

for Prime Grant Recipients, in all correspondence.

Dated: January 21, 2011.

Casey Coleman,

Chief Information Officer.

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BILLING CODE 6820-WY-P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0292; Docket No. 2010-0002; Sequence 18]

Submission for OMB Review; OMB Control No. 3090-0292; FFATA Subaward and Executive Compensation Reporting Requirements

AGENCY: Office of Technology Strategy/
Office of Governmentwide Policy,
General Services Administration (GSA).

ACTION: Notice of request for public
comments regarding a new OMB
information clearance.

SUMMARY: Under the provisions of the
Paperwork Reduction Act of 1995 (44
U.S.C. chapter 35), the Regulatory
Secretariat will be submitting to the
Office of Management and Budget
(OMB) a request to review and approve
an emergency new information
collection requirement regarding
FFATA Subaward and Executive
Compensation Reporting Requirements.

Public comments are particularly
invited on: Whether this collection of
information is necessary for the proper
performance of functions of the FFATA
Subaward and Executive Compensation
Reporting Requirements, 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
February 28, 2011.

ADDRESSES: Submit comments
identified by Information Collection
3090-0292, FFATA Subaward and
Executive Compensation Reporting
Requirements by any of the following
methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inputting "Information Collection 3090-

0292, FFATA Subaward and Executive
Compensation Reporting Requirements"
under the heading "Enter Keyword or
ID" and selecting "Search". Select the
link "Submit a Comment" that
corresponds with "Information
Collection 3090-0292, FFATA
Subaward and Executive Compensation
Reporting Requirements". Follow the
instructions provided at the "Submit a
Comment" screen. Please include your
name, company name (if any), and
"Information Collection 3090-0292,
FFATA Subaward and Executive
Compensation Reporting Requirements"
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 3090-0292.

Instructions: Please submit comments
only and cite Information Collection
3090-0292, FFATA Subaward and
Executive Compensation Reporting
Requirements, 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: Ms.
Janice Miller, Program Analyst, Office of
Technology Strategy/Office of
Governmentwide Policy, GSA, at
jan.miller@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Federal Funding Accountability
and Transparency Act of 2006, Public
Law 109-282 (Transparency Act)
requires information disclosure of
entities receiving Federal financial
assistance through Federal awards such
as Federal contracts, sub-contracts,
grants and sub-grants, FFATA § 2(a), (2),
(i), (ii). Beginning October 1, 2010, this
Paperwork Reduction Act submission
directs compliance with the
Transparency Act to report prime and
first-tier subaward data. Specifically,
Federal agencies and prime awardees of
grants will ensure disclosure of
executive compensation of both prime
and subawardees and subaward data.
This information collection requires
reporting of only the information
enumerated under the Transparency
Act.

B. Discussion of Public Comments

*Reporting of Executive Compensation
for All State Employees.* One State
agency commented that the request for
comments implies that FFATA requires
the reporting of executive compensation

for all State employees and sub-
contractors and awardees, but the notice
did not define what "executive
compensation" means. The respondent
asked if this is the salary and benefits
that the chief executives of these entities
make, or does this apply to all
employees of these entities. The
respondent also stated that this would
be a very time-consuming and difficult
task and that they could encounter
privacy concerns with some of the
private firms.

Response: Entity has the meaning
given in 2 CFR part 25. *Executive* means
officers, managing partners, or any other
employees in management positions.
Total Compensation means the cash and
noncash dollar value earned by the
executive during the recipient's or
subrecipient's preceding fiscal year and
includes the following (for more
information see Part 170 Appendix A):

- Salary and bonus.
- Awards of stock, stock options, and
stock appreciation rights. Use the dollar
amount recognized for financial
statement reporting purposes with
respect to the fiscal year in accordance
with the Statement of Financial
Accounting Standards No. 123 (Revised
2004) (FAS 123R), Shared Based
Payments.
- Earnings for services under non-
equity incentive plans. This does not
include group life, health,
hospitalization or medical
reimbursement plans that do not
discriminate in favor of executives, and
are available generally to all salaried
employees.
- Change in pension value. This is
the change in present value of defined
benefit and actuarial pension plans.
- Above-market earnings on deferred
compensation which is not tax-
qualified.

vi. Other compensation, if the
aggregate value of all such other
compensation (*e.g.*, severance,
termination payments, value of life
insurance paid on behalf of the
employee, perquisites or property) for
the executive exceeds \$10,000.

