



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

May 22, 1992

NOTE TO: Debra Demarco
Policy Branch
Office of Administration

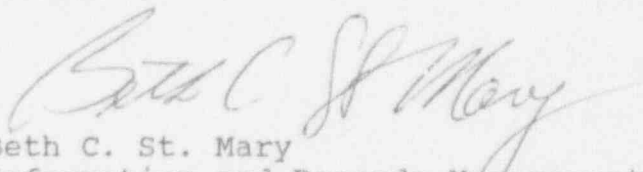
FROM: Beth C. St. Mary
Information and Records Management Branch
Division of Information Support Services
Office of Information Resources Management

SUBJECT: 48 CFR 20, NRC ACQUISITION REGULATION (NRCAR)

Please change the OMB clearance number reflected in the last paragraph of the Paperwork Reduction Act Statement of the rule from "(3150-0018)" to "(3150-)". NRC currently has no approval number for this information collection.

I have reviewed the revised OMB supporting statement and Federal Register Notice and compared them against the latest rulemaking package. There appear to be several information collections in the rule that are not included in the OMB clearance submittal. Please include these sections that are marked on your submittal. The associated burdens may already be covered in the package in other sections. If so, indicate where the burden is covered. If not, you will have to adjust the burden both for the tables and the Federal Register Notice.

If you have any questions, I will be back in the office on June 1. Give me a call on extension 28540.


Beth C. St. Mary
Information and Records Management Branch
Division of Information Resources Management
Office of Information Resources Management

282

Double space FRN

7590-01

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review.

AGENCY: Nuclear Regulatory Commission (NRC)

ACTION: Notice of the OMB review of information collection

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the paperwork Reduction Act (44 U.S.C Chapter 35).

1. Type of submission, new, revision, or extension: Revision
2. The title of the information collection:
48 CFR Chapter 20, Nuclear Regulatory Commission Acquisition Regulation (NRCAR)
3. The form number if applicable: N/A
4. How often the collection is required:
On occasion; one time
5. Who will be required or asked to report:
Offerors responding to NRC solicitations and contractors receiving contract awards from NRC.
6. An estimate of the number of responses: 11,269
7. An estimate of the burden per response: 10.7 hours
8. An estimate of the total number of hours needed to complete the requirement or request: 120,432
9. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Applicable
10. Abstract:

The NRCAR is necessary to implement and supplement the government-wide Federal Acquisition Regulation, and to ensure that the regulations governing the procurement of goods and services within the NRC satisfy the needs of the agency.

7590-01

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer:

Ronald Minsk
Office of Information and Regulatory Affairs, NEOB-3019
~~(3150) Office of Information and Regulatory Affairs~~
Office of Management and Budget
Washington, D.C. 20503

(3150-)

Comments can also be submitted by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland this day of 1991.

For the Nuclear Regulatory Commission

Gerald F. Cranford, Designated Senior
Official For Information Resources
Management

7590-01

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Management

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SURNAME:	DeMarco/vg	WHFoster	TFHagan	ELHalman
Date:	/ /92	/ /92	/ /92	/ /92

OFFICE:	OGC	IRM
SURNAME:	G.Fehst	G.F.Cranford
DATE:	/ /92	/ /92

NRC did not receive approval of the information collection at the proposed rule stage based on comments received from the Office of Federal Procurement Policy (OFPP) NRC met with OFPP on 10/23/91 and resolved these comments. Disposition of these comments is included as Enclosure A.

SUPPORTING STATEMENT
FOR
48 CFR CHAPTER 20

NUCLEAR REGULATORY COMMISSION ACQUISITION REGULATION

Justification

Need for and Practical Utility of the Information Collection

NRC regulations in 48 CFR Chapter 20 implement and supplement the government-wide Federal Acquisition Regulation (FAR) and ensure that the policies governing the procurement of goods and services within the NRC satisfy the needs of the agency. The Nuclear Regulatory Commission Acquisition Regulation (NRCAR) includes policies, procedures, solicitation provisions, and contract clauses needed to ensure effective and efficient evaluation, negotiation, and administration of procurements. The information collection requirements contained in 48 CFR Chapter 20 were submitted to the Office of Management and Budget (OMB) at the proposed rule stage and forwarded to the Office of Federal Procurement Policy (OFPP) for comments. Provisions of the NRCAR having information collection burdens are listed below. OFPP's comments regarding these provisions have been incorporated, as appropriate.

and 2009.570-3(b)(1)
Section 2009.570-3(b)(1) provides that the offeror or contractor disclose information concerning relationships that may be potential conflicts of interest under certain circumstances, which are listed. The burden associated with this requirement is covered under clause 2052.209-72, "Contractor Organizational Conflicts of Interest" (COI). Language has been added to the rule to state what information is to be reported. (Ref. NRCAR page 50). This information is necessary in order to make COI determinations on a case-by-case basis and implement the statute (42 U.S.C. Sec. 2221, Sec. 170A of the Atomic Energy Act of 1954, as amended, by which NRC is bound and which governs conflicts of interest in award of contracts.

Section 2009.570-3(c) provides COI policy application guidance. Because the NRC does not predetermine COI issues before receiving offers, this information is extremely useful to organizations deciding whether or not to expend bid and proposal costs and then be determined to be ineligible to receive an award because of a COI determination. Therefore, this section remains in the NRCAR. The burden is covered in 2052.209-73(d)(2), (d)(3) and (f) for this requirement. (Ref. NRCAR page 6 "Statement of Considerations.")

