

U.S. Department of the Treasury  
Office of the Procurement Executive  
**SUPPORTING STATEMENT**  
**OMB CONTROL NUMBER 1505-0107**  
**Regulation Agency Protests**

**A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

Treasury Response: The Federal Acquisition Regulation (FAR) 33.103 (48 C.F.R. § 33.103) provides the requirements for protests to agencies. In order to effectively investigate, decide, and respond to a procurement protest, agencies need certain information from the protesting party. As stated in FAR Subpart 33.103(d)(2):

Protests shall be concise and logically presented to facilitate review by the agency. Failure to substantially comply with any of the requirements of paragraph (d)(2) of this section may be grounds for dismissal of the protest.

Protests shall include the following information:

- (i) Name, address, and fax and telephone numbers of the protester.
- (ii) Solicitation or contract number.
- (iii) Detailed statement of the legal and factual grounds for the protest, to include a description of resulting prejudice to the protester.
- (iv) Copies of relevant documents.
- (v) Request for a ruling by the agency.
- (vi) Statement as to the form of relief requested.
- (vii) All information establishing that the protester is an interested party for the purpose of filing a protest.
- (viii) All information establishing the timeliness of the protest.

All protests filed directly with the agency will be addressed to the contracting officer or other official designated to receive protests.

In accordance with agency procedures, interested parties may request an independent review of their protest at a level above the contracting officer; solicitations should advise potential bidders and offerors that this review is available. Agency procedures and/or solicitations shall notify potential bidders and offerors whether this independent review is available as an alternative to

consideration by the contracting officer of a protest or is available as an appeal of a contracting officer decision on a protest. Agencies shall designate the official(s) who are to conduct this independent review, but the official(s) need not be within the contracting officer's supervisory chain. When practicable, officials designated to conduct the independent review should not have had previous personal involvement in the procurement. If there is an agency appellate review of the contracting officer's decision on the protest, it will not extend GAO's timeliness requirements. Therefore, any subsequent protest to the GAO must be filed within 10 days of knowledge of initial adverse agency action (4 CFR 21.2(a)(3)).

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

Treasury Response: Per FAR 33.103(d)(3) agency protests are addressed to the contracting officer (CO) or other official designated to receive protests. Per Department of the Treasury Acquisition Procedures (DTAP) 1033.103 the CO provides a copy of the protest to the Bureau Chief Procurement Officer and legal counsel. Information contained in the protest is used to investigate and issue a decision on the procurement only at the request and submission of the protester.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

Treasury Response: Treasury does not provide any specific assurances of confidentiality beyond what is provided for in the U.S.C. and FAR. 5 U.S.C. § 574(a) governs the confidentiality of neutrals in dispute resolution process permitted by FAR 33.103(c). 5 U.S.C. § 552 governs Freedom of Information Act requirements. FAR Part 4 governs administrative matters relating to the contract file.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.**

Treasury Response: 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.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

Treasury Response: Information collection may or may not involve small business contractors, depending on the particular transaction. The burden applied to small businesses is the minimum, consistent with the goals of achieving timely resolution of agency protests.

6. **Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

Treasury Response: Information is not collected on a regular basis. It is collected when contractors choose of their own volition to file a protest. If the information were collected less frequently, there would be a lack of uniformity and clarity in agency protests, thus adding to the time needed to resolve the issues raised by the protestor.

7. **Explain any special circumstances that would cause an information collection to be conducted in a manner**

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

Treasury Response: Not Applicable. There are no special circumstances that would cause an information collection to be conducted in a manner outside the procedures in the Federal Acquisition Regulation (FAR) and the Government Accountability Office's Bid Protest Rules.

8. **If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be**

**circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

Treasury Response: A notice was published in the Federal Register on March 23, 2012, at 77 FR 17122, soliciting public comment on this information collection and no comments were received. This information collection contains no periodic and/or repetitive reporting requirements. Respondents are those contractors who choose to file protests with the government related to specific contractual actions. Content of contractor responses is defined in the Federal Acquisition Regulation.

**9. Explain any decision to provide any payment or gift to respondents, other than reenumeration of contractors or grantees.**

Treasury Response: Not applicable. No payments or gifts are made to respondents, other than settlement of the contractors' claims.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

Treasury Response: The guidelines and principles described in the GAO Bid Protest Rules, the FAR, and the federal rules on disclosure and other federal procurement policy are used to assure confidentiality.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

Treasury Response: Not applicable. Questions of a personal or private nature are not asked in agency protests.

**12. Provide estimates of the hour burden of the collection of information. The statement should**

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.**

Treasury Response: Based on current protest activity, we expect an estimated 25 protests per year, and we estimate that each submission involves a burden of two hours, for a total annual burden of 50 hours.

**13. Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).**

Treasury Response: Not applicable. Such costs could not be estimated, as the size and complexity of each agency protest is dependent upon the circumstances of the particular acquisition and the contractor's objections to the acquisition methodology used.

**14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate costs estimates from Items 12, 13, and 14 in a single table.**

Treasury Response: Not applicable. Costs to the Federal government could not be estimated, as the size and complexity of the government's response is dependent upon the circumstances of the particular acquisition and the content of the contractor's protest.

**15. Explain the reasons for any program changes or adjustments.**

Treasury Response: There are no program changes at this time. An adjustment from 20 to 25 respondents is due to the change in the number of protests currently received by Treasury versus the number of protests received in the period during which the prior submission was made. The estimated burden for each submission remains at two hours. The adjustment in the total annual hours required from 40 to 50 is due to the increase in the number of respondents.

**16. For collection of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

Treasury Response: Not applicable. There is no planned publication of information for statistical use.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

Treasury Response: Treasury is seeking approval not to display the expiration date for OMB approval of the information collection, since most Bureau procurement offices have automated procurement systems that automatically print the number.

**18. Explain each exception to the certification statement.**

Treasury Response: Not applicable. There are no exceptions to the certification statement.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

The collection does not employ statistical methods.