

**Supporting Statement for Department of Veterans Affairs (VA)  
VA Acquisition Regulation (VAAR)  
Construction Provisions and Clauses  
OMB No. 2900-0422**

**A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary. Identify legal or administrative requirements that necessitate the collection of information.**

This Paperwork Reduction Act (PRA) submission seeks renewal of Office of Management and Budget (OMB) approval No. 2900-0422 for six collections of information for the following Department of Veterans Affairs Acquisition Regulation (VAAR) clauses, as follows:

- Clause 852.236-72, Performance of Work by the Contractor
- Clause 852.236-80, Subcontracts and Work Coordination
- Clause 852.236-84, Schedule of Work Progress
- Clause 852.236-88, Contract Changes—Supplement
- Clause 852.236-82, Payments Under Fixed-Price Construction Contracts (without NAS), including Alternate I
- Clause 852.236-83, Payments Under Fixed-Price Construction Contracts (including NAS), including Alternate I

The information is necessary in order for the Department of Veterans Affairs to administer construction contracts and to carry out its responsibility to construct, maintain, and repair real property for the Department.

**2. Indicate how, by whom, and for what purposes the information is to be used; indicate actual use the agency has made of the information received from current collection.**

a. VAAR clause 852.236-72, Performance of Work by the Contractor, requires contractors awarded a construction contract containing Federal Acquisition Regulation (FAR) clause 52.236-1, Performance of Work by the Contractor, to submit a statement designating the branch or branches of contract work to be performed by the contractor's own forces. The FAR clause requires the contractor to perform a minimum percentage of the work under the contract with its own forces. This VAAR clause implements this FAR clause by requiring the contractor to provide information to the contracting officer on just how the contractor intends to fulfill this contractual obligation. The information is used by the contracting officer to ensure that the contractor complies with the contract requirements.

b. VAAR clause 852.236-80, Subcontracts and Work Coordination requires construction contractors, on contracts involving complex mechanical-electrical work, to furnish coordination

drawings showing the manner in which utility lines will fit into available space and relate to each other and to the existing building elements. The intent of this information is to promote carefully planned work sequencing and proper trade coordination on construction contracts, to assure expeditious solutions to problems, and to avoid or minimize additional costs to the contractor and the Government. The information is used by the contracting officer and the VA engineer assigned to the project to resolve any problems relating to the installation of utilities on construction contracts.

c. VAAR clause 852.236-84, Schedule of Work Progress, requires construction contractors, on contracts that do not require the use of a NAS, to submit a progress schedule. The information is used by the contracting officer to track the contractor's progress under the contract and to determine whether or not the contractor is making satisfactory progress.

d. VAAR clause 852.236-88, Contract Changes—Supplement, supplements FAR clause 52.243-4, Changes. FAR clause 52.243-4 authorizes the contracting officer to order changes to a construction contract but does not specifically require the contractor to submit cost proposals for those changes. VAAR clause 852.236-88 requires contractors to submit cost proposals for changes ordered by the contracting officer or for changes proposed by the contractor. This information is needed to allow the contracting officer and the contractor to reach a mutually acceptable agreement on how much to pay the contractor for the proposed changes to the contract. It is also used by the contracting officer to determine whether or not to authorize the proposed changes or whether or not additional or alternate changes are needed.

e. VAAR clause 852.236-82, Payments under Fixed-Price Construction Contracts (without NAS), with its Alternate I, requires construction contractors to submit a schedule of costs for work to be performed under the contract. In addition, if the contract includes guarantee period services, Alternate I, requires the contractor to submit information on the total and itemized costs of the guarantee period services and to submit a performance plan/program. The information is needed to allow the contracting officer to determine the correct amount to pay the contractor as work progresses and to properly proportion the amount paid for guarantee period services. The information is used by the contracting officer to determine the correct amount to pay the contractor.

f. VAAR clause 852.236-83, Payments under Fixed-Price Construction Contracts (including NAS), with its Alternate I, requires construction contractors to submit a schedule of costs for work to be performed under the contract. In addition, if the contract includes guarantee period services, Alternate I, requires the contractor to submit information on the total and itemized costs of the guarantee period services and to submit a performance plan/program. The information is needed to allow the contracting officer to determine the correct amount to pay the contractor as work progresses and to properly proportion the amount paid for guarantee period services. The contracting officer uses the information to determine the correct amount to pay the contractor. The difference between this clause and the one above, 852.236-82, is that this clause requires the contractor to use a computerized Network Analysis System (NAS) to prepare the cost estimate.