Under the Act, a prime entity will be
required to report executive
compensation about its own or its
subawardee's top five highly
compensated officials if: The entity in
the preceding fiscal year received 80
percent or more of its annual gross
revenues in Federal awards; and
\$25,000,000 or more in annual gross
revenues from Federal awards; and the
public does not have access to the
information about the compensation of
the senior executives of the entity
through periodic reports filed under

section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Securities and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

Duplicate Collection Requirement.

Four respondents commented that the requirement for information on executive compensation duplicates the requirement currently imposed by the Internal Revenue Service for U.S. nonprofit tax exempt organizations when they submit their returns on Form 990. The respondents suggest that a means be created to allow respondents to identify in their submissions when such data has previously been or will be submitted on behalf of any U.S.-based subrecipients, and the timing of those other submissions.

Response: Internal Revenue Service Form 990 is required for non-profits, charities and other tax-exempt organizations to maintain their tax-exempt status. The Transparency Act does not exempt organizations which file the IRS Form 990 from the requirements of the Transparency Act.

Practicality and Utility of Collecting the Information for Foreign (non U.S.-based) Subrecipients. Five respondents provided comments. Four respondents commented that this comprehensive requirement was enacted without considering the practicality and utility of collecting the information for foreign (non U.S.-based) subrecipients, and that the imposition of this requirement is impractical, counterproductive and even damaging to other important U.S. Government objectives. This is particularly the case in countries where issues of security, sovereignty, independence and custom are prevalent. Respondents recommended that OMB exempt primary recipients from having to collect and submit such data on non U.S.-based entities. One respondent commented that collecting additional information on executive compensation of both prime and subawardees will neither enhance the utility of the information collected nor meet the purpose of FFATA. The respondent maintains that using summary or aggregate budget data will not endanger the safety of nongovernmental organizations' (NGOs) employees in the field, or violate privacy rights, and is a more accurate reflection of the U.S. Government's expenditure of taxpayer dollars. One respondent also questioned the value and utility of reporting individual subaward data on such groups to the American public and

recommended that the proposed rule be revised with a blanket waiver for individual reporting on foreign subrecipients to an aggregate reporting of the number of subawards issued and total value. One respondent suggested that avenues should be explored to harness existing documentation on grants and cooperative agreements to meet the need for greater transparency.

Response: Using summary budget data will not meet the requirements of the Transparency Act; the Act specifically requires the collection of executive compensation if the threshold requirements for such reporting are met. GSA and OMB recognize the safety and security concerns regarding some types of foreign recipients and will provide additional guidance regarding the reporting of sensitive information. Any revisions to the requirements based on this guidance will be incorporated in a subsequent Paperwork Reduction Act submission for this information collection.

Burden Imposed. Seven comments were received concerning the burden that will be imposed by this information collection. Two respondents commented on the burden number of 49,308 (number of respondents) and that it appears GSA is relying on a specific source rather than estimating a number, that the source of the information is not identified, and that it is impossible to assess whether the number of respondents is accurate or based on valid assumptions and methodologies. The respondents requested that GSA and OMB publish additional information about the sources of data in this request so they may be assessed in accordance with the letter and spirit of the Paperwork Reduction Act. Two respondents added that the estimate of the time required to compile the executive compensation data on behalf of subrecipients is grossly understated. Those who have large portfolios of subgrants (in some cases in the hundreds) indicate that since this data is not routinely gathered because of the likelihood that such personnel are not being paid in whole or in part directly from the subaward, they would be required to initiate an entirely new information collection at considerable effort and cost. They also state that the simple round number of 2 hours per response identified in the estimate belies the effort that they and other similarly situated organizations would be required to undertake. Two respondents commented on the estimate of 10 responses per respondent. Based on their collective experiences, they each typically issue between 20–50 subawards per year. Another respondent

