

**Federal Acquisition Regulation (FAR)
Prospective Subcontractor Requests for Bonds
OMB Control No. 9000-0135
Justification - Part A Supporting Statement**

FAR section affected: 52.228-12

Overview of Information Collection:

There are no program changes. The FAR requirements remain the same. This extension includes adjustments to the burden due to use of the latest Federal Procurement Data System (FPDS) data available, and the calendar year 2023 OPM GS wage rates for the rest of the United States as explained in item 15.

1. Need & Method for the Information Collection. Part 28 of the FAR contains guidance related to obtaining financial protection against losses under Federal contracts (e.g., bonds, bid guarantees, etc.). Part 52 contains the corresponding provisions and clauses. These collectively implement the statutory requirement for Federal contractors to furnish payment bonds under construction contracts subject to 40 U.S.C. chapter 31, subchapter III, Bonds. This information collection is mandated by section 806(a)(3) of Public Law 102-190, as amended by sections 2091 and 8105 of the Federal Acquisition Streamlining Act of 1994 (10 U.S.C. 4601 note prec.) (Pub. L. 103-335). Accordingly, the FAR clause at 52.228-12, Prospective Subcontractor Requests for Bonds, requires prime contractors to promptly provide a copy of a payment bond, upon the request of a prospective subcontractor or supplier offering to furnish labor or material under a construction contract for which a payment bond has been furnished pursuant to 40 U.S.C. chapter 31.
2. Use of the Information. Given that payment bonds (in conjunction with performance bonds) are used to secure the contractor's obligations (thereby assuring that payments are made to subcontractors and vendors under the contract), the requester will use information on payment bonds to determine whether to engage in business with that prime contractor.
3. Use 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, contractors may submit this information collection requirement electronically.

4. Non-duplication. These requirements are issued under the FAR, which has been developed to standardize Federal procurement practices and eliminate unnecessary duplication.
5. Burden on Small Business. The burden applied to small businesses is the minimum consistent with Public Law 102-190, as amended by Public Law 103-335, which applies to construction contracts subject to 40 U.S.C. chapter 31. While this information is also available from the contracting officer, the statute placed responsibility upon the prime contractor for provision of information to prospective subcontractors or suppliers. The statute imposes the same requirement on both large and small businesses.
6. Less Frequent Collection. Collection of information on a basis other than contract-by-contract is not practical.
7. Paperwork Reduction Act Guidelines. Collection is consistent with guidelines in 5 CFR 1320.5(d)(2).
8. Consultation and Public Comments.
 - A. A 60-day notice was published in the *Federal Register* at 88 FR 39850, on June 20, 2023. No comments were received.
 - B. A 30-day notice was published in the *Federal Register* at 88 FR 58275, on August 25, 2023.
9. Gifts or Payment. This collection does not provide any payment or gift to respondents, other than remuneration of contractors.
10. Privacy & Confidentiality. This information is disclosed only to the extent consistent with prudent business practices, current regulations, and statutory requirements.
11. Sensitive Questions. No sensitive questions are involved.
12. Burden Estimate.

Estimated total annual public hour and cost burden.

The following estimates are based on averages of historical award data available in FPDS for fiscal years 2020 through 2022. Accordingly, a total of 317 construction contracts over \$150,000 (and therefore subject to this collection) were awarded by GSA. It is estimated that each prime contractor has an average of 10 subcontractors (317 x 10) resulting in a total universe of 3,170 subcontractors. Of that universe, it is estimated that 25% of the subcontractors would request information on surety bonds,

resulting in 793 (25% of 3,170) responses by the prime contractor. It is also estimated that it would take an average of 20 minutes to accommodate each request, resulting in 270 burden hours.

General Services Administration

Estimated respondents/yr.....	317
Responses annually.....	<u>x 2.5</u>
Total annual responses.....	793
Estimated hrs/response.....	<u>x .34</u>
Estimated total burden hrs.....	270
Hourly rate*.....	<u>x \$67</u>
Estimated cost to the public.....	\$18,090

* Fully burdened rate includes a 36.25 percent fringe factor (pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition), and a 12 percent overhead rate (from A-76 revised supplemental handbook). Based on the Office of Personnel Management (OPM) 2023 General Schedule (GS) 12/step 5 salary for the rest of the United States (\$44.98 per hour) plus the fringe factor and the overhead rate, rounded to the nearest whole dollar (\$67).

13. Estimated nonrecurring costs. Not applicable.

14. Estimated cost to the Government. Given that the information requester is typically a potential vendor or subcontractor (not the Government), and that the information provider is the prime contractor, the Government will not incur any administrative costs with this collection.

15. Reasons for changes. There are no program changes. The FAR requirements remain the same. This extension includes adjustments to the public and Government burden estimates based on the following:

- The estimated number of respondents and responses per year is based on the historical average of FPDS data for the three most recent fiscal years (2020 through 2022) for the General Services Administration.
- The estimated cost per hour is based on use of the calendar year 2023 OPM GS wage rate for the rest of the United States.

	2020 Estimate	2023 Estimate	Change in
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			Burden
Number of respondents	565	317	-248
Total annual responses	1,412	793	-619
Total burden hours	480	270	-210
Total annual cost to public	\$27,360	18090	-\$9,270

16. Publicizing Results. Results will not be tabulated or published.

17. OMB Not to Display Approval. Approval to *not* display the expiration date for OMB approval of the information collection is not sought.

18. Exceptions to "Certification for Paperwork Reduction Submissions." There is no exception to the certification statement.

19. Surveys, Censuses, and Other Collections that Employ Statistical Methods. Statistical methods are not used in this information collection. A Part B supporting statement is not needed, or required, and therefore was not completed.

<u>FY</u>	<u>GSA No. of const. contracts</u>
2020	364
2021	455
2022	132
Average	317