NOTE: An existing information collection requirement exists for clauses noted in paragraphs 2a – 2f. These clauses will be further addressed in subsequent agency proposed rules and may be revised at that time. Any impacts to information collection requirements will be addressed at that time. An extension is required for the continued information collection pending the publication of a proposed rule which may include the noted clauses and associated information collection pertaining to them.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

Except for clause 852.236-83, collection efforts do not involve the use of automation. The information required is specific and unique to each contract or situation and cannot be collected through the use of automation. For clause 852.236-83, the information to be submitted is generated through the use of a computerized NAS.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

There are no duplicated efforts. Each reporting situation is unique and the data that must be submitted is unique to the specific construction contract involved.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

There is no significant impact on small businesses.

**6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently as well as any technical or legal obstacles to reducing burden.**

a. Failure to collect the information required by clause 852.236-72, Performance of Work by the Contractor, would result in the inability of the VA contracting officer to properly administer the contract and to enforce the requirements of FAR clause 52.236-1, Performance of Work by the Contractor. This FAR clause requires the contractor to perform at least a certain percentage of the contract with its own forces. The contracting officer must gather from the contractor information on what portions of the work the contractor proposes to perform with its own forces in order to properly administer the contract and to ensure that the contractor meets the requirements of this FAR clause.

b. Failure to collect the information required by clause 852.236-80, Subcontracts and Work Coordination, with its Alternate I, would result in construction contract delays and excess costs to the contractor and possibly to the Government. This clause requires the contractor to prepare and submit to the contracting officer a set of drawings showing how utility lines will fit into existing space, how the utility lines will relate to each other, and how the utility lines will be installed. If this necessary planning is not completed prior to commencement of construction, the utility lines may not fit into existing space or may interfere with each other or with existing building elements. This could cause delays to the project and could result in excess costs to the contractor and/or the Government.

c. Failure to collect the information required by clause 852.236-84, Schedule of Work Progress, would result in an inability of the contracting officer to properly administer the construction contract. This clause requires the contractor to submit a progress schedule. Without a schedule, the contracting officer would be unable to judge whether or not the contractor is properly pursuing completion of the work under the contract and is making satisfactory progress.

d. Failure to collect the information required by clause 852.236-88, Contract Changes— Supplement, would result in an inability of the Government to properly authorize changes to a construction contract. This clause requires contractors to submit cost proposals for changes to a construction contract that either the Government requests or that the contractor proposes. Without cost data, the contracting officer would be unable to properly authorize contract changes or pay the contractor for those changes. Failure to collect this information would result in the contracting officer making all determinations as to cost, which, in turn, would result in extensive disputes and appeals by the contractor.

e. Failure to collect the information required by clause 852.236-82, Payments Under Fixed-Price Construction Contracts (without NAS), with its Alternate I, would result in the inability of the contracting officer to determine how much to pay a contractor as work progresses on the contract or how much to pay a contractor for guarantee period services. This clause requires the contractor to submit a schedule of costs for work to be performed under the contract and, if the contract includes guarantee period services, to submit information on the total and itemized costs of the guarantee period services and to submit a performance plan/program. Without this information, the contracting office would be unable to properly allocate payments for work performed and would be unable to properly administer the contract.

f. Failure to collect the information required by clause 852.236-83, Payments Under Fixed-Price Construction Contracts (including NAS), with its Alternate I, would result in the inability of the contracting officer to determine how much to pay a contractor as work progresses on the contract or how much to pay a contractor for guarantee period services. This clause requires the contractor to submit a schedule of costs for work to be performed under the contract and, if the contract includes guarantee period services, to submit information on the total and itemized costs of the guarantee period services and to submit a performance plan/program. Without this information, the contracting office would be unable to properly allocate payments for work performed and would be unable to properly administer the contract. The difference between this

clause and the one above, 852.236-82, is that this clause requires the contractor to use a computerized NAS to prepare the cost estimate.

