

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
9000-0173, Limitations on Pass-Through Charges**

A. JUSTIFICATION

1. Administrative Requirements. FAR 52.215-22, Limitations on Pass-Through Charges—Identification of Subcontract Effort, requires offerors submitting a proposal for a contract, task order, or delivery order to provide the following information with its proposal:

(1) The percent of effort the offeror intends to perform and the percent expected to be performed by each subcontractor.

(2) If the offeror intends to subcontract more than 70 percent of the total cost of work to be performed—

(i) The amount of the offeror's indirect costs and profit/fee applicable to the work to be performed by the subcontractor(s); and

(ii) A description of the value added by the offeror as related to the work to be performed by the subcontractor(s).

(3) If any subcontractor intends to subcontract to a lower-tier subcontractor more than 70 percent of the total cost of work to be performed under its subcontract—

(i) The amount of the subcontractor's indirect costs and profit/fee applicable to the work to be performed by the lower-tier subcontractor(s); and

(ii) A description of the value added by the subcontractor as related to the work to be performed by the lower-tier subcontractor(s).

In addition, if the amount of the effort to be subcontracted by the contractor or a subcontractor changes from the amount identified in the proposal such that it exceeds 70 percent of the total cost of work to be performed, FAR 52.215-23, Limitations on Pass-Through Charges, requires contractors to provide a description of the value added by the contractor or subcontractor, as applicable, as related to the subcontract effort.

The following categories of contracts are excluded from this information collection requirement:

(1) Firm-fixed-price contracts awarded on the basis of adequate price competition.

(2) Fixed-price contracts with economic price adjustment, awarded on the basis of adequate price competition.

(3) Firm-fixed-price contracts for the acquisition of a commercial item.

(4) Fixed-price contracts with economic price adjustment, for the acquisition of a commercial item.

2. Uses of information. This information is required to ensure that pass-through charges under these contracts and subcontracts are not excessive, in accordance with Section 852 of Public Law 109-364 as well as Section 866 of Public Law 110-417. Contracting officers will use the information to assess the value added by a contractor or subcontractor in relation to proposed, billed, or claimed indirect costs or profit/fee on work performed by a subcontractor.

3. Consideration 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. 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. There are no other sources for this information.

5. If the collection of information impacts small businesses or other entities, describe methods used to minimize burden. The information collection associated with small businesses is the minimum consistent with applicable laws, Executive Orders, regulations, and prudent business practices.

6. Describe consequence to Federal program or policy activities if the collection is not conducted or is

conducted less frequently. Less frequent collection would not permit Contracting Officers to ensure that pass-through charges on contracts and subcontracts are not excessive and, therefore, would not permit effective compliance with Section 852 of Public Law 109-364 as well as Section 866 of Public law 110-417.

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 person outside the agency. A 60-day notice was published in the *Federal Register* at 81 FR 33674 on May 27, 2016. No comments were received. A 30-day notice was published in the *Federal Register* at 81 FR 59226 on August 29, 2016.

9. Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees. 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.

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

12 & 13. Estimated total annual public hours and cost burden. Based on FY 2015 Federal Procurement Data System (FPDS) data regarding the types of contracts to which this information collection applies, it is estimated that the requirement for an offeror to identify the percent of effort it intends to perform, and the percent to be performed by each subcontractor, is as follows:

- For civilian agencies, FPDS-NG shows 7,712 contracts, awarded to 2,526 unique vendors, potentially impacted by the clauses associated with this information collection.
- For DOD, FPDS-NG shows 5,737 contracts, awarded to 1,690 unique vendors, potentially impacted by the

clauses associated with this information collection.

- It is further estimated that 3 responses would be submitted in response to a solicitation for each of these contracts that includes the applicable clauses.

This equates to a total of 13,449 contracts awarded in FY 2015 to 4,216 unique vendors. It is estimated that an additional number of vendors, approximately 422 or 10 percent, would have submitted offers and not have been awarded a contract. Accordingly, the total number of respondents is estimated to be 4,638 (4,216 + 422) to account for these additional vendors that are not accounted for in the unique vendor total. Based on discussions with subject matter experts, it was determined that 13,449 contract awards was a sufficient baseline for estimating the number of solicitations that would include the applicable clause. It is estimated that 3 responses would be submitted in response to a solicitation that included the applicable clauses, for a total of 40,347 estimated responses per year (13,449 solicitations x 3 solicitation responses each = 40,347 responses).