Section 2009.570-3(c)(4)(ii) requires the contractor to report all proposed usage of information provided under contract which will be employed in the contractor's private activities. This guidance is provided after each conflict example and is used to illustrate, for NRC staff and potential contractors, the possible resolution of each COI example situation. Therefore this section remains in the NRCAR. It allows NRC opportunity to review the contractor's information to ensure that it (1) is not subject to Commission approval, (2) has not been ruled upon, or (3) has

not been disapproved by the Commission. Only in rare circumstances would this requirement be incorporated into a contract.

Section 2009.570-5(b) is not consistent with the OFPP comment. This citation should be 2009.570-3(b)(2), which requires the contractor to provide specific information in situations that may result in an unfair competitive advantage. This information is necessary to determine whether or not the contractor is placed in a conflicting role that may bias its judgement in relation to its work for NRC. The burden associated with this requirement is minimal.

Section 2014.201-670 requires that all bidders describe past experience. This information will assist the contracting officer in his/her Determination of Responsibility. This requirement has been edited to make it optional as appropriate. In some instances where there is little or no procurement history available, the information requested concerning bidder qualifications and past experience enables the contracting officer to query the contacts identified and ascertain the offeror's performance record, integrity, and business ethics. The burden for this requirement is covered under 2052.214-71.

Section 2015.607 mandates that the contracting officer require the proposer's written clarification(s) provided in accordance with FAR 15.607. This written record is needed to ensure that the proposer's true statement of the clarification is provided for the reviewers' analyses.

Section 2019.705-4(a) provides that subcontracting plans may be requested from all concerns determined to be in the competitive range for the purpose of negotiations. Additionally, it clarifies conditions for acceptance of master subcontracting plans. This information is not covered in the FAR and is necessary to provide consistent treatment of proposers. (Ref. NRCAR page 8 "Statement of Considerations")

Section 2027.305-3(a) provides that the contracting officer, as a part of the closeout of a contract, shall require each contractor to report on any patents, copyrights, or royalties attained using any portion of the contract funds. FAR Part 27.305-3(a) states that "Agencies shall maintain appropriate procedures to protect the Government's interest and to check that subject inventories are identified and disclosed." The reporting described in the NRCAR requires the contractor to certify that no patent or similar activities took place under the contract. Such a response is necessary to document that the contractor has not generated work to which the Federal government might have technical or economic rights.

Section 2042.803(a)(2)(i) provides that the contractor may submit a written claim to the Contracting Officer (CO) for reimbursement of a disallowed cost. This procedure allows for an informal review of the CO's decision or an alternative to established formal processes.

Section 2042.803(b) states that when audit reports or other notifications question costs or consider them unallowable, the contracting officer shall resolve all cost issues through discussions with the contractor and/or auditor, whenever possible, within six months of receipt of the audit report. Contractors who have a need to receive payment due to a hardship

However, 2009.570-5(b) does not contain info collections and configurations. "negotiated terms & conditions" 7 contracts. This is a sign of cover.

include 2009.570-8

Submit representation statement

currently can offer to help expedite the decision-making process. The resolution process is dependent on a number of inputs including the contractor's. Six months is a realistic timeframe based on experience in resolving audit cost issues. (Ref. NRCAR page 9 "Statement of Considerations")

~~2052.204-70(b) (anticipation of possession)~~ ~~2052.204-70(h) (information)~~ ~~2052.204-70(i) (information)~~
 Section 2052.204-70(j) requires that the subcontractor insert provisions similar to those found in -2052.204-70 (b) through (i) in all subcontracts and purchase orders under the contract, to safeguard classified information. Currently approved under OMB control number 3150-0112.

Section 2052.204-70(k) requires that the contractor assign classifications to all documents, material, and equipment originated or generated by the contractor in accordance with the Commission's guidance to safeguard classified information. Currently approved under OMB control number 3150-0112.

Section 2052.204-71 requires that all contractor personnel obtain, display, and safeguard identification badges in accordance with agency procedures. Because the NRC is a secure facility with perimeter access control, all NRC employees and contractor employees needing frequent access to the NRC facilities must display current identification badges. All contractors to whom this clause applies must also safeguard classified information and safeguard against unauthorized access to other Government records or data.

Section 2052.209-71 requires the offeror to provide identifying information for each case where any current/former NRC employees (including special government employees performing services as experts, advisors, consultants, or members of advisory committees) have been or will be involved, directly or indirectly, in developing the offer, negotiating on behalf of the offeror, or managing, administering, or performing any contract, consultant agreement or subcontract resulting from the offer. This information is used to assure that conflicts of interest are avoided and fairness is maintained during the selection process.

Section 2052.209-72 for any potential conflict of interest situation as the CO may identify, this section requires the offeror to provide a written description of all relevant factors to be considered. This information is necessary to permit NRC to make a fair analysis of such situations.

Section 2052.209-73(d)(2) requires the contractor to make an immediate and full disclosure in writing to the CO if organizational conflicts of interest are discovered after contract award. Currently approved under OMB control number 3150-0112.

Section 2052.209-73(d)(3) (formerly 2052.209-77) requires the contractor performing a task-order type contract to disclose all proposed new work involving NRC licensees or applicants which comes within the scope of work of the underlying contract. This information is necessary to permit NRC to make a fair analysis and to avoid conflict of interest situations. This revised language in the final rule focuses on a narrower scope which reduces the reporting burden associated with this requirement. Currently approved under OMB control number 3150-0112.

Section 2052.209-73(f) requires the contractor to include the clause 2052.209-73 in subcontracts of any tier in order to prevent conflicts of interest that may be generated at those levels. Currently approved under OMB control number 3150-0112.

2052.209-73 (Request for Waiver)
 Section 2052.210-71 provides that all drawings, designs, specifications and other data associated with the contract work are the property of the Government and must be made available for inspection and disposed of in accordance with instructions from the contracting officer. This requirement is necessary to assure that classified, highly sensitive, and high priority specifications and other data are secured throughout the life of the contract and after expiration of the contract. The clause is included in all contracts in which drawings, designs, specifications, or other data will be developed.

