

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
OMB CONTROL NO. 9000-0045
BID GUARANTEES, PERFORMANCE AND PAYMENT BONDS, AND ALTERNATIVE
PAYMENT PROTECTION**

FAR sections affected: 52.228-1, 52.228-2, 52.228-13, 52.228-14, 52.228-15, 52.228-16; Standard Forms (SF) 24, 25, 25-A, 25-B, 34, 35, 273, 274, 275, 1414, 1415, 1416, and 1418;

A. Justification.

1. Administrative requirements. This justification supports an extension of the expiration date of OMB Control No. 9000-0045. This clearance covers the information that offerors or contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

FAR 52.228-1, Bid Guarantee. This provision (or clause) requires offerors or contractors to furnish a bid guarantee in the proper form and amount when a performance bond or a performance and payment bond is also required. (SF 24, Bid Bond; SF 34, Annual Bid Bond).

FAR 52.228-2, Additional Bond Security. This clause requires contractors to furnish additional bond security under certain circumstances. This clause is used both for construction and other than construction contracts. (SF 1414 Consent of Surety and SF 1415, Consent of Surety and Increase of Penalty).

FAR 52.228-13, Alternative Payment Protections. This clause requires contractors to submit one of the payment protections listed in the clause by the contracting officer, in construction contracts greater than \$35,000 but not exceeding \$150,000.

FAR 52.228-14, Irrevocable Letter of Credit. This clause requires offerors or contractors to provide certain information when they intend to use an irrevocable letter of credit (ILC) in lieu of a required bid bond, or to secure other types of required bonds such as performance and payment bonds. This clause is required in

solicitations and contracts when a bid guarantee, or performance bond, or performance and payment bonds are required.

FAR 52.228-15, Performance and Payment Bonds-Construction. This clause requires contractors to provide performance and payment bonds in construction contracts exceeding \$150,000 (SF 25, Performance Bond; SF 25-A, Payment Bond; SF 25-B, Continuation Sheet (for SF's 24, 25, and 25-A); SF 273, Reinsurance Agreement for a Bonds Statute Performance Bond; SF 274, Reinsurance Agreement for a Bonds Statute Payment Bond).

FAR 52.228-16, Performance and Payment Bonds-Other Than Construction. This clause requires contractors to furnish performance and payment bonds for other than construction contracts exceeding the simplified acquisition threshold only in certain circumstances. (SF 35, Annual Performance Bond; SF 275, Reinsurance Agreement in Favor of the United States; SF 1416, Payment Bond for Other Than Construction Contracts; SF 1418, Performance Bond for Other Than Construction Contracts).

2. Uses of information. The bid guarantees, bonds, or alternative payment protections are retained by the Government until the contractor's obligation is fulfilled.

3. Consideration of information technology. Federal agencies use 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, 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 1320.5(d)(2).

8. Efforts to consult with persons outside the agency.

A. A 60-day notice was published in the *Federal Register* at 87 FR 25487, on April 29, 2022. No comments were received.

B. A 30-day notice was published in the *Federal Register* at 87 FR 40243, on July 6, 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.

The following estimates are based on averages of historical award data available in the Federal Procurement Data System (FPDS) for fiscal years 2019 through 2021. For construction contracts, Product and Service Codes (PSC) beginning with Y and Z2 were utilized. These estimates exclude contracts for the acquisition of commercial products and commercial services.

FAR 52.228-1 Bid Guarantee, and SFs 24 and 34: This provision (or clause) requires a bid guarantee only if a performance bond or a performance and payment bond is also required. Therefore, the total number of unique respondents is based on the sum of

respondents per year identified for FAR 52.228-15 and FAR 52.228-16, or 2,499 respondents per year.

FAR 52.228-2 Additional Bond Security, and SFs 1414 and 1415:

This clause applies in limited circumstances in both construction contracts and other than construction contracts when bonds are required. The total number of unique entities is based on the sum of unique entities identified for FAR 52.228-15 and FAR 52.228-16. However, this data was analyzed further because this clause is only required when the surety furnished becomes unacceptable to the Government, the surety fails to furnish reports on its financial condition, the contract price is increased so that the bond becomes inadequate, or the irrevocable letter of credit expires. Based on this, the total number of unique entities was filtered based on the reason for contract modification including for additional work, supplemental agreement for work within scope, and change orders. Therefore, the estimated number of respondents per year is 960.

