

**Federal Acquisition Regulation (FAR)
Subcontract Consent and
Contractors' Purchasing System Review
OMB Control No. 9000-0149
Justification - Part A Supporting Statement**

FAR section affected: 52.244-2

Overview of Information Collection:

- This justification supports clearance of an extension of the collection.

There are no program changes. The FAR requirements remain the same. This extension includes adjustments to the burden due to use of data available in the Federal Procurement Data System (FPDS) and the calendar year 2024 Office of Personnel Management (OPM) General Schedule (GS) Salary Table for the rest of the United States as explained in item 15.

1. Need & Method for the Information Collection. This clearance covers the information that contractors must submit to comply with the requirements in the FAR clause at 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. Paragraph (e)(1) of the FAR clause at 52.244-2, requires prime contractors to submit the following information:

- (i) A description of the supplies or services to be subcontracted.
- (ii) Identification of the type of subcontract to be used.
- (iii) Identification of the proposed subcontractor.
- (iv) The proposed subcontract price.

- (v) The subcontractor's current, complete, and accurate certified cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.
- (vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of the contract.
- (vii) A negotiation memorandum reflecting—
 - (A) The principal elements of the subcontract price negotiations;
 - (B) The most significant considerations controlling establishment of initial or revised prices;
 - (C) The reason certified cost or pricing data were or were not required;
 - (D) The extent, if any, to which the Contractor did not rely on the subcontractor's certified cost or pricing data in determining the price objective and in negotiating the final price;
 - (E) The extent to which it was recognized in the negotiation that the subcontractor's certified cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;
 - (F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and
 - (G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

If the contractor has an approved purchasing system, consent is required for subcontracts specifically identified by the contracting officer in paragraph (d) of the FAR clause at 52.244-2. 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)(\$250,000).

b. Advance notification. Paragraph (e)(1) of the FAR clause at 52.244-2 requires contractors to notify the contracting officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (b), (c), or (d) of the clause.

c. Contractors' Purchasing System Review. 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 Contractors' Purchasing System Review (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. 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. 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.

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. Use of the Information.

a. Consent to subcontract. Contracting Officers use the information to ensure contractors' compliance with Government policy when subcontracting.

b. Advance notification. Contracting Officers use the information to ensure compliance with the statutory requirements in 10 U.S.C. 3322(c) and 41 U.S.C. 3905.

c. Contractors' Purchasing System Review. Contracting Officers use the information to evaluate the efficiency and effectiveness with which a contractor spends Government funds.

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, the 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 applicable laws, Executive orders, regulations, and prudent business practices.
6. Less Frequent Collection. 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. 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 89 FR 93291, on November 26, 2024. No comments were received.

B. A 30-day notice was published in the *Federal Register* at 90 FR 11978, on March 13, 2025.

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.

The estimates are based on an annual average of FPDS award data for fiscal years 2021 through 2023.

| Summary Annual Public Burden | Consent to subcontract | Advance notification | Contractors' Purchasing System Reviews | Total |
|-------------------------------------|------------------------|----------------------|--|-------------|
| Estimated respondents/yr | 1,155 | 1,120 | 240 | 2,515 |
| Responses/respondent | 3 | 3 | 1 | |
| Total annual responses | 3,465 | 3,360 | 240 | 7,065 |
| Estimated hrs/response | 3 | 0.25 | 160 | |
| Estimated total burden hrs | 10,395 | 840 | 38400 | 49,635 |
| Hourly rate* | \$70 | \$70 | \$70 | |
| Estimated annual cost to the public | \$727,650 | \$58,800 | \$2,688,000 | \$3,474,450 |

a. Consent to subcontract. FPDS shows 7,948 awards of noncommercial, cost-reimbursement, time-and-materials, labor-hour, and letter contracts over the SAT. These 7,948 contracts represented 2,205 companies (respondents). This requirement applies to contractors without an approved purchasing system. DCMA had 525 approved purchasing systems on file as of fiscal year 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 1,155 (2,205 minus 1,050 = 1,155). Of these respondents, it is estimated that each will award approximately three subcontracts per year meeting the requirement for a consent

to subcontract (responses). It is estimated that it will take 3 hours per response.