**7. Explain any special circumstances that would cause an information collection to be conducted more often than quarterly or require respondents to prepare written responses to a collection of information in fewer than 30 days after receipt of it; submit more than an original and two copies of any document; retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years; in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study and require the use of a statistical data classification that has not been reviewed and approved by OMB.**

a. For all clauses, the information is needed following the award of each contract or for each unique situation (e.g., for each proposed contract change) rather than quarterly. The information is only required once for each contract or situation (e.g., each proposed contract change).

b. Except for clause 852.236-80, either no time has been set for the submission of the data or at least 30 days have been allowed for the submission of data. Clause 852.236-80, Subcontracts and Work Coordination, with its Alternate I, requires that the contractor submit the data no later than 20 days prior to the scheduled start of work on the contract. This may be, and most likely will be, significantly longer than 30 days after award of the contract (award of the contract serves as notice to the contractor that the information is required). The sooner the contractor can submit the data, the sooner the contractor can proceed with performance. It is in the best interest of both the contractor and the Government to expedite the submission of the data.

c. Except for clause 852.236-80, no more than an original and two copies of any document are required. Clause 852.236-80, Subcontracts and Work Coordination, with its Alternate I, requires the contractor to submit six copies of the coordination drawings. This is required because drawings and blue prints are very large and usually cannot be easily copied. VA needs multiple sets of drawings in order to coordinate work involving multiple trades and often multiple job sites.

d. N/A. There are no records retention requirements on the part of the contractor, other than the normal Government contract retention requirements.

e. N/A. For all clauses, the information collections are not statistical surveys.

f. N/A. For all clauses, the information collections do not require the use of statistical data classification.

g. N/A. The information collections do not include a pledge of confidentiality.

h. N/A for clauses 852.236-80 and 852.236-84. For all clauses, the information collections do not require the submission of proprietary information. However, for all clauses other than 852.236-80 and 852.236-84, the information would be protected under the Freedom of

Information Act and would not be released without first giving the contractor the right to object to its release.

**8. a. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the sponsor's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the sponsor in responses to these comments. Specifically address comments received on cost and hour burden.**

Notices regarding use of these 6 clauses in all applicable solicitations were published in the Federal Register on July 26, 2017 at 82 FR 34746-34747 and on October 5, 2017 at 82 FR 46612-46613. Comments were received from one source. The following is a summary list of the recommendations from the commenter to VA:

1. VA should rescind clause 852.236-72 and defer to FAR clause FAR 52.236-1.
2. VA should dramatically increase the VA's estimated average burden per respondent for clauses 852.236-80, 852.236-82, 852.236-83, and 852.236-68 to accurately account for the lengthy time and efforts required by the contractor to coordinate with all the parties involved, including the trades, subcontractors, material suppliers, and architects/engineers. Additionally, VA should request further input from industry through a formal information collection request to gather more realistic data on this burden.
3. VA should allow for Contracting Officers and contractors to determine how often the prime contractor should submit a progress schedule that best matches the requirements of the project from clause 852.236-84.
4. VA should include a reasonable deadline for contracting officers to approve/disapprove a change order, a deadline for VA payment of a change order for clause 852.236-68.

VA's response to all the comments above is as follows:

As a direct result of an ongoing regulation/policy rewrite project for our Federal Acquisition Regulation (FAR) supplement the VA Acquisition Regulation (VAAR), we are currently updating all acquisition guidance for the public and the VA Acquisition Workforce. This step is being taken in an effort to improve our policy and where applicable streamline any process in order to add value.

More specific to the comment submitted, all acquisition related policy to include all clauses and burden notices contained in VAAR part 836 Construction and architect-engineer contracts is currently being updated. The proposed rule containing these updates is scheduled to be published in the Federal Register and opened for 60 day public comment period in early 2018.

The commenter is strongly encouraged to review the proposed rule for part 836 and if applicable resubmit any comments above not addressed. As suggested by the commenter, this posting is one step the agency has taken to ensure that all burden collection requirements are realistic and includes industry input.

We will contact the commenter to further discuss the feedback given as part of the rewrite project, if applicable, prior to expected public comment period.

**b. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, clarity of instructions and recordkeeping, disclosure or reporting format, and on the data elements to be recorded, disclosed or reported. Explain any circumstances which preclude consultation every three years with representatives of those from whom information is to be obtained.**

There were no efforts to consult with persons outside the agency.

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

No payments or gifts will be provided.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

No assurances of confidentiality will be provided to respondents.

**11. Provide additional justification for any questions of a sensitive nature (Information that, with a reasonable degree of medical certainty, is likely to have a serious adverse effect on an individual's mental or physical health if revealed to him or her), such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private; include specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

The request for information does not include any questions of a sensitive nature.

**12. Estimate of the hour burden of the collection of information:**

a. Clause 852.236-72, Performance of Work by the Contractor:

(1) Estimated number of respondents: 60. This is based on the fact that this clause is used only in contracts of \$1 million or more that are not set aside for small business or 8(a) awards.

(2) Estimated frequency of responses: One response for each awarded contract.

