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Federal Acquisition Regulation (FAR) Information Collections - 2024

Comment On: FAR-2024-0053-0018

Agency Information Collection Activities; Proposals, Submissions, and Approvals: Reporting Executive Compensation and First-tier Subcontract Awards

Document: FAR-2024-0053-DRAFT-0005

Comment on FR Doc # 2024-11523

Submitter Information

Name: Robert Tatum

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General Comment

I see very little value in the reporting of this information, and do not see in any way how this facilitates the Federal Government performing its mission. Most companies that would be subject to this reporting perform contracts as the prime in addition to being a subcontractor on some contracts. Accordingly, in the vast majority of cases this information is already in SAM. With the constant risk of cyber attacks and hacking, it is illogical to force contractors to release this information into multiple Federal data sets.

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Federal Acquisition Regulation (FAR) Information Collections - 2024

Comment On: FAR-2024-0053-0018

Agency Information Collection Activities; Proposals, Submissions, and Approvals: Reporting Executive Compensation and First-tier Subcontract Awards

Document: FAR-2024-0053-DRAFT-0009

Comment on FR Doc # 2024-11523

Submitter Information

Name: Anonymous Anonymous

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General Comment

As a small business presently subcontracting to a large prime I support this rule. I believe it supports the small business community.

PUBLIC SUBMISSION

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Federal Acquisition Regulation (FAR) Information Collections - 2024

Comment On: FAR-2024-0053-0018

Agency Information Collection Activities; Proposals, Submissions, and Approvals: Reporting Executive Compensation and First-tier Subcontract Awards

Document: FAR-2024-0053-DRAFT-0010

Comment on FR Doc # 2024-11523

Submitter Information

Email: dsmith@smithadvocacygroup.com

Government Agency Type: Tribal

Government Agency: Katmai Government Services LLC

General Comment

Comments by Katmai Government Services on the Proposed Rule to Reinstate Reporting Requirements for Executive Compensation and First-Tier Subcontract Awards

On May 24, 2020, the Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) published a notice in the Federal Register (89 FR 45894) proposing the reinstatement of a previously approved information collection concerning the reporting of executive compensation and first-tier subcontract awards. On behalf of Katmai Government Services, I am submitting comments to express our strong opposition to the reinstatement of these unnecessary and burdensome reporting requirements. (Attachment)

Attachments

KGS - Comments on FAR Council subsidiary reporting requirement - final

Comments by Katmai Government Services on the Proposed Rule to Reinstate Reporting Requirements for Executive Compensation and First-Tier Subcontract Awards

On May 24, 2020, the Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) published a notice in the Federal Register (89 FR 45894) proposing the reinstatement of a previously approved information collection concerning the reporting of executive compensation and first-tier subcontract awards. On behalf of Katmai Government Services, I am submitting comments to express our strong opposition to the reinstatement of these unnecessary and burdensome reporting requirements.

Prior Issues Leading to Non-Renewal

The Federal Acquisition Regulatory Council (FAR Council) proposes reinstating requirements under FAR 52.204-10(d)(2) and FAR 52.204-10(d)(3) for federal contractors to report information on first-tier subcontract awards and executive compensation. These requirements, previously promulgated, were not renewed after their expiration in 2010 due to several significant concerns:

1. **Administrative Burden:** The reporting requirements imposed a substantial administrative burden on federal contractors, necessitating extensive data collection and reporting on executive compensation and first-tier subcontractors. The associated compliance costs and efforts were considerable.
2. **Privacy and Confidentiality Concerns:** Reporting detailed executive compensation data raised significant privacy concerns, with potential risks of misuse or exposure of sensitive personal information.
3. **Implementation Challenges:** Ensuring consistent and accurate reporting across all contractors proved difficult, leading to concerns about the quality and reliability of the data collected.
4. **Regulatory Overlap:** The requirements overlapped with existing regulations and reporting obligations, rendering them redundant and unnecessarily burdensome for contractors already navigating multiple compliance frameworks.
5. **Cost-Benefit Analysis:** An evaluation conducted after the initial implementation found that the benefits of the rule did not justify the associated costs and challenges.

Given these significant reasons, the rule was not renewed in 2010. Strong stakeholder feedback from federal contractors and industry groups also underscored these challenges.

Current Considerations

Despite advancements in technology and data security, the original objections remain relevant:

- **Ongoing Administrative Burden:** The imposition of these reporting requirements would continue to place a heavy burden on contractors, particularly smaller businesses like ours, which have limited resources to manage additional compliance tasks. There is also no protection for the prime contractor to make a good faith effort to obtain and report the information putting the prime contractor in the untenable position of having to

comply with a reporting requirement that would be difficult and arduous to assemble and at the mercy of the subcontractor's willingness to cooperate.

