

Supporting Statement  
(0704-0229)

A. Justification

1. This is a request for extension and revision of the expiration date of the information collection requirement currently approved under OMB Control Number 0704-0229 for Defense Federal Acquisition Regulation Supplement Part 225, Foreign Acquisition and related clauses at Part 252.225. The approval for 0704-0229 expires on May 31, 2007.

We estimate a reduction of 303,900 burden hours (from 352,380 to 48,480) because final rules were issued eliminating several requirements associated with Part 225 (2005-D011, October 4, 2006, 71 FR 58539; and 2003-D021, March 21, 2006, 71 FR 14110) (see matrix at TAB A).

This information collection requirement pertains to information that an offeror/contractor must submit to the Department of Defense (DoD) in response to the requirements of the provisions and clauses in DFARS Subpart 252.225. In general, this information collection requirement implements the laws and policies relating to international acquisition, such as—

- The Buy American Act (41 U.S.C. 10a-10d and E.O. 10582);
- The Trade Agreements Act (19 U.S.C. 2501-2515), including the World Trade Organization Government Procurement Agreement and various free trade agreements;
- Preference for certain domestic commodities (10 U.S.C. 2533a and 10 U.S.C. 2533b);
- Advance notification of contract performance outside the United States and Canada (10 U.S.C. 2410g);
- Defense memoranda of understanding and related agreements (10 U.S.C. 2531);
- Determination of public interest under the Buy American Act (10 U.S.C. 2533);
- Miscellaneous limitations on the procurement of goods other than United States goods (10 U.S.C. 2534); and
- Domestic source restrictions in the annual defense appropriations acts (e.g., Section 222 of Pub. L. 100-180 and Section 8064 of Pub. L. 106-259).

This clearance covers the following requirements in 48 CFR Chapter 2 (DFARS, available via the Internet at <http://www.acq.osd.mil/dp/dars>):

a. Buy American Act, Balance of Payments Program, Trade Agreements.

• **DFARS 252.225-7000**, Buy American Act—Balance of Payments Program Certificate, as prescribed in 225.1101(1), requires the offeror to identify in its proposal supplies that do not meet the definition of domestic end product, separately listing qualifying country and other foreign end products. The Buy American Act no longer applies to acquisitions of commercial information technology.

• **DFARS 252.225-7020**, Trade Agreements Certificate, as prescribed in 225.1101(5), only requires listing of nondesignated country end products. This provision is used in solicitations for all acquisitions subject to the World Trade Organization Government Procurement Agreement.

• **DFARS 252.225-7035**, Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate, as prescribed in 225.1101(9), requires separate listing of qualifying country (except Canada), FTA country, or other foreign end products. Alternate I, as prescribed in 225.1101(12)(ii), requires listing of Canadian end products, rather than FTA country end products, in solicitations between \$25,000 and the FTA threshold. The Buy American Act no longer applies to acquisitions of commercial information technology.

b. Reports of contract performance outside the United States and Canada.

**DFARS 252.225-7003**, Report of Intended Performance Outside the United States and Canada—Submission with Offer, and **252.225-7004**, Report of Intended Performance Outside the United States and Canada—Submission after Award, as prescribed in 225.7204(a) and (b) respectively, require offerors and contractors to submit a Report of Contract Performance Outside the United States for subcontracts to be performed outside the United States. The reporting threshold is \$550,000 for contracts that exceed \$11.5 million. The contractor may submit the report on DD Form 2139, Report of Contract Performance Outside the United States, or a computer-generated report that contains all information required by DD Form 2139.

