

GSA
FFATA Subaward and Executive Compensation Reporting Requirements
OMB Control Number 3090-0292

Justification. Part A Supporting Statement

Overview of Information Collection:

This is a request for approval of an extension to an existing information collection.

This information collection requires reporting of only the information enumerated under the Transparency Act. Beginning October 1, 2010, this Paperwork Reduction Act submission directs compliance with the Transparency Act to report prime and first-tier subaward data. Specifically, Federal agencies and prime awardees of grants will ensure disclosure of executive compensation of both prime and subawardees and subaward data.

1. Circumstances that make the collection of information necessary.

The Federal Funding Accountability and Transparency Act (FFATA), “Transparency Act,” requires information disclosure of entities receiving Federal financial assistance through Federal awards such as Federal contracts, sub-contracts, grants, and sub-grants, FFATA § 2(a)(2)(i), (ii).

Specifically, the Transparency Act’s section 2(b)(1) requires the Office of Management and Budget (“OMB”) to ensure the establishment of a publicly available website that contains the following information about each Federal award:

- name of the entity receiving the award;
- amount of the award;
- information on the award including transaction type, funding agency, the North American Industry Classification System code or Assistance Listings number, program source, award title descriptive of the purpose of each funding action;
- location of the entity receiving the award and primary location of performance under the award, including city, State, congressional district, and country;
- unique identifier of the entity receiving the award and the parent entity of the recipient, should the entity be owned by another entity; and
- names and total compensation of the five most highly compensated officers of the entity if the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance awards; and \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance contract awards; and the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934

(15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. See 2 CFR Part 170 for a full reading of the regulations FFATA § 2(b)(1). (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. Purpose and Use of Information Collection.

The information collected is used to make transparent the information about executive compensation (if applicable) for Grants prime and subawardees and subaward information. Most prime awardee information is publicly available; however executive compensation of prime awardees is not. In addition, this information collection will provide public access to information on grant subaward information, pursuant to the Transparency Act.

a. What grants are subject to reporting under this information collection?

New Federal, non-Recovery Act funded grant awards with an award date on or after October 1, 2010, and resulting first-tier subawards, are subject to the reporting requirements under the Transparency Act. New Federal grants includes grants with a new Federal Award Identification Number (FAIN) as of October 1, 2010 and does not include continuing grants awarded in prior fiscal years with new obligations beginning October 1, 2010.

For any new awards as of October 1, 2010, Federal agencies are required to transmit to prime awardees revised standard terms and conditions (to be published July 2010) that delineate reporting requirements pursuant to the Transparency Act.

For those new Federal grants as of October 1, 2010, if the initial award is over \$30,000, reporting of sub award data is required. If the initial award is below \$30,000 but subsequent funding results in a total award equal to or over \$30,000, the award will be subject to FFATA the reporting requirements, as of the date the award exceeds \$30,000. If the initial award equals or exceeds \$30,000 but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the award continues to be subject to the reporting requirements of the Transparency Act and this Paperwork Reduction Act submission.

In addition to the award amount threshold, pursuant to the Transparency Act, Federal grant awards to individual recipients, Federal grant awards made to entities earning less than \$300,000 in Federal benefits in the previous tax year, and classified information are not subject to the reporting requirements in this Paperwork Reduction Act submission, FFATA §§ 2(a)(1)(C), 2(e), 5.

b. Who will be required to report under this information collection?

Prime awardees of Federal grants will be responsible for reporting under the Transparency Act.

c. What will the prime awardee be required to report under this information collection?

The prime grantee will be responsible for two sets of reporting: information about itself and information about its sub-grantee, if any. The specific data elements required, and listed in the attached spreadsheet, are confined solely to the data elements required under the Transparency Act. The subawardee of a Federal grant will not be required to undergo any additional reporting to the Federal Government under this Paperwork Reduction Act submission.

First, the prime awardee will be responsible for reporting information about its sub-grantee, if a sub-grantee exists. If the prime awardee has not awarded a sub-grant, no reporting is required at this level. The prime awardee will be required to provide the subawardee's UEI. Based on this UEI, if the subawardee has already provided, in the course of other direct applications for Federal grants or contracts, its entity-related information (e.g., name, address, Parent UEI) into SAM, such information will be pre-populated into FSRS. See attached data elements spreadsheet for a detailed description of data elements and source of pre-population. This pre-population will substantially reduce the burden of prime awardee's reporting requirements under the Act. If the subawardee has not previously provided this information to the Federal Government through SAM, the prime awardee will be required to manually enter this information into FSRS. To the extent possible, however, this Paperwork Reduction Act submission will pre-populate data elements to avoid duplicative reporting to the Federal Government.

