



DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0018; Docket 2017-0053; Sequence No. 1]

Submission for OMB Review; Certification of Independent Price Determination, Contractor Code of Business Ethics and Compliance, and Preventing Personal Conflicts of Interest

AGENCIES: 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 (MVCB) will be submitting to the Office of Management and Budget (OMB) a request for revision and an extension of existing OMB clearances concerning certification of independent price determination and parent company and identifying data.

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

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC

20503. Additionally submit a copy to GSA 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 9000-0018. Select the link "Comment Now" that corresponds with "Information Collection 9000-0018, "Certification of Independent Price Determination, Contractor Code of Business Ethics and Compliance, and Preventing Personal Conflicts of Interest." Follow the instructions provided on the screen. Please include your name, company name (if any), and "Information Collection 9000-0018, "Certification of Independent Price Determination, Contractor Code of Business Ethics and Compliance, and Preventing Personal Conflicts of Interest" on your attached document.

- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000-0018.

Instructions: Please submit comments only and cite Information Collection 9000-0018, in all correspondence related to this collection. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal

and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov*, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, Federal Acquisition Policy Division, GSA 202-219-0202 or *cecelia.davis@gsa.gov*.

SUPPLEMENTARY INFORMATION:

A. Purpose

This information collection requirement, OMB Control No. 9000-0018, currently titled "Certification of Independent Price Determination and Parent Company and Identifying Data," is proposed to be retitled "Certification of Independent Price Determination, Contractor Code of Business Ethics and Compliance, and Preventing Personal Conflicts of Interest," due to consolidation with two additional currently approved information collection requirements: OMB Control No. 9000-0164, Contractor Business Ethics Compliance Program and Disclosure Requirements; and OMB Control No. 9000-0183, Preventing Personal Conflicts of Interest for Contractor Employees Performing Acquisition Functions.

DoD, GSA and NASA analyzed the FY 2016 data from the Federal Procurement Data System (FPDS) to develop the estimated burden hours for this information collection.

This information collection requirement pertains to information that an offeror contractor must submit in response to the requirements of the following provisions and clauses in FAR 52.203:

1. Certification of Independent Price Determination (FAR 52.203-2). This clause requires the offeror to certify that the prices in the offer have been arrived at independently. Agencies are required to report under 41 U.S.C. 3101 (formerly 41 U.S.C. 252(b)(i)) and 10 U.S.C. 2305(d) suspected violations of the antitrust laws (e.g., collusive bidding, identical bids, uniform estimating systems, etc.) to the Attorney General.

As a first step in assuring that Government contracts are not awarded to firms violating such antitrust laws, offerors on Government contracts must complete the certificate of independent price determination. An offer will not be considered for award where the certificate has been deleted or modified. Deletions or modifications of the certificate and suspected false certificates are

reported to the Attorney General (see FAR 3.103-2 Evaluating the Certification).

The information collection is required each time an offeror responds to a solicitation for firm-fixed price contract or fixed-price economic price adjustment contract unless the acquisition is: (1) made under the simplified acquisition threshold; (2) at the request for technical proposals under two-step sealed bidding procedures; or (3) for utility services for which rates are set by law or regulation. The FAR rule requires a Certificate of Independent Price Determination so that contractors certify that the prices in their offer have been arrived at independently, have not been or will not be knowingly disclosed, and have not been submitted for the purpose of restricting competition. This clause does not apply to commercial items.

2. Contractor Code of Business Ethics and Conduct (FAR 52.203-13). This clause implements Government policy and Pub. L. 110-252, Title VI (Close the Contractor Fraud Loophole Act). It requires contractors to notify the respective agency Office of Inspector General when the contractor has credible evidence that the contractor's principal, employee, agent, or subcontractor committed a

violation of certain Federal criminal laws, or a violation of the Civil False Claims Act.

The objective of the notification requirement is to emphasize the critical importance of integrity in contracting and reduce the occurrence of improper or criminal conduct in connection with the award and performance of Federal contracts and subcontracts. Information obtained from the notification requirements will be provided to the agency Inspector General by the contractor.

3. Preventing Personal Conflicts of Interest (FAR 52.203-16). In accordance with 41 U.S.C. 2303, this clause requires contractors and subcontractors to: (a) identify and prevent personal conflicts of interest of their covered employees; and (b) prohibit covered employees who have access to non-public information by reason of performance on a Government contract from using such information for personal gain. Contractors are required to notify contracting officers whenever they become aware of any personal conflict of interest violations by a covered employee. The objective of the notification requirement is to emphasize the critical importance of integrity in contracting and reduce the occurrence of improper or criminal conduct in connection with the award and

performance of Federal contracts and subcontracts. Information obtained from the notification requirements will be provided to the agency Inspector General by the contractor. In addition, contractors have the opportunity, in exceptional circumstances, to request mitigation or waiver of the personal conflict-of-interest standards. The information is used by the Government to evaluate the requested mitigation/waiver.

The information provided to and by contractors in accordance with the clause at FAR 52.203-16 is used by the contractor and the contracting officer to identify and mitigate personal conflicts of interest in compliance with Government policy to (a) identify and prevent personal conflicts of interest of covered employees; and (b) prohibit covered employees who have access to non-public information by reason of performance on a Government contract from using such information for personal gain (FAR 3.1102). A notice was published in the *Federal Register* at 82 FR 40582 on August 25, 2017. No comments were received.

B. Annual Reporting Burden

1. Certification of Independent Price Determination (FAR 52.203-2).

Respondents: 24,270.

Responses annually: 30.

Total annual responses: 721,200.

Estimated hrs/response: .25.

Estimated total burden/hrs: 180,300.

2. Contractor Code of Business Ethics and Conduct (FAR 52.203-13) .

Respondents: 278.

Responses per respondent: 1.

Total annual responses: 278.

Preparation hours per response: 60.

Total response burden hours: 16,680.

3. Preventing Personal Conflicts of Interest (FAR 52.203-16) .

Respondents: 120.

Responses per respondent: 1.

Total responses: 120.

Burden hours per response: 30.

Total response burden hours: 3,600.

Recordkeeping burden:

Number of recordkeepers: 8,598.

Records per recordkeeper per year: 25.

Total annual records: 214,950.

Estimated hours per record: 2.0.

Total recordkeeping burden hours: 429,900.

4. Total (counting recordkeepers with respondents)

Recordkeepers and respondents: 33,266.

Responses: 721,598.

Hours (reporting and recordkeeping): 707,862.

C. Public Comments

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.

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

Please cite OMB Control No. 9000-0018, Certification of Independent Price Determination, Contractor Code of Business Ethics and Compliance, and Preventing Personal Conflicts of Interest, in all correspondence.

Dated: January 16, 2018.

Lorin S. Curit,
Director,
Federal Acquisition Policy Division,
Office of Government-wide Acquisition Policy,
Office of Acquisition Policy,
Office of Government-wide Policy.

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