Section 2052.212.70 requires that all technical reports and technical progress reports be prepared in accordance with the Nuclear Regulatory Management Directive 3.8, "Unclassified Contractor and Grantee Publications in the NUREG Series." The clause alerts the offeror to the requirements of the chapter. The prescription at 2012.104-70 states that the CO may alter these clauses.

OK Section 2052.212-71 provides the timing and basic content requirements for Technical Progress Reports for the offerors to consider in preparation of a bid or proposal, and for guidance to the contractor. This information is necessary to save time and expense in the contractor's preparation and the NRC's review of these reports. The requirements of OMB Circular A-110 are applicable only to certain financial assistance awards; and are not appropriate for NRC contracts. The prescription 2012.104-70(d) has been strengthened to clarify that the reporting frequency is meaningful and productive for each contract, considering the size and complexity of the particular project or program. The technical reports, normally provided monthly, are necessary for staff assessment of technical performance. These reports also serve as a surveillance and enforcement mechanism so that performance problems can be identified and addressed. Currently approved under OMB control number 3150-0112.

OK Section 2052.212-72 provides the requirements for timing and basic content of Financial Status Reports for the offers to consider in preparation of a bid or proposal, and for guidance to the contractor. This information is necessary to save time and expense in the contractor's preparation and the NRC's review of these reports. As stated in the justification above in 2052.212-71, the requirements of OMB A-110 are applicable only to certain financial assistance awards and are not appropriate for NRC contracts. The

prescription for NRCAR 2052.212-72, Financial Status Report, states that the CO may alter the clause. The prescription 2012.104-70(d) has been strengthened to clarify that the reporting frequency is meaningful and productive for each contract. The financial status reports, normally provided monthly, are necessary to provide detailed cost information and are analyzed in concert with the technical progress report to ensure consistency of progress and costs expended. These reports are analyzed by staff to have a basis for authorized payment of the contractor's monthly invoice and to ensure that all costs are allocable and allowable. Both the technical progress and financial status reports are due within 15 calendar days after the end of the report period. This due date accommodates the accounting systems of most commercial contractors, and educational and other non-profit institutions. If this due date causes a hardship for a contractor, another date is negotiated and agreed upon. This due date also enables the staff to review the report as close to "real time" as can reasonably be required. Currently approved under OMB control number 3150-0112. The burden for this requirement has been calculated based on the most frequent reporting (monthly).

2052.214-73 → do this as alternate rpt? If so, include in terms with statement
burden - covered under 2052.212-72
Section 2052.214-71 requires the bidder to provide identifying information on previous and current contracts for the contracting officer to consider in the determination of responsibility. Past experience is relevant to award, and timely awards require this minimal information to be available. Determination of responsibility is required by FAR 14.407-2.

use this # 2052
* Section 2052.214-72(e) requires the bidder to provide, on request, statements concerning the ability to meet any of the minimum standards set forth in FAR 9.104, samples of work, and identifying information on clients. This information is necessary to assess contractor qualifications and make a determination of responsibility by checking the contacts provided to ascertain the offeror's performance record, integrity, and business ethics.

Sections 2052.214-74 and 2052.215-75 require the offeror to request in writing, with submission of the offer, that copies of their offers be returned if so desired. This permits the contracting activity to automatically dispose of extra copies of offers in a timely manner.

2052.215-76
Sections 2052.215-76 and 2052.215-77 provides proposal preparation instructions in Section L of NRC solicitations for research and technical assistance to inform offerors of proposal content, presentation and format required by NRC. These instructions serve as a guide for offerors in preparing a technical and management proposal, and a cost proposal. These instructions also establish uniformity and facilitate proposal evaluation. Currently approved under OMB control number 3150-0118.

use this # 2052
* Section 2052.215-70 requires the contractor to immediately notify the CO if any key personnel become unavailable for contract work, and subject to the concurrence of the CO, promptly replace the personnel. This requirement helps ensure that the project is managed by competent personnel in accordance with the accepted proposal.

use this # 2052
* Section 2052.215-71(f) requires the contractor to notify the CO within five days of receipt of any unauthorized technical direction and request a

Make up
is sequential
in order

modification to the contract. This requirement is in the Government's best interest and can save the delays and expense associated with disputes that might surface at a later time.

Section 2052.216-74 provides instructions for offerors to use in the preparation of proposals for task order contracts and subsequent proposals for task orders. Use of these instructions by proposers will permit the NRC to perform efficient review and take prompt action on the proposals.

Section 2052.235-70 requires the contractor to comply with the requirements of Nuclear Regulatory Commission Management Directive 3.8 (formerly MC 3202) "Unclassified Contractor and Grantee Publications in the NUREG Series," and MC 3206, "NRC Contractor Unclassified Papers, Journal Articles and Press or Other Media Releases on Regulatory and Technical Subjects." (Note: MC 3206 is in the process of being converted to Management Directive 3.10). The clause alerts the offeror to the fact that publications and papers must focus on advances in science and technology and minimize conclusions and/or recommendations which may have regulatory implications. These requirements are imposed to ensure that national security, patent rights, copyrights, proprietary rights, and rights in other areas of sensitive unclassified information are not compromised by the release, distribution, or dissemination of technical reports from NRC, or by public statements by the contractors.

Prior to publication, the contractor shall submit the proposed publication for review and approval.
Section 2052.235-71 requires university principal investigator(s) to coordinate all publications with the NRC Contracting Officer or Project Officer prior to publication. These requirements are imposed to ensure that national security, patent rights, copyrights, proprietary rights, and rights in other areas of sensitive unclassified information are not compromised by the release, distribution, or dissemination of technical reports from NRC, or by public statements by the principal investigators.