Second, the prime awardee will be responsible for reporting executive compensation data related to its own entity's top five highly compensated officials or a subawardee's top five highly compensated officials, if applicable. Similar to the other reporting requirements in this information collection, the Transparency Act specifically directs the collection of this executive compensation data. A prime entity will be required to report executive compensation information about its or its subawardee's top five highly compensated officials if:

the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in Federal awards; and \$25,000,000 or more in annual gross revenues from Federal awards; and the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. FFATA § 2(b)(1).

Third, the prime awardee will be required to verify the accuracy of any other pre-populated information regarding the prime award, including the award's project description, starting and ending date.

d. By when will the prime awardee be responsible for this reporting?

The prime awardee will be responsible for reporting information about itself, as needed, or its subawardee, if any, by the end of the month following the month the award or obligation was made.

For subaward reporting:

If applicable, the prime awardee must report subawardee data by the end of the month following the month the award or obligation was made.

Example 1:

Prime recipient awards subaward on October 1, 2023
Prime recipient must report subaward information by November 30, 2023

Example 2:

Prime recipient awards subaward on October 31, 2023
Prime recipient must report subaward information by November 30, 2023

For executive compensation reporting:

If applicable, the prime awardee must report its own executive compensation data by the end of the month following the month the award or obligation was made.

Example 1:

Federal agency awards grant to prime awardee on October 1, 2023
Prime awardee must report executive compensation data, if necessary, by November 30, 2023.

Example 2:

Federal agency awards grant to prime awardee on October 31, 2023
Prime awardee must report executive compensation data, if necessary, by November 30, 2023.

Similarly, the prime awardee must report the subawardee's executive compensation data by the end of the month following the month the award or obligation was made.

Example 1:

Prime recipient awards subaward on October 1, 2023
Prime recipient must report subawardee's executive compensation data, if necessary, by November 30, 2023

Example 2:

Prime recipient awards subaward on October 31, 2023
Prime recipient must report subawardee's executive compensation data, if necessary, by November 30, 2023.

e. How will prime awardees be required to report this information?

Information on Grants subaward and executive compensation will be collected on the FFATA Subaward Reporting System (FSRS) website, <http://www.fsr.gov>. The FSRS website is part of the Integrated Acquisition Environment and is managed at GSA.

This same platform, FSRS, will be used for the collection of both grants and contracts financial information, as required by the Transparency Act. Because the Act requires the collection of

similar financial information from oftentimes the same entities, regardless of whether they are awarded Federal contracts or Federal grants, leveraging the same platform will allow for streamlining in the registration process, reduction of duplicative reporting, and less cost and time burden associated with reporting. The Paperwork Reduction Act submission for the collection of Federal contracts-related financial information pursuant to the Transparency Act is located in the FAR Final Rule, published in the Federal Register on July 26, 2012.

FSRS will permit prime awardees to locate their applicable grants and report, as required under this information collection, subaward and executive compensation information within the required reporting times. The system will be enabled to permit both individual reporting transactions as well as batch uploading capabilities. GSA will continue to refine the system to ensure that prime awardees' reporting burden using FSRS is minimized for the maximum extent practicable.

3. Use of information technology.

This collection of information will be electronic. The FFATA Subaward Reporting System (FSRS) is accessed at <http://www.fsr.gov>. The prime awardee will be allowed to report information about itself, as needed, and its subawardees, if applicable, by specific grant, or through a batch uploading mechanism. The system will allow a prime awardee to save its reporting for further review or addition, or report immediately. Providing such flexibility, in both the form of reporting (individual and batch uploading capabilities) and in timing will ensure that the burden is minimized to the maximum extent possible.

Further, as discussed above, it is intended that to the maximum extent possible, information already collected from Federal agencies on Federal grants and prime awardees will be pre-populated to minimize duplicative reporting of the prime awardees' entity information (e.g. address, UEI and grant information (e.g. AL number, award amount, prime award description)).

4. Efforts to identify duplication and use of similar information.

As discussed above, it is intended that to the maximum extent possible, information already collected from Federal agencies on Federal grants and prime awardees will be pre-populated to minimize duplicative reporting of the prime awardees' entity information (e.g. address, UEI number) and grant information (e.g. AL number, award amount, prime award description).

5. Impacts on Small Business or Other Small Entities.

As discussed above, it is intended that to the maximum extent possible, information already collected from Federal agencies on Federal grants and prime awardees will be pre-populated to minimize duplicative reporting of the prime awardees' entity information (e.g. address, UEI number) and grant information (e.g. AL number, award amount, prime award description).

Further, Federal grant awards made to entities earning less than \$300,000 in Federal benefits in the previous tax year are not subject to the reporting requirements in this Paperwork Reduction Act submission.