The burden is calculated as follows:

| | |
|------------------------------------|---------------|
| Estimated respondents/yr..... | 1,155 |
| Responses per respondent..... | <u>x 3</u> |
| Total annual responses..... | 3,465 |
| Estimated hours/response..... | <u>x 3</u> |
| Estimated annual burden hours..... | 10,395 |
| Hourly rate*..... | <u>x \$70</u> |
| Estimated cost to the public..... | \$727,650 |

b. Advance notification. Advance notification of cost-plus-fixed-fee and certain fixed-price subcontracts is required of prime contractors with noncommercial, 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. FPDS shows 6,244 prime contracts that met the criteria for requiring the advance notification. These contracts represented 1,645 companies (respondents). DCMA had 525 approved purchasing systems on file, which results in the estimated number of annual respondents to be 1,120 (1,645 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..... | 1,120 |
| Responses per respondent..... | <u>x 3</u> |
| Total annual responses..... | 3,360 |
| Estimated hours/response..... | <u>x 0.25</u> |
| Estimated annual burden hours..... | 840 |
| Hourly rate*..... | <u>x \$70</u> |
| Estimated cost to the public..... | \$58,800 |

c. Contractors' Purchasing System Reviews. There is no single data collection process or system, e.g., FPDS, that identifies the number of CPSRs conducted Governmentwide. 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..... | <u>x 1</u> |
| Total annual responses..... | 240 |
| Estimated hours/response..... | <u>x 160</u> |
| Estimated annual burden hours..... | 38,400 |
| Hourly rate*..... | <u>x \$70</u> |
| Estimated cost to the public..... | \$2,688,000 |

* The hourly rate is calculated by applying a 36.25 percent fringe factor and a 12 percent overhead factor to a base hourly rate (\$47.22), and then rounding to the nearest whole dollar (\$70). The base hourly rate is derived from the Office of Personnel Management (OPM) 2024 General Schedule (GS) Locality Pay Table for a GS-12/step 5 salary for the rest of the United States ("Salary Table 2024-RUS"). The fringe factor is derived from OMB memorandum M-08-13. The overhead factor is derived from the OMB Circular No. A-76 Revised Supplemental Handbook.

13. Estimated nonrecurring costs. Not applicable.

14. Estimated cost to the Government.

| Summary Annual Gov Burden | Consent to subcontract | Advance notification | Contractors' Purchasing System Reviews | Total |
|----------------------------------|------------------------|----------------------|--|-----------|
| Total annual responses | 3,465 | 3,360 | 240 | 7,065 |
| Review time per response (hours) | 3 | 0.167 | 320 | |
| Review time per | 10,395 | 561.12 | 76,800 | 87,756.12 |

| | | | | |
|---------------------------|-----------|----------|-------------|-------------|
| year (hours) | | | | |
| Hourly rate* | \$70 | \$70 | \$70 | |
| Estimated Government Cost | \$727,650 | \$39,278 | \$5,376,000 | \$6,142,928 |

a. Consent to subcontract.

Total annual responses..... 3,465
Review time per response (hours)..... x 3
Review time per year (hours)..... 10,395
Hourly rate*..... x \$70
Estimated annual cost to the Government..... \$727,650

b. Advance notification.

Total annual responses..... 3,360
Review time per response (hours).....x 0.167
Review time per year (hours)..... 561.12
Hourly rate*.....x \$70
Estimated annual cost to the Government..... \$39,278

c. Contractors' Purchasing System Reviews.

Total annual responses..... 240
Review time per response (hours).....x 320
Review time per year (hours)..... 76,800
Hourly rate*..... x \$70
Estimated annual cost to the Government..... \$5,376,000

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 cost per hour is based on use of the calendar year 2024 OPM GS wage rates for the rest of the United States.
- The estimated number of respondents and annual responses were based on an annual average of FPDS award data for fiscal years 2021 through 2023.

| Reporting Public Burden | 2022 | 2025 | Change |
|-------------------------|-------------|-------------|------------|
| Responses | 9,330 | 7,065 | -2,265 |
| Hours | 53,394 | 49,635 | -3,759 |
| Cost | \$3,043,458 | \$3,474,450 | +\$430,992 |

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.