

Supporting Statement for Department of Veterans Affairs (VA)
Acquisition Regulation (VAAR) Clauses 852.237-70,
Indemnification and Medical Liability Insurance,
852.228-71, Indemnification and Insurance
OMB Control No. 2900-0590

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 of result of final rule RIN 2900-AR06 posted to the Federal Register (87FR629999) on October 18, 2022, this Paperwork Reduction Act (PRA) submission request to remove one of the clauses from the Office of Management and Budget (OMB) approval No. 2900-0590, specifically for VAAR clause 852.207-70, Report of Employment Under Commercial Activities to reflect the discontinuation of 852.207-70, as well as the prescriptions for the clause at 807.304-77 and 873.110, paragraph (f). No changes for VAAR Clauses 852.237-70, Indemnification and Medical Liability Insurance and 852.228-71, Indemnification and Insurance.

Currently, OMB Control number 2900-0590 contains three VAAR clauses, 852.207-70, 852.237-70, and 852.228-71. The removal of VAAR clause 852.207-70 from this OMB control number will remove 15 estimated annual burden hours and an annual cost savings to respondents of \$428.85 that are currently reflected in OIRA/OMB information collection inventory. However, due to the fact that this OMB control number contains two additional VAAR clauses, as well as the increase of the Bureau of Labor Statistics (BLS) hourly rate in May 2020, the net decrease of public burden cost for this OMB control number is \$268.85. Refer to Item 15 for more information.

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.

a. VAAR clause 852.237-70, Indemnification and Medical Liability Insurance, is used in lieu of Federal Acquisition Regulation (FAR) clause 52.237-7, Indemnification and Medical Liability Insurance, in solicitations and contracts for the acquisition of non-personal health care services. It requires the apparent successful bidder/offeror, upon the request of the contracting officer, prior to contract award, to furnish evidence of insurability of the offeror and/or all health-care providers who will perform under the contract. In addition, the clause requires the contractor, prior to commencement of services under the contract, to provide Certificates of Insurance or insurance policies evidencing that the firm possesses the types and amounts of insurance required by the solicitation. The

information is required to protect VA by ensuring that the firm to which award may be made and the individuals who may provide health care services under the contract are insurable and that, following award, the contractor and its employees will continue to possess the types and amounts of insurance required by the solicitation. It helps ensure that VA will not be held liable for any negligent acts of the contractor or its employees and ensures that VA and VA beneficiaries will be protected by adequate insurance coverage.

b. VAAR clause 852.228-71, Indemnification and Insurance, is used in solicitations for vehicle or aircraft services. It requires the apparent successful bidder/offeror, prior to contract award, to furnish evidence that the firm possesses the types and amounts of insurance required by the solicitation. This evidence is in the form of a certificate from the firm's insurance company. The information is required to protect VA by ensuring that the firm to which award will be made possesses the types and amounts of insurance required by the solicitation. It helps ensure that VA will not be held liable for any negligent acts of the contractor and ensures that VA beneficiaries and the public are protected by adequate insurance coverage.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Collection efforts do not involve the use of automation. The information required is specific and unique to each solicitation.

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. The information is required either prior to award of each new contract or following award. Only up-to-date information on current insurance coverage is acceptable.

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.

For clauses 852.237-70 and 852.228-71, failure to collect the information would have a negative impact on VA's ability to ensure that VA will not be held liable for any negligent acts of the contractor or its employees and that VA beneficiaries and the public are protected by adequate insurance coverage.

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.

Depending on the clause, the information is needed prior to the award of each solicitation or contract, as circumstances warrant, or following contract award, rather than quarterly. For clauses 852.237-70 and 852.228-71, insurance coverage can change from day to day. The insurance certificate must state that the contractor's insurance will not be cancelled without prior notification to VA. The information is only required once for each contract award and may cover a multi-year period unless the insurance changes. Only one original is required. There are not records of retention requirements. It does not require the submission of proprietary information nor a pledge of confidentiality.

(1) For clause 852.237-70, the information is submitted prior to each contract award, if requested by the contracting officer, or after award and prior to commencement of services. The time for response may vary, but the sooner the offeror can submit the data, the sooner the offeror can be awarded a contract or commence providing services. It is in the best interest of the offeror to expedite submission of the data.

