



This document is scheduled to be published in the Federal Register on 11/18/2013 and available online at <http://federalregister.gov/a/2013-27450>, and on FDsys.gov

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0011]

[Docket 2010-0083; Sequence 22]

Federal Acquisition Regulation; Submission for OMB Review;

Preaward Survey Forms (Standard Forms 1403, 1404, 1405,

1406, 1407, and 1408)

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

ACTION: Notice of request for comments regarding an extension, with changes, 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 preaward survey forms (Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408). A notice was published in the Federal Register at 78 FR 38341, on June 26, 2013. One comment was received.

DATES: Submit comments on or before **[Insert date 30 days**

after date of publication in the Federal Register.]

ADDRESSES: Submit comments identified by **Information Collection 9000-0011, Preaward Survey Forms, (Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408)** 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. Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000-0011, Preaward Survey Forms, (Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408)" on your attached document.

- Fax: 202-501-4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW, Washington, DC 20405. ATTN: Hada Flowers/IC 9000-0011.

Instructions: Please submit comments only and cite Information Collection 9000-0011, Preaward Survey Forms, (Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408), 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. Cecelia L. Davis,
Procurement Analyst, Office of Governmentwide Acquisition
Policy, GSA, 202-219-0202 or email Cecelia.davis@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

To protect the Government's interests and to ensure timely delivery of items of the requisite quality, contracting officers, prior to award, must make an affirmative determination that the prospective contractor is responsible, i.e., capable of performing the contract. Before making such a determination, the contracting officer must have in his or her possession or must obtain information sufficient to be satisfied that the prospective contractor: (i) has adequate financial resources, or the ability to obtain such resources; (ii) is able to comply with the required delivery schedule; (iii) has a satisfactory record of performance; (iv) has a satisfactory record of integrity; and (v) is otherwise qualified and eligible to receive an award under appropriate laws and regulations. If such information is not in the contracting officer's possession, it is obtained through a preaward survey conducted by the contract administration office responsible for the plant and/or the geographic area in which the plant is located. The necessary data is

collected by contract administration personnel from available data or through plant visits, phone calls, and correspondence. This data is entered on Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408 in detail commensurate with the dollar value and complexity of the procurement. These standard forms are not cumulative. The surveying activity completes only the applicable standard form(s) necessary to determine contractor responsibility in each case.

B. Discussion and Analysis

The analysis of the public comments is summarized as follows:

1. Necessity of the information collection requirement.

Comment: According to the respondent, agencies should be seeking to create savings by reducing or eliminating such information collection requirements. However, the respondent did not challenge the propriety of this underlying information collection requirement.

Response: FAR 9.106-1 requires that preaward surveys be completed only when the information on hand or readily available to the contracting officer, including information from sources other than the offeror, is not sufficient to make a determination regarding responsibility. While not

all of these requirements are necessary in all cases, some are required regularly, thus preventing their reduction or elimination without negatively impacting the ability of the Government to assess contractor responsibility and protect the Government's interests in maintaining the integrity of the acquisition process.

2. OMB approval to extend the approval of this information collection requirement.

Comment: The respondent commented that the extension of the information collection would violate the fundamental purposes of the Paperwork Reduction Act because the analysis significantly underestimates the paperwork burden imposed by this requirement and has therefore not provided sufficient justification for the requested extension. The respondent further stated that the agency and OMB should assess the need to extend this information collection requirement in the context of assessing the total information collection burden. The respondent further commented that the "collective burden of compliance" required of the Government acquisition community annually totals over 30 million hours. According to the respondent, the collective burden greatly exceeds the agency's estimates and outweighs any potential utility of the extension.

Response: The criteria for extension of an information collection requirement must be based primarily on the need and use for the required information. It is essential for contractors to report requirements, regardless the number of responses. If the agencies have determined that the information is essential to protect the interests of the Government, then the extension should be approved.

3. Accuracy of data estimates.

Comment: The respondent questioned the estimated number of respondents (3,540), and how the estimated number of respondents was derived. In addition, the respondent apparently understood the renewal request to say that "preaward surveys are *never justified* under this information collection." Further, the respondent asked that "OMB insist that the Agencies provide the actual number of responses received annually."

Response: The respondent's comment that the information collection renewal request stated that preaward surveys are never justified fundamentally misunderstood the submission. While the conduct of a preaward survey is unnecessary unless other information sources are inadequate for a determination of the firm's responsibility in accordance with the requirements of FAR subpart 9.1, when a preaward

survey is conducted, it is the Government that bears the burden of the effort. The Government's work in conducting a preaward survey is not the subject of this information collection, so it is not addressed in the supporting documents. That does not mean, however, that there is no such effort or that there are no preaward surveys. The information collection is focused solely on the time that a firm's employees must take to complete one or more of the forms at issue.

