

Supporting Statement for
OMB Control No. 9000-0149, Subcontract Consent and
Contractors' Purchasing System Review

FAR Section Affected: 52.244-2

A. Justification.

1. Administrative requirements. The Federal Acquisition Regulatory Council is combining OMB Control Nos. for the Federal Acquisition Regulation (FAR), to reduce the administrative burdens associated with renewing the information collections. This justification supports revision and extension of the expiration date of OMB Control No. 9000-0149 and combines it with the previously approved information collection OMB Control No. 9000-0132, with the new title "Subcontract Consent and Contractors' Purchasing System Review," because they are both derived from the same FAR clause. Upon approval of this consolidated information collection, OMB Control No. 9000-0132 will be discontinued. The burden requirements previously approved under the discontinued Number will be covered under OMB Control No. 9000-0149.

OMB Control#	Title	Expiration
9000-0149	Subcontract Consent	12/31/2018
9000-0132	Contractors' Purchasing System Review	06/30/2019

This clearance covers the information that a contractor must submit to comply with the requirements in Federal Acquisition Regulation (FAR) 52.244-2, Subcontracts, regarding consent to subcontract, advance notification, and Contractors' purchasing system review as follows:

a. Consent to subcontract. This is 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.

b. Advance notification. Prime contractors must provide contracting officers notification before the award of any cost-plus-fixed-fee subcontract, or certain fixed-price subcontracts that are identified in paragraph (b), (c) and (d) of FAR clause 52.244-2. This requirement for advance notification is driven by statutory requirements in 10 U.S.C. 2306 and 41 U.S.C. 3905.

c. Contractors' Purchasing System Review. The objective of a contractor purchasing system review (CPSR), is to evaluate the efficiency and effectiveness with which a contractor spends Government funds and complies with Government policy when subcontracting.

Paragraph (i) of FAR clause 52.244-2 specifies that the Government reserves the right to review the contractor's purchasing system as set forth in FAR subpart 44.3. This clause is the mechanism through which the requirements of FAR subpart 44.3 are applied to contractors.

FAR 44.302 requires the administrative contracting officer (ACO) to determine the need for a CPSR based on, but not limited to, the past performance of the contractor, and the volume, complexity and dollar value of subcontracts. If a contractor's sales to the Government (excluding competitively awarded firm-fixed-price and competitively awarded fixed-price with economic price adjustment contracts and sales of commercial items pursuant to Part 12) are expected to exceed \$25 million during the next 12 months, the ACO will perform a review to determine if a CPSR is needed. Sales include those represented by prime contracts, subcontracts under Government prime contracts, and modifications. Generally, a CPSR is not performed for a specific contract. The head of the agency responsible for contract administration may raise or lower the \$25 million review level if it is considered to be in the Government's best interest. Once an initial determination has been made to conduct a review, at least every three years the ACO shall determine whether a purchasing system review is necessary. If necessary, the cognizant contract administration office will conduct a purchasing system review.

A CPSR is a thorough review of a contractor's existing procurement policies, procedures, management control systems (including internal audit procedures), and documentation. The review provides the ACO a basis for granting, withholding, or withdrawing approval of a contractor's purchasing system. An approved purchasing system allows the contractor more autonomy in subcontracting actions. Without an approved purchasing system more Government oversight is necessary, and Government consent to subcontract is required.

Generally, a CPSR is not performed for a specific contract. Rather, CPSRs are conducted on contractors based on the factors identified above. For example, the Defense Contract Management Agency (DCMA) Contractor Purchasing System Review Group is a group dedicated to conducting CPSRs for the Department of Defense. As of fiscal year (FY) 2018, the group's review workload included more than 500 contractors worldwide.

The cognizant ACO is responsible for granting, withholding, or withdrawing approval of a contractor's purchasing system and for promptly notifying the contractor of same (FAR 44.305-1).

Related administrative requirements are as follows:

FAR 44.305-2(c) requires that when recommendations are made for improvement of an approved system, the contractor shall be requested to reply within 15 days with a position regarding the recommendations.

FAR 44.305-3(b) requires when approval of the contractor's purchasing system is withheld or withdrawn, the ACO shall within 10 days after completing the in-plant review (1) inform the contractor in writing, (2) specify the deficiencies that must be corrected to qualify the system for approval, and (3) request the contractor to furnish within 15 days a plan for accomplishing the necessary actions. If the plan is accepted, the ACO shall make a follow-up review as soon as the contractor notifies the ACO that the deficiencies have been corrected.

2. Uses of information. "Consent to subcontract" 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 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.

Information obtained during a CPSR provides the ACO with a basis for granting, withholding, or withdrawing approval of a contractor's purchasing system.

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. Efforts to identify duplication. This requirement is issued under the 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 consequence to Federal program or policy 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.

The information collection provides contractors with the opportunity to respond to recommendations for improvement of their purchasing system, and to develop and submit plans for resolving purchasing system deficiencies cited in CPSRs as notified by the ACO. Without an approved purchasing system more Government oversight is necessary to mitigate risk, and Government consent to subcontract is required. This results in a greater burden to both the Government and the contractor. Similar information, e.g., corrective action plans, is not already available to the ACO.

7. Special circumstances for collection. Collection is consistent with guidelines in 5 CFR 1320.6. Generally, a CPSR is not performed for a specific contract. Rather, CPSRs are determined necessary by ACOs and conducted on contractors based on a series of risk factors, e.g., the past performance of the contractor, and the volume, complexity and dollar value of subcontracts. Collection of information in response to CPSR reports on a basis other than contractor-by-contractor is not practical.

