

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.

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]

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