In addition, **DFARS 252.225-7006**, Quarterly Reporting of Actual Contract Performance Outside the United States, as prescribed at 252.7204(c) for use in solicitations and contracts with a value exceeding \$550,000, requires reporting of subcontracts that exceed the simplified acquisition threshold.

c. **DFARS 252.225-7005**, Identification of Expenditures in the United States, as prescribed in 225.1103(1), requires contractors incorporated or located in the United States to identify the part of such payment request representing expenditures in the United States.

d. **DFARS 252.225-7013**, Duty-Free Entry, prescribed at 225.1101(4), requires the contractor or an authorized agent to provide information on shipping documents and customs forms regarding those items that are eligible for duty-free entry.

e. **DFARS 252.225-7018**, Notice of Prohibition of Certain Contracts with Foreign Entities for the Conduct of Ballistic Missile Defense RDT&E, as prescribed in 225.7017-4, is used in all competitively negotiated Ballistic Missile Defense solicitations for research, development, test, and evaluation, unless foreign participation is otherwise excluded, and requires the offeror to check its status as a U.S. firm.

f. **DFARS 252.225-7025**, Restriction on Acquisition of Forgings, as prescribed in 225.7102-4, also requires contractor retention of records showing compliance with the restrictions until 3 years after final payment. The contractor agrees to make the records available to the contracting officer upon request. The contractor may request a waiver in accordance with 225.7102-3.

g. **DFARS 252.225-7032**, Waiver of United Kingdom Levies-Evaluation of Offers, and **252.225-7033**, Waiver of United Kingdom Levies, as prescribed in 225.1101(7) and (8) respectively, require United Kingdom offerors and prime contractors, and offerors and prime contractors with subcontracts of a dollar value exceeding \$1 million with United Kingdom firms, to provide certain information necessary for DoD to obtain a waiver of United Kingdom levies.

There is no longer an information collection requirement associated with DFARS 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings, as prescribed in 225.7009-5. The March 2006 version of this clause no longer requires contractor retention of records showing compliance with the restriction until 3 years after final payment. DFARS 225.7009-3 no longer requires the contractor to submit a written plan for transitioning to domestically manufactured bearings, for a waiver under a multiyear contract or a contract exceeding 12 months.

2. Some of the information obtained through the clauses in DFARS 252.225 is used to ensure contractor compliance with restrictions on the acquisition of foreign products. These

restrictions are imposed by statute or policy to protect the defense industrial base. Other information is required to enable compliance with our trade agreements and memoranda of understanding, which promote reciprocal trade with our allies. DoD also provides information to the Department of Commerce with regard to Balance of Payments Program.

3. Improved information technology is used to the maximum extent practicable. Where contractors have automated systems that contain the information needed to report these requirements, contractors may submit the information or report in formats that are compatible with the automated systems.

4. As a matter of policy, we review the Federal Acquisition Regulation to determine if adequate language already exists. The requirements in DFARS Part 225 apply solely to DoD and are not duplicative of the requirements in FAR Part 25. This information is not readily available from other sources.

5. The information collections associated with small businesses are the minimum consistent with applicable laws, executive orders, 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. The requirements for the information collection are included in the solicitation package that is sent to prospective contractors. The information must then be provided as follows:

- a. **DFARS 252.225-7000/7020/7035** - With the offer.
- b. **DFARS 252.225-7003** - With the offer.  
**DFARS 252.225-7004** - When the information is known and, to the maximum extent practicable, at least 30 days before subcontract award.  
**DFARS 252.225-7006** - Within 10 days of the end of each Government Quarter.
- c. **DFARS 252.225-7005** - On each request for payment.
- d. **DFARS 252.225-7013** - On the shipping documents and customs form when foreign items enter the country.
- e. **DFARS 252.225-7018** - With the offer.
- f. **DFARS 252.225-7025** - Upon request of the contracting

officer or when the contractor requests a waiver.

g. **DFARS 252.225-7032** - With the offer or before award of a subcontract offer \$1 million to a U.K. firm.

7. Collection is consistent with the guideline in 5 CFR 1320.6. 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 January 22, 2007 (72 FR 2664), as required by 5 CFR 1320.8(d). No comments were received in response to the Notice of Request for Comments. (TAB B)

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 have not change from the existing estimates, which were based on information generated from the DD 350 database system (using fiscal year 1996 data), other data sources, and estimates of processing times from contracting professionals familiar with the acquisition process.

a. **DFARS 252.225-7000**, Buy American Act-Balance of Payments Program Certificate; **DFARS 252.225-7020**, Trade Agreements Certificate; and **DFARS 252.225-7035**, Buy American Act-Free Trade Agreements-Balance of Payments Program Certificate.