8. Efforts to consult with persons outside the agency. A notice was published in the *Federal Register* at 83 FR 42651, on August 23, 2018. No comments were received.

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 business practices, 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.

a. Consent to subcontract. According to the Federal Procurement Data System (FPDS), there were 13,408 non-commercial, cost-reimbursement, time-and-materials, labor-hour, and letter contracts awarded in FY 2017, over the simplified acquisition threshold (SAT). These 13,408 contracts represented 3,103 companies (respondents). This requirement applies to contractors without an approved purchasing system. DCMA currently has 525 approved purchasing systems on file as of FY 2018, and it is estimated that a similar number of contractors that support civilian agencies have approved purchasing systems. This results in an estimated number of annual respondents to be 2,053 (3,103 minus 1,050 = 2,053). 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.

Estimated number of respondents	2,053
Number of responses per respondent per year	x 3
Total annual responses	6,159
Review time per response (hours)	x 3
Total burden hours	18,477
Average wages and overhead*	x \$54
Total estimated annual cost to the public	\$997,758

b. Advance notification. 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 applies to defense contractors without an approved purchasing system and most civilian contractors regardless of whether they have an approved purchasing system. According to the Federal Procurement Data System (FPDS), there were 10,895 prime contracts awarded in fiscal year (FY) 2017 that met the criteria for requiring the advance

notification. These contracts represented 2,386 companies (respondents). The Defense Contract Management Agency (DCMA) currently has 525 approved purchasing systems on file, which results in the estimated number of annual respondents to be 1,851 (2,386 minus 525). 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.

Estimated number of respondents	1,861
Number of responses per respondent per year	x 3
Total annual responses	5,583
Review time per response (hours)	x 0.25
Total burden hours	1,395.75
Average wages and overhead*	x \$54
Total estimated annual cost to the public	\$75,370.50

*Based on the OPM GS-12/step 5 salary (\$39.85/hour an hour) plus 36.25% burden, rounded to the nearest dollar, or \$54 an hour. Reference Salary Table 2018-RUS, Effective January 2018, found at www.opm.gov

C. Contractors' Purchasing System Reviews. There is no single data collection process or system, e.g., Federal Procurement Data System (FPDS), that identifies the number of CPSRs conducted Government-wide. DCMA estimates that it conducts reviews of 120 contractor purchasing systems annually on average. It is estimated that a similar number of contractors that support civilian agencies have their purchasing systems reviewed annually for a total of 240 contractors' purchasing system reviews (120 + 120 = 240). For purposes of this clearance, time required for reading, preparing, and providing information is estimated at 160 hours per completion. This estimate is based on DCMA subject matter expert experience.

Estimated number of respondents	240
Estimated number of responses per respondent per year	x 1
Total annual responses	240
Estimated time per response (hours)	x 160
Total response burden hours	38,400
Average wages and overhead*	x \$54
Total estimated annual cost to the public	\$2,073,600

* The Government analyst contacted the Defense Contract Management Agency to

verify the accuracy of the estimated number of respondents and estimated time per response. We used a rate equivalent to a GS-12, Step 5 or \$39.85/hour (from the OPM GS Salary Table 2018-RUS), added overhead at 36.25 percent, and rounded the average wage to the nearest whole dollar, or \$54/hour. Adjustments were deemed necessary for the estimated number of respondents and the time per response, due to more current data being available regarding DoD contractors' purchasing systems.

d. Summary.

Estimated total number of respondents	4,154
Total annual responses	11,982
Estimated total burden hours	58,273
Estimated total annual cost	\$3,146,729

14. Estimated cost to the Government.

a. Consent to subcontract.

Total annual responses	6,159
Review time per response (hours)	x 3
Total burden hours	18,477
Average wages and overhead*	x \$54
Total estimated annual cost to the Government	\$997,758

b. Advance notification only.

Total annual responses	5,583
Review time per response (hours)	x 0.167
Total burden hours	932.36
Average wages and overhead*	x \$54
Total estimated annual cost to the Government	\$50,347.49

c. Contractors' Purchasing Systems Reviews.

Total annual responses	240
Review time per response (hours)	x 320
Total burden hours	76,800
Average wages and overhead*	x \$54
Total estimated annual cost to the Government	\$4,147,200

* We used a rate of \$39.85 an hour based on the OPM 2018-RUS Salary Table for a

GS-12, Step 5 rate plus 36.25 percent burden, and rounded the average wages and overhead to the nearest dollar, or \$54 an hour.

d. Summary.

Total annual responses	11,982
Total burden hours	96,209
Total estimated annual cost to the Government	\$5,195,305

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

14. The FAR requirement remains the same for these information collections.

However, there were adjustments to the burden published in the 60-day notice at 83 FR 42651 for each information collection, based on the following:

- a) Consent to subcontract – The total annual burden decreased by 4,725 hours (23,202 hours to 18,477), due to a more current count from DCMA of approved defense contractor purchasing systems and to account for the approved purchasing systems of civilian agency contractors not previously accounted for.
- b) Advance notification – No change from the 60-day notice.
- c) Contractors' Purchasing System Reviews – The FAR requirement remains the same. However, the total annual burden increased by 12,150 hours (26,250 hours to 38,400 hours). DoD has completed an evaluation by the CPSR program's subject matter experts and based on their internal evaluation of the labor hours used for completion of a CPSR review; the burden estimates were adjusted upwards for a more accurate representation of the process.

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.