With regard to the estimate of 3,540 respondents, that number was clearly stated to be an estimate, not an actual number. We are unable to provide an actual number, because that information is not available through the Federal Procurement Data System (FPDS), nor is it collected in any single location.

However, the basis used for the estimate has been reconsidered due to the comment. Initially, we estimated that 30 percent of the contracts awarded in Fiscal Year 2012 (according to FPDS statistics) that were over the simplified acquisition threshold and that did not use FAR part 12 commercial acquisition procedures had a preaward survey conducted and therefore required the firm to complete at least one of the standard forms included in the information collection request. Upon reconsideration, it

became obvious that a preaward survey would only be needed if the firm had not previously been a Government contractor. The revised estimate is that only 15 percent of such awards are first-time Government contract awards. This reduces the basis of the estimate from 3,540 contracts to 1,771 contracts.

4. Timing of request for extension.

Comment: The respondent noted that this information collection is soliciting comments during an emergency extension period OMB granted in March 2013. The respondent reiterated OMB's comment that the agencies should have in place an internal planning process so that completion of the public notification and comment period required by 5 CFR 1320 occurs prior to an information collection's expiration date. Regular order allows the agencies and the public to have a meaningful and on-the-record dialogue on information collection extensions.

Response: Although ideally it is preferable to complete the renewal process prior to expiration, an emergency extension may be necessary in order to allow the public the opportunity for input into the process.

5. The collective burden of compliance.

Comment: The respondent objects to the overall collective burden imposed by the Government on all respondents.

Response: The Councils cannot effectively address the broad allegations with regard to the accuracy and utility of the entire collective burden imposed on all Federal acquisitions. The Councils can only effectively address each individual information collection requirement that is under consideration for OMB approval. The Councils constantly review information collection requirements imposed by FAR regulations for ways to reduce the burdens and still achieve the objectives of the regulations, whether based on policy or statute.

C. Annual Reporting Burden

A preaward survey would be needed only if the firm had not previously been a Government contractor and therefore had no record of past performance. The data from FPDS for FY 2012 showed a total of 11,805 contracts awarded Governmentwide that were over the \$150,000 simplified acquisition threshold, and for which commercial acquisition procedures were not used. Initially, we estimated that preaward surveys were completed for 30 percent of the total or 3,540. After reconsideration, it became obvious that a preaward survey would only be needed if the firm had not previously been a Government contractor. The revised estimate is that only 15 percent of awards will potentially require a preaward survey. The estimate is reduced from

3,540 contracts to 1,771 contracts. Of the six Standard Forms (1403, 1404, 1405, 1406, 1407, and 1408), we estimated that Standard Form 1403 is used most frequently because it is a general form and accounts for 30 percent or 531 times, Standard Forms 1404 and 1407 account for 15 percent or 266 times, Standard Form 1408 accounts for 20 percent or 354 times, and Standard Forms 1405 and 1406 account 10 percent or 177 times.

Standard Form 1403 - Preaward Survey of Prospective Contractor (General)

Respondents: 531.

Responses annually: 1.

Total Responses: 531.

Hours Per Response: 24.

Total Burden Hours: 12,744.

Standard Form 1404 - Preaward Survey of Prospective Contractor Technical

Respondents: 266.

Responses annually: 1.

Total Responses: 266.

Hours Per Response: 24.

Total Burden Hours: 6,384.

Standard Form 1405 - Preaward Survey of Prospective Contractor Production

Respondents: 177.

Responses annually: 1.

Total Responses: 177.

Hours Per Response: 24.

Total Burden Hours: 4,248.

Standard Form 1406 - Preaward Survey of Prospective Contractor Quality Assurance

Respondents: 177.

Responses annually: 1.

Total Responses: 177.

Hours Per Response: 24.

Total Burden Hours: 4,248.

Standard Form 1407 - Preaward Survey of Prospective Contractor Financial Capability

Respondents: 266.

Responses annually: 1.

Total Responses: 266.

Hours Per Response: 24.

Total Burden Hours: 6,384.

Standard Form 1408 - Preaward Survey of Prospective Contractor Accounting System

Respondents: 354.

Responses annually: 1.

Total Responses: 354.

Hours Per Response: 24.

Total Burden Hours: 8,496.

D. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (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.

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW, Washington, DC 20405, telephone 202-501-4755.

Please cite OMB Control Number 9000-0011, Preaward Survey Forms (Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408), in all correspondence.

Karlos Morgan,
Acting Director,
Federal Acquisition Policy Division,
Office of Government-wide Acquisition Policy,
Office of Acquisition Policy,
Office of Government-wide Policy.

[BILLING CODE 6820-EP]

[FR Doc. 2013-27450 Filed 11/15/2013 at 8:45 am;

Publication Date: 11/18/2013]