These information collection requirements are currently approved at 40,000 hours. The new estimate is 37,700, due to elimination of the requirement for acquisition of commercial information technology. A response to these provisions is not required if the offeror is proposing a domestic end product. The total number of responses is estimated as follows:

Responses to DoD solicitations	2,686,905
> \$2,500.	
Eliminate non-supply solicitations	<u>.60</u>
Responses on supply actions	1,612,143
% offering foreign end items	<u>.10</u>

Responses offering foreign end items	161,214
TAA - No response required	1,214
Less Commercial IT	9,200
Total responses	150,800

Only one of these provisions is used in a solicitation. If the items being acquired are subject to trade agreements (listed at DFARS 225.403-70) and another exception does not apply, then DFARS 252.225-7035 is used in acquisition from \$25,000 to less than \$193,000, and DFARS 252.225-7020 is used in acquisitions of \$193,000 or more. Buy American Act is no longer applied to acquisitions of commercial information technology (CIT).

	-7000	-7020	-7035	TOTAL
Respondents	13,750	1,130	200	15,080
Responses/respondent	<u>x 10</u>	<u>x 10</u>	<u>x 10</u>	<u>x 10</u>
Responses	137,500	11,300	2,000	150,800
Less CIT				
Hours per response	<u>x .25</u>	<u>x .25</u>	<u>x .25</u>	<u>x .25</u>
Total hours	34,375	2,825	500	37,700
Cost per hour*	<u>x \$34.00</u>	<u>\$34.00</u>	<u>\$34.00</u>	<u>\$34.00</u>
Total annual cost to public	\$1,168,750	\$96,050	\$17,000	\$1,200,000

\* Based on CY 2007 equivalent of GS-11 step 5 salary plus 32.45% fringe benefit rates (WHS).

b. **DFARS 252.225-7003**, Report of Intended Performance Outside the United States and Canada—Submission with Offer; **252.225-7004**, Report of Intended Performance Outside the United States and Canada—Submission after Award; and **DFARS 252.225-7006**, Quarterly Reporting of Actual Contract Performance Outside the United States.

This information collection requirement is currently approved at 260 hours. We estimate no change in this requirement.

Respondents	40
Responses/respondent	<u>x 13*</u>
Responses	520
Hours per response	<u>x .5</u>
Total hours	260
Cost per hour	<u>x \$34.00**</u>
Total annual cost to public	\$8,840

\* Responses divided by respondents.

\*\* Based on CY 2007 equivalent of GS-11 step 5 salary plus 32.45%.

c. **DFARS 252.225-7005**, Identification of Expenditures in the United States.

This information collection requirement is currently approved with an estimated burden of 1,689 hours. This information is required in order to comply with Chapter 13 of the DoD Financial Management Regulation. This instruction was recently been rewritten and updated. The clause no longer applies Contractors that are incorporated concerns not incorporated in the United States or unincorporated concerns not having principal place of business in the United States.

Respondents	1,000
Responses/respondent	<u>x 3</u>
Responses	3,000
Hours per response	<u>x .5</u>
Total hours	1,500
Cost per hour	<u>x \$34.00*</u>
Total annual cost to public	\$51,000

\* Based on CY 2007 equivalent of GS-11 step 5 salary plus 32.45%.

d. **DFARS 252.225-7013, Duty-Free Entry.**

The information collection requirements for DFARS 252.225-7013 is currently approved for the predecessor clauses 252.225-7009, -7010, and -7037 at a total of 8,865 hours. The new clause combines the other three clauses, and we do not estimate a change in the estimated burden hours to comply with the information collection requirements of the new clause. The information requested in 252.225-7013 supplements the information requested under FAR clause 52.225-10, and is required only if the Contractor is requesting duty-free entry. Data indicates an average of approximately 31,500 duty-free entry certificates per year on supplies for DoD.

