

**SUPPORTING STATEMENT
FOR INFORMATION COLLECTION SUBMISSION
9000-0035, CLAIMS AND APPEALS**

A. Justification.

1. **Administrative requirements.** This is a request for an extension of an existing information collection requirement (FAR Subpart 33.2 and 52.233-1, Disputes). It is the Government's policy to try to resolve all contractual issues by mutual agreement at the contracting officer's level without litigation. Contractor's claims must be submitted in writing to the contracting officer for a decision. The Contract Disputes Act of 1978 (41 U.S.C. 605) requires that claims exceeding \$100,000 must be accompanied by a certification that (1) the claim is made in good faith; (2) supporting data are accurate and complete; and (3) the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable. Contractors may appeal the contracting officer's decision by submitting written appeals to the appropriate officials.

2. **Uses of information.** The information is to decide the claim.

3. **Consideration of information technology.** We use improved information technology to the maximum extent practicable. Where both the Government agency and contractors are capable of electronic interchange, the contractors may submit this information collection requirement electronically.

4. **Efforts to identify duplication.** This requirement is being issued under the Federal Acquisition Regulation (FAR) which has been developed to standardize Federal procurement practices and eliminate unnecessary duplication.

5. **If the collection of information impacts small businesses or other entities, describe methods used to minimize burden.** The burden applied to small businesses is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

6. **Describe consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently.** This collection of information

applies only to contractors submitting a contract claim against the Government.

7. Special circumstances for collection. Collection is consistent with the guidelines in 5 CFR 1320.6.

8. Efforts to consult with persons outside the agency. A notice published in the *Federal Register* at 77 FR 18819, on March 28, 2012. Two comments were received by one respondent.

1. The respondent commented that the extension of the information collection would violate the fundamental purposes of the Paperwork Reduction Act because of the burden it puts on the entity submitting the information and the agency collecting the information.

Response: In accordance with the Paperwork Required Act (PRA), agencies can request an OMB approval of an existing information collection. The PRA requires that agencies use the Federal Register notice and comment process, to extend the OMB's approval, at least every three years. This extension, to a previously approved information collection, pertains to FAR 33.215, Contract Clauses and clause 52.233-1, Disputes. The purpose of this clause is to allow contractors to submit claims against the government when there is a disagreement of rights between the contractor and the contracting officer, during or after performance of a contract. The authority for this clause is provided in the Contract Disputes Act (CDA) of 1978, as amended, 41 U.S.C. §7101. While this is a mandatory contract clause, it provides the contractor a process and a forum to bring claims. Not granting this extension would consequently eliminate a fundamental FAR clause that is required in accordance with the CDA and impair a contractor's rights.

2. The respondent commented that the agency did not accurately estimate the public burden challenging that the agency's methodology for calculating it is insufficient and inadequate and does not reflect the total burden. For this reason, the respondent provided that the agency should reassess the estimated total burden hours and revise the estimate upwards to be more accurate, as was done in FAR Case 2007-006. The same respondent also provided that the burden of compliance with the information collection requirement greatly exceeds the agency's estimate and outweighs any potential utility of the extension.

Response: Serious consideration is given, during the open comment period, to all comments received and adjustments are made to the paperwork burden estimate based on reasonable considerations provided by the public. This is evidenced, as the respondent notes, in FAR Case 2007-006 where an adjustment was made from the total preparation hours from three to 60. This change was made considering particularly the hours that would be required for review within the company, prior to release to the Government.

The burden is prepared taking into consideration the necessary criteria in OMB guidance for estimating the paperwork burden put on the entity submitting the information. For example, consideration is given to an entity reviewing instructions; using technology to collect, process, and disclose information; adjusting existing practices to comply with requirements; searching data sources; completing and reviewing the response; and transmitting or disclosing information. The estimated burden hours for a collection are based on an average between the hours that a simple disclosure by a very small business might require and the much higher numbers that might be required for a very complex disclosure by a major corporation. Also, the estimated burden hours should only include projected hours for those actions which a company would not undertake in the normal course of business. Careful consideration went into assessing the estimated burden hours for this collection, and it is determined that an upward adjustment is not required at this time. However, at any point, members of the public may submit comments for further consideration, and are encouraged to provide data to support their request for an adjustment.

9. Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or guarantees. Not applicable.

10. Describe assurance of confidentiality provided to respondents. This information is disclosed only to the extent consistent with prudent business practices and current regulations.

11. Additional justification for questions of a sensitive nature. No sensitive questions are involved.

12 & 13. Estimated total annual public hour and cost burden. Time required to read and prepare information is estimated at 1 hour per completion.

Estimated respondents/yr.	4,500
Responses annually.	x <u>3</u>
Total annual responses.	13,500
Estimated hrs/response.	x <u>1</u>
Estimated total burden/hrs.	13,500
Cost per hour	x <u>\$24</u>
Benefits and overhead	+ <u>75%</u>
Estimated cost to public.	\$ 567,000

14. **Estimated cost to the Government.** Time required for Governmentwide review is estimated at 3 hours per response.

Annual Reporting Burden and Cost

Reviewing time/hr.	3
Responses/yr	x <u>13,500</u>
Review time/yr	40,500
Average wages/hr	x <u>\$20</u>
Average wages/yr	\$ 810,000
Benefits and overhead	+ <u>100%</u>
Estimated cost to public\$1,620,000

15. **Explain reason for program changes or adjustments reported in Item 13 or 14.** This submission requests an extension of OMB approval of an information collection requirement in the FAR. The information collection requirement in the FAR remains unchanged.

16. **Outline plans for published results of information collections.** Results will not be tabulated or published.

17. **Approval not to display expiration date.** Not applicable.

18. **Explanation of exception to certification statement.** Not applicable.

B. Collections of Information Employing Statistical Methods. Statistical methods are not used in this information collection.

