

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
OMB CONTROL NO. 9000-0142
PAST PERFORMANCE INFORMATION**

FAR sections affected: 15.305(a)(2)(ii), 42.1503(d), and 52.212-1(b)(10)

A. Justification.

1. Administrative requirements. This clearance covers the information that offerors and contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

Preamble. For responses during source selection.

- ***FAR 15.305(a)(2)(ii)***. This section requires solicitations describe the approach for evaluating past performance, including evaluating offerors with no relevant performance history, and providing offerors an opportunity to identify past or current contracts (including Federal, State, and local government and private) for efforts similar to the Government requirement. Solicitations also must authorize offerors to provide information on problems encountered on their identified contracts and the offeror corrective actions. Per FAR 15.304(c)(3), past performance must be evaluated in all source selections for negotiated competitive acquisitions expected to exceed the simplified acquisition threshold (SAT) unless the contracting officer documents the reason past performance is not an appropriate evaluation factor for the acquisition.
- ***FAR 52.212-1, Instructions to Offerors—Commercial Items***. This provision requires offerors, per paragraph (b)(10), to submit past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information).

Postaward. For responses in the Contractor Performance Assessment Reporting System (CPARS).

- **FAR 42.1503(d).** Requires contractors be afforded up to 14 calendar days from the notification date that a past performance evaluation has been entered into CPARS to submit comments, rebutting statements, or additional information. Past performance information is relevant information regarding a contractor's actions under previously awarded contracts or orders, for future source selection purposes. Source selection officials may obtain past performance information from a variety of sources.

2. Uses of information. The contracting officer will use the information to support future source selection decisions.

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. These requirements are 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 solicitation-by-solicitation or 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. A 60-day notice was published in the *Federal Register* at 86 FR 8913, on February 10, 2021. One respondent submitted comments; however, they did not change the estimate of the burden.

Comment: The commenter expressed there is a need for a revision to the practices of acquiring, analyzing, and utilizing past performance information for source selection in federal acquisitions. The commenter noted that "there have emerged in recent years a number of issues that result in a misleading, incomplete, deceptive, or distorted assessment of an Offeror's Past Performance that is not allowing fair competition for contracts which evaluate this factor." The commenter suggested changes on a few areas by using examples.

Response: Some of the suggestions made by the commenter may require consideration via the rulemaking process, and other suggestions refer to practices by particular agencies. These suggestions are outside the scope of this information collection renewal. The commenter did not express an opinion on whether the collections of information are needed; whether the estimated number of burden hours is accurate; or ways to minimize the burden of the collection of information. Therefore, the estimate of the burden was not changed.

B. A 30-day notice was published in the *Federal Register* at 86 FR 21737 on April 23, 2021.

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.

Total Annual Burden Estimate

	Preaward	Postaward	Total
Estimated respondents/yr	5,963	59,410	65,373
Responses/respondent annually	4.00	1.00	1.27
Total annual responses	23,852	59,410	83,262
Estimated hrs/response	2	2	2
Estimated total burden hrs	47704	118820	166,524
Hourly rate*	\$48	\$48	\$48
Estimated annual cost to the public	\$2,289,792	\$5,703,360	\$7,993,152

*Based on the Office of Personnel Management (OPM) 2021 General Schedule (GS) 11/step 5 salary for the rest of the United States (\$35.11 an hour) plus 36.25 percent fringe factor, rounded to the nearest whole dollar. The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition.

a. **Preaward.** For responses during source selection: According to the Federal Procurement Data System (FPDS) for fiscal years (FY) 2018 through 2020, there were on average, 5,963 competitive awards (excluding task orders/ delivery orders/calls) in excess of the simplified acquisition threshold. Subject matter experts estimate two hours as the average time required to read and prepare information for this collection. It is also estimated that the average number of offerors per solicitation would be four.

Estimated number of solicitations/yr.....	5,963
Responses per solicitation annually.....	x 4
Total annual responses.....	23,852
Estimated hrs/response.....	x 2
Estimated total burden (hours).....	47,704
Hourly rate*.....	x \$48
Estimated cost to public.....	\$2,289,792

b. **Postaward.** For responses in CPARS: According to the CPARS quarterly metrics, from the first through the fourth quarter of FY 2020, 59,410 new contracts were registered in CPARS. Subject

matter experts estimate two hours is the average amount of time to read and prepare information for this collection, considering that contractors generally do not comment on past performance evaluations, unless negative information is reported.

Estimated respondents/yr.....	59,410
Responses annually.....	x <u>1</u>
Total annual responses.....	59,410
Estimated hrs/response.....	x <u>2</u>
Estimated total burden (hours).....	118,820
Hourly rate*.....	x <u>\$48</u>
Estimated cost to public.....	\$5,703,360

14. Estimated cost to the Government.

Time required for Governmentwide review is estimated at 1 hour per response.

Total annual responses.....	83,262
Review Time per response (hours).....	x <u>1</u>
Review time per year (hours).....	83,262
Hourly rate*.....	x <u>\$48</u>
Estimated cost to the Government.....	\$3,996,576

15. Explain reasons for program changes or adjustments reported in Item 13 or 14. The decrease of responses from 91,664 to 83,262 and the associated decrease in estimated burden hours from 183,328 to 166,524 is an adjustment due to use of the most current data available in FPDS and CPARS. In addition, since the prior renewal, the simplified acquisition threshold increased from \$150,000 to \$250,000, reducing the number of solicitations and contracts that are impacted by the information collections covered by this OMB Control Number.

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.