

**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.

As a result of VAAR final rules RIN 2900-AQ18, posted to the Federal Register (84 FR 9974) on March 19, 2019 and RIN 2900-AQ24, posted to the Federal Register (84 FR 45679) on August 30, 2019, this Paperwork Reduction Act (PRA) submission seeks modification of Office of Management and Budget (OMB) approval No. 2900-0422 for six collections of information for the Department of Veterans Affairs Acquisition Regulation (VAAR) clauses, as follows:

- No changes for Clause 852.232-70, Payment Under Fixed-Price Construction Contracts (without NAS-CPM).
- No changes for Clause 852.232-71, Payment Under Fixed-Price Construction Contracts (including NAS-CPM).
- No changes for Clause 852.236-72, Performance of Work by the Contractor.

RIN 2900-AQ18

- Retitle Clause 852.236-80 from Work Coordination to Subcontracts and Work Coordination.
- Removal of Clause 852.236-84, Schedule of Work Progress.

RIN 2900-AQ24

- Redesignate, renumber and retitle for Clause 852.236-88, Contract Changes—Supplement to 852.243-70, Construction Contract Changes-Supplement.

The removal of Clause 852.236-84 would reduce estimated 1,828.5 hours of annual burden and cost saving of \$70,800 to respondents based on the Supporting Statement currently posted in the Reginfo.gov.

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.

Supporting Statement for 2900-0422, Continued

- a. VAAR clause 852.232-70, Payment Under Fixed-Price Construction Contracts (without NAS-CPM), 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.
- b. VAAR clause 852.232-71, Payment Under Fixed-Price Construction Contracts (including NAS-CPM), 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, 852.232-70, is that this clause requires the contractor to use a computerized Network Analysis System (NAS) to prepare the cost estimate.
- c. 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.
- d. 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.

Supporting Statement for 2900-0422, Continued

- e. 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. A review of this clause in conjunction with the VA Master Specification (Section 01 32 16.15 Project Schedules) revealed a duplication of requirements thus this clause is no longer necessary.
- f. VAAR clause 852.243-70 (formerly 852.236-88), Construction 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 852.243-70 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.

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 except VAAR clause 852.236-84, Schedule of Work Progress which is requesting for removal.

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 852.232-70, Payment Under Fixed-Price Construction Contracts (without NAS-CPM), 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.

Supporting Statement for 2900-0422, Continued

- b. Failure to collect the information required by clause 852.232-71, Payment Under Fixed-Price Construction Contracts (including NAS-CPM), 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, 852.232-70, is that this clause requires the contractor to use a computerized NAS to prepare the cost estimate.
- c. 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.
- d. 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.
- e. 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. A review of this clause in conjunction with the VA Master Specification (Section 01 32 16.15 Project Schedules) revealed a duplication of requirements thus this clause is no longer necessary.
- f. Failure to collect the information required by clause 852.243-70 (formerly 852.236-88), Construction 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

Supporting Statement for 2900-0422, Continued

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.

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.

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).

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.

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.

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

For all clauses, the information collections are not statistical surveys; do not require the use of statistical data classification, do not include a pledge of confidentiality; and do not require the submission of proprietary information. However, for all clauses other than 852.236-80, 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.

Supporting Statement for 2900-0422, Continued

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.

- VAAR proposed rule RIN 2900-AQ18 was published at the Federal Register (83 FR 45384) on September 7, 2018 with comments period closing date of November 6, 2018. VA didn't receive any comments related to PRA.
- VAAR proposed rule RIN 2900-AQ24 was published in the Federal Register (83 FR 61365) on November 29, 2018 with comments period closing date of January 28, 2019. VA didn't receive any comments related to PRA.

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 beyond the publication of Proposed Rule and Final Rule in the Federal Register.

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:

Supporting Statement for 2900-0422, Continued

- a. Clause 852.232-70, Payment Under Fixed-Price Construction Contracts (without NAS-CPM) (Network Analysis System (NAS) would not be used in contracts of less than \$1.5 million):

No. of Respondents	X No. of Responses	X No. of Minutes Each	÷ 60	No. of Burden Hours
1,219	1 per awarded contract	60		

Estimated annualized cost: \$30,011.78 (1,219 hours at \$24.62 per hour.) The Bureau of Labor Statistics (BLS) gathers information on full-time wage and salary workers. According to the latest (May 2018) available BLS data, the mean hourly wage is \$24.62 on BLS wage code – “47-0000 Construction and Extraction Occupations.” This information was taken from the following website: https://www.bls.gov/oes/current/oes_nat.htm#47-0000.