6. Consequences of collection the information less frequently.

The collection of this information complies with P.L. 109-282 requiring the statutorily required reporting of information on: (1) executive compensation of applicable grants prime and subawardees and (2) other grants award-related information about grants subawardees accessible to the public, thus making Government more transparent. See attached data elements spreadsheet for full list of data elements.

7. Paperwork Reduction Act Guidelines.

- **requiring respondents to report information to the agency more often than quarterly;**

Respondents will be submitting information electronically at www.fsrs.gov. Prime recipients will be required to report its own executive compensation data, if needed pursuant to the Transparency Act, by the end of the month of the prime award's obligation from the Federal Government to the prime awardee, plus an additional 30 days. The same timeframe is applied for a prime awardee's reporting of subaward information, if a subaward is obligated. The frequency of this reporting is specifically required by the Transparency Act. FFATA § 2(c)(4) ("The website established under this section shall be updated not later than 30 days after the award of any Federal award requiring a posting.")

Respondents will not be required to keep 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 the study;**

The information collection is not connected with a statistical survey.

- **requiring the use of statistical data classification that has not been reviewed and approved by OMB;**

The information collection is not connected with the use of statistical data classification.

- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

The information collection does not request data that is confidential.

8. Consultation and Public Comments.

A 60-day notice published in the *Federal Register* at 89 FR 11280 on February 14, 2024. Two papers with multiple comments each were received. A 30-day notice published in the *Federal Register* at 89 FR 45893 on May 24, 2024.

Comment: GSA received a comment about the burden on large federal contractors that have large subcontractor supply chains. Another comment noted the overall FFATA reporting burden beyond FSRS reporting and estimated this overall effort for prime contractors.

GSA Response: This information collection is specific to recipients of federal financial assistance, not contracts. The burden calculated in this information collection is specific to FSRS reporting of financial assistance and does not include burden already calculated with the commensurate regulations issued for subaward reporting in 2 CFR Part 170. The information collection is conducted in a manner in FSRS to minimize overall burden on federal financial assistance recipients while complying with The Federal Funding Accountability and Transparency Act (FFATA), “Transparency Act,”.

Comment: GSA received a comment that the information collection is unnecessary and does not have practical utility since federal contracting is very competitive and price transparency is already high.

GSA Response: This information collection is specific to recipients of federal financial assistance, not contracts. Information collected under this information collection is required to comply with The Federal Funding Accountability and Transparency Act (FFATA), “Transparency Act,” requirements for subaward reporting.

Comment: GSA received a comment regarding the negative impacts that FFATA places on the industrial base, discouraging commercial firm participation in the federal marketplace. The commenter noted the requirement that contractors reveal their supply chain, loss of competitive advantage, and liability with properly reporting executive compensation and subaward data with a potential False Claims Act violation.

GSA Response: This information collection is specific to recipients of federal financial assistance, not contracts. Information collected under this information collection is required to comply with The Federal Funding Accountability and Transparency Act (FFATA), “Transparency Act,” requirements for subaward and executive compensation reporting.

Comment: GSA received a comment that clarification should be provided on subaward reporting of modifications to an already reported subcontract that exceeds the reporting threshold.

GSA Response: FSRS and the Federal Service Desk have significant help materials and guides to assist users with reporting data into FSRS.gov. The Federal Service Desk has agents that can assist entities where they are unable to answer their question within the help content.

Comment: GSA received two comments that FSRS should stop requiring prime contractors to report subcontractor executive compensation when that subcontractor has reported its executive compensation as a prime contractor.

GSA Response: GSA acknowledges the comment that in some circumstances the prime awardee could have a lower burden if the executive compensation information is pre-populated in the subaward report. However, if the executive compensation of the subawardee were populated in

FSRS, the prime awardee would remain responsible for ensuring the correct executive compensation information for the preceding fiscal year was reported. GSA appreciates the feedback on usability and user experience and considers it when making updates to the respective service or page so as to improve the site user experience.

Comment: GSA received varying comments on improving FSRS website functions such as improving print functionality, improving the worklist, improving batch uploading, or auto populating some report data through a single click.

GSA Response: GSA appreciates feedback on usability and user experience and considers it when making updates to the respective service or page so as to improve the site user experience.

Comment: GSA received a comment that the reporting threshold in FAR 4.103(a) be increased from \$30,000 to the Simplified Acquisition Threshold, currently \$250,000.

GSA Response: GSA acknowledges this comment, but notes it is outside the scope of this information collection.

Comment: GSA received a comment requesting a minimum threshold value be implemented for subaward amount changes in FAR 52.204-10, so that subaward changes below this threshold did not require reporting.

