

Supporting Statement

A. Justification

1. This is a request for revision of the information collection requirement currently approved in the amount of 9,448 hours under OMB Control Number 0704-0272, which expires October 31, 2007. The information collection requirement currently covers the Defense Federal Acquisition Regulation Supplement (DFARS) Part 223 and related clauses at 252.223, with the exclusion of 980,096 hours related to the drug-free workplace. These hours are currently approved under OMB Control Number 0704-0336, which expires December 31, 2007. Under this revision request, we are combining all the Part 223 information collection requirements under one clearance, entitled "Defense Federal Acquisition Regulation Supplement (DFARS) Part 223, Occupational Safety and Drug-Free Work Force, and Associated Clauses at DFARS 252.223," and request the cancellation of OMB Clearance 0704-0336.

This information collection requirement pertains to recordkeeping, or information that an offeror/contractor must submit to the Department of Defense (DoD) in response to the following solicitation provisions and contract clauses in DFARS 252.223, as required by 48 CFR Chapter 2, Part 223 (available at <http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>)

- a. DFARS 252.223-7001, Hazard Warning Labels.
- b. DFARS 252.223-7002, Safety Precautions for Ammunition and Explosives.
- c. DFARS 252.223-7003, Change in Place of Performance- Ammunition and Explosives.
- d. DFARS 252.223-7007, Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives.

e. In addition, DFARS 252.223-7004, Drug-Free Work Force, requires that some contractors maintain records necessary to demonstrate reasonable efforts to eliminate the unlawful use by contractor employees of controlled substances. DoD does not regularly collect any information with regard to drug-free workplace. This information collection requirement-

- i. Applies to contracts that involve contractor access to classified information;
- ii. Applies to any other contract if the contracting officer determines that it is necessary for reasons of national security, or to protect the health or safety of those using the product, or those that may be affected by the performance of the contract; and

iii. Does not apply to contracts for commercial items or to contracts performed outside of the United States.

2. The information collected under clauses 252.223-7001, -7002, -7003, and -7007 is used by DoD contracting officers to-
- a. Verify compliance with requirements for labeling of hazardous material;
 - b. Ensure compliance of contractors with the DoD 4145.26-M, DoD Contractor's Safety Manual for Ammunition and Explosives, and the schedule provisions, so that contractors take reasonable precaution in handling ammunition and explosives; minimize risk of future mishaps;
 - c. Monitor subcontract compliance with DoD 4145.26-M; and
 - d. Monitor subcontract compliance with DoD 5100.76-M, "Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives."

The records kept by the contractor with regard to programs for achieving the objective of a drug-free workplace will be used to document compliance with the requirements of the clause.

3. Improved information technology is used to the maximum extent practicable. In compliance with the Government Paperwork Elimination Act (Pub. L. 105-277), DoD provides the option for the electronic submission of information, when practicable, as a substitute for paper. For example, the Federal Acquisition Regulation (FAR), which the DFARS implements and supplements, indicates at FAR 15.203(c) that "electronic commerce may be used to issue RFPs and to receive proposals, modifications, and revisions." In addition, FAR 2.101 defines the terms "in writing" and "written" to include "electronically transmitted and stored information. Standardized or repetitive data is not involved. Contractors may, however, submit any required information in formats that are compatible with their automated systems. With regard to the requirements relating to drug-free workforce programs, the contractor is not normally required to submit any information to DoD.

4. These rules apply only to DoD and do not duplicate any other regulations. Similar information is not readily available from any other source.

5. The collection associated with small businesses is the minimum consistent with applicable laws, regulations, and prudent business practices.

6. The frequency for collecting this information was reviewed by the DoD specialists who are most knowledgeable of the

requirements and the need for the information. Every attempt has been made to keep the frequency of collection to a minimum without jeopardizing the ability of the Government to assure that contractors are performing the contractual requirements. Collecting this information less frequently would impede contracting officers from making informed contract award decisions and from performing their administrative functions in an effective and efficient manner.

a. DFARS 252.223-7001. All offerors responding to a solicitation must provide the list of hazardous materials required in paragraph (c). Only the apparently successful offeror must provide the hazard warning label(s) required by paragraph (d).

b. DFARS 252.223-7002. The information required by this clause is collected upon occasion, if the contractor is noncompliant with the manual, if there is a mishap, or before issuing a subcontract that involves ammunition or explosives.

c. DFARS 252.223-7003. Information relating to place of performance of ammunition and explosives work is collected in response to individual solicitations, and if there is any subsequent change in the place of performance.

d. DFARS 252.223-7007. The information collection is required within 10 days after award of a subcontract involving sensitive conventional arms, ammunition, and explosives.

e. With regard to the requirements of DFARS 252.223-7004 relating to drug-free workforce programs, the contractor is not normally required to submit any information to DoD. If contractors fail to maintain records documenting an adequate drug-free workforce program, the result may be an inadequate program, leading to increased costs, delays, and equipment failures resulting from the use of illegal drugs by contractor employees.