(3) Estimated average burden per collection: 1 hour.

(4) Estimated total annual reporting burden: 60 hours.

(5) Estimated annualized cost: \$2300 (60 hours at \$38.34 per hour, estimated salary rate, including benefits, based on the likelihood that an individual at a level similar to the average GS-11, Step 5, VA contracting officer would provide this information). (Based on the OPM Salary Table, [2016-GS](#) with a base hourly rate of \$28.14 + \$10.20 Total Civilian Position Fringe Benefits rate of 36.25%.)

b. Clause 852.236-80, Subcontracts and Work Coordination, with its Alternate I:

(1) Estimated number of respondents: 92. This is based on the fact that this clause is used only on contracts that involve complex mechanical-electrical work. In our opinion, this clause would most likely be used in contracts in excess of \$1 million, but certainly not all such contracts. However, for simplicity sake, we have included all such contracts in this count.

(2) Estimated frequency of responses: One response for each awarded contract.

(3) Estimated average burden per collection: 10 hours.

(4) Estimated total annual reporting burden: 920 hours.

(5) Estimated annualized cost: \$ 50,269 (920 hours at \$54.64 per hour. The cost here is higher as it may involve more skills in producing the required drawings. Salary estimate, including benefits, is based on the likelihood that an individual at a technical/engineer level, similar to a GS-13, Step 5, would provide this information.) (Based on the OPM Salary Table, [2016-GS](#) with a base hourly rate of \$40.10 + \$14.54 Total Civilian Position Fringe Benefits rate of 36.25%.)

c. Clause 852.236-84, Schedule of Work Progress:

(1) Estimated number of respondents: 1,219. This is based on the fact that this clause is included in all construction contracts that do not include a requirement for the contractor to use a NAS. For simplicity sake, we included in the count all contracts valued below \$1 million awarded.

(2) Estimated frequency of responses: 1.5. One response for each awarded contract (1) and one response each time the contract completion date is extended by 15 days or more (estimated to be once for every other contract or .5).

(3) Estimated average burden per collection: 1 hour.

(4) Estimated total annual reporting burden: 1,828.5 hours (1,219 X 1.5 X 1).

(5) Estimated annualized cost: \$70,105 (1,828.5 hours at \$38.34 per hour, estimated salary rate, including benefits, based on the likelihood that an individual at a level similar to the average GS-11, Step 5, VA contracting officer would provide this information). (Based on the



OPM Salary Table, [2016-GS](#) with a base hourly rate of \$28.14 + \$10.20 Total Civilian Position Fringe Benefits rate of 36.25%.)

a. Clause 852.236-88, Contract Changes—Supplement:

(1) Estimated number of respondents: 243. The figure is based on the fact that 143 contract changes valued over \$25,000 each were recorded in the Federal Procurement Data System (FPDS), 24 of which were valued at over \$100,000. In addition, we estimate that there were 100 changes valued below \$25,000.

(2) Estimated frequency of responses: 243. One response for each proposed contract modification or change.

(3) Estimated average burden per collection: 3 hours. This is a weighted estimate. The higher the dollar value of the change, the more time it takes to prepare the cost estimate. There were 143 contract modifications over \$25,000 reported in FPDS, but only 24 of those modifications exceeded \$100,000.

(4) Estimated total annual reporting burden: 729 hours.

(5) Estimated annualized cost: \$39,833 (729 hours at \$54.64 per hour. The cost here is higher as it may require more management involvement in gathering the data. Salary estimate, including benefits, is based on the likelihood that an individual at a management level, similar to a GS-13, Step 5 would oversee the generation of this information.) (Based on the OPM Salary Table, [2016-GS](#) with a base hourly rate of \$40.10 + \$14.54 Total Civilian Position Fringe Benefits rate of 36.25%.)

b. Clause 852.236-82, Payments Under Fixed-Price Construction Contracts (without NAS) with its Alternate I:

(1) Estimated number of respondents: 1,219. This is based on the fact that this clause is to be used in all construction contracts that do not include a requirement for the contractor to use a Network Analysis System (NAS). NAS would not be used in contracts of less than \$1 million, so this count is based on the number of contracts awarded in FY 2012 of less than \$1 million. Either clause 852.236-82 or clause 852.236-83 is included in all construction contracts, but not both.

(2) Estimated frequency of responses: One response for each awarded contract.