- **Persistent Privacy Risks:** Privacy concerns regarding executive compensation remain critical, with ongoing risks of data breaches and misuse.
- **Complexity and Accuracy Issues:** Consistent and accurate reporting is still challenging, particularly if requirements are complex and contractors maintain records in varied formats.
- **Redundancy in Regulations:** The proposed requirements still overlap with other regulatory obligations, leading to inefficiencies and redundancies.
- **Limited Transparency Gains:** There is no clear evidence that reinstating these requirements would significantly enhance transparency or contribute to the prevention of fraud, waste, and abuse in federal contracting.
- **No Compelling Reason:** More than a decade has passed since the expiration of this reporting requirement, and nothing has occurred in the intervening time to warrant its reimposition.

Conclusion

In summary, the objections that led to the non-renewal of the rule in 2010 remain valid today and would have an adverse effect on our business. The reinstatement of these requirements would impose unnecessary burdens without yielding proportional benefits. We strongly oppose the proposed rule for the reasons outlined above and request your consideration of our comments.

Thank you for considering our perspective.

Katmai Government Services
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Federal Acquisition Regulation (FAR) Information Collections - 2024

Comment On: FAR-2024-0053-0018

Agency Information Collection Activities; Proposals, Submissions, and Approvals: Reporting Executive Compensation and First-tier Subcontract Awards

Document: FAR-2024-0053-DRAFT-0011

Comment on FR Doc # 2024-11523

Submitter Information

Email: srossetti@ala-national.org

Organization: American Logistics Association

General Comment

Comment for Submission to the Federal Register on Information Collection: Reporting Executive Compensation and First-tier Subcontract Awards

Submitted by the American Logistics Association

As the President and CEO of the American Logistics Association, I am writing on behalf of our members to express our strong opposition to the FAR Council's proposal requiring federal contractors to report first-tier subcontractor information, including potentially the compensation of top executives. This proposal represents an unacceptable overreach by the government and will impose significant burdens on companies without delivering any added value.

The American Logistics Association's mission is to promote, protect, and enhance the military resale and quality of life benefits for the U.S. military community. We represent hundreds of companies that provide services to our military commissaries, dining facilities, and other community service facilities on military bases that greatly enhance the overall quality of life for military personnel, their families, veterans, disabled veterans, and caregivers of disabled veterans.

The Notice seeks to resurrect this same requirement President Obama had proposed on June 16, 2010, early in his first term. OMB approved the proposal for a six-month period that expired on December 31, 2010. After that, the Obama Administration quietly abandoned the reporting requirement for first-tier subcontractors. The Obama proposal has lain dormant for the past 14 years, with the FAR Council and OMB seeking to resurrect this unnecessary reporting requirement. The FAR Council and OMB provide no rational or logical justification as to why they are resurrecting this reporting requirement, which we strongly oppose.

The requirement to report executive compensation and detailed subcontractor information is overly

intrusive and unnecessary. This level of reporting will lead to substantial administrative costs for companies as they gather and report this data. These costs will inevitably be passed on to the government and, by extension, to consumers in the form of higher prices at commissaries and other food points of sale.

Furthermore, the proposal fails to recognize the complexity and difficulty prime contractors will face in obtaining and verifying the required information from their subcontractors. Prime contractors often do not have access to the internal financial data of their subcontractors, particularly concerning executive compensation. The effort to gather this information will not only be time-consuming but also fraught with potential inaccuracies and legal challenges, especially considering confidentiality agreements and competitive sensitivities. Additionally, the intended use of this contractor and subcontractor use is suspect and could lead to extensive litigation that will drive up government costs to administer these contracts.

The proposed information collection offers no clear benefits that justify the extensive costs and efforts required. The data collected is unlikely to enhance transparency or accountability in a meaningful way, and the burdensome nature of the reporting requirements will discourage companies from participating in federal contracting, ultimately reducing competition and innovation.

In conclusion, I urge the FAR Council and the Office of Management and Budget to reconsider this proposal. It is an unnecessary and costly overreach that will drive up costs for businesses, the government, and consumers alike. There are more effective and less intrusive ways to achieve transparency and accountability in federal contracting without imposing such onerous requirements.

Thank you for considering these comments.