Section 2052.235-72 requires the contractor to take all reasonable precautions in the performance of work under the contract to protect the health and safety of employees and members of the public, and to comply with reporting requirements. This allows the CO, if necessary, to take immediate action to carry out the agency mission to protect the public health and safety.

Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection. Sensitive information must be protected from improper disclosure and the integrity of the competitive procurement process must be maintained. NRC encourages the use of information technology wherever possible.

Duplication of Other Collections of Information

The Information Requirements Control Automated System (IRCAS) was searched to identify duplication. None was found. The nature of the collections (proposal data, certifications, and reports of current activity specific to the contract) do not lend themselves to duplication. For evaluation of proposals, only information conveyed in the proposal may be evaluated to

assess the offeror's ability to successfully accomplish the prospective contract. To the extent there is similar information, updating or tailoring to the prospective contract by the offeror would have the effect of reducing the burden.

Effort to Reduce Small Business Burden

The information collection is structured to facilitate the effective and efficient evaluation of proposals, certifications by offerors, and administration of contracts. The burden applied is the minimum consistent with applicable regulations and prudent business practices.

Consequences of Less Frequent Collection

Proposal submission and certifications are basically one-time collections associated with specific contract/solicitation situations or requirements. Less frequent reporting of technical progress and financial status removes an effective mechanism required for maintenance of an aggressive contract remedial action to protect the interests of the Government.

Circumstances Which Justify Variation from OMB Guidelines

The requirement for monthly submission of technical progress and financial status reports is not consistent with 5 CFR 1320.6(a). The circumstances which justify more frequent submission are set forth immediately above.

All of the italicized sections are variations. Please justify these sections.
Consultations Outside the NRC *not justified here*

The following agencies' implementation of the FAR have been consulted: U.S. Department of Energy; U.S. Department of Health and Human Services; U.S. Department of Housing and Urban Development; U.S. Department of Defense; Environmental Protection Agency; and others. Individual procurement policy experts in many of these agencies were contacted. In addition, all acquisition proposed or final rules published in the Federal Register since August 1987 have been reviewed. Comments received on the proposed rule were considered in preparing the final rule.

Confidentiality of Information

To the extent information is proprietary or business confidential, procedures are in place to protect the information from improper disclosure.

Justification for Sensitive Questions

No sensitive information normally considered private or personal is required or requested.

Estimate of Compliance Burden

Reporting Requirements

Section	No. of Respondents	Submittals Annually	Respondent Hrs Per Submittal	Total Annual Respondent Burden
2009.570(b)(1) <i>2009.570(b)(1) and (2) ? On is this entry missing</i>	2	2	2	4
& 570-5(b) <i>cross-references in 2009.5703(b)(2).</i>				
2009.570-3(c) Burden included under 2052.209-73(d)(2), (d3) and (f)				
2009.570-3(c) <i>already in narrative and on table</i>				
(4)(ii) <i>2009.570-8 ✓</i>			1	1
2014.201-670(b)(1) Burden included under 2052.214-71				
2015.607	750	750	.25	188
2019.705-4(a) ✓	300	300	20	6,000
2027.305-3(2)	300	300	10	3,000
2042.803(a)(2)(i)	10	10	10	100
2042.803(b) <i>2052.204-70(b) ✓</i>	30	1	2	60
2052.204-70(j)	100	100	2	200
2052.204-70(k)	10	10	20	200
2052.204-71	20	20	100	2,000
2052.209-71	400	400	2	800
2052.209-72	400	400	.25	100
2052.209-73(d)(2)	1	1	5	5
2052.209-73(d)(3)	100	100	1	100
2052.209-73(f)	400	400	.25	100
2052.210-71 <i>2052.210-70</i>	300	300	5	1,500
2052.212-70	300	1,200	.5	600
2052.212-71	150	1,800	4	7,200
2052.212-72	180	2,160	2	3,200
2052.214-71 <i>2052.212-71</i>	400	400	.5	200
2052.214-72(e)	30	30	1	30
2052.214-74				
and .215-75	8	8	.25	2
2052.215-76 <i>2052.215-71(f)</i>	750	750	100	75,000
and -77	10	10	4	40
2052.215-70	10	10	4	40
2052.215-71(f)	100	600	30	18,000
2052.216-74	300	1,200	.5	600
2052.235-70	4	4	10	40
2052.235-71	2	2	1	2
2052.235-72				
TOTAL		11,269		120,432

There are no recordkeeping requirements.

TOTAL BURDEN HOURS: 120,432

TOTAL NUMBER OF RESPONDENTS: 750 (seven hundred and fifty companies or individuals, on the average, propose or bid for NRC contracts above \$25,000. The number of contractors with active awards ranges from 300 to 400. Many selections of the proposed regulation apply to only a small number of proposers, bidders, or contractors.)

Cost to Respondents to Comply

Section	Cost
2009.507-3(c) see 2052.209-73(d)(2),(d)(3) and (f)	
2009.570-(b)(1)(i)	
570-5(b)	460
2009.570-3(c)(4)(ii)	115
2014.201-670(b)(1) Burden included under 2052.214-71	
2015.607	21,620
2019.705-4(a)	690,000
2027.305-3	345,000
2042.803(a)(2)(i)	11,500
2042.803(b)	6,900
2052.204-70(j)	23,000
2052.204-70(k)	23,000
2052.204-71	230,000
2052.209-71	92,000
2052.209-72	11,500
2052.209-73(d)(2)	575
2052.209-73(d)(3)	11,500
2052.209-73(f)	11,500
2052.210-71	172,500
2052.212-70	69,000
2052.212-71	828,000
2052.212-72	496,800
2052.214-71	23,000
2052.214-72(e)	3,450
2052.214-74	
and .215-75	230
2052.215-76	
and -77	8,625,000
2052.215-70	4,600
2052.215-71(f)	4,600
2052.216-74	2,070,000
2052.235-70	69,000
2052.235-71	4,600
2052.235-72	230

TOTAL: \$13,849,680

The total annual industry cost is \$13,849,680 (120,432 hours times \$115 per hour). The estimated annual cost per respondent would be less than \$57,335 (the total for all burden items), but would vary on a case-by-case basis depending on the type of contract, the individual business circumstances, the reporting requirements imposed, and other business and contractual circumstances.