7. The information will not be collected in a manner that requires an explanation of special circumstances.

8. Public comments were solicited in the Federal Register on May 22, 2007 (72 FR 28689) (TAB B), as required by 5 CFR 1320.8(d)).

Comment: We received one public comment, from Deo Brodbeck (TAB C). The respondent states that "the proposed regulations will add hundreds of millions of dollars to the US Army budget." The respondent believes that small arms ammunition safety is

adequately covered in US Army regulations and there is no need to increase any requirements for the U.S. Army.

Response: This is not a new regulation and does not increase any requirements for the U.S. Army. It is a request for extension of the information collection requirement for existing DFARS regulations. Our estimate of the burden on the contractor that relates to small arms ammunition is a total of 3,096 hours for 332 respondents, with an approximately equal amount of time required for Government to review the information provided. Because of the risks associated with manufacture of arms and ammunition, Government safety experts consider it vital to know where this effort will be performed, and if such effort is subcontracted. It is particularly necessary for the contractor to respond with a corrective action plan if the contractor has been cited for noncompliance with certain safety standards, and to notify the contracting officer if there is a mishap involving ammunition or explosives. Because the respondent did not provide any justification for the statement about "adding hundreds of millions to the US Army budget," we have not made any adjustment to our estimates.

9. No payment or gift will be provided to respondents to this information collection requirement.

10. The information collected will be disclosed only to the extent consistent with prudent business practices, current regulations, and in accordance with the requirements of the Freedom of Information Act. No assurance of confidentiality is provided to respondents.

11. No sensitive questions are involved.

12. The estimated hour burden of the collection of information and the estimated annualized cost to respondents were based on estimates from contracting or subject matter professionals. We do not estimate any change in the burden hours from the previously approved information collection requirements.

a. 252.223-7001, Hazard Warning Labels, paragraphs (c) and (d). This clause is prescribed at DFARS 223.303, for use in solicitations and contracts which require submission of hazardous material data sheets. FAR 23.302(c) requires submission of material safety data sheets as specified in the latest version of Federal Standard No. 313 and for any other material designated by a Government technical representative as potentially hazardous and requiring safety controls. We estimate that a total of 1530 contracts are awarded annually for the procurement of hazardous materials.

(i) Paragraph (c) requires all offerors to provide a list of hazardous materials that will be labeled in accordance with one of the statutes delineated in paragraphs (b)(1) through (5), instead of the Hazard Communication Standard. We estimate that 1,148 (75% of the total 1,530 contracts) will require the list in accordance with paragraph (c). We estimate 5 responses per solicitation (1148 x 5 = 5740 responses), 6 responses per respondent (5740 / 6 = 956 respondents), and an average of 1 hour per response. We have estimated a cost of \$36.00 per hour (the equivalent of a GS-11, step 5 salary, plus 32.45 percent burden):

Respondents	956
Responses/respondent	x 6
Responses	5,740
Hours per response	<u>x 1</u>
Total hours	5,740
Cost per hour	<u>x \$36</u>
Total annual cost to public	\$206,640

*Cost per hour is based on the equivalent of a GS-11, step 5 salary, plus 32.45 percent fringe benefit rate.

(ii) Paragraph (d) requires only the successful offeror to submit, before award, a copy of the hazard warning label for all hazardous materials not listed in paragraph (c) of the clause. Based on an estimate that 80 percent of the contracts awarded will involve hazardous material not listed in paragraph (c), we estimate 1,224 responses (1,530 x .8 = 1,224), 1.5 responses per respondent, .5 hours per response, and an estimated cost of \$24.00 per hour (the equivalent of a GS-7, step 5 salary, plus 32.45 percent burden):

Respondents	816
Responses/respondent	x 1.5
Responses	1,224
Hours per response	<u>x .5</u>
Total hours	612
Cost per hour	<u>x \$24.00</u>
Total annual cost to public	\$14,688

(iii) Combination of (i) and (ii) above (respondents in (ii) are a subset of respondents in (i), and are therefore not additive) results in the following:

Respondents	956
Responses/respondent	x 7.28
Responses	6,964
Hours per response (hrs./resp.)	<u>x .91</u>
Total hours	6,352
Cost per hour	<u>x \$34.84</u>

Total annual cost to public \$221,328

b. 252.223-7002, **Safety Precautions for Ammunition and Explosives, paragraphs (c), (d), and (g)**. This clause is prescribed in 223.370-5, for use in solicitations and contracts for acquisitions involving the use of ammunition and explosives.

