

B. Annual Reporting Burden

The total annual burden has increased from 912 hours to 30,327 hours. This is based on an analysis of the Federal Procurement Data System—Next Generation (FPDS-NG) which shows that for Fiscal Years 2011 and 2012 there were 9,198 and 11,020, respectively, new A-76 awards. An average of the number of the A-76 awards for these two years equates to 10,109.

Number of Respondents: 10,109.

Responses per Respondent: 1.

Total Responses: 10,109.

Average Burden Hours per Response:

3.

Total Burden Hours: 30,327.

Obtaining Copies of Proposals:

Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501-4755. Please cite OMB Control No. 9000-0114, Right of First Refusal of Employment, in all correspondence.

Dated: March 18, 2013.

William Clark,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

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DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[OMB Control No. 9000-0007; Docket 2012-0076; Sequence 59]

Federal Acquisition Regulation; Submission for OMB Review; Summary Subcontract Report

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning

summary subcontract reports (SF-295). A notice was published in the **Federal Register** at 77 FR 69483, on November 19, 2012. One comment was received.

DATES: Submit comments on or before April 22, 2013.

ADDRESSES: Submit comments identified by Information Collection 9000-0007, Summary Subcontract Report, by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 9000-0007, Summary Subcontract Report". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000-0007, Summary Subcontract Report", on your attached document.

- *Fax:* 202-501-4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 9000-0007, Summary Subcontract Report.

Instructions: Please submit comments only and cite Information Collection 9000-0007, Summary Subcontract Report, in all correspondence related to this collection. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Karlos Morgan, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, (202) 501-2364 or via email at karlos.morgan@gsa.gov.

SUPPLEMENTARY INFORMATION:**A. Purpose**

In accordance with Federal Acquisition Regulation 19.702, any contractor receiving a contract for more than the simplified acquisition threshold must agree in the contract that small business, small disadvantaged business, historically underutilized business zone (HUBZone) small business, veteran-owned small business, service-disabled veteran-owned small business, and women-owned small business concerns will have the maximum practicable opportunity to participate in contract performance consistent with its efficient performance. Further, contractors receiving a contract or a modification to a contract expected to exceed \$650,000 (\$1,500,000 for construction) must

submit a subcontracting plan that provides maximum practicable opportunities for the above named concerns. Specific elements required to be included in the plan are specified in section 8(d) of the Small Business Act and are implemented in FAR Subpart 19.7.

In conjunction with the subcontracting plan requirements, contractors must submit an annual summary (semi-annual for DOD and NASA) of subcontracts awarded by prime and subcontractors for a specific Federal Government agency that required an Individual Subcontracting plan for the previous fiscal year. This is accomplished through the use of the Standard Form 295, Summary Subcontract Report, or the Summary Subcontract Report (SSR), the electronic equivalent of the of the Standard Form 295, submitted through the Electronic Subcontracting Reporting System (eSRS). The Electronic Subcontracting Reporting System streamlines the small business subcontracting program reporting process and provides the data to agencies in a manner that enables them to more effectively manage the program.

Contractors must use the SSR in lieu of the SF 295, with the exception of those contracts noted in FAR 4.606(c)(5) which requires that actions, pursuant to other authority, will not be entered in Federal Procurement Data System (e.g., reporting of the information would compromise national security). Those contract actions noted in FAR 4.606(c)(5) will continue to use the Standard Form 295.

B. Discussion and Analysis

One respondent submitted public comments on the extension of the previously approved information collection. The analysis of the public comments is summarized as follows:

Comment: The respondent commented that the extension of the information collection would violate the fundamental purposes of the Paperwork Reduction Act because of the burden it puts on the entity submitting the information and the agency collecting the information.

Response: In accordance with the Paperwork Reduction Act (PRA), agencies can request OMB approval an existing information collection. PRA requires that agencies use the **Federal Register** notice and comment process, to extend OMB's approval, least every three years. This extension, to a previously approved information collection, pertains to the use of the SSR to collect subcontract award data from prime or subcontractors that: (a) Hold

one or more contracts over \$650,000 (over \$1,500,000 for construction); and (b) are required to report subcontracts awarded to small business, small disadvantaged business, women-owned small business, historically underutilized business zone small business, veteran-owned small business, and service-disabled veteran-owned small business concerns. The SSR is also used to collect subcontract award data from Alaskan Native Corporations and Indian Tribe concerns under a subcontracting plan with the Federal government. For the Department of Defense, the National Aeronautics and Space Administration, and the United States Coast Guard, the SSR collects subcontract awards for Historically Black Colleges and Universities and Minority Institutions. Absent this information the suitability of the contractor to report subcontract award data could not be ascertained. Further, the contracting officer could not examine the subcontract award data to assess contractors' compliance with their subcontracting plans, the Small Business Act, and the FAR.