Source of Burden Data and Method for Estimating Cost

The estimates are based on submittals to NRC in past years. Cost to respondents is calculated at a rate of \$115 per hour, which is a fully burdened rate.

*Off
Same
Sections*

(13,849,680 ÷ 750 respondents) = 18,466

averages 18,466

ROUTING AND TRANSMITTAL SLIP

Date

10-9-91

TO: (Name, office symbol, room number,
building, Agency/Post)

Initials

Date

1. Debbie DeMarco, DCPD

2.

3.

4.

5.

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

Here are our comments on
the NREAR Supporting Statement.
Our comments on the draft final
rule will be forwarded to
DCPD through Jon Dambly
per Larry Cooper's memo to
D. Grimsley and R. Brady dated
Oct. 7, 1991.

DO NOT use this form as a RECORD of approvals, concurrences, disposals,
clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)

Room No.—Bldg.

Michael T. Lesar

Phone No.

27758

5041-102

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

SUPPORTING STATEMENT
FOR
48 CFR CHAPTER 20

NUCLEAR REGULATORY COMMISSION ACQUISITION REGULATION

Justification

Need for and Practical Utility of the Information Collection

NRC regulations in 48 CFR Chapter 20 implement and supplement the government-wide Federal Acquisition Regulation (FAR), and ensure that the policies governing the procurement of goods and services within the NRC satisfy the needs of the agency. The Nuclear Regulatory Commission Acquisition Regulation includes policies, procedures, solicitation provisions, and contract clauses needed to assure effective, efficient evaluation, negotiation, and administration of procurements. These information requirements were submitted to the Office of Management and Budget (OMB) at the proposed rule stage and forwarded to the Office of Federal Procurement Policy (OFPP) for comments. Our response to OFPP's concerns relating to unaddressed or inadequately addressed paperwork concerns are provided below and have been revised as appropriate.

collection
of what
US Code?

and
continued
in the FAR
chapter 20

UNADDRESSED PAPERWORK CONCERNS

Statutory citations should refer to exact codified section, where possible, in order to reduce burden on user to find authorizing provisions. The statutory citations have been revised to refer to exact codified section.

Section

2009.570-3(b)(1) provides that the offeror or contractor disclose information concerning relationships which may be potential conflicts of interest under certain circumstances which are listed. The burden associated with this requirement is covered under the clause 2052.209-72 "Contractor Organizational Conflicts of Interest" language has been added to the rule to state what information is to be reported. (Ref.: NRCAR page 47)

in §

Section

2009.570-3(c) response to comments, see NRCAR page 5 of "Statement of Considerations." Since NRC does not predetermine COI issues prior to receiving offers, this information is extremely useful to organizations in making a decision whether or not to expend bid and proposals costs. The burden is covered in 2052.209-73(d)(2), (d)(3) and (f) for this requirement. Therefore this section remains in the NRCAR.

Because the

Section

2009.570-3(c)(4)(ii) requires the contractor to report all proposed usages of information provided under contract which will be used in the contractor's private activities. This is guidance provided after each conflict example and is used to illustrate, for potential contractors, as well as staff, the possible resolution of each COI example situation. Only in a rare circumstance would this be incorporated into a contract. This information allows NRC the opportunity to review the contractor produced information to ensure that it is not subject to Commission

Pub Staff

approval, or (2) has not been ruled upon, or (3) disapproved by the commission. Therefore this section remains in the NRCAR.

Section 2009.570-5(b) this cite is not consistent with OFPP comment, should be 2009.570-3(b)(2) which requires the contractor to provide specific information in situations which may result in an unfair competitive advantage. This information is necessary to determine whether or not the contractor is placed in a conflicting role in which its judgement may be biased in relation to its work for NRC. These are steps taken to ameliorate the issues of biasing judgement and/or unfair competitive advantage. The burden associated with this requirement is minimal.

Section 2014.201-670 requires that past experience be described in all bids. This information will assist the contracting officer in his/her Determination of Responsibility. This requirement has been edited to make it optional to fit circumstances. The burden for this requirement is covered under § 2052.214-71.

Section 2015.607 provides that the contracting officer require that the proposer's clarification(s) provided in accordance with FAR 15.607 be in writing. This written record is needed to assure that the proposer's true statement of the clarification is provided for the reviewers' analyses.

Section 2019.705-4(a) provides that subcontracting plans may be requested from all concerns determined to be in the competitive range for the purpose of negotiations. Additionally, it clarifies conditions for acceptance of master subcontracting plans. This information is not covered in the FAR and is necessary to provide consistent treatment of proposers. (Ref. NRCAR page 7 "Statement of Considerations")

Section 2027.305-3 provides procedures for the contracting officer to, as a part of the closeout of a contract, require each contractor to report on any patents, copyrights, or royalties attained using any portion of the contract funds. FAR Part 27.305-3(a) states that "Agencies shall maintain appropriate procedures to protect the Government's interest and to check that subject inventories are identified and disclosed." The reporting described in the NRCAR simply requires the contractor to certify to a negative response that no patent or similar activities took place under the contract without a negative response, there is no certainty that the contractor has no generated work to which the Federal government might have technical or economic rights.

