

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

[OMB Control No. 9000-0102]

**Federal Acquisition Regulation;
Submission for OMB Review; Prompt
Payment**

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

ACTION: Notice of request for public comments regarding a reinstatement to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve a reinstatement to a previously approved information collection requirement concerning prompt payment. A notice for public comments published in the **Federal Register** at 74 FR 30090, on June 24, 2009.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before December 2, 2009.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, Regulatory Secretariat (MVPR), 1800 F Street, NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 9000-0102, Prompt Payment, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Edward Chambers, Procurement Analyst, Contract Policy Branch, GSA (202) 501-3221 or e-mail Edward.chambers@gsa.gov.

SUPPLEMENTARY INFORMATION:**A. Purpose**

Part 32 of the FAR and the clause at FAR 52.232-5, Payments Under Fixed-Price Construction Contracts, require that contractors under fixed-price construction contracts certify, for every progress payment request, that payments to subcontractors/suppliers have been made from previous payments received under the contract and timely payments will be made from the proceeds of the payment covered by the certification, and that this payment request does not include any amount which the contractor intends to withhold from a subcontractor/supplier. Part 32 of the FAR and the clause at 52.232-27, Prompt Payment for Construction Contracts, further require that contractors on construction contracts—

(a) Notify subcontractors/suppliers of any amounts to be withheld and furnish a copy of the notification to the contracting officer;

(b) Pay interest to subcontractors/suppliers if payment is not made by 7 days after receipt of payment from the Government, or within 7 days after correction of previously identified deficiencies;

(c) Pay interest to the Government if amounts are withheld from subcontractors/suppliers after the Government has paid the contractor the amounts subsequently withheld, or if the Government has inadvertently paid the contractor for nonconforming performance; and

(d) Include a payment clause in each subcontract which obligates the contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days after such amounts are paid to the contractor, include an interest penalty clause which obligates the contractor to pay the subcontractor an interest penalty if payments are not made in a timely manner, and include a clause requiring each subcontractor to include these clauses in each of its subcontracts and to require each of its subcontractors to include similar clauses in their subcontracts.

These requirements are imposed by Public Law 100-496, the Prompt Payment Act Amendments of 1988.

Contracting officers will be notified if the contractor withholds amounts from subcontractors/suppliers after the Government has already paid the contractor the amounts withheld. The contracting officer must then charge the contractor interest on the amounts withheld from subcontractors/suppliers. Federal agencies could not comply with

the requirements of the law if this information were not collected.

B. Annual Reporting Burden

Respondents: 36,666.

Responses per Respondent: 11.

Total Responses: 403,326.

Hours per Response: .11.

Total Burden Hours: 44,366.

C. Annual Recordkeeping Burden

Recordkeepers: 33,333.

Hours per Recordkeeper: 18.

Total Recordkeeping Burden Hours: 599,994.

Obtaining Copies Of Proposals:

Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVPR), 1800 F Street, NW., Room 4041, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0102, Prompt Payment, in all correspondence.

Dated: October 23, 2009.

Al Matera,

Director, Acquisition Policy Division.

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

[OMB Control No. 9000-0074]

**Federal Acquisition Regulation;
Submission for OMB Review; Contract
Funding—Limitation of Costs/Funds**

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

ACTION: Notice of request for public comments regarding a reinstatement of an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning limitation of costs/funds. A request for public comments was published in the **Federal Register** at 74 FR 30092 on June 24, 2009.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper