

responsibility and protecting the Government's interests.

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 "estimate of four responses per contractor per year is unrealistically low because almost all solicitations will include FAR 52.209-5 and 52.212-3(h) * * * we believe, based on the experience of our members, that most companies will be required to meet this requirement from 20 to more than 100 times per year." Further, the respondent commented that the estimate of 0.083 hours of burden per response was low when considering the time and effort necessary for a company to gather responsibility data. For this reason, the respondent provided that the agency should reassess the estimated total burden hours and revise the estimate upwards to be more accurate. The same respondent also provided that the burden of compliance with the information collection requirement greatly exceeds the agency's estimate and outweighs any potential utility of the extension.

Response: Serious consideration is 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 an adjustment was made from the total preparation hours from three to 60. 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 in OMB guidance for estimating the paperwork burden put on the entity submitting the information. For example, consideration is given to an entity reviewing instructions; using technology to collect, process, and disclose information; adjusting existing practices to comply with requirements; searching data sources; completing and 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, and it is determined that an upward adjustment is not required at this time related to the responses per respondent. The estimate of four responses per respondent is based upon contractor use of the Online Representation and Certifications Application (ORCA) function in the System for Award Management (SAM) rather than the completion of representations and certifications for each solicitation/contract for which a vendor submits an offer. The ORCA function was developed to eliminate the administrative burden for contractors of submitting the same information to various contracting offices, and to establish a common source for this information to procurement offices across the Government. Prior to the ORCA function's implementation, prospective contractors were required to submit representations and certifications in paper form for each individual contract award. Under these conditions, a response rate of 20 to more than 100 times per year per contractor as suggested by the respondent may have been necessary. However, using the ORCA function in SAM, a contractor can enter their representations and certification information once for use on all Federal contracts and solicitations. FAR 4.1201(a) requires prospective contractors to complete electronic annual representations and certifications at the SAM Internet site in conjunction with required registration in the Central Contractor Registration (CCR) function in SAM. The representations and certifications are effective until one year from the date of submission or update to the ORCA function in SAM. For purposes of this information collection, initial data entry plus three updates per year was considered reasonable and was used to estimate the number of responses per respondent per year, i.e., 4 responses per respondent.

We have reassessed the hours of burden per response based on the respondent's comment, and have determined that an upward estimate of thirty minutes or approximately six times the original estimate of 0.083 would provide a more accurate measure of the time required to complete and review each response.

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.

C. Annual Reporting Burden

Respondents: 162,000.

Responses per Respondent: 4.

Annual Responses: 648,000.

Hours per Response: 0.50.

Total Burden Hours: 324,000.

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. 9000-0094, Debarment and Suspension, 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. 9000-0006; Docket 2012-0076; Sequence 57]

Federal Acquisition Regulation; Submission for OMB Review; Subcontracting Plans/Individual Subcontract Report (SF-294)

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

ACTION: Notice of request for public 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 subcontracting plans/individual subcontract report (SF-294). A notice was published in the **Federal Register** at 77 FR 69627, on November 20, 2012. One respondent submitted comments.

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

ADDRESSES: Submit comments identified by Information Collection

9000-0006, Subcontracting Plans/ Individual Subcontract Report (SF-294), 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 9000-0006, Subcontracting Plans/Individual Subcontract Report (SF-294)." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000-0006, Subcontracting Plans/Individual Subcontract Report (SF-294)" 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 9000-0006, Subcontracting Plans/Individual Subcontract Report (SF-294).

Instructions: Please submit comments only and cite Information Collection 9000-0006, Subcontracting Plans/ Individual Subcontract Report (SF-294), 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 Acquisition Policy, GSA (202) 501-2364 or email karlos.morgan@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

In accordance with Federal Acquisition Regulation 19.702, which implements the statutory requirements of Section 8(d) of the Small Business Act (15 U.S.C. 637(d)), contractors receiving a contract for more than the simplified acquisition threshold agree to have 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 participate in the performance of the contract as far as practicable. 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 implemented in FAR subpart 19.7.

In conjunction with the subcontracting plan requirements, contractors must submit semi-annual reports of their small business subcontracting progress to the government. With the exception of those contracts noted in FAR 4.606(c)(5) which states "Actions that, pursuant to other authority, will not be entered in FPDS (e.g., reporting of the information would compromise national security)", contractors must use the electronic Individual Subcontract Report (ISR) in the Electronic Subcontracting Reporting System (eSRS) in lieu of the Standard Form 294, Subcontracting Report for Individual Contracts. The ISR is the electronic equivalent of the Standard Form 294. The eSRS 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. Those contract actions noted in FAR 4.606(c)(5) will continue to use the Standard Form 294.

B. Analysis of Public Comments

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.

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, at least every three years. This extension, to a previously approved information collection, pertains to the use of the ISR 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 ISR 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 ISR 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 indicated that the upward adjustment made to the number of respondents from 103,908 to 129,009 was reasonable. However, the decrease in the estimated hours per response from 11.90 to 8.5 hours per responses 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 60. 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 the Federal Procurement Data System and the System for Award Management (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 69627, on November 20, 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 9604, on March 3, 2010.

Respondents: 129,009.

Responses per Respondent: 3.

Total Responses: 387,027.

Average Burden Hours per Response: 8.50.

Total Burden Hours: 3,289,729.50.

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. 9000-0006, Subcontracting Plans/Individual Subcontract Report (SF-294), 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. 9000-0114; Docket 2012-0076; Sequence 60]

Federal Acquisition Regulation; Information Collection; Right of First Refusal of Employment

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

ACTION: Notice of request for public 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.

DATES: Submit comments on or before May 21, 2013.

ADDRESSES: Submit comments identified by Information Collection 9000-0114, Right of First Refusal of Employment, 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 9000-0114, Right of First Refusal of Employment". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000-0114, Right of First Refusal of Employment" 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 9000-0114, Right of First Refusal of Employment.

Instructions: Please submit comments only and cite Information Collection 9000-0114, Right of First Refusal of Employment, 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. Michael O. Jackson, Procurement Analyst, Office of Governmentwide Acquisition Policy GSA, at (202) 208-4949 or via email at michaelo.jackson@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

As prescribed in FAR 7.305(c), the clause at FAR 52.207-3, Right of First Refusal of Employment, deals with adversely affected or separated Government employees resulting from the conversion from in-house performance to performance by contract. The clause requires the contractor to give these employees an opportunity to work for the contractor who is awarded the contract.

The information gathered will be used by the Government to gain knowledge of which employees, adversely affected or separated as a result of the contract award, have gained employment with the contractor within 90 days after contract performance begins.