FAR 52.228-13 Alternative Payment Protections: This clause only applies to construction contracts exceeding \$35,000 but not exceeding \$150,000. Therefore, the estimated number of respondents per year is 321.

FAR 52.228-14 Irrevocable Letter of Credit: Since this clause is used by an offeror or contractor in lieu of the requirements of FAR 52.228-1, 52.228-15, or 52.228-16, instead of in addition to, burden for this clause is not accounted for separately in this information collection.

FAR 52.228-15 Performance and Payment Bonds – Construction, and SFs 25, 25-A, 25-B, 273, and 274: This clause only applies to construction contracts exceeding \$150,000. The estimated number of respondents per year is 781.

FAR 52.228-16 Performance and Payment Bonds – Other Than Construction, and SFs 35, 275, 1416, and 1418: This clause applies to non-construction contracts exceeding the SAT (\$250,000) in limited circumstances including for when government property will be provided to the contractor for use in performing the contract, when a contractor merges with another concern, when

substantial progress payments are made before the delivery of end items starts, and contracts for dismantling, demolition or removal of improvements. Therefore, the estimated number of respondents per year is 1,718.

In all cases, it is estimated that only one response would be submitted annually per respondent. The amount of time required to read, prepare the information, and populate the forms is estimated at one hour per response.

Estimated number of respondents/yr.....	6,279
Responses per respondent.....	<u>x 1</u>
Total annual responses.....	6,279
Estimated hrs/response.....	<u>x 1</u>
Estimated annual burden hours.....	6,279
Hourly rate*.....	<u>x \$59</u>
Estimated annual cost to the public.....	\$370,461

*Based on the Office of Personnel Management (OPM) 2022 General Schedule (GS) 12/step 5 salary for the rest of the United States (\$43.10 per hour) plus a 36.25 percent overhead and benefits fringe factor per OMB, 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.

14. Estimated cost to the Government.

Time required for Governmentwide review is estimated at 15 minutes per response.

Total annual responses.....	6,279
Review time per response (hours).....	<u>x .25</u>
Review time per year (hours).....	1,570
Hourly rate*.....	<u>x \$59</u>
Estimated annual cost to the Government.....	\$92,630

15. Explain reasons for program changes or adjustments reported in Item 13 or 14. There are no program changes. The FAR requirements remain the same. The total number of annual responses and the annual burden hours increased as follows:

OMB Control # 9000-0045	2019 Estimate	2022 Estimate	Change in Burden
Number of respondents	803	6,279	5,476
Total annual responses	803	6,279	5,476
Total burden hours	803	6,279	5,476
Total annual cost to public	\$43,362	\$370,461	\$327,099

The increase in responses and the associated increase in burden hours is an adjustment due to the use of the most current data available and a reassessment of the assumptions for which the burden was calculated as follows:

1. FAR 52.228-1. The annual burden was previously calculated assuming that this clause is only required for construction contracts. However, a bid guarantee may be required for other than construction contracts.
2. FAR 52.228-2. The annual burden was previously calculated assuming that this clause applies only for construction contracts. However, this clause may be required for other than construction contracts. The annual burden was previously calculated based on a percentage of total number of actions. Instead, additional data from FPDS was gathered to further identify when a surety is required.
3. FAR 52.228-13. The annual burden was previously calculated using a limited number of PSC codes. This was revised to identify all construction contracts beginning with PSC codes Y and Z2. Additionally, the threshold was tailored to align with the clause.

4. FAR 52.228-15. The annual burden was previously combined with FAR 52.228-1. Instead, the annual burden for each clause was calculated separately.
5. FAR 52.228-16. The annual burden was previously calculated based on a percentage of total number of actions. Instead, additional data from FPDS was gathered to further identify when this clause is required.

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.