

many other practices.<sup>26</sup> The Commission also initiated multiple actions challenging mergers or series of acquisitions on the basis of Section 5 violations, separate and aside from Sherman or Clayton Act liability.<sup>27</sup> In the 1980s, however, the Commission backed away from bringing standalone Section 5 cases. In 2015, the Commission effectively collapsed the distinction between Section 5 and the other antitrust statutes. Today's action represents the first time in decades that the Commission has challenged a deal as a standalone violation of Section 5. It should remind market participants that transactions that might not strictly violate Section 7 can still pose a risk to competition that the FTC has a statutory obligation to address.

Quantum's position on EQT's board of directors and its role as one of EQT's largest shareholders would provide Quantum with the ability to sway or influence EQT's competitive decision-making and to access EQT's competitively sensitive information. The Commission's complaint alleges these risks are particularly serious given certain past actions by the parties, as well as the natural gas industry's history of encouraging the exchange of competitively sensitive information and public signaling to competitors. The complaint alleges that the two firms' TMC joint venture separately violates Section 5 of the FTC Act as it creates additional opportunities for sharing competitively sensitive business information. Further, there is reason to believe that EQT and Quantum already may use TMC as a vehicle for information exchange for the purchase of mineral rights and in connection with EQT's future drilling plans. This information is forward-looking, non-public, and competitively sensitive, and its exchange among rivals, coupled with the noncompete agreements in place within the joint venture, harms competition.

The proposed order is designed to remedy these concerns. The order prohibits Quantum from occupying an EQT Board seat and requires it to divest the EQT shares, which would structurally eliminate key mechanisms for undue influence and information exchange. The order also limits both current and future entanglements between the firms and reduces opportunities for exchanging

confidential and competitively significant information between the firms, including by requiring EQT and Quantum to unwind their existing joint venture and any noncompete provisions.

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0135; Docket No. 2023-0053; Sequence No. 3]

#### Submission for OMB Review; Prospective Subcontractor Requests for Bonds

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

**ACTION:** Notice.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding prospective subcontractor requests for bonds.

**DATES:** Submit comments on or before September 25, 2023.

**ADDRESSES:** Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function.

Additionally, submit a copy to GSA through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments.

**Instructions:** All items submitted must cite OMB Control No. 9000-0135, Prospective Subcontractor Requests for Bonds. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov),

approximately two-to-three days after submission to verify posting. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202-501-4755 or [GSARegSec@gsa.gov](mailto:GSARegSec@gsa.gov).

**FOR FURTHER INFORMATION CONTACT:** Zenaida Delgado, Procurement Analyst, at telephone 202-969-7207, or [zenaida.delgado@gsa.gov](mailto:zenaida.delgado@gsa.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. OMB Control Number, Title, and Any Associated Form(s)

9000-0135, Prospective Subcontractor Requests for Bonds.

##### B. Need and Uses

Part 28 of the Federal Acquisition Regulation (FAR) contains guidance related to obtaining financial protection against losses under Federal contracts (e.g., bonds, bid guarantees, etc.). Part 52 contains the corresponding provisions and clauses. These collectively implement the statutory requirement for Federal contractors to furnish payment bonds under construction contracts subject to 40 U.S.C. chapter 31, subchapter III, Bonds.

This information collection is mandated by section 806(a)(3) of Public Law 102-190, as amended by sections 2091 and 8105 of the Federal Acquisition Streamlining Act of 1994 (10 U.S.C. 4601 note prec.) (Pub. L. 103-335). Accordingly, the FAR clause at 52.228-12, Prospective Subcontractor Requests for Bonds, requires prime contractors to promptly provide a copy of a payment bond, upon the request of a prospective subcontractor or supplier offering to furnish labor or material under a construction contract for which a payment bond has been furnished pursuant to 40 U.S.C. chapter 31.

##### C. Common Form

The General Services Administration is the sponsor agency of this common form. All executive agencies covered by the FAR will use this common form. Each executive agency will report their agency burden separately, and the reported information will be available at [Reginfo.gov](http://Reginfo.gov).

##### D. Annual Burden

*General Services Administration*

*Respondents:* 317.

*Total Annual Responses:* 793.

*Total Burden Hours:* 270.

