Department of Veterans Affairs responses to comments received during the 30-Day comment period on OMB Control Number 2900-0590

1. Comment received on 12/10/2025 at 03:03 PM:

> In VAAR clause 852.228-71, the use of language such as paragraph (b)'s "a condition precedent to award" in a government contract means the contracting officer (CO) needs to make a responsibility determination before award. When a CO determines a small business nonresponsible, the contractor may appeal to the Small Business Administration. This triggers a tedious process that could be avoided by simply changing paragraph (b) to instead say, "a condition precedent to performance beginning under the contract." The contractor cannot get paid until it performs, so it is naturally incentivized to go get the insurance post-award.

VA Response: VA elects to not change information collection 2900-0590 in response to this comment. VA has used VA Acquisition regulation (VAAR) clause 852.228-71 (or its predecessor) successfully for many years. This clause is used in solicitations for ambulance service, and automobile or aircraft transportation services. It requires offerors to provide evidence of satisfactory insurance coverage prior to contract award.

VA's experience is that service providers do not find it burdensome to provide the documentation before being awarded a contract. Requiring proof of insurance prior to contract award has not caused excessive delays or noticeably decreased competition. We estimate that most non-federal purchasers of these services would also want service providers to show proof of insurance.

The commenter raised the specter of possible clause-related appeals to the Small Business Administration. However, we're not aware of any appeals to the Small Business Administration related to VA use of this clause.
Adopting the commenter's recommended approach of requiring proof of insurance after contract award could lead to delayed contract performance or re-procurement delays, with potentially negative impacts to patient care.

2. Comment received on 12/20/2025 at 03:16 PM, and a file labelled "Clause DOE-H-2073":

> Please see attached the clause Department of Energy uses in many contracts to require indemnification and insurance. Provided for your reference because it is not in the Department of Energy Acquisition Regulation.

VA Response: VA elects to not change information collection 2900-0590 in response to this comment. VA is well-served by having one VA-specific indemnification and insurance clause focused on contractor-provided medical services; and a second clause for ambulance service, and automobile or aircraft transportation services.

Clause 852.237-70 is used in solicitations for contractor-provided medical service. Before contract award, it requires an apparently successful offeror to provide evidence of insurability of the offeror and its healthcare providers who will perform under the contract.
Clause 852.228-71 is used in solicitations for ambulance service, and automobile or aircraft transportation services. It requires offerors to provide evidence of satisfactory insurance coverage prior to contract award.

We reviewed the Department of Energy (DoE) clause provided by the commenter.
The DoE clause appears to support a very different requirement than the VA clauses, including contractor operation of nuclear facilities. The DoE clause is not a good analogue for VA.
We closely reviewed the DoE clause and did not find any portions that would be a helpful addition or modification to the VA clauses.
DOE's clause appears more burdensome than the VA clauses, and the DoE clause is nearly twice as long as either VA clause.