(i) Paragraph (c)(2) requires the Contractor, within 30 days of notification of noncompliance, to notify the Contracting Officer of actions taken. Based on the estimates of DLA explosives/safety experts, we estimate 332 contractors handling explosives, and we estimate that 80 percent of these contractors (258) will have 1 or more noncompliances and require corrective action (average of 1.5). Those contractors will be notified of some sort of noncompliance requiring corrective action, for a total of 387 corrective actions per year (258 x 1.5). Some of these actions are minor, while other corrective actions are more extensive. We estimate that, on the average, it takes the contractor 1 hour to report the corrective action taken. We estimate a cost per hour of \$43.000 (the equivalent of a GS-12, step 5 salary, plus 32.45 percent burden):

Respondents	258
Responses/respondent	x 1.5
Responses	387
Hours per response (hrs./resp.)	x 1
Total hours	387
Cost per hour	x 43
Total annual cost to public	\$16,641

(ii) Paragraph (d)(1) requires contractors to notify the contracting officer immediately of any mishaps involving ammunition or explosives. Paragraph (d)(3) requires the contractor to submit a written report of the investigation to the contracting officer. Based on DLA safety data, we estimate an average of 15 mishaps per year, 1 response per respondent, 124 hours per response, at a cost of \$32.00 per hour (equivalent of a GS-12, step 5 salary, plus 32.45 percent burden):

Respondents	15
Responses/respondent	x 1
Responses	15
Hours per response (hrs./resp.)	x 24
Total hours	360
Cost per hour	x \$43
Total annual cost to public	\$15,480

(iii) Paragraph (g)(4) requires contractors to notify the contracting officer when placing a subcontract for ammunition or

explosives. There is no information available to indicate how often contractors place subcontracts for ammunition and explosives. However, DLA safety experts estimate an average of 6 responses per respondent. We estimate .25 hours per response, at a cost of \$24 per hour (equivalent of a GS-7, step 5 salary, plus 32.45 percent burden):

Respondents	332
Responses/respondent	x 6
Responses	1,992
Hours per response (hrs./resp.)	x .25
Total hours	498
Cost per hour	x \$24
Total annual cost to public	\$11,952

(iv) Combination of (i), (ii), and (iii) above (respondents in (i) and (ii) are a subset of respondents in (iii), and are therefore not additive) results in the following:

Respondents	332
Responses/respondent	x 7.2
Responses	2,394
Hours per response (hrs./resp.)	x .52
Total hours	1,245
Cost per hour	x \$35.40
Total annual cost to public	\$44,073

c. 252.223-7003, Changes in Place of Performance—Ammunition and Explosives, paragraphs (a), (b), and (c). This clause is prescribed in 223.370-5, for use in solicitations and contracts for acquisitions involving the use of ammunition and explosives.

(i) Paragraph (a) requires the offeror to identify, in the "Place of Performance" provision of the solicitation, the place of performance of all ammunition and explosives work covered by the Safety Precautions for Ammunition and Explosives clause of the solicitation. We estimate 2,425 responses (485 solicitations x 5 responses per solicitation). Using the estimate of 332 respondents established in paragraph b, we calculate an average of 7.3 responses per respondent (2423/332 = 7.3). We further estimate .1 hours per response, at a cost of \$22.00 per hour (equivalent of a GS-9, step 5 salary, plus 32.45 percent burden):

Respondents	332
Responses/respondent	x 7.3
Responses	2,425
Hours per response (hrs./resp.)	x .1
Total hours	242
Cost per hour	x \$29
Total annual cost to public	\$7,018

(ii) Paragraphs (b) and (c) require the contractor to obtain written permission from the contracting officer before changing the place of performance after the date set for receipt of offers or after contract award. DLA safety experts estimate that offerors/contractors change the place of subcontract performance about 75 percent of the time. We estimate 1,494 responses, based on 1,992 subcontracts (see b(iii) above), 5 responses per respondent (6 x .8), 1 hour per response, and a cost of \$22.00 per hour (equivalent of a GS-9, step 5 salary, plus 32.45 percent burden):