Respondents	4,200
Responses/respondent	<u>x 7.5</u>
Responses	31,500
Hours per response	<u>x .28*</u>
Total hours	8,865
Cost per hour	<u>x \$34.00**</u>
Total annual cost to public	\$301,410

\* Weighted average.

\*\* Based on CY 2007 equivalent of GS-11 step 5 salary plus 32.45%.

e. **252.225-7018, Notice of Prohibition of Certain Contracts with Foreign Entities for the Conduct of Ballistic Missile Defense RDT&E.**

This information collection requirement is currently approved under OMB Clearance No. 0704-0187 in the amount of 5 hours. This is based on fiscal year 1996 DD Form 350 data indicating 182 RDT&E contracts for the BMD program in 1996, and an estimate of three responses per solicitation, five responses per respondent, and .01 hours per response. We do not propose any change to these estimates.

Respondents	109
Responses/respondent	<u>x 5</u>
Responses	545
Hours per response	<u>x .01</u>
Total hours	5
Cost per hour	<u>x \$34.00*</u>
Total annual cost to public	\$170

\* Based on CY 2007 equivalent of GS-11 step 5 salary plus 32.45%.

f. 252.225-7025, Restriction on Acquisition of Forgings.

This clause restricts ship propulsion shafts (excluding service and landing craft), periscope tubes, and ring forgings for bull gears greater than 120 inches in diameter. Based on discussions with Navy contracting professionals, we estimate the number of recordkeepers to be 15, the estimated number of shipbuilders per year having open contracts which contain the clause 252.225-7025, and which require any of the restricted forging items as components. We further estimate that it will take each contractor an average of approximately 3 hours per year to keep records showing the domestic source of these components. The number of respondents is estimated at 6 (40 percent of recordkeepers, as in the current clearance). The estimate of 1.5 responses per respondent and .5 hours per response also remains unchanged.

	REPORTS	RECORDS	TOTAL
Respondents	6		
Responses/respondent	<u>x 1.5</u>		
Responses	9		
Hours per response	<u>x .5</u>		
Total response hours	5		5
Number of recordkeepers		15	
Hours per recordkeeper		<u>x 3</u>	
Total recordkeeping hours		45	<u>45</u>
Total hours			50
Cost per hour		<u>x \$34.00**</u>	
Total annual cost to public			\$1,700

\* Based on CY 2007 equivalent of GS-11 step 5 salary plus 32.45%.



g. 252.225-7032/33, Waiver of United Kingdom Levies.

This information is currently approved at 100 hours (50 for reporting, 50 for recordkeeping). The new estimate for this requirement is unchanged.

	REPORTS	RECORDS	TOTAL
Respondents	50		
Responses/respondent	<u>x 1</u>		
Responses	50		
Hours per response	x 1		
Total response hours	50		50
Number of recordkeepers		50	
Hours per recordkeeper		<u>x 1</u>	
Total recordkeeping hours		50	50
Total hours			100
Cost per hour		<u>x \$34.00*</u>	
Total annual cost to public			\$3,400

\* Based on CY 2007 equivalent of GS-11 step 5 salary plus 32.45%.

13. We do not estimate any annual cost burden apart from the hour burdens in items 12 and 14.

14. The time and cost required for Government review of offeror/contractor responses is estimated to be approximately 72,733 hours and \$2,276,490 (see TAB A for details). This estimate is based on receiving, reviewing, and analyzing the information submitted by each offeror.

Number of responses	154,924
Average Government hours per response	<u>x .45*</u>
Total hours	69,383 hrs
Cost per hour	<u>x \$34.00*</u>
Total annual cost to Government	\$2,359,022

\* Weighted average.

\*\* Based on CY 2007 GS-11 step 5 salary plus 32.45%.

15. The total estimated public burden of 48,480 is a reduction of 303,900 burden hours (from 352,380 to 48,480), based on reduced information collection requirements, as explained in paragraphs 1 and 12.

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.