Comment: The respondent commented that the agency did not accurately estimate the public burden challenging that the agency's methodology for calculating it is insufficient and inadequate and does not reflect the total burden. The respondent stated that the upward adjustment made to the number of respondents from 103,908 to 129,009 was reasonable. However, the decrease in the average burden hours for reporting and recordkeeping per response from 12 hours in 2010 to 9 hours is understated, and that the average burden on companies is somewhere in the range of 10 to 100 time greater than the estimate put forth in the **Federal Register** Notice. For this reason, the respondent provided that agency should reassess the estimated total burden hours and revise the estimate upwards to be more accurate, as was done in FAR Case 2007-006.

Response: Serious consideration given, during the open comment period, to all comments received and adjustments are made to the paperwork burden estimate based on reasonable considerations provided by the public. This is evidenced, as the respondent notes, in FAR Case 2007-006 where adjustment was made from the total preparation hours from three to sixty. This change was made considering particularly the hours that would be required for review within the company prior to release to the Government. The burden is prepared taking into consideration the necessary criteria

OMB guidance for estimating the paperwork burden put on the entity submitting the information. For example, consideration is given to entity reviewing instructions; using technology to collect, process, and disclose information; adjusting existing practices to comply with requirements; searching data sources; completing reviewing the response; and transmitting or disclosing information. The estimated burden hours for a collection are based on an average between the hours that a simple disclosure by a very small business might require and the much higher numbers that might be required for a very complex disclosure by a major corporation. Also, the estimated burden hours should only include projected hours for those actions which a company would not undertake in the normal course of business.

Careful consideration went into assessing the estimated burden hours for this collection. Given that many of the key data elements are pre-populated in eSRS from FPDS and SAM (e.g. basic contractual information and contractor information), combined with the system improvements to streamline user experience, the amount of training provided, the user guides and webinars available, and the sample reports provided, the length of time necessary for reporting subcontracting achievements into eSRS has been shortened. As a result, the estimate burden hours published in the **Federal Register** at 77 FR 69483 on November 19, 2012 remains a valid estimate and an upward adjustment is not required at this time. However, at any point, members of the public may submit comments for further consideration, and are encouraged to provide data to support their request for an adjustment.

Comment: The respondent commented that the collective burden of compliance with the information collection requirement greatly exceeds the agency's estimate and outweighs any potential utility of the extension.

Response: The Paperwork Reduction Act (PRA) was designed to improve the quality and use of Federal information to strengthen decision-making, accountability, and openness in government and society. Central to this process is the solicitation of comments from the public. This process incorporates and enumerated specification of targeted information and provides interested parties a meaningful opportunity for comment on the relevant compliance cost. This process has led to decreases in the overall collection requirement in regards to the public. Based on OMB

estimates, in FY 2010, the public spent 8.8 billion hours responding to information collections. This was a decrease of one billion hours, or ten percent from the previous fiscal year. In effect, the collective burden of compliance for the public is going down as the Government publishes rule that make the process less complex, more transparent, and reduces the cost of federal regulations to both the Contractor community and Government.

C. Annual Reporting Burden

Based on information from eSRS and an estimate of the use of eSRS, an upward adjustment is being made to the number of respondents, but a downward adjustment is being made to the average burden hours for reporting and recordkeeping per response. As a result, a downward adjustment is being made to the estimated annual reporting burden since the notice regarding an extension to this clearance published in the **Federal Register** at 75 FR 9603, on March 3, 2010.

Respondents: 129,009.

Responses per Respondent: 1.

Total Responses: 129,009.

Average Burden Hours per Response: 9.0

Total Burden Hours: 1,161,081.

Obtaining Copies of Proposals:

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Dated: March 18, 2013.

William Clark,

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