Section 2042.803(a)(2)(i) provides that the contractor may submit a written claim to the Contracting Officer (CO) as to why a cost disallowed by the contracting officer should be reimbursed. This procedure allows for an informal review of the contracting officer's decision or an alternative to established formal processes.

Section 2042.803(b) states that the contracting officer shall resolve all cost issues, when audit reports or other notifications question costs or consider them allowable, through discussions with the contractor and/or auditor, whenever possible, within six months of receipt of the audit report. Contractors who have a need to receive payment due to a hardship currently can offer to help expedite the decision making process. The

resolution process is dependent on a number of inputs, including the contractor's. Six months is a realistic timeframe based on experience in resolving audit cost issues, any shorter timeframe would be misleading to contractors. (Ref. NRCAR page 8 "Statement of Considerations")

Section 2052.204-70(j) requires that the subcontractor insert provisions similar to those found in 2052.204-70 (b) through (i) in all subcontracts and purchase orders under the contract, to safeguard classified information.

Section 2052.204-70(k) requires that the contractor assign classifications to all documents, material and equipment originated or generated by the contractor in accordance with classification guidance by the Commission to safeguard classified information.

Section 2052.204-71 requires that all contractor personnel obtain, display, and safeguard identification badges in accordance with agency procedures. Because the NRC is a secure facility with perimeter access control, all NRC employees and contractor employees needing frequent access to the NRC facilities must display current identification badges. All contractors to whom this clause applies must also safeguard classified information and safeguard against unauthorized access of other Government records or data.

Section 2052.209-71 requires the offeror to provide identifying information for each case where any current/former NRC employees (including special government employees performing services as experts, advisors, consultants, or members of advisory committees) have been or will be involved, directly or indirectly, in developing the offer, negotiating on behalf of the offeror, or managing, administering, or performing any contract, consultant agreement or subcontract resulting from the offer. This information is used to assure that conflicts of interest are avoided and fairness is maintained during the selection process.

Section 2052.215-76 and 215-77 proposal preparation instructions are used in soliciting proposals for research and technical assistance to inform offerors of specific requirements regarding the format and content of technical and cost proposals to be submitted in response to agency requirements. The instructions provide the framework for technical, management and cost information for evaluation of proposals. The current OMB Clearance Number is 3150-0018.

Section 2052.209-72 for any potential conflict of interest situation as the contracting officer may identify, this section requires the offeror to provide a written description of all relevant factors to be considered. This information is necessary to permit NRC to make a fair analysis of such situations. This requirement appears in 41 Code of Federal Regulations Chapter 20, which will be rescinded after publication of 48 CFR Chapter 20.

Section 2052.209-73(d)(2) requires the contractor to make an immediate and full disclosure in writing to the contracting officer if organizational conflicts of interest are discovered after contract award. This requirement appears in 41 Code of Federal Regulations Chapter 20, which will be rescinded after publications of 48 CFR Chapter 20.

To my knowledge, all NRC provisions have been incorporated from 41 CFR Chapter 20. All the provisions in 41 CFR Chapter 20 are contained in 48 CFR Chapter 20.

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Section 2052.209-73(d)(3) (formerly 2052.209-77) requires the contractor performing a task order type contract to disclose all proposed new work involving NRC licensees or applicants which comes within the scope of work of the underlying contract. This revised language focuses on a narrower scope which reduces the reporting burden associated with this requirement. This information is necessary to permit NRC to make a fair analysis and to avoid conflict of interest situations.

Section 2052.209-73(f) requires the contractor to include the clause ^{and §} 2052.209-73 in subcontracts of any tier in order to prevent conflicts of interest that may be generated at those levels. This requirement appears in 41 Code of Federal Regulations Chapter 20, which will be rescinded after publication of 48 CFR Chapter 20.

Section 2052.210-71 provides that all drawings, designs, specifications and other data associated with the contract work are the property of the Government and must be made available for inspection and disposed of in accordance with instructions from the contracting officer. This requirement is necessary to assure that classified, highly sensitive, and high priority specifications and other data are secured throughout the life of the contract and after expiration of the contract. The clause is included in all contracts in which drawings, designs, specifications, or other data will be developed.

Section 2052.212.70 requires that all technical reports and technical progress reports be prepared in accordance with the Nuclear Regulatory Management Directive 3.8, "Unclassified Contractor and Grantee Publications in the NUREG Series." The clause alerts the offeror to the requirements of the chapter.

Section 2052.212-71 provides the timing and basic content requirements for Technical Progress Reports for the offerors to consider in preparation of a bid or proposal, and for guidance to the contractor. This information is necessary to save time and expense in the contractor's preparation and the NRC's review of these reports. The requirements of OMB Circular A-110 are applicable only to certain financial assistance awards; and are not appropriate for NRC contracts. The proscription has been strengthened to clarify that the frequency of reporting is set at whatever frequency is meaningful and productive for each contract considering the size and complexity of the particular project or program.

Section 2052.212-72 provides the timing and basic content requirements for Financial Status Reports for the offers to consider in preparation of a bid or proposal, and for guidance to the contractor. This information is necessary to save time and expense in the contractor's preparation and the NRC's review of these reports. As stated in the justification above, the requirements of OMB A-110 are applicable only to certain financial assistance awards; and are not appropriate for NRC contracts. The proscription for NRCAR 2052.212-72, Financial Status Report, states that the contracting officer may alter the clause. The proscription has been strengthened to clarify that the frequency of reporting is set at whatever frequency is meaningful and productive for each contract. The burden for this requirement has been calculated based on the most frequent reporting (monthly).