##### E. Public Comment

A 60-day notice was published in the **Federal Register** at 88 FR 39850, on June 20, 2023. No comments were received.

<sup>26</sup> *Atl. Refin. Co.*, 381 U.S. 357.

<sup>27</sup> See, e.g., *Golden Grain Macaroni Co. v. FTC*, 472 F.2d 882, 885 (9th Cir. 1972); *In re Dean Foods Co.*, 70 F.T.C. 1146 (1966); *In re Nat'l Tea Co.*, 69 F.T.C. 226 (1966); *In re Beatrice Foods Co.*, 67 F.T.C. 473 (1965); *In re Foremost Dairies, Inc.*, 52 F.T.C. 1480 (1956).

*Obtaining Copies:* Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202-501-4755 or emailing [GSARegSec@gsa.gov](mailto:GSARegSec@gsa.gov). Please cite OMB Control No. 9000-0135, Prospective Subcontractor Requests for Bonds.

**Janet Fry,**

*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. 9000-0138; Docket No. 2023-0053; Sequence No. 2]

#### Submission for OMB Review; Contract Financing

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

**ACTION:** Notice.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding contract financing.

**DATES:** Submit comments on or before September 25, 2023.

**ADDRESSES:** Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function.

Additionally, submit a copy to GSA through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments.

*Instructions:* All items submitted must cite OMB Control No. 9000-0138, Contract Financing. Comments received generally will be posted without change to <https://www.regulations.gov>,

including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov), approximately two-to-three days after submission to verify posting. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202-501-4755 or [GSARegSec@gsa.gov](mailto:GSARegSec@gsa.gov).

**FOR FURTHER INFORMATION CONTACT:** Zenaida Delgado, Procurement Analyst, at telephone 202-969-7207, or [zenaida.delgado@gsa.gov](mailto:zenaida.delgado@gsa.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. OMB Control Number, Title, and Any Associated Form(s)

9000-0138, Contract Financing.

##### B. Need and Uses

This clearance covers the information that offerors and contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

- FAR 52.232-28, Invitation to Propose Performance-Based Payments.

This provision requires an offeror, when invited to propose terms under which the Government will make performance-based contract financing payments during contract performance, to include the following: the proposed contractual language describing the performance-based payments; information addressing the contractor's investment in the contract and a listing of—

- (i) The projected performance-based payment dates and the projected payment amounts; and

- (ii) The projected delivery date and the projected payment amount.

- FAR 52.232-29, Terms for Financing of Purchases of Commercial Products and Commercial Services.
- FAR 52.232-30, Installment Payments for Commercial Products and Commercial Services.

These clauses require contractors, under commercial purchases pursuant to FAR part 12, to include with their payment requests an appropriately itemized statement of the financing payments requested and other supporting information, prepared in concert with the contracting officer.

- FAR 52.232-31, Invitation to Propose Financing Terms.

This provision requires an offeror, when invited to propose terms under which the Government will make contract financing payments during contract performance under commercial purchases pursuant to FAR part 12, to include the following: the proposed contractual language describing the

contract financing; and a listing of the earliest date and greatest amount at which each contract financing payment may be payable and the amount of each delivery payment.

- FAR 52.232-32, Performance-Based Payments.

This clause requires the contractor's request for performance-based payment to include any information and documentation as required by the contract's description of the basis for payment; and a certification by a contractor official authorized to bind the contractor.

The contracting officer uses the collected information to review and approve contract financing requests, and establish and administer contract financing terms.

##### C. Common Form

The General Services Administration is the sponsor agency of this common form. All executive agencies covered by the FAR will use this common form. Each executive agency will report their agency burden separately, and the reported information will be available at [Reginfo.gov](http://Reginfo.gov).

##### D. Annual Burden

*General Services Administration*

*Respondents:* 49.

*Total Annual Responses:* 371.

*Total Burden Hours:* 742.

##### E. Public Comment

A 60-day notice was published in the **Federal Register** at 88 FR 39849, on June 20, 2023. No comments were received.

*Obtaining Copies:* Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202-501-4755 or emailing [GSARegSec@gsa.gov](mailto:GSARegSec@gsa.gov). Please cite OMB Control No. 9000-0138, Contract Financing.

**Janet Fry,**

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

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