

SUPPORTING STATEMENT

Regulation on Agency Protests

(OMB No. 1600-0004)

A. JUSTIFICATION.

1. Circumstances Making the Collection of Information Necessary

The Federal Acquisition Regulation ((FAR); 48 CFR Chapter 1 provides general procedures on handling protests submitted by contractors to federal agencies. This regulation provides detailed guidance for contractors doing business with acquisition offices within the Department of Homeland Security (DHS) to implement the FAR. FAR Part 33.103, Protests, Disputes, and Appeals prescribe policies and procedures for filing protests and for processing contract disputes and appeals.

DHS will not be asking for anything outside of what is already required in the FAR. Should anything outside the FAR arise, DHS will submit a request for Office of Management and Budget (OMB) approval.

2. Purpose of Use of the Information Collection

The information being collected will be obtained from contractors as part of their submissions whenever they file a bid protest with the Department's Components. The information will be used by DHS officials in deciding how the protest should be resolved. Failure to collect this information would result in non-uniform or unclear submissions and delayed resolution of agency protests.

3. Use of Improved Information Technology and Burden Reduction

Agency protest information is contained in each individual solicitation document; giving the specified contracting officer's name, email, and mailing address that the contractor's would use to submit its response. The automated processing envisioned by the agency statement for this ICR was that the contractor would use email or facsimile devices to submit its time sensitive responses to the specified government person. Since the responses must meet specific timeframes to the specified contracting officer, a centralized mailbox or website would not be an expeditious or practical method of submission. The use of email or facsimile to the specified contracting officer is the best solution and commonly used in the government protest process.

4. Efforts to Identify Duplication and Use of Similar Information

Government Accountability Office (GAO) bid protest regulations provide that protests may be filed with GAO if the protestor does not receive satisfaction from the agency. The format for agency protests in the regulation generally follows that in GAO's regulations (4 CFR 21.1) to avoid duplication of effort.

5. Impact on Small Business or Other Small Entities

This information collection may or may not involve small business contractors, depending on the particular transaction. The burden applied to small businesses is minimal and consistent with the goals of achieving timely resolution of agency protests.

6. Consequences of Collection the Information Less Frequently

This information collection is collected only when contractors choose to file a protest. The information is requested from contractors so that the Government will be able to evaluate protests effectively and provide prompt resolution of issues in dispute when contractors file agency level claims.

7. Special Circumstances Relating to the Guidelines of 5CFR 1320.5

There are no special circumstances that would cause this information collection to be conducted in a manner outside the procedures in the FAR and the Government Accountability Office's Bid Protest Rules.

8. Efforts to Consult Outside the Agency

On August 23, 2007, at 72 FR 48290, DHS/OCPO published a 60-Day Notice in the Federal Register allowing for public comment. Comments were due on October 23, 2007, and none were received from the public in response to the notice.

9. Explanation of Payments and Gifts to Respondents

There will be no payments or gifts made to respondents for this information collection.

10. Assurance of Confidentiality Provided to Respondents

There are no assurances of confidentiality for this information collection.

11. Justification for Sensitive Questions

Questions of a personal or private nature are not asked in agency protests.

12. Estimates of Annualized Burden Hours and Costs

Based on current protest activity, we expect an estimated 50 protests per year, and we estimate that each submission involved a burden of two hours, for a total annual burden of 100 hours.

Annual Reporting Burden:

a. Number of Respondents	50
b. Number of Responses per Respondent	1
c. Total Annual Responses	50
d. Hours per Response	2
e. Total Annual Reporting Burden	100

13. Estimates of annualized capital and start-up costs.

There are no capital or start-up costs associated with this information collection.

14. Annualized Cost to the Federal Government

The size and complexity of each agency protest is unique and dependent upon the circumstances of the particular acquisition and the contractor's objections to aspects of the transactions, such as methodology used, timeliness of receipt, location receipt, mishandling receipt, etc. A description of the response methods used could range from a single paged typed document to a detailed submission of multiple pages with computations, statement, etc which would depend on the situation, opinions, and objections presented by the protesting contractor. Federal acquisition solicitations are not entirely repetitive in nature, so there are no set standard recurring annual costs associated with protest responses.

15. Explanation of Program Changes or Adjustments

There has been a slight adjustment in annual respondent and burden hours to reflect a decrease in the amount of actions by 4 (54-50) and thus reducing the hour burden by 8 hours (108 – 100), this is based on current protest activity. An adjustment to the number of hours was made not resulting from a result of a deliberate program change, but from a new estimate of actions that are not controllable by the Federal government.

16. Plans for Tabulation and Publication

DHS/OCPO does not intend to employ the use of statistics, or publication thereof for this information collection.

17. Reason(s) Display of OMB Expiration Date is Inappropriate

There are no forms associated with this information collection; however DHS/OCPO will display the expiration date on all appropriate documentation upon approval.

18. Exceptions to the Certification of the Paperwork Reduction Act Submissions

There are no exceptions to the certification statement.

COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

The collection does not employ statistical methods.