

June 27, 2017

PSC Comments [on GSA Information Collection 3090-0292, FFATA Subaward and Executive Compensation Reporting Requirements, April 28, 2017](#)

Submitted via Regulations.gov

Comment:

On behalf of PSC and its Smart Contracting Working Group, I am pleased to submit comments on this information collection. We believe the information collection is not necessary; the government does not use the information provided for any meaningful purpose; industry's reporting burden is substantially underestimated; and the requirement (and underlying statute) should be eliminated.

1. Whether the information collection is necessary and has practical utility

The information collection is not necessary. The Federal Funding Accountability and Transparency Act, as amended, requires covered contractors to report total compensation of the top five executives for both contractors and first-tier subcontractors. The sponsors of the enacting legislation stated, "Government officials will be less likely to earmark funds for special projects if they know the public could identify how much money was awarded to which organizations and for which purposes," but the implementing regulations did not explain how executive compensation reporting would ever be able to further this objective. Simply, there is no connection between executive compensation and services provided. Nevertheless, the FAR Council issued a final rule asserting only that: "This rule implements a statutory requirement for the disclosure of executive compensation." Since then, no perceptible benefit to the government has been demonstrated. Conversely, the requirements have been a deterrent and barrier to entry for prospective government contractors, limiting potential competition, and imposing an unnecessary burden on contractors serving government missions—directly counter to the government's goal of increased value for taxpayer money.

Furthermore, there is a significant question regarding data accuracy. A December 2016 article by Bloomberg BNA found that data on the Treasury Department USAspending.gov website includes contractor compensation figures that are clearly inaccurate. Compensation data show a range from billions of dollars to \$200 in a given year, including 30 executives who allegedly earned at least \$100 million. Among them is a former NASA administrator who reportedly earned \$953,842,270,208 in one year, or just shy of \$1 trillion, as a contractor CEO. Finally, no one in government that the article's authors could find is keeping watch over the data, except the Government Accountability Office. Yet in its most recent report on the topic, GAO—which estimated that fewer than 10 percent of awards on USAspending.gov contained information fully consistent with agency records—conceded that because it couldn't verify compensation information provided by contractors, it couldn't test whether the data was accurate.

2. Whether the estimates for collection are accurate and based upon valid assumptions and methodology

We do not believe the man-hour collection estimates are accurate. The government estimates one hour per response for both executive compensation and subaward reporting. However, a June 2015 government disclosure estimated the total *annual* burden associated with the reporting requirements of FAR 52.204-10 (Reporting Executive Compensation and First-Tier Subcontract Awards, OMB Control No. 9000-0177) just for reporting executive compensation at \$2,483,156. These estimates significantly understate the time and cost to contractors to research, request, collect and clarify the data, and exclude gathering and reporting executive compensation for subcontractors. We estimate the cost is at least 10-20 times the government estimate. Irrespective of what it costs to comply, if the data has no value to the government or the public, why burden the contracting community to collect and report it?

3. Recommendations & Rationale

Based on ineffective outcomes to date and the lack of any perceptible value for the agencies or the public, we recommend that Congress repeal the mandate for reporting executive compensation and the FAR Council rescind FAR 52.204-10. This will save millions and liberate additional resources to focus on what matters most—achieving the missions of government and serving taxpayers. Until the statute is repealed, we urge suspending the reporting requirement.

In keeping with the January 30, 2017 Executive Order on “Reducing Regulation and Controlling Regulatory Costs,” which directs that “for every one new regulation issued, at least two prior regulations be identified for elimination,” we submit that this requirement is a perfect candidate for elimination.

References:

- 1) [“Blackwater to Faux-Billionaires: Fed’s Exec Pay Data Flawed.”](#) Reproduced with permission from [Daily Report for Executives](#), 240 DER (December 14, 2016). Copyright 2016 by The Bureau of National Affairs, Inc. (800-372-1033) <<http://www.bna.com>>
- 2) [PSC Smart Contracting Working Group White Paper: Executive Compensation Reporting](#). May 5, 2016.