The number of responses per respondent is estimated at approximately 8.7 (40,347 responses/4,638 respondents). It is also determined that the estimated time required to read and prepare a response is 120 minutes or 2 hours. This determination is based on the consideration of prior public comments. Computations are provided below.

| | |
|------------------------------------|---------------|
| Estimated respondents/yr | 4,638 |
| Responses annually (approximately) | <u>x 8.7</u> |
| Total annual responses..... | 40,351 |
| Estimated hrs/response..... | <u>x 2.0</u> |
| Estimated total burden/hrs..... | 80,702 |
| *Average wages + overhead | <u>x \$46</u> |
| Estimated cost to the public..... | \$3,712,292 |

The estimated cost per response is \$92.

* Based on a GS-12, step 5 (equivalent), salary plus 36.25 percent burden per OMB Circular A-76 ($\$33.72 \times 1.3625 = \45.94 , rounded to \$46).

14. Estimated cost to the Government. It is estimated that it will take the Government 1 hour to review and process the information in each response. The estimated annual cost to

the Government is as follows:

Annual Reporting Burden and Cost

| | |
|--|---------------|
| Total annual responses..... | 40,347 |
| Review time per response..... | <u>x 1.0</u> |
| Total burden hours..... | 40,347 |
| *Average wages/hr. with benefits & overhead..... | <u>x \$46</u> |
| Total Government cost..... | \$1,855,962 |

* Based on a GS-12, step 5 (equivalent), salary plus 36.25 percent burden per OMB Circular A-76 ($\$33.72 \times 1.3625 = \45.94 , rounded to \$46).

15. Explain reasons for program changes or adjustments reported in Item 13 or 14.

It was determined that there is no centralized database in the Federal Government that maintains information regarding the use of the clauses at FAR 52.215-22 and FAR 52.215-23. Therefore, subject matter experts were consulted to obtain additional information that helped in estimating the revised public burden. The parameters for this information collection were defined based on the prescription from the applicable clauses. It was determined that the types of contracts associated with this information collection are:

(1) For civilian agencies, cost-reimbursement type contracts and the total estimated contract or order value exceeds the simplified acquisition threshold (SAT).

(2) For DoD, the total estimated contract or order value exceeds the threshold for obtaining cost or pricing data in 15.403-4 (\$750,000); and the contract type is expected to be any contract type except—

(i) A firm-fixed-price contract awarded on the basis of adequate price competition;

(ii) A fixed-price contract with economic price adjustment awarded on the basis of adequate price competition;

(iii) A firm-fixed-price contract for the acquisition of a commercial item;

(iv) A fixed-price contract with economic price adjustment, for the acquisition of a commercial item;

(v) A fixed-price incentive contract awarded on the basis of adequate price competition; or

(vi) A fixed-price incentive contract for the acquisition of a commercial item.

It is determined that an overall increase in the information collection is warranted, based on using current FY 2015 data generated from FPDS-NG. The estimated change to the burden for this renewal cycle is summarized in the following table:

| | 2013 Renewal | 2016 Renewal | Difference |
|------------------------------|---------------------|---------------------|-------------------|
| Respondents | 13,179 | 4,638 | -8,541 |
| Responses Annually | 1 | 8.7 | |
| Total Annual Responses | 13,179 | 40,347 | +27,168 |
| Estimated Hours per Response | 2 | 2 | |
| Estimated Burden Hours | 26,358 | 80,694 | +54,336 |
| Hourly Rate | \$48.95 | \$46 | |
| Estimated Cost to the Public | \$1,290,224 | \$3,711,924 | +\$2,421,700 |

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

17. Approval not to display expiration date. Approval is not sought to not display the expiration dates for OMB approval of the information collection.

18. Explanation of exception to certification statement. There are no exceptions to the certification accompanying this Paperwork Reduction Act submission.

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