

**SUPPORTING STATEMENT
FOR INFORMATION COLLECTION SUBMISSION
9000-0102, PROMPT PAYMENT**

A. Justification.

1. Administrative requirements. Paragraph (c) of the clause at Federal Acquisition Regulation (FAR) 52.232-5, Payments Under Fixed-Price Construction Contracts, requires that contractors under fixed-price construction contracts certify, for every progress payment request, that payments to subcontractors/suppliers have been made from previous payments received under the contract, timely payments will be made from the proceeds of the payment covered by the certification, and that this request for progress payments does not include any amount which the contractor intends to withhold from a subcontractor/supplier.

Paragraphs (e) and (g) of the clause at FAR 52.232-27, Prompt Payment for Construction Contracts, require contractors to notify the Government regarding any withheld amounts of a progress payment to a subcontractor, the specific cause for the withholding, and the remedial action to be taken by the subcontractor.

2. Uses of information. The information is used to determine the proper amount of payments to Federal contractors and understand when the contractor withholds amounts from subcontractors/suppliers after the Government has already paid the contractor the amounts withheld.

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 being 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 information on a basis other than contract-by-contract is not practical.

7. Special circumstances for collection. Collection is consistent with 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 84 FR 21340 on May 14, 2019. No public comments were received. A 30-day notice published in the Federal Register at 84 FR 37873 on August 2, 2019.

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 hours and cost burden.

<u>Annual Reporting Burden for 52.232-5</u>	
Estimated number of respondents per year*	13,847
Estimated number of responses per respondent**	x 14.7
Total annual responses	203,551
Estimated preparation time per response (hours)***	x 0.33
Total burden hours	67,172
Estimated wages and overhead****	x \$54
Total estimated cost to public	\$3,627,288

* The estimated number of respondents per year is based on the total number of Government contracts awarded (18,463) in fiscal year 2018 for fixed price construction contracts (i.e. Product Service Codes Y and Z2) and adjusted by multiplying this number by a factor of 75% to account for contractors having multiple contracts with the Government. Contracts for acquisitions under the micro-purchase

threshold and commercial items are excluded from the estimated projections, because FAR part 12 does not require this clause for commercial item acquisitions.

** Responses per respondent is based on the average contractor will have to notify the Government 14.7 times per year.

*** Average Time of 0.33 hours per response is required to assemble and prepare responses. This estimate assumes automation of contractor records.

**** Based on a GS-12, Step 5 or \$39.85/hour (from the OPM GS Salary Table 2019-RUS), added overhead at 36.25 percent, and rounded to the nearest whole dollar, or \$54/hour. The estimated cost per response is \$17.82.

Annual Reporting Burden for 52.232-27

Estimated number of respondents per year*	2,780
Estimated number of responses per respondent**	<u>x 4</u>
Total annual responses	11,121
Estimated preparation time per response (hours)***	<u>x 0.33</u>
Total burden hours	3,670
Estimated wages and overhead****	<u>x \$54</u>
Total estimated cost to public	\$198,180

* The estimated number of respondents per year is based on the total number of Government contracts awarded (18,535) in fiscal year 2018 for all construction contracts (i.e. Product Service Codes Y and Z2) and adjusted by multiplying this number by a factor of 75% to account for contractors having multiple contracts with the Government. This total is then also adjusted by multiplying by a factor of 20%, since only 20% of contractors on average will need to withhold payments from a subcontractor. Contracts for acquisitions under the micro-purchase threshold and commercial items are excluded from the estimated projections, because FAR part 12 does not require this clause for commercial item acquisitions.

** Responses per respondent is based on the average contractor will have to notify the Government 4 times per year.

*** Average Time of 0.33 hours per response is required to assemble and prepare responses. This estimate assumes automation of contractor records.

**** Based on a GS-12, Step 5 or \$39.85/hour (from the OPM GS Salary Table 2019-RUS), added overhead at 36.25 percent, and rounded to the nearest whole dollar, or \$54/hour. The estimated cost per response is \$17.82.

Total Annual Reporting Burden for 9000-0102

Estimated number of respondents per year	13,847
Estimated number of responses per respondent	<u>x 16</u>
Total annual responses	214,672
Estimated preparation time per response (hours)	<u>x 0.33</u>
Total burden hours	70,842
Estimated wages and overhead	<u>x \$54</u>
Total estimated cost to public	\$3,825,468

14. Estimated cost to the Government.

Annual Reviewing Burden for 52.232-5

Total Annual Responses	203,551
Review time per response (hours)*	<u>x 0.10</u>
Total burden Hours	20,355
Average wages and overhead**	<u>x \$54</u>
Total estimated annual cost to the Government	\$1,099,170

* Time required for Government review is estimated at 0.10 hours. The figure is a weighted average with an estimated review time of 0.05 hours for simple contracts, 0.10 hours for average contracts, and 0.15 hours for more complex contracts. This weighted average assumes an equal mix of simple, average, and complex contracts.

** Based on a GS-12, Step 5 or \$39.85/hour (from the OPM GS Salary Table 2019-RUS), added overhead at 36.25 percent, and rounded to the nearest whole dollar, or \$54/hour.

Annual Reviewing Burden for 52.232-27

Total Annual Responses	11,121
Review time per response (hours)*	<u>x 0.50</u>
Total burden Hours	5,561
Average wages and overhead**	<u>x \$54</u>
Total estimated annual cost to the Government	\$300,294

* Time required for Government review is estimated at 0.50 hours. The figure is a weighted average with an estimated review time of 0.30 hours for simple contracts, 0.50 hours for average contracts, and 0.70 hours for more complex contracts. This weighted average assumes an equal mix of simple, average, and complex contracts.

** Based on a GS-12, Step 5 or \$39.85/hour (from the OPM GS Salary Table 2019-RUS), added overhead at 36.25 percent, and rounded to the nearest whole dollar, or \$54/hour.

Total Annual Reviewing Burden for 9000-0102

Total Annual Responses	214,672
Review time per response (hours)*	<u>x 0.12</u>

Total burden Hours	25,916
Average wages and overhead	x \$54
Total estimated annual cost to the Government	\$1,399,464

* Review time is rounded average based on dividing total burden hours by the total annual responses.

15. Explain reasons for program changes or adjustments reported in Item 13 or 14. The information collection requirements remain unchanged. However, the total annual public reporting burden increased by 68,623 hours over the OIRA cleared burden hours of 2,219 in 2016 due to an increase in the number of respondents per year based on contracting data from the latest fiscal year.

In addition, the total annual public recordkeeping burden dropped from previously approved 14,526 hours to zero hours. Although this information collection requirement does not impose any specific recordkeeping requirements, the first supporting statement for this collection in 1988 included 18 hours per contract to maintain a recordkeeping system, because the information collection requirements were estimated to require more detailed records than was customary at that time with regard to billing by and payment to subcontractors. With the increase of automated systems in the intervening years, the Government now estimates that there is no Government-unique recordkeeping burden associated with this information collection beyond customary commercial practices. Note that it appears that the recordkeeping hours were calculated for the prior clearance in 2016, however they were not provided to OIRA and included in the current inventory of hours, due to an oversight.

In addition, the estimated costs to the public were adjusted based on an update to the wage rates for the personnel preparing or submitting the information.

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.