- b. Clause 852.232-71, Payment Under Fixed-Price Construction Contracts (including NAS-CPM) (Network Analysis System (NAS) would not be used in contracts more than \$1.5 million):

No. of Respondents	X No. of Responses	X No. of Minutes Each	÷ 60	No. of Burden Hours
92	1 per awarded contract	30		

Estimated annualized cost: \$1,132.52 (46 hours at \$24.62 per hour.) The Bureau of Labor Statistics (BLS) gathers information on full-time wage and salary workers. According to the latest (May 2018) available BLS data, the mean hourly wage is \$24.62 on BLS wage code – “47-0000 Construction and Extraction Occupations.” This information was taken from the following website: https://www.bls.gov/oes/current/oes_nat.htm#47-0000.

- c. Clause 852.236-72, Performance of Work by the Contractor. (use only in contracts of \$1.5 million or more that are not set-aside for small business or 8(a) awards):

No. of Respondents	X No. of Responses	X No. of Minutes Each	÷ 60	No. of Burden Hours
60	1 per contract awarded	60		

Estimated annualized cost: \$1,477.20 (60 hours at \$24.62 per hour.) The Bureau of Labor Statistics (BLS) gathers information on full-time wage and salary

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workers. According to the latest (May 2018) available BLS data, the mean hourly wage is \$24.62 on BLS wage code – “47-0000 Construction and Extraction Occupations.” This information was taken from the following website:

https://www.bls.gov/oes/current/oes_nat.htm#47-0000.

- d. Clause 852.236-80, Subcontracts and Work Coordination, with its Alternate I (used only in contracts of \$1.5 million or more):

No. of Respondents	X No. of Responses	X No. of Minutes Each	÷ 60	No. of Burden Hours
92	1 per contract awarded	600		

Estimated annualized cost: \$22,620.40 (920 hours at \$24.62 per hour.) The Bureau of Labor Statistics (BLS) gathers information on full-time wage and salary workers. According to the latest (May 2018) available BLS data, the mean hourly wage is \$24.62 on BLS wage code – “47-0000 Construction and Extraction Occupations.” This information was taken from the following website:

https://www.bls.gov/oes/current/oes_nat.htm#47-0000.

- e. Clause 852.243-70 (formerly 852.236-88), Construction Contract Changes-Supplement (apply to proposed contract changes costing over \$500,000):

No. of Respondents	X No. of Responses	X No. of Minutes Each	÷ 60	No. of Burden Hours
243	1 per contract modification	180		

Estimated annualized cost: \$17,947.98 (729 hours at \$24.62 per hour.) The Bureau of Labor Statistics (BLS) gathers information on full-time wage and salary workers. According to the latest (May 2018) available BLS data, the mean hourly wage is \$24.62 on BLS wage code – “47-0000 Construction and Extraction Occupations.” This information was taken from the following website:

https://www.bls.gov/oes/current/oes_nat.htm#47-0000.

- f. Grand Total, for All Respondents on All Clauses:

- (1) Estimated number of respondents: 1,706.
- (2) Estimated frequency of responses: 1 per contract awarded or contract modification.
- (4) Estimated burden hours: 2,974.
- (5) Estimated annualized cost: \$73,219.88 (sum of all costs for all clauses, excluding 852.236.84).

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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).

This submission does not involve any recordkeeping 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:

Estimated salary rate of \$39.81 per hour, including benefits, based on the average GS-11, Step 5, VA contracting officer on the OPM Salary Table, 2019-GS_ (<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/19Tables/html/GS.aspx>) with a base hourly rate of \$29.22 + \$10.59 Total Civilian Position Fringe Benefits rate of 36.25%.

Clauses	Grade	Step	Hourly Rate	Burden Hours	Total
852.232-70	11	5	\$39.81	1,219	\$48,528.39
852.232-71	11	5	\$39.81	46	\$ 1,831.26
852.236-72	11	5	\$39.81	60	\$ 2,388.60
852.236-80	11	5	\$39.81	920	\$36,625.20
852.243-70	11	5	\$39.81	729	\$29,021.49
Total Cost to government (sum of all costs of all clauses excluding clause 852.236-84)					\$118,394.94

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

The removal of Clause 852.236-84 would reduce estimated 1,828.5 hours of annual burden and cost saving of \$70,800 to respondents.

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.

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

VA does not seek approval to not display the expiration date for OMB approval of the information collection.

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.