

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
OMB CONTROL NO. 9000-0149
Subcontract Consent and
Contractors' Purchasing System Review**

FAR section affected: 52.244-2

A. Justification.

1. Administrative requirements. 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 (SAT).

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 products and commercial services 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 (DoD).

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 1320.5(d)(2). 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. A 60-day notice was published in the *Federal Register* at 86 FR 71499, on December 16, 2021. No comments were received.

B. A 30-day notice was published in the *Federal Register* at 87 FR 9354, on February 18, 2022.

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 10,745 non-commercial, cost-reimbursement, time-and-materials, labor-hour, and letter contracts awarded in Fiscal Year (FY) 2021, over the SAT (\$250,000). These 10,745 contracts represented 2,592 companies (respondents). This requirement applies to contractors without an

approved purchasing system. DCMA had 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 1,542 (2,592 minus 1,050 = 1,542). 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.

The burden is calculated as follows:

Estimated respondents/yr.....	1,542
Responses per respondent.....	<u>x 3</u>
Total annual responses.....	4,626
Estimated hours/response.....	<u>x 3</u>
Estimated annual burden hours.....	13,878
Hourly rate*.....	<u>x \$57</u>
Estimated cost to the public.....	\$791,046

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 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 FPDS, there were 8,582 prime contracts awarded in FY 2021 that met the criteria for requiring the advance notification. These contracts represented 2,013 companies (respondents). DCMA had 525 approved purchasing systems on file, which results in the estimated number of annual respondents to be 1,488 (2,013 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.

The burden is calculated as follows:

Estimated respondents/yr..... 1,488
 Responses per respondent..... x 3
 Total annual responses..... 4,464
 Estimated hours/response.....x 0.25
 Estimated annual burden hours..... 1,116
 Hourly rate*.....x \$57
 Estimated cost to the public.....\$63,612

c. Contractors' Purchasing System Reviews. There is no single data collection process or system, e.g., 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.

The burden is calculated as follows:

Estimated respondents/yr..... 240
 Responses per respondent..... x 1
 Total annual responses..... 240
 Estimated hours/response.....x 160
 Estimated annual burden hours.....38,400
 Hourly rate*.....x \$57
 Estimated cost to the public.....\$2,188,800

d. Summary of the annual public hour and cost burden.

SUMMARY	Consent to subcontract	Advance notification	Contractors' Purchasing System Reviews	Total
Estimated respondents/yr	1,542	1,488	240	3,270
Responses/respondent	3.00	3	1	
Total annual responses	4,626	4464	240	9,330
Estimated hrs/response	3	0.25	160	
Estimated total burden hrs	13878	1116	38400	53394
Hourly rate*	\$57	\$57	\$57	
Estimated annual cost to the public	\$791,046	\$63,612	\$2,188,800	\$3,043,458

14. Estimated cost to the Government.

a. Consent to subcontract.

Total annual responses..... 4,626
 Review time per response (hours)..... x 3
 Review time per year (hours)..... 13,878
 Hourly rate*..... x \$57
 Estimated annual cost to the Government..... \$791,046

b. Advance notification.

Total annual responses..... 4,464
 Review time per response (hours).....x 0.167
 Review time per year (hours)..... 745
 Hourly rate*.....x \$57
 Estimated annual cost to the Government..... \$42,493

c. Contractors' Purchasing Systems Reviews.

Total annual responses..... 240
 Review time per response (hours).....x 320
 Review time per year (hours)..... 76,800
 Hourly rate*..... x \$57
 Estimated annual cost to the Government..... \$4,377,600

d. Summary of the cost to the Government.

SUMMARY	Consent to subcontract	Advance notification	Contractors' Purchasing System Reviews	Total
Total annual responses	4,626	4,464	240	9,330
Review time per response (hours)	3	0.167	320	
Review time per year (hours)	13878	745	76800	91423
Hourly rate*	\$57	\$57	\$57	
Estimated Government Cost	\$791,046	\$42,493	\$4,377,600	\$5,211,139

* Based on the Office of Personnel Management (OPM) 2021 General Schedule (GS) 12/step 5 salary for the rest of the United States (\$42.08 per hour) plus a 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.

15. Explain reasons for program changes or adjustments reported in Item 13 or 14. The FAR requirement remains the same for these information collections. The burden has been adjusted by using FY 2021 data from FPDS. The estimated cost to the public and to the Government was updated based on use of the calendar year 2021 OPM GS wage rates for the rest of the United States.

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.