

DFARS Case 2009-D038,
Business Systems - Definition and Administration
Draft Interim Rule
DFARS 234.2, Earned Value Management Systems

A. JUSTIFICATION

1. **Requirement.** This is a request for establishment of a new information collection requirement. DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add a contract clause requiring contractors to respond to initial and final determinations of deficiencies in the contractor's business systems as defined in the clause. The information contractors will be required to submit to respond to deficiencies in their accounting system, estimating system, material management and accounting system and purchasing system has previously been approved by the Office of Management and Budget. This request addresses information required to respond to deficiencies in a contractor's Earned Value Management System (EVMS). The requirements of the rule will apply to entities contractually required to maintain an EVMS.

a. DFARS 242.70, Contractor Business Systems, and the clause at 252.242-7005, Contractor Business Systems, require certain contractors to-

- Establish and maintain acceptable business systems which include contractor Earned Value Management Systems, property management systems, and others.
- Respond in writing to an initial determination from the administrative contracting officer that identifies deficiencies in any of the contractor's business systems.

b. DFARS 234.2, Earned Value Management Systems, and 252.234-7002, Earned Value Management System, require certain contractors to-

- Use an EVMS that has been determined to be in compliance with the EVMS guidelines in American National Standards Institute/Electronic Industries Standard 748, Earned Value Management Systems (ANSI/EIA-748).

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- Respond in writing to written notifications from the Government that identifies significant deficiencies in the contractor's EVMS.

2. **Purpose.** DoD needs this information to document actions to correct significant deficiencies in contractor business systems. DoD contracting officers will use the information to mitigate the risk of unallowable and unreasonable costs being charged on government contracts.

3. **Information Technology.** The rule requires a contractor to provide a written response to an ACO determination that identifies significant deficiencies in the contractor's business systems. In accordance with the definition of "written" in section 2.101 of the Federal Acquisition Regulation (FAR), electronic submission of the notification is permitted.

4. **Duplication.** As a matter of policy, DoD reviews the FAR and DFARS to determine if adequate language already exists. This information collection does not duplicate any other requirement.

5. **Small Business.** The information collection associated with small businesses is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

6. **Consequences of noncollection.** Less frequent collection of this information could result in unallowable and unreasonable costs being charged on government contracts.

7. **Special circumstances.** Collection of the information does not require any of the special circumstances cited at 5 CFR 1320.5(d)(2).

8. **Public comments and consultation.** Public comments were solicited in the Federal Register, at 75 FR 75550 on December 3, 2010, as required by 5 CFR 1320.8(d). DoD received no comments on the proposed information collection requirement.

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

10. **Confidentiality.** The information collected will be disclosed only to the extent consistent with prudent business practice, current regulations, and statutory requirements. No assurance of confidentiality is provided to respondents.

11. **Sensitive questions.** No sensitive questions are involved.

12. **Estimate of public burden.** DFARS 242.70, Contractor Business Systems; DFARS 234.2, Earned Value Management Systems; and the clauses at 252.234-7002, Earned Value Management System and 252.242-7005, Contractor Business Systems, require contractors to respond in writing to written determinations from the Government that identify deficiencies in the contractor's EVMS. Based on information provided by a subject matter expert at the DCMA Earned Value Management Center, approximately 8,928 written determinations are expected annually. DoD estimates that it will take a contractor approximately 40 hours to prepare and submit each notification. The estimated annual cost to the public is as follows:

Number of respondents: 186

Responses per respondent: 48

Total responses: 8,928

Hours per response: 40

Total hours: 357,120

Average wages: \$62.66*

Total public cost: \$22,377,139

* Based on a GS-14, step 5 (equivalent) salary, plus 36.25 percent burden.

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13. **Estimated nonrecurring costs.** DoD does not estimate any annual cost burden apart from the hour burden in Item 12.

14. **Estimated cost to Government.** DoD estimates that it will take the Government approximately 12 hours to review and process the information in each response. The estimated annual cost to the Government is as follows:

Total responses: 8,928

Hours per response: 12

Total hours: 107,136

Average wages: \$62.66*

Total Government cost: \$6,713,142

* Based on a GS-14, step 5 salary, plus 36.25 percent burden.

15. **Program changes.** This is a new information collection requirement.

16. **Publication.** Results of this information collection will not be tabulated or published.

17. **Expiration date.** DoD does not seek approval to not display the expiration date for OMB approval of the information collection.

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

B. Collections of Information Employing Statistical Methods

Statistical methods will not be employed.