(2) For clause 852.228-71, the information is submitted prior to each contract award. The time for response may vary, but the sooner the offeror can submit the data, the sooner the offeror can be awarded a contract. It is in the best interest of the offeror to expedite submission of the data.

8. 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.

VA didn't receive any comments related to the collection of information on proposed rule RIN 2900-AR06 posted to the Federal Register (87FR13598) on March 9, 2022.

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:

The following data is for clause 852.237-70, Indemnification and Medical Liability Insurance:

No. of respondent	x No. of responses	x No. of minutes	÷by 60	Number of Burden Hours
1500	1 per each contract awarded	30		750

Estimated annualized cost: \$ 21,562.50 (750 hours at \$28.75 per hour. This is based on the Bureau of Labor Statistics (BLS) May 2020 Occupational Employment and Wages code 43-4199, Information and Record Clerks (<https://www.bls.gov/oes/current/oes434199.htm>) Mean Hourly Wage of \$21.10 plus 36.25% fringe benefits per OMB Memo M-08-13 dated March 11, 2008.

The following data is for clause 852.228-71, Indemnification and Insurance:

No. of respondent	x No. of responses	x No. of minutes	÷by 60	Number of Burden Hours
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500	1 per each contract awarded	30		250
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Estimated annualized cost: \$7,187.50 (250 hours at \$28.75 per hour. This is based on the Bureau of Labor Statistics May 2020 Occupational Employment and Wages code 43-4199, Information and Record Clerks (<https://www.bls.gov/oes/current/oes434199.htm>) Mean Hourly Wage of \$21.10 plus 36.25% fringe benefits per OMB Memo M-08-13 dated March 11, 2008.

Total estimated annual burden hours are 1,000.

Total estimated annual number of respondents are 2,000.

Total estimated annual cost to respondents is \$28,750.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

There are no capital costs or operating or maintenance costs. Costs are not expected to vary widely. There are no equipment 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.

For clause 852.237-70, Indemnification and Medical Liability Insurance, Estimated annualized cost to the Government: \$30,922.50 (750 hours at \$ 41.23 per hour). It is estimated that the review and statement will be prepared by a Journeyman Contract Specialist equivalent to a GS-11. Based on OPM 2021 General Schedule ([SALARY TABLE 2021-GS \(opm.gov\)](#)) of a GS-11, step 5 salary, plus 36.25% per OMB Memo M-08-13 dated March 11, 2008. The information is evaluated upon receipt.

For clause 852.228-71, Indemnification and Insurance, Estimated annualized cost to the Government: \$10,307.50 (250 hours at \$ 41.23 per hour). It is estimated that the review and statement will be prepared by a Journeyman Contract Specialist equivalent to a GS-11. Based on OPM 2021 General Schedule ([SALARY TABLE 2021-GS \(opm.gov\)](#)) a GS-11, step 5 salary, plus 36.25% per OMB Memo M-08-13 dated March 11, 2008. The information is evaluated upon receipt.

Total estimated annual burden hours are 1,000.

Total estimated annual number of respondents are 2,000.

Total estimated annual cost to respondents is \$41,230.

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

Clause	OMB Inventory	New	Explanation
852.237-70 (Bk 12)	\$21,442.50	\$21,562.50	Increase in BLS Rate
852.228-71 (Bk 12)	\$7,147.50	\$7,187.50	Increase in BLS Rate
852.207-70 (Bk 12)	\$428.85	0	Discontinue used
Sub-Total	\$29,018.85	28,750.00	
Net Decrease	\$268.85		

As a result of proposed rule RIN 2900-AR06, VAAR Case 2014-V003, the removal of VAAR clause 852.207-70 from this OMB control number will remove 15 estimated annual burden hours and an annual cost savings to respondents of \$428.85 that are currently reflected in OIRA/OMB information collection inventory. However, due to the fact that this OMB control number contains two additional VAAR clauses and the increase in the BLS hourly rate in May 2020, the net decrease of public burden cost for this OMB control number is \$268.85.

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.

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 will 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-I.

This submission does not contain any exceptions to the certification statements.

B. Statistical Methods

Statistical methods will not be employed.