GSA Response: GSA acknowledges this comment, but notes it is outside the scope of this information collection.

Comment: GSA received a comment about technical challenges users had with FSRS including congressional district errors, errors in very large reports, and obtaining timely responses from the help desk.

GSA Response: GSA provides the Federal Service Desk to assist with any technical challenges users may encounter. While the help desk strives for timely resolution, more complex technical issues may take longer to resolve.

9. Explanation of any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gifts to respondents will be provided.

10. Privacy & confidentiality.

The information requested is specifically enumerated under the Transparency Act and is required by the Act to be released to the public.

11. Justification for questions of a sensitive nature.

Information of a sensitive nature is not requested.

12 & 13. Estimated total annual public hours and cost burden.

a) Burden Hours for State, Local, and Tribal Governments

Estimates are based on the following:

The burden hours associated with each information submission is 1 hour. This is based on the assumption all prime grant awardees are registered in SAM, and prime grant awardees will only be required to manually input a *minimal* amount of information. It is not possible to determine how many prime awards only go to state, local and tribal governments.

b) Burden Hours for all other respondents:

Based on FY23 data, there were **536,394** subaward reports entered into FSRS. The burden hours associated with each information submission is 1 hours. This is based on the assumption that all prime grant awardees are registered in SAM, and prime grant awardees will only be required to manually input a *minimal* amount of information. The burden hours are calculated as follows:

536,394 responses x 1 hour **536,394** total burden hours.

GSA has provided its best estimates based on available information. GSA has reduced the burden hours from 2 hours to 1 hour based on the historical and actual data of awardee submissions. FSRS does not track and separate the different submission numbers for State, Local, and Tribal Government awardees. GSA will continue to review and revise these burden estimates as more information becomes available.

Respondent Costs

The respondent cost estimates are computed using the hourly rates of a GS 11/1. These hourly rates are comparable to salaries of staff that will perform these functions for the respondent (data entry). The time required for data entry is estimated at 1 hour each (0.75 hour for subaward reporting; 0.25 hour for compensation data reporting) totaling 1 hour per respondent.¹ Using the Office of Personnel Management's January 2023 Salary Table, the hourly rate for a GS 11/1 is \$37.66. Therefore, the cost for one respondent is as follows:

Review (GS 11/1 equiv.) hourly rate of \$37.66 x 1 hour =	37.66
Overhead (36%) (labor costs)	<u>13.58</u>
Total Cost, One Respondent	\$ 51.24

Total Respondent Costs for States and Local Governments:

The burden hours associated with each information submission is 1 hour. This is based on the assumption all prime grant awardees are registered in SAM, and prime grant awardees will only be required to manually input a *minimal* amount of information. It is not possible to determine how many prime awards only go to state, local and tribal governments.

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Total Respondent Costs for All Other Respondents

The estimated total annual cost burden to respondents is **\$51.24** x **536,394** hours are **\$27,484,828.56**. The estimated cost per response is approximately \$51.24.

The previous estimates were based on, in part; the assumptions made in the FAR Interim Final Rule, published July 8, 2010, that implemented similar FFATA reporting requirements for Federal contracts. Since the Government does not provide oversight of the contractors' information submission responses, GSA now estimates an Entity Administrator, equivalent to a General Schedule, Nationwide GS-11, step 1 Administrative Support person, would manually submit information submission responses. The estimated hourly rate is \$37.66. GSA has provided its best estimates based on available information. GSA will continue to review and revise these burden estimates as more information becomes available.

14. Estimated annual cost to the Federal Government.

Capturing subaward and executive compensation reporting is part of overall operations and maintenance of the web site. The cost to operate the site is \$600,000 annually. This figure represents the entirety of what it costs the government to maintain the site. Since this IC encompasses most of the functionality available on the site, this estimate is the most accurate figure available. Government users don't approve sub award reports, so there is no federal cost there.

15. Explanation for any program changes or adjustments.

The vast majority of the time and cost burden resides with the awardee community. There are no fees associated with submitting a report, but there is an approximate estimate of 1 hour. level of effort by both the government and awardee.

GSA has increased the burden hours based on the historical and actual data of awardee submissions. The estimated costs are an increase from the last renewal in 2020. The main reason is a better understanding of both government and awardee impacts. There is no evidence this is the result of awardees non-compliant with regulation.

16. Publicizing results.

The information collected will be published on USASpending.gov. Information will be provided free to the public.

17. Reasons display of OMB expiration date is inappropriate.

Such approval is not being requested.

18. Explain each exception to the certification statement.

There are no exceptions to the certifications.

B. Collections of Information Employing Statistical Methods.

Statistical methods are not used in this information collection.