commented that they typically award between 1,000–1,200 subawards per year, and that this effort would require, at a minimum, an additional full-time position based on current estimates. One respondent commented that the estimate of 49,308 respondents, ten responses per respondent and 2 hours per response appears only to reflect a one-time estimation of the reporting burden on the prime without considering the subsequent efforts that would need to be made over the lifetime of an award by both prime and subawardees to maintain the accuracy of the information. They also add that the notice does not offer an estimate of the direct or indirect costs associated with collection, entry and maintenance of prime and subawardees' records. Given the time and funding required to meet the requirement in full, it will be difficult for U.S.-based international nongovernmental organizations (NGOs) with hundreds of subawards and limited budgets to meet the reporting deadline for each subrecipient without dedicating a substantial number of new, additional administrative personnel. One respondent also commented that the burden of the information collection requirements proposed in the notice will increase costs and strain the relationship between the U.S. Government and its recipients, and have a chilling effect on the partnerships between recipients and competent local subawardees who for security reasons will not want to be openly identified with the U.S. Government. One respondent requested that the burden estimate be re-evaluated.

Response: The number of respondents (49,308) is based on the total reported prime grant awardees reporting into USAspending.gov in FY 2009 (see Supporting Statement for Paperwork Reduction Act Submission, FFATA Subaward and Executive Compensation Reporting Requirements, footnote #1, p. 9, at <http://www.reginfo.gov>). Because these are new statutory requirements, the estimate of 10 responses per respondent and 2 hours per response were provided as GSA's best estimate based on available information. GSA will continue to review and revise these burden estimates as more information becomes available. GSA encourages the public to provide specific estimates with a supporting statement of how those estimates were calculated to further refine the burden estimates associated with this collection.

Executive Compensation and Foreign Assistance Programs. Four respondents commented that as foreign assistance programs are sometimes funded by a combination of multiple public and

privately generated resources and, therefore, executive salaries may not be fully supported by U.S. Federal funds, disclosure of executive compensation for prime awardees or subrecipients (U.S. and non-U.S. entities) may not be accurate in terms of relating to Federal expenditure of taxpayer dollars. It was noted that publication of such information could lead to confusion, mistrust and misunderstanding both here in the U.S. and in the subrecipient's home country. Furthermore, the provision and/or disclosure of such information from overseas subrecipients may violate applicable local privacy laws. One respondent added that the collection of sensitive personal information from subawardees in Federal databases undermines critical working relationships built on trust over decades with local communities, especially in unstable security environments. One respondent added that due to the possibility that executive compensation is not necessarily related in any manner to U.S. Government-funded activities, there is a likelihood that the executives' salaries will be incorrectly perceived as "funded" by the U.S. Government, creating a false association and resulting in unnecessary and possible physical harm, and jeopardizing the impartiality and safety of recipient staff working in the field. One respondent commented that the lack of a direct correlation between Federal expenditures and reporting executive compensation into a Federal database, together with the potential violation of privacy rights of foreign citizens, and the administrative burden imposed on recipients responsible for data input as both a recipient and an issuer of subawards is contrary to the stated purpose of the legislation—FFATA requires that data collection be in a manner that "minimizes the burdens imposed on Federal award recipients." One respondent strongly urged that GSA and OMB withdraw this notice until consultations can be had on less burdensome and more appropriate accountability procedures for international development and humanitarian relief nongovernmental organizations (NGOs) implementing Federal funding that will not increase the security risks for organizations and staff in the field. One respondent strongly urged OMB to delay the subaward and executive compensation reporting requirement until the rule-making process is completed; to complete all pilot program prerequisites required by Public Law 109–282, report to the public and take all

public comments into consideration; and not approve this emergency request until the completion of the rule-making process. Further, the respondent added that Public Law 109–282 requires the Director of OMB to commence a pilot program vis-à-vis the collection of subaward data. To their knowledge, this pilot program did not include organizations whose principal place of performance is outside the U.S. One respondent requested that further discussion be held with international organizations receiving Federal awards for overseas programs to ensure public disclosure does not result in unintended consequences. One respondent requested that OMB facilitate a community-wide discussion forum prior to implementation of these requirements.