Sincerely,

Stephen Rossetti
President, CEO
American Logistics Association

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Federal Acquisition Regulation (FAR) Information Collections - 2024

Comment On: FAR-2024-0053-0018

Agency Information Collection Activities; Proposals, Submissions, and Approvals: Reporting Executive Compensation and First-tier Subcontract Awards

Document: FAR-2024-0053-0029

Comment on FR Doc # 2024-11523

Submitter Information

Organization: National Industry Liaison Group

General Comment

See attached file(s)

Attachments

NILG Comment re Reporting Subcontract Info 072224



July 22, 2024

Electronic Submission via Regulations.gov

**Re: National Industry Liaison Group's Comment on OMB Control No. 9000-0177,
Reporting Executive Compensation and First-tier Subcontract Awards**

To Whom It May Concern:

The National Industry Liaison Group (NILG) welcomes the opportunity to comment on the Notice published in the May 24, 2024, edition of the *Federal Register* regarding OMB Control No. 9000-0177, Reporting Executive Compensation and First-tier Subcontract Awards

By way of background, the NILG was created over thirty years ago as a forum for the Office of Federal Contract Compliance Programs and federal contractors to work together towards equality in the workplace. Throughout the country, local Industry Liaison Groups ("ILGs") have formed to further this unique partnership of public and private sector cooperation to proactively advance workplace equal employment opportunity. The NILG Board is comprised of elected members representing the local ILGs from across the country. Over the years, the NILG and the ILGs, which are comprised of thousands of small, mid-size, and large employers across the country, have reached out to the OFCCP and other agencies, such as the U.S. Equal Employment Opportunity Commission, with mutual goals of fostering a non-discriminatory workplace. Therefore, in response to the Notice, the NILG seeks to present the views of well over sixty local ILGs and their members.

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration (collectively "agencies") propose to reinstate an information collection requirement. If reinstated, contractors would be required to report information to the Federal Subaward Reporting System (FSRS) regarding their first-tier contracts for each subcontract valued at \$30,000 or more. In addition, contractors would be required to report the names and total compensation of the five most highly compensated executives for some of their first-tier subcontractors.

The NILG opposes the reinstatement of this information collection because of the burden it would place on contractors. Notably, many contractors would be unable to respond to this request. Most federal contractors work with a variety of subcontractors and vendors (in the generic sense), only a portion of which would be considered *federal* subcontractors. Organizations do not usually differentiate between which entities perform federal or non-federal work. This information collection would require federal contractors to determine *each and every time* a new agreement is signed whether the entity with which it contracts is providing goods or services necessary to the

performance of its covered contracts. Often, this is not readily discernible and would necessitate the involvement of multiple individuals or departments, such as procurement, legal, and administrative services. When the performance of that analysis is multiplied by the number of new agreements, the burden can become overwhelming and bog down an often time-sensitive process.

Further, the requirement to report compensation of individuals employed by an entirely different entity is unrealistic. Contractors do not have access to this sensitive personnel information (which most non-public entities closely guard and do not publicly release), and contractors must therefore rely on the entities with which they contract to provide timely and accurate information.

In addition, each and every time a contractor enters into a new agreement, and after the analysis discussed above is completed, the contractor would be required to determine whether the federal subcontractor meets the reporting thresholds:

- (i) In the subcontractor's preceding fiscal year, the subcontractor received:
 - (A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and
 - (B) \$25 million or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and
- (ii) The public does not have access to information about the compensation of the executives through periodic reports to the Securities and Exchange Commission.

Again, this is not information to which contractors have access and that could potentially change each year.

Thus, to the extent the agencies determine that information regarding subcontractors' executive compensation is deemed necessary and appropriate, the agencies should obtain it directly from subcontractors and eliminate the "middleman" approach to reporting.

The NILG also submits that the agencies' burden estimate is woefully low. The estimate of twelve hours per contractor each year fails to adequately account for the processes described above – the need for multiple individuals to determine whether each and every agreement is reportable and then, for those agreements that are reportable, to obtain the required compensation information from the subcontractor. This multi-step process for each agreement, combined with the actual physical act of reporting the information to FSRS could require several hours per agreement for each contractor.

Thus, the NILG respectfully requests that the agencies reconsider the reinstitution of this record collection to ease the already formidable burdens associated with federal contracting. These additional requirements will have the unintended consequence of discouraging companies from doing business with the federal government, which will reduce the availability of suppliers for the federal government and result in inefficiency and increased costs.

We thank you for your consideration of our comments.

Respectfully submitted,

Anthony Kaylin

Anthony Kaylin
Chair, National Industry Liaison Group