Section 2052.214-71 requires the bidder to provide identifying information on previous and current contracts for the contracting officer to consider in the determination of responsibility. Past experience is relevant to award, and timely awards require this minimal information to be on-hand. Determination of responsibility is required by FAR 14.407-2.

Section 2052.214.72(e) requires the bidder to provide, on request, statements concerning their ability to meet any of the minimum standards set forth in FAR 9.104, samples of work, and identifying information on clients.

Sections 2052.214-74 and 215-75 require the offeror to request in writing with the offer that copies of the offers be returned if return is desired. This permits the contracting activity to automatically dispose of extra copies of offers in a timely manner.

Sections 2052.215-76 and -77 provide proposal preparation instructions for offerors' consideration and action. These provisions will permit presentation of proposals consistent with the evaluation criteria, and in a standard format to enhance the ability of evaluators to review the proposals.

Section 2052.215-70 requires the contractor to immediately notify the contracting officer if one or more key personnel become unavailable for contract work and, subject to the concurrence of the contracting officer, promptly replace the personnel. This requirement helps assure that the project is managed by competent personnel in accordance with the accepted proposal.

Section 2052.215-71(f) requires the contractor to notify the contracting officer within five days of receipt of any unauthorized technical direction and request a modification to the contract. This requirement is in the Government's best interest and can save the delays and expense associated with disputes that might surface at a later time.

Section 2052.216-74 provides instructions for offerors to use in the preparation of proposals for task order contracts and subsequent proposals for task orders. Use of these instructions by proposers will permit the NRC to perform efficient review and take prompt action on the proposals.

Section 2052.235-70 requires the contractor to comply with the requirements of Nuclear Regulatory Commission Management Directive 3.8 (formerly MC 3202) "Unclassified Contractor and Grantee Publications in the NUREG Series," and MC 3206, "NRC Contractor Unclassified Papers, Journal Articles and Press or Other Media Releases on Regulatory and Technical Subjects." The clause alerts the offeror to the fact that publications and papers shall focus on advances in science and technology and minimize conclusions and/or recommendations which may have regulatory implications. These requirements are imposed to assure that national security, patent rights, copyrights, proprietary rights and rights in other sensitive unclassified information are not compromised by the release, distribution, or dissemination of technical reports from NRC, or by public statements by the contractors.

(Note: NRC 3206 is in the process of being converted to Management Directive 3.10).

Section 2052.235-71 requires the university principal investigator(s) to coordinate all publications with the NRC Contracting Officer or Project Officer prior to publication. These requirements are imposed to assure *ensure* that national security, patent rights, copyrights, proprietary rights and rights in other sensitive unclassified information are not compromised by the release, distribution, or dissemination of technical reports from NRC, or by public statements by the principal investigators.

Section 2052.235-72 requires the contractor to take all reasonable precautions in the performance of the work under the contract to protect the health and safety of employees and members of the public, and to comply with reporting requirements. This allows the contracting officer, if necessary, to take immediate action to carry out the agency mission to protect the public health and safety.

Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection, ~~assuming that sensitive information can be~~ *must be* protected from improper disclosure and that the integrity of the competitive procurement process is maintained. NRC encourages ~~its~~ *the* use *of information technology* wherever possible.

Duplication of Other Collections of Information

The Information Requirements Control Automated System (IRCAS) was searched to identify duplication. None was found. The nature of the collections (proposal data, certifications, and reports of current activity specific to the contract) do not lend themselves to duplication. For evaluation of proposals, only information conveyed in the proposal may be evaluated to assess the offeror's ability to successfully accomplish the prospective contract. To the extent there is similar information, updating or tailoring to the prospective contract by the offeror would have the effect of reducing the burden.

Effort to Reduce Small Business Burden

The information collection is structured to facilitate the effective and efficient evaluation of proposals, certifications by offerors, and administration of contracts. The burden applied is the minimum consistent with applicable regulations and prudent business practices.

Consequences of Less Frequent Collection

Proposal submission and certifications are basically one-time collections associated with specific contract/solicitation situations or requirements. Less frequent reporting of technical progress and financial status removes an effective mechanism required for maintenance of an aggressive contract remedial action to protect the interests of the Government.

Circumstances Which Justify Variation from OMB Guidelines

The requirement for monthly submission of technical progress and financial status reports is not consistent with 5 CFR 1320.6(a). The circumstances which justify more frequent submission are set forth immediately above.

Consultations Outside the NRC

The following agencies' implementation of the Federal Acquisition Regulation have been consulted: U.S. Department of Energy; U.S. Department of Health and Human Services; U.S. Department of Housing and Urban Development; U.S. Department of Defense; Environment Protection Agency, and others. Individual procurement policy experts in many of these agencies were contacted. In addition, all acquisition proposed or final rules published in the Federal Register since August 1987 have been reviewed.

Confidentiality of Information

To the extent information is proprietary or business confidential, procedures are in place to protect the information from improper disclosure.

Justification for Sensitive Questions

No sensitive information normally considered private or personal is required or requested.

