

**SUPPORTING STATEMENT  
HOMELAND SECURITY ACQUISITION REGULATION (HSAR)  
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 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.

The FAR does not specify the format in which the contractor should submit protest information. However, most contractors use automated word processing systems to facilitate preparation of material to be submitted. It is common place within many of DHS's Components for submissions to be electronic as a result of implementation of e-Government initiatives.

- 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. Additionally, through Strategic Sourcing initiatives, DHS Components are encouraged to consolidate similar transactions.
- 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**

A 60-day Federal Register Notice inviting public comments was published on November 15, 2010, 75 FR 69688. No comments were received.

A 30-day Federal Register Notice inviting public comments was published on February 24, 2011, 76, FR 10384. No comments were received.
- 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 75 protests per year, and we estimate that each submission involved a burden of two hours, for a total annual burden of 150 hours.

Example Table:

Table A.12: Estimated Annualized Burden Hours and Costs

Type of Respondent	Form Name / Form Number	No. of Respondents	No. of Responses per Respondent	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
Contractor		75	1	2	150	\$27.36	\$4,104.00
Total		75			150		\$4,104.00

**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**

According to FPDS, the number of protest has increased each year over the past two years in annual respondent and burden hours. This increase in current protest activity is not the result of a deliberate program change, but from a new estimate of actions that are not controllable by the Federal government. Although, the number of protest has increased, there has not been any change in the information being collected.

**16. Plans for Tabulation and Publication**

DHS 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.

**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.