Response: With some limited exceptions, the reporting requirements apply to all prime awardees of Federal grants including foreign prime recipients and foreign subawardees. Each action that obligates \$25,000 or more in Federal funding would need to be separately reported. For new Federal grants or cooperative agreements as of October 1, 2010, if the initial award is \$25,000 or more, reporting of subaward information is required. If the initial award is below \$25,000 but subsequent award modifications result in a total award of \$25,000 or more, the award is subject to the reporting requirements, as of the date the award exceeds \$25,000. If the initial award exceeds \$25,000 but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the award continues to be subject to the reporting requirements of the Transparency Act. If a single action obligates funding from multiple programs, the data submitted for that action would include the Catalog of Federal Domestic Assistance (CFDA) number for the program that is the predominant source of the Federal funding. If a program's funding is obligated by a separate amendment to the same subaward agreement that provides other programs' funding, however, then the data reported for each amendment to the agreement would include the CFDA number of the program that provided the funding for that amendment.

Nevertheless, GSA and OMB recognize the safety and security concerns regarding some types of foreign recipients and will provide additional guidance regarding the reporting of sensitive information. Any revisions to the requirements based on this guidance will be incorporated in a subsequent Paperwork Reduction Act

submission for this information collection.

Regarding commencement of a pilot, an Assistance pilot was conducted in the fall of 2008. However, this pilot did not generate sufficient information on which to base (1) an operational model or project plan for how subaward information should be collected; or (2) an accurate assessment of the burden placed on award recipients.

Exemption for Primary Recipients from Collecting and Submitting Data on non U.S.-based Entities. Five comments were received. Two respondents commented that with respect to the collection of information on subrecipients and the need to ensure that this effort is not seen as an intelligence gathering, they recommended that OMB exempt primary recipients from having to collect and submit data on non U.S.-based entities. The principle of not applying policies designed for U.S. organizations on entities in other countries is longstanding with the Federal Government. Precedent for such exemption exists. For example, a class deviation was issued to USAID to exempt non-U.S. organizations from OMB A–110, and OMB exempted non-U.S. entities from the requirements in the Single Audit Act Amendments of 1996. One respondent added that this exemption was instituted whether these non-U.S. entities expend "Federal awards received either directly or indirectly as a subrecipient." The respondent requested that OMB review the U.S. District Court for the District of Columbia, Civil Action Case No. 06–0635 (PLF) that involved USAID's decision not to release the names of overseas partner organizations. Another respondent commented that in certain environments the public posting of data on overseas programs—even something as simple as listing the country in which the funds are being spent or the name of a local subrecipient partner—may further endanger those whom they are seeking to assist in their struggle for freedom and democracy, and would hinder the achievement of U.S. foreign and development assistance objectives. One respondent commented that requiring recipients to collect and input names and compensation of the executives of partner entities in a Federal database (even if not publicly accessible) will further blur the line of independence between development professionals, threatening those individuals employed by NGOs working in hostile environments by associating them with the information gathering activities of the U.S. Government.

Response: GSA and OMB recognize the safety and security concerns regarding some types of foreign recipients and will provide additional guidance regarding the reporting of sensitive information. Any revisions to the requirements based on this guidance will be incorporated in a subsequent Paperwork Reduction Act submission for this information collection.

