

OMB CASE 0704-0321
SUPPORTING STATEMENT

A. JUSTIFICATION

1. This is a request for an extension of OMB Control Number 0704-0321, which will expire on July 31, 2009. This request covers the requirement for the collection of information relating to Defense Federal Acquisition Regulation Supplement (DFARS) Part 232.502-4-70(a), Progress Payments for Foreign Military Sales (FMS) Acquisitions, and the related clause at 252.232-7002, Progress Payments for Foreign Military Sales Acquisitions (see Tab A). The Arms Export Control Act requires, in the absence of a special Presidential Finding, that the U.S. Government purchase military equipment for foreign governments using foreign funds and without any charge to U.S. appropriated funds. In order to comply with this requirement, the Government needs to know how much to charge each country as progress payments are made for foreign military sales (FMS) purchases. The Government can only obtain this information from the contractor preparing the progress payment request. The clause at 252.232-7002, requires a contractor, whose contract includes FMS requirements, to submit a progress payment request with a supporting schedule that clearly distinguishes the contract's FMS requirements from U.S. contract requirements.

2. The Government uses this information to determine how much each country's funds to disburse to the contractor. Absent this information, the Government would be unable to pay the FMS portion of the progress payment request, thereby breaching its contractual duties, with subsequent damages payable to the contractor; the Disbursing Officer would commit a statutory violation in wrongfully disbursing U.S. funds contrary to the Congressional instructions for payments for FMS work; or the U.S. Government would violate its fiduciary duty to the foreign country whose funds are improperly disbursed for some other country's purchases.

3. A procedure has been implemented that allows Contractors to submit, and DoD to process, progress payments electronically. This method of collection was adopted to reduce input errors and increase cash flow.

4. As a matter of policy, DoD reviews the Federal Acquisition Regulation (FAR) to determine if adequate language already exists. The language in DFARS 252.232-7002 applies solely to DoD, and is not considered duplicative of the language in the FAR. Similar information is not readily available.

5. The burden applied to small businesses is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

6. The frequency for collecting this information is determined by the frequency of the contractor's submission of progress payment requests, but is limited to monthly. This limitation is imposed by FAR 52.232-16, Progress Payments, which is a required clause in Government and FMS fixed-price contracts under which the Government will provide progress payments based on costs. Every attempt has been made to keep the frequency of collection to a minimum without jeopardizing the ability of the Government to determine how much of each country's funds to disburse to the contractor.

7. Collection of this information does not require any of the characteristics of collection cited at 5 CFR 1320.5(d)(2).

8. Collection is consistent with the guidelines in 5 CFR 1320.6. Public comments were originally solicited in the Federal Register (74 FR 22528, May 13, 2009) (see Tab D). No public comments were received.

9. No payment or gift will be provided to respondents, other than remuneration of the contractors under their contracts.

10. This information is disclosed only to the extent consistent with prudent business practices, current regulations, and statutory requirements.

11. No sensitive questions are involved.

12. Estimate of public burden. The only affected entities are those who choose to sell goods and services through FMS arrangements and obtain progress payments type of financing. We estimate that the total cost to the public is as follows:

A.	Number of respondents ¹	295
B.	Responses per respondent ²	12
C.	Total annual responses	3,540
D.	Hours per response ³	.5
E.	Total response hours	1,770
F.	Number of recordkeepers	295
G.	Hours per recordkeepers	12

¹ This number is based on Fiscal Year 2008 FPDS-NG information for FMS Progress Payments over \$25,000.

² Since the responses are actually contractor requests for payment, we estimate the responses per respondent to be the maximum allowed by the Progress Payment clause at 52.232-16.

³ The hours per response consist of the estimated marginal increase in internal accounting or management activity necessary to distribute the contractor incurred costs to customer countries, for progress payment purposes, when a contract contains FMS requirements.

H.	Total recordkeeping hours	3,540
I.	Total public burden hours	5,310
J.	Cost per hour ⁴	\$30.30
K.	Total annual estimate of public burden	\$160,893.00

13. We estimate that there are no nonrecurring expenses, (e.g., capital and start-up, or operation and maintenance costs). The clause at 252.232-7002 is authorized for use when the Clause at FAR 52.232-16, Progress Payments, is used as a method of contract financing, and the contract includes FMS requirements. Paragraph (f) of 52.232-16 states that "The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause." Our assessment is that, normally, this system and related controls are in place prior to obtaining a contract for FMS supplies and services since they are required in order for the contractor to receive progress payments for U.S. supplies and services. Therefore, there is no additional non-recurring charge needed to establish or substantially revise the accounting system already in place.

14. Annual cost to the Government. The time estimates are based on receiving, reviewing, analyzing the information submitted by the contractor. We estimate that the time associated with this task is 1 hour per response.

A.	Number of respondents	295
B.	Responses per respondent	12
C.	Total Annual responses	3,540
D.	Hours per response	1
E.	Total hours	3,540
F.	Cost per hour ⁵	\$30.30
G.	Total amount	\$107,262.00

15. The estimate of public burden hours has not changed.

16. Results of this collection will not be published.

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

18. There are no exceptions to the certification accompanying this Paperwork Reduction Act submission.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

⁴ Based on GS-09 step 5 salary (\$22.24) plus 36.25 percent burden. This burden rate was derived from the Office of Personnel Management (updated through transmittal memorandum January 14, 2009).

⁵ Based on GS-09 step 5 salary (\$22.24) plus 36.25 percent burden. This burden rate was derived from the Office of Personnel Management (updated through transmittal memorandum January 14, 2009).

Statistical methods will not be employed.