changes or adjustments reported in Item 13 or 14. FPDS provides a comprehensive web-based tool for agencies to report contract actions. For this extension, data from FPDS provided the number of cost-reimbursement contracts awarded by the Government, which was used to estimate the total annual responses for the advance notification requirement. FPDS also contained data on the number of other contracts awarded by the Government to which the consent to subcontract requirement would apply, which was used to estimate the number of total annual responses for the consent requirement. The data from FPDS was supplemented by data from DCMA on how many prime contractors have an approved purchasing system. With FPDS and data from DCMA, the Government is able to obtain a more accurate number of contracts that would be required to provide information regarding subcontracts pursuant to FAR clause 52.244-2 in a given year.

Based on these new sources and their updated data, this information collection will result in a total of 36,557 hours, an increase of 23,204 hours from the annual reporting burden published in the Federal Register at 77 FR 56644, on September 13, 2012 (13,353 hours).

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.