Federal Agency Interaction. One comment was received. The respondent inquired with their cognizant Federal agency on the proposed new reporting requirements and received the following response: "At the present time we have not received any guidance from OMB. As such we are unable to inform the community on the new reporting requirements until we have final information/instruction/procedures identified by OMB. Our plans to inform the community will be based on the guidance we receive from OMB." The respondent stated that since their cognizant agency has not yet received guidance from OMB, it is premature to expect the recipient community to design processes and systems to be compliant with FFATA by October 1, 2010, and that OMB needs to provide Federal agencies and recipients with time to educate their respective communities on this new requirement. The respondent feels that providing emergency approval for this information collection will be doing disservice to the intent of FFATA and create additional burden on recipients and subrecipients.

Response: On August 27, 2010, OMB issued a memorandum and guidance regarding subaward reporting under the Transparency Act, Memorandum to Senior Accountable Officials, and is available at <http://www.whitehouse.gov/omb/open>. Specific guidance is also found in **Federal Register** Vol. 75, No. 177, September 14, 2010.

Purpose of the Information Collection Request. One respondent asked what this ICR really does and why was it an emergency new information collection requirement.

Response: Beginning October 1, 2010, this Paperwork Reduction Act submission directs compliance with FFATA to report prime and first-tier subaward data. Specifically, Federal agencies and prime awardees of grants will ensure disclosure of executive compensation of both prime and subawardees and subaward data. This is a new collection. The information collected will be used to make transparent the information about executive compensation (if applicable) for grants prime and subawardees and subaward information. While some information is currently publicly

available on prime awardees, executive compensation of prime awardees and subawardees, as applicable, is not. In addition, this information collection will provide public access to information on grant subaward information, pursuant to the Transparency Act.

Data in USAspending.gov. One respondent stated there are inconsistencies in how Federal agencies are currently reporting data in USAspending.gov and that OMB needs to ensure that Federal agencies are correctly populating data.

Response: This comment is not related to this information collection and has been referred to the appropriate organization within GSA to respond.

OMB Guidance and the Regulations Issued by the FAR Councils for Contracts. One respondent expressed concern regarding a key difference in the OMB guidance for financial assistance awards and the regulations issued by the FAR Councils for contracts.

Response: This comment is not related to this information collection. The FAR Technology Team is considering the respondent's comments; appropriate responses will be included in the resulting second interim or final rule to FAR case 2008-039.

C. Annual Reporting Burden

Respondents: 49,308.

Responses per Respondent: 10.

Hours per Response: 2.

Total Burden Hours: 986,160.

Obtaining Copies of Proposals:

Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVGB), 1275 First Street, NE., Washington, DC 20417, telephone (202) 501-4755. Please cite OMB Control No. 3090-0292, FFATA Subaward and Executive Compensation Reporting Requirements, in all correspondence.

Dated: January 21, 2011.

Casey Coleman,

Chief Information Officer.

[FR Doc. 2011-1752 Filed 1-26-11; 8:45 am]

BILLING CODE 6820-WY-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS-0990-New; 30-Day Notice]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to Sherette.funncoleman@hhs.gov, or call the Reports Clearance Office on (202) 690-5683. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the OS OMB Desk Officer; faxed to OMB at 202-395-5806.

Proposed Project: Public Input to Nominate Non-Federal Health and Health Care Data Sets and Applications for Listing on Healthdata.gov—OMB No. 0990-NEW—Immediate Office of the Secretary, Office of the Chief Technology Officer.

Abstract: The Department of Health and Human Services is promoting the use of health and health care datasets that are not specific to individual's personal health information to improve decision making by individuals, organizations, and governments through better understanding of the data. Federal agencies are making health indicator datasets (data that is not associated with any individuals) and tools available for use by the public through a web portal community known as [healthdata.gov](http://www.healthdata.gov) or <http://www.data.gov/health>. These datasets and tools are anticipated to benefit development of applications, web-based tools, and other electronic resources improve community action for health and health care. The development of tools, reference sets, dashboards, and electronic data visualization methods serve to provide context and understanding to complex health and health care data.