Respondents	299
Responses/respondent	<u>x 5</u>
Responses	1,494
Hours per response (hrs./resp.)	<u>x 1</u>
Total hours	1,494
Cost per hour	<u>x \$29</u>
Total annual cost to public	\$43,326

(iii) Combination of (i) and (ii) above (respondents in (ii) are a subset of respondents in (i), and are therefore not additive) results in the following:

Respondents	332
Responses/respondent	<u>x 11.8</u>
Responses	3,919
Hours per response (hrs./resp.)	<u>x .44</u>
Total hours	1,736
Cost per hour	<u>x \$29.00</u>
Total annual cost to public	\$50,344

d. 252.223-7007, Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives, paragraph (e). This clause is prescribed in 223.7203, for use in solicitations and contracts for acquisitions involving items within the scope (Chapter 1, paragraph B) of DoD 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunitions, and Explosives (AA&E). Paragraph (e) requires the contractor to notify the cognizant Defense Security Service (DSS) field office within 10 days of any subcontract involving AA&E. We have made no change to the prior estimate of 230 respondents, 1 response per respondent, .5 hours per response. The hourly cost of the equivalent of a GS-11, step 5 has increased to \$36.00.

Respondents	230
Responses/respondent	<u>x 1</u>
Responses	230
Hours per response (hrs./resp.)	<u>x .5</u>

Total hours	115
Cost per hour	x \$36.00
Total annual cost to public	\$4,140

e. **252.223-7004, Drug-Free Work Place.** This clause is prescribed at 223.570-2, for use in for use in contracts that involve access to classified information or when the contracting officer determines that the clause is necessary for reasons of national security or for the purpose of protecting the health or safety of those using or affected by the product of, or performance of, the contract.

Recordkeeping burden hours.

	Small Businesses	Large Businesses	Total
Total # of DoD contractors	45,000	18,072	63,072
% supplying only commercial items	x 50%	x 50%	
Noncommercial items contractors:	22,500	9,036	31,536
% performing work in the US:	x 96.5%	x 88%	
	21,712	7,952	29,664
% performing sensitive contracts:	x 50%	x 90%	
Total number of recordkeepers:	10,856	7,156	18,012
Recordkeeping hours			48
Per year, per contractor:			
Total recordkeeping burden hours:			864,576
*Cost per hour:			\$29.00

Total annual cost burden: \$25,072,704
 * Cost per hour. Based on GS-09, step 5 salary, FY2007, plus 32.45 percent fringe benefit rate.

B. Start-up recordkeeping.

	Small Businesses	Large Businesses	Total
# of recordkeepers:	10,856	7,156	18,012
% establishing programs per year	x 10%	x 5%	
# of new programs per year:	1,086	358	1,444
Start-up hours per new program:			80
Total start-up burden hours:			15,520
Cost per hour:			\$60.00
Total annual start-up cost burden:			\$6,931,200

Note 1: % of contractors establishing programs per year are estimates by technical experts.
 Note 1: Cost per hour. Based on GS-14, step 5 salary, CY 2007, plus 32.45 percent fringe benefit rate.

Summary

Total number of recordkeepers: 18,012
 Total annual burden hours: 980,096

13. There are no capital start-up or operational and maintenance costs associated with this information collection.

14. The time required for Government review and analysis of the information submitted by offerors and contractors is 9,448 hours and the associated annual cost to the Government is estimated to be approximately \$319,885. This estimate is based on the assumption that it will take the Government approximately the same amount of time and the same level of personnel to review and analyze the information as it takes the offeror/contractor to prepare it. For details, see the matrix at TAB A.

15. The estimated burden hours in the information collection requirements currently approved under OMB Clearance 0704-0272 have not changed (9,448 hours), but the 980,096 hours from OMB Clearance 0704-0336 have been incorporated for administrative efficiency, so that that clearance may be closed.

16. Results of this information collection will not be published.

17. We do not seek approval not to display the expiration date for OMB approval of the information collection.

18. There are no exceptions to the certification accompanying this Paperwork Reduction Act submission. The information to respondents required by 50 CFR 1320.8(b)(3) will be provided in a separate Federal Register notice announcing the OMB approval of this collection of information.

B. Collections of Information Employing Statistical Methods.

Results will not be tabulated. Statistical methods will not be employed.