

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

[Docket 2012–0076; Sequence 49; OMB  
Control No. 9000–0102]

**Submission for OMB Review; Prompt  
Payment**

**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 to a  
previously approved information  
collection requirement concerning  
prompt payment. A notice was  
published in the **Federal Register** at 78  
FR 5450, on January 25, 2013. No  
comments were received.

**DATES:** Submit comments on or before  
May 2, 2013.

**ADDRESSES:** Submit comments  
identified by Information Collection  
9000–0102, Prompt Payment, 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–  
0102, Prompt Payment”. Follow the  
instructions provided at the “Submit a  
Comment” screen. Please include your  
name, company name (if any), and  
“Information Collection 9000–0102,  
Prompt Payment” 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 9000–0102, Prompt  
Payment.

**Instructions:** Please submit comments  
only and cite Information Collection  
9000–0102, Prompt Payment, 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.  
Edward Chambers, Procurement  
Analyst, Office of Acquisition Policy,  
GSA (202) 501–3221 or email  
[Edward.chambers@gsa.gov](mailto: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 subcontractors 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 & Recordkeeping  
Burden**

Data from the Federal Procurement  
Data System (FPDS) regarding fixed  
price construction contracts for Fiscal  
Year (FY) 2011 revealed that the number  
of affected contracts and, therefore,  
respondents has been reduced from the  
previously approved information  
collection. Based on the data, an  
estimated 2,679 contractors or  
respondents will provide an average of  
18.27 responses per year to meet the  
requirements of this collection. The  
time required to assemble and prepare  
notification or certification regarding  
withhold is estimated at .11 hours per  
notice. This estimate is based on the  
assumption that some construction  
contractors will be required to notify the  
Government of withholding and others  
will have to provide their payment  
certification. This estimate also assumes  
automation of contractor records. The  
recordkeeping burden is based on the  
revised number of contracts for FY11  
and the estimated hours from the  
previously approved collection.

**Annual Reporting Burden**

*Respondents:* 2,679.

*Responses per Respondent:* 18.27.

*Total Responses:* 48,950.

*Hours per Response:* .11.

*Total Burden Hours:* 5,384.

**Annual Recordkeeping Burden**

*Recordkeepers:* 4,450.

*Hours per Recordkeeper:* 18.

*Total recordkeeping Burden Hours:*  
80,100.

**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. 9000–0102, Prompt  
Payment, in all correspondence.

Dated: March 27, 2013.

**William Clark,**

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

[FR Doc. 2013–07589 Filed 4–1–13; 8:45 am]

**BILLING CODE 6820–EP–P**