

# PUBLIC SUBMISSION

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**Docket:** FAR-2020-0053

Federal Acquisition Regulation (FAR) Information Collections – 2020

**Comment On:** FAR-2020-0053-0024

Agency Information Collection Activities; Proposals, Submissions, and Approvals: Affidavit of Individual Surety

**Document:** FAR-2020-0053-0037

Comment on FR Doc # 2020-24417

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## Submitter Information

**Email:** lleclair@nasbp.org

**Organization:** National Association of Surety Bond Producers (NASBP)

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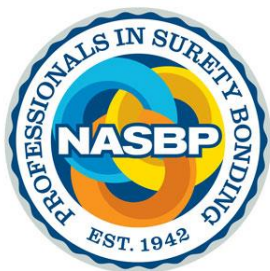
## General Comment

Please refer to attached comment letter submitted by NASBP.

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## Attachments

Comments OMB Control 90000001 Standard Form 28 Affidavit of Individual Surety Dec 2020



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December 17, 2020

William F. Clark  
Director, Office of Government-wide Acquisition Policy,  
Office of Acquisition Policy, Office of Government-wide Policy  
General Services Administration (GSA)  
1800 F Street NW, 2nd floor  
Washington, DC 20405

Delivered electronically via <http://www.regulations.gov>

**RE: OMB Control No. 9000-0001, Standard Form 28, Affidavit of Individual Surety.**

Dear Director Clark;

On behalf of the National Association of Surety Bond Producers (NASBP), a national trade association of firms employing professional surety bond producers throughout the United States and its territories, I am writing in response to the information collection notice published in the November 4<sup>th</sup> issue of the *Federal Register*, concerning **OMB Control No. 9000-0001, Standard Form (SF) 28, Affidavit of Individual Surety**. The FAR Council seeks comments pertaining to whether the proposed collection of information is “necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity....”

Although the information collection requirement included in 9000-0001, Standard Form 28, Affidavit of Individual Surety, currently exists, it may soon be superseded by proposed [FAR Case 2017-003, Individual Sureties](#), with respect to acceptable assets pledged by natural persons (noncorporate sureties), as mandated under Section 874 of the FY 2016 National Defense Authorization Act (NDAA). Specifically, Section 874 required assets pledged by individual sureties must be “eligible obligations,” defined in 31 CFR Part 225, “Acceptable Collateral for Pledging to Federal Agencies,” which is collateral limited to only public debt obligations of the United States government whose principal and interest are unconditionally guaranteed by the United States government. In turn, those assets are placed in the direct care and custody of the federal government until the completion of the bonded obligation.

NASBP submitted comments strongly supporting the individual surety rule, as outlined in the proposed [FAR Case 2017-003, Individual Sureties](#), bolstering the integrity of the federal bonding process by making certain that the assets supporting non-corporate surety bonds are sufficient and in the care of knowledgeable authorities protecting small businesses and taxpayer funds. To date, however, the FAR Council has yet to issue a final rule concerning FAR Case 2017-003.

While NASBP would support requiring individual sureties to sign sworn statements purporting to the value of their pledged assets, as per **OMB Control No. 9000-0001, Standard Form (SF) 28, Affidavit of Individual Surety**, the

renewal/revision of SF 28 is premature because it is uncertain what types of information should be solicited on SF 28, given the asset rule changes proposed in [FAR Case 2017-003, Individual Sureties](#) are yet to be implemented. Moreover, the FAR Council has proposed to extend the use of SF 28 three additional years. The proposed three-year extension is not necessary, as SF 28 in its current iteration will no longer be viable.

In response to prior information collection notices on SF 28, NASBP detailed numerous improvements needed and described instances where contracting officers neglected to collect SF 28 or collected SF 28 forms that were not fully completed, rendering them essentially pointless. Subsequently, SF 28 has proven inadequate as a means to evaluate such sureties, as there are many instances where insufficient and often fraudulent individual surety bonds have been accepted by federal contracting agencies.

NASBP requests that the FAR Council implement [FAR Case 2017-003, Individual Sureties](#) and, once implemented, create the necessary reporting requirements that will mitigate, if not eliminate, instances where individual surety bonds are accepted with worthless assets or with assets that are beyond the control of contracting officials.

Thank you for your consideration of our comments. NASBP would be happy to answer any questions you might have concerning the points made in this letter.

Yours sincerely,



Lawrence E. LeClair  
Director, Government Relations

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P R O F E S S I O N A L S   I N   S U R E T Y   B O N D I N G

cc: Ms. Zenaida Delgado, Procurement Analyst, [zenaida.delgado@gsa.gov](mailto:zenaida.delgado@gsa.gov).