

**SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION
9000-0135, PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS**

A. Justification.

1. Administrative requirements. Part 28 of the Federal Acquisition Regulation (FAR) contains guidance related to insuring against damages under Federal contracts (e.g., bonds, bid guarantees, etc.). Part 52 contains the corresponding provisions and clauses. These collectively implement the statutory requirement for Federal contractors to report payment bonds under construction contracts subject to 40 U.S.C. chapter 31, subchapter III, Bonds. This information collection is mandated by Section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Pub. L. 102-190), as amended by Section 2091 of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-335). The clause at 52.228-12, Prospective Subcontractor Requests for Bonds, implements Section 806(a)(3) of Public Law 102-190, as amended, which states that, upon the request of a prospective subcontractor or supplier offering to furnish labor or material under a construction contract for which a payment bond has been furnished pursuant to 40 U.S.C. 31, the contractor shall promptly provide a copy of such payment bond to the requestor.

2. Uses of information. Given that payment bonds (in conjunction with performance bonds) are used to secure the contractor's obligations (thereby assuring that payments are made to subcontractors and vendors under the contract), the requester will use information on payment bonds to determine whether to engage in business with that prime contractor.

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 contractor may submit this information electronically.

4. Efforts to identify duplication. This requirement is issued under the FAR, which was 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 Public Law 102-190, as amended by Public Law 103-335, which applies to construction contracts subject to 40 U.S.C. 31. While this information is also available from the contracting officer, the statute placed responsibility upon the prime contractor for provision of information to prospective subcontractors or suppliers. The statute imposes the same requirement on both large and small businesses.

6. Describe consequence to Federal program or policy activities if the collection is not conducted or conducted less frequently. Information is needed for decision making by prospective subcontractors and vendors at the individual contract level. Therefore, any less-frequent collection of information is impractical.

7. Special circumstances for collection. Collection is not inconsistent with the guidelines in 5 CFR 1320.6.

8. Efforts to consult with persons outside the agency. A notice was published in the *Federal Register* at 81 FR 93688 on December 21, 2016. No comments were received. A 30-day notice was published at 82 FR 20340 on May 1, 2017.

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

10. Describe assurance of confidentiality provided to respondents. This information is disclosed only to the extent consistent with prudent 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 and cost burden. The Federal Procurement Data System (FPDS) report¹ revealed that, in fiscal year (FY) 2015, the number of construction contracts over \$150,000 (and therefore subject to this collection) amounted to 4,444 -- 3,394 to small businesses, and 1,050 to other than small businesses. It is estimated that that each prime contractor has an average of 10 subcontractors (4,444 x 10) resulting in a total universe of 44,444 subcontractors. Of that universe, it is estimated

¹ Ad hoc report included new construction awards – no task orders included in this report.

that 25% of the subcontractors would request information on surety bonds, resulting in 11,111 responses by the prime contractor. It is also estimated that it would take an average of 20 minutes to accommodate each request, resulting in 3704 burden hours.

Number of respondents	4,444
Number of responses per respondent per year	<u>x 2.5</u>
Total annual responses	11,110
Preparation time per response	<u>x .34</u>
Total response burden hours	3,777
Average wage (\$42.08 + 36%)	<u>x \$57*</u>
Estimated cost to public	\$215,312

14. Estimated Cost to the Government.

Given that the information requester is typically a potential vendor or subcontractor (not the Government), and that the information provider is the prime contractor, the Government will not incur any administrative costs with this collection.

15. Explain reasons for program changes or adjustments reported in Item 13 or 14. This submission reflects three changes. First, the administrative cost to the Government is removed (given that the information collection is between a prime contractor and its potential subcontractors). Secondly, the estimate of companies performing as subcontractors under construction contracts was updated to reflect the FY 2015 data. Finally, the applicable average hourly rate was increased to \$57 (the current GS-12 Step 5 rate plus 36% in fringe benefits).

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.