(3) Estimated average burden per collection: 1 hour. This is a weighted average. For higher dollar value contracts (610), it would take more time, for lower dollar value (609), it would take very little time to prepare and submit the data. For many of those lower dollar value contracts, the contracting officer may not even require submission of the data, since there would be only one or two payments.

(4) Estimated total annual reporting burden: 1,219 hours.

(5) Estimated annualized cost: \$46,737 (1,219 hours at \$38.34 per hour, estimated salary rate, including benefits, based on the likelihood that an individual at a level similar to an average GS-11, Step 5, VA contracting officer would provide this information). (Based on the OPM Salary Table, [2016-GS](#) with a base hourly rate of \$28.14 + \$10.20 Total Civilian Position Fringe Benefits rate of 36.25%.)

f. Clause 852.236-83, Payments under Fixed-Price Construction Contracts (including NAS), with its Alternate I:

(1) Estimated number of respondents: 92. This is based on the fact that this clause would be used only in contracts that require the contractor to use a NAS, which would most likely in some, but not all, contracts over \$1 million.

(2) Estimated frequency of responses: One response for each awarded contract.

(3) Estimated average burden per collection: .5 hour. Contracts using NAS have all data computerized and the time needed to prepare and submit this report is greatly reduced.

(4) Estimated total annual reporting burden: 46 hours.

(5) Estimated annualized cost: \$1,764 (46 hours at \$38.34 per hour, estimated salary rate, including benefits, based on the likelihood that an individual at a level similar to an average GS-11, Step 5, VA contracting officer would provide this information). (Based on the OPM Salary Table, [2016-GS](#) with a base hourly rate of \$28.14 + \$10.20 Total Civilian Position Fringe Benefits rate of 36.25%.)

g. Grand Total, for All Respondents on All Clauses:

(1) Estimated number of respondents: 1,311. There were 1,311 construction contracts awarded, so this is the maximum number of respondents. Some of those respondents may have had to respond to more than one clause, depending on the size of their contract.

(2) Estimated frequency of responses: 2.2. Not every contract contains every clause. There were 1,311 contracts awarded and a total of 2,925 responses shown above, or an average of 2.2 responses per contract.

(2)(a) Total Annual Responses, All Respondents: 3,543 (sum total of all responses for all clauses)

(3) Estimated average burden per collection: 1.67 hours. This is a weighted average for all clauses.

(4) Estimated total annual reporting burden: 4,802 hours (sum total of all burdens for all clauses).

(5) Estimated annualized cost: \$211,008 (sum total of all costs for all clauses).

**13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).**

- a. There are no capital costs or operating or maintenance costs.
- b. Costs are not expected to vary widely.
- c. There are no equipment costs.

**14. Provide estimates of annual cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operation expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table. Estimated annualized cost to the Government:**

- a. Clause 852.236-72, Performance of Work by the Contractor: \$1150 (30 hours at \$38.34 per hour, based on the salary, including benefits, of the average GS-11, Step 5, VA contracting officer).
- b. Clause 852.236-80, Subcontracts and Work Coordination: \$ 1,764 (46 hours at \$38.34 per hour, based on the salary, including benefits, of the average GS-11, Step 5, VA contracting officer).
- c. Clause 852.236-84, Schedule of Work Progress: \$70,086 (1,828 hours at \$38.34 per hour, based on the salary, including benefits, of the average GS-11, Step 5, VA contracting officer).
- d. Clause 852.236-88, Contract Changes: \$27,950 (729 hours at \$38.34 per hour, based on the salary, including benefits, of the average GS-11, Step 5, VA contracting officer).
- e. Clause 852.236-82, Payments Under Fixed-Price Construction Contracts (without NAS), with its Alternate I: \$46,737 (1,219 hours at \$38.34 per hour, based on the salary, including benefits, of the average GS-11, Step 5, VA contracting officer).
- f. Clause 852.236-83, Payments Under Fixed-Price Construction Contracts (including NAS), with its Alternate I: \$1,764 (46 hours at \$38.34 per hour).
- g. Grand Total, Cost to the Government, All Clauses: \$149,451 (sum total of all clause costs).

**15. Explain the reason for any burden hour changes since the last submission.**

There are no program changes.

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

The results will not be published.

**17. If seeking approval to omit the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

This request seeks approval to not display the expiration date for OMB approval. This is an on-going requirement. VA has a continuing need for this information in order to properly administer construction contracts awarded by the Department. VA expects to continue use of these clauses indefinitely and an expiration date would only tend to confuse the public.

**18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB 83-1.**

This submission does not contain any exceptions to the certification statements.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

Statistical methods will not be employed.