Estimate of Compliance Burden

Reporting Requirements

<u>Section</u>	<u>No. of Respondents</u>	<u>Submittals Annually</u>	<u>Respondent Hrs Per Submittal</u>	<u>Total Annual Respondent Burden</u>
2009.70-3(c)				
(4)(ii)	1	1	1	1
2009.570-5(b)	2	2	2	4
2015.607	750	750	.25	188
2019.705-4(a)	300	300	20	6,000
2027.305-3	300	300	10	3,000
2042.803(a)(2)(i)	10	10	10	100
2042.803(b)	30	1	2	60
2052.204-70(j)	100	100	2	200
2052.204-70(k)	10	10	20	200
2052.204-71	20	20	100	2,000
2052.209-71	400	400	2	800
2052.209-72	400	400	.25	100
2052.209-73(d)(2)	1	1	5	5
2052.209-73(d)(3)	100	100	1	100
2052.209-73(f)	400	400	.25	100
2052.210-71	300	300	5	1,500
2052.212-70	300	1,200	.5	600
2052.212-71	150	1,800	4	7,200
2052.212-72	180	2,160	2	4,320
2052.214-71	400	400	.5	200
2052.214-72(e)	30	30	1	30
2052.214-74				
and .215-75	8	8	.25	2
2052.215-76				
and -77	750	750	100	75,000
2052.215-70	10	10	4	40
2052.215-71(f)	10	10	4	40
2052.216-74	100	600	30	18,000
2052.235-70	300	1,200	.5	600
2052.235-71	4	4	10	40
2052.235-72	2	2	1	2
TOTAL		11,269		120,432

There are no recordkeeping requirements.

TOTAL BURDEN HOURS: 120,432

TOTAL NUMBER OF RESPONDENTS: 750 (seven hundred and fifty companies or individuals, on the average, propose or bid for NRC contracts above \$25,000. The number of contractors with active awards ranges from 300 to 400. Many selections of the proposed regulation apply to only a small number of proposers, bidders, or contractors.)

Cost to Respondents to Comply

<u>Section</u>	<u>Cost</u>
2009.570-3(c)(4)(ii)	115
2009.570-5(b)	460
2042.803(b)	6,900
2015.607	29
2019.705-4(a)	2,300
2027.305-3	1,150
2042.803(a)(2)(i)	1,150
2052.204-70(j)	230
2052.204-70(k)	2,300
2052.204-71	11,500
2052.209-71	230
2052.209-72	29
2052.209-73(d)(2)	575
2052.209-73(f)	29
2052.209-73(d)(3)	11,500
2052.210-71	575
2052.212-70	60
2052.212-71	460
2052.212-72	230
2052.214-71	60
2052.214-72(e)	115
2052.214-74	
and .215-75	29
2052.215-76	
and -77	11,500
2052.215-20	460
2052.215-77(f)	460
2052.216-74	3,450
2052.235-70	60
2052.235-71	1,150
2052.235-72	230

TOTAL: \$57,336

The total annual industry cost is \$13,849,680 (120,432 hours times \$115 per hour). The estimated annual cost per respondent would be less than \$57,336 (the total for all burden items), but would vary on a case-by-case basis depending on the type of contract, the individual business circumstances, the reporting requirements imposed, and other business and contractual circumstances.

Source of Burden Data and Method for Estimating Cost

The estimates are based on submittals to NRC in past years. Cost to respondents is calculated at a rate of \$115 per hour, which is a fully burdened rate.

Estimate of Cost to the Federal Government

Section	Government Staff Hours - Annual	Gov't Cost
2015.607	1500	172,500
2019.705-4(a)	150	17,500
2027.305-3	6000	690,000
2042.803(a)(2)(i)	200	23,000
2052.204-70(j)	10	1,150
2052.204-70(k)	100	11,500
2052.204-71	2000	230,000
2052.209-71	100	11,500
2052.209-72	100	11,500
2052.209-73(d)(2)	40	4,600
2052.209-73(d)(3)	100	11,500
2052.209-73(f)	40	4,600
2052.210-71	150	17,250
2052.212-70	300	34,500
2052.212-71	300	34,500
2052.212-72	450	51,750
2052.214-71	60	6,900
2052.214-72(e)	60	6,900
2052.214-74 and .215-75	8	920
2052.215-76 and -77	2250	258,750
2052.215-70	20	2,300
2052.215-71(f)	50	5,750
2052.216-74	3000	345,000
2052.235-70	1200	138,000
2052.235-71	40	4,600
2052.235-72	2	230
TOTAL	18,230	\$2,096,700

The estimated cost to the agency attributable to this collection is \$2,096,700. The cost to the Government was derived from the experience as to the approximate time contract specialists and program personnel expend in ensuring that offerors comply with the instructions. The collection will require an average of 701 hours of NRC staff time per collection, but would vary on a case-by-case basis depending on the procurement action.

Reason for Change in Burden

This regulation includes contract clauses and proposal preparation instructions previously approved under OMB Control Numbers 3150-0112 and 3150-0118.

Publication for Statistical Use

This collection of information does not employ statistical methods.

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review.

AGENCY: Nuclear Regulatory Commission (NRC)

ACTION: Notice of the OMB review of information collection

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the paperwork Reduction Act (44 U.S.C Chapter 35).

1. Type of submission, new, revision, or extension: Revision
2. The title of the information collection:
48 CFR Chapter 20, Nuclear Regulatory Commission Acquisition Regulation (NRCAR)
3. The form number if applicable: N/A
4. How often the collection is required:
On occasion; one time
5. Who will be required or asked to report:
Offerors responding to NRC solicitations and contractors receiving contract awards from NRC.
6. An estimate of the number of responses: 11,269
7. An estimate of the burden per response: 9 hours
8. An estimate of the total number of hours needed to complete the requirement or request: 120,432
9. An indication of whether Section 3504(h), Pub. L. 96-511 applies: N/A
10. Abstract:

The NRCAR is necessary to implement and supplement the government-wide Federal Acquisition Regulation, and to ensure that the regulations governing the procurement of goods and services within the NRC satisfy the needs of the agency.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer:

Ronald Minsk
Office of Information and Regulatory Affairs, NEOB-3019
(3150-0118)
Office of Management and Budget
Washington, D.C. 20503

Comments can also be submitted by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland this day of 1991.

For the Nuclear Regulatory Commission

Gerald F. Cranford, Designated Senior
Official For Information Resources
Management

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Gerald F. Cranford, Designated Senior
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