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GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0149; Docket No. 2024-0053; Sequence No. 17]

Submission for OMB Review; Subcontract Consent and Contractors' Purchasing System Review

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 subcontract consent and contractors' purchasing system review.

DATES: Submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

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. Find this particular information collection by selecting "Currently under Review - Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: *FARPolicy@gsa.gov* or call 202-969-4075.

SUPPLEMENTARY INFORMATION:

A. OMB control number, Title, and any Associated Form(s):

9000-0149, Subcontract Consent and Contractors' Purchasing System Review.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the requirements in the Federal Acquisition Regulation (FAR) clause at 52.244-2, Subcontracts, regarding consent to subcontract, advance notification, and contractors' purchasing system review as follows:

1. Consent to subcontract. This is the contracting officer's written consent for the prime contractor to enter into a particular subcontract. In order for the contracting officer responsible for consent to make an informed decision, the prime contractor must submit adequate information to ensure that the proposed subcontract is appropriate for the risks involved and consistent with current policy and sound business judgment. Paragraph (e) (1) of the FAR clause at 52.244-2, requires prime contractors to submit the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

- (iii) Identification of the proposed subcontractor.
- (iv) The proposed subcontract price.
- (v) The subcontractor's current, complete, and accurate certified cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.
- (vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of the contract.
- (vii) A negotiation memorandum reflecting—
 - (A) The principal elements of the subcontract price negotiations;
 - (B) The most significant considerations controlling establishment of initial or revised prices;
 - (C) The reason certified cost or pricing data were or were not required;
 - (D) The extent, if any, to which the Contractor did not rely on the subcontractor's certified cost or pricing data in determining the price objective and in negotiating the final price;
 - (E) The extent to which it was recognized in the negotiation that the subcontractor's certified cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

If the contractor has an approved purchasing system, consent is required for subcontracts specifically identified by the contracting officer in paragraph (d) of the FAR clause at 52.244-2. The contracting officer may require consent to subcontract if the contracting officer has determined that an individual consent action is required to protect the Government adequately because of the subcontract type, complexity, or value, or because the subcontract needs special surveillance. These can be subcontracts for critical systems, subsystems, components, or services.

If the contractor does not have an approved purchasing system, consent to subcontract is required for cost-reimbursement, time-and-materials, labor-hour, or letter contracts, and also for unpriced actions under fixed-price contracts that exceed the simplified acquisition threshold.

Contracting Officers use the information to ensure contractors' compliance with Government policy when subcontracting.

2. Advance notification. Paragraph (e)(1) of the FAR clause at 52.244-2 requires contractors to notify the contracting officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (b), (c), or (d) of the clause.

Contracting Officers use the information to ensure compliance with the statutory requirements in 10 U.S.C. 3322(c) and 41 U.S.C. 3905.

3. Contractors' Purchasing System Review. Paragraph (i) of FAR clause 52.244-2 specifies that the Government reserves the right to review the contractor's purchasing system as set forth in FAR subpart 44.3. This clause is the mechanism through which the requirements of FAR subpart 44.3 are applied to contractors.

FAR 44.302 requires the administrative contracting officer (ACO) to determine the need for a Contractors' Purchasing System Review (CPSR) based on, but not limited to, the past performance of the contractor, and the volume, complexity and dollar value of subcontracts. If a contractor's sales to the Government (excluding competitively awarded firm-fixed-price and competitively awarded fixed-price with economic price adjustment contracts and sales of commercial products and commercial

services pursuant to part 12) are expected to exceed \$25 million during the next 12 months, the ACO will perform a review to determine if a CPSR is needed. Sales include those represented by prime contracts, subcontracts under Government prime contracts, and modifications. Generally, a CPSR is not performed for a specific contract. Rather, CPSRs are conducted on contractors based on the factors identified above. For example, the Defense Contract Management Agency Contractor Purchasing System Review Group is a group dedicated to conducting CPSRs for the Department of Defense. The head of the agency responsible for contract administration may raise or lower the \$25 million review level if it is considered to be in the Government's best interest. Once an initial determination has been made to conduct a review, at least every three years the ACO shall determine whether a purchasing system review is necessary. If necessary, the cognizant contract administration office will conduct a purchasing system review.

The cognizant ACO is responsible for granting, withholding, or withdrawing approval of a contractor's purchasing system and for promptly notifying the contractor of same (FAR 44.305-1). Related administrative requirements are as follows:

- FAR 44.305-2(c) requires that when recommendations are made for improvement of an approved system, the

contractor shall be requested to reply within 15 days with a position regarding the recommendations.

- FAR 44.305-3(b) requires when approval of the contractor's purchasing system is withheld or withdrawn, the ACO shall within 10 days after completing the in-plant review (1) inform the contractor in writing, (2) specify the deficiencies that must be corrected to qualify the system for approval, and (3) request the contractor to furnish within 15 days a plan for accomplishing the necessary actions. If the plan is accepted, the ACO shall make a follow-up review as soon as the contractor notifies the ACO that the deficiencies have been corrected.

Contracting Officers use the information to evaluate the efficiency and effectiveness with which a contractor spends Government funds.

C. Annual Burden

Respondents: 2,515.

Total Annual Responses: 7,065.

Total Burden Hours: 49,635.

D. Public Comment

A 60-day notice was published in the *Federal Register* at 89 FR 93291, on November 26, 2024. 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. Please cite OMB Control No. 9000-0149,
Subcontract Consent and Contractors' Purchasing System
Review.

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