

**SUPPORTING STATEMENT
FOR INFORMATION COLLECTION SUBMISSION
9000-0071, PRICE REDETERMINATION**

A. Justification.

- 1. Administrative requirements.** FAR 16.205, Fixed-price contracts with prospective price redetermination, provides for firm fixed prices for an initial period of the contract with prospective redetermination at stated times during performance. FAR 16.206, Fixed price contracts with retroactive price redetermination, provides for a fixed ceiling price and retroactive price redetermination within the ceiling after completion of the contract. In order for the amounts of price adjustments to be determined, the firms performing under these contracts must provide information to the Government regarding their expenditures and anticipated costs. The contracting officer shall, when contracting by negotiation, insert the clause at 52.216-5, Price Redetermination-Prospective, in solicitations and contracts when a fixed-price contract is contemplated.
- 2. Uses of information.** The information is used to establish fair price adjustments to Federal contracts.
- 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. It is estimated that 10% are submitted 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.** Collection of information on a basis other than solicitation-by-solicitation is not practical.

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

8. **Efforts to consult with person outside the agency.** A notice was published in the *Federal Register* at 77 FR 51784, on August 27, 2012. One respondent submitted public comments on the extension of the previously approved information collection. The analysis of the public comments is summarized as follows:

Comment: 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 16.206, Fixed price contracts with retroactive price redetermination. The FAR section allows an agency to award a contract with a fixed ceiling price and retroactively redetermine the price within the ceiling after completion of the contract. In order for the amounts of price adjustments to be determined, the firms performing under these contracts must provide information to the Government regarding their expenditures and anticipated costs. The Government uses this information to establish fair price adjustments to Federal contracts. Not granting this extension would consequently eliminate the Government's ability to negotiate a fair and reasonable firm-fixed price after the initial period.

Comment: The respondent commented that the agency did not accurately estimate the public burden an extension of this information collection requirement would create. The respondent offers that the obligations imposed by the clause under a fixed-price contract with prospective price redetermination are onerous, and will require a contractor to implement accounting systems that are equipped to account for allowable costs substantially the same as a cost reimbursement contract. The respondent believes a more reasonable estimate of hours per response would be in the range of 40 to 80 hours.

Response: It is expected and anticipated that potential contractors seeking to do business with the Government under a fixed-price contract with prospective price redetermination would have accounting systems that allow for collecting, tracking, monitoring and reporting the type of information required for this collection. Generally, the information requested under this collection is generated in the normal course of doing business, available electronically and organized similar to the format requested. However, considering the public comment and given the extent a company may not provide for accounting the information as previously discussed, the Government has adjusted the hours per response for this information collection to 8 hours.

Comment: The respondent commented that the collective burden of compliance with the information collection requirement greatly exceeds the agencies estimate and outweighs any potential utility of the extension.

Response: The respondents concern is addressed within the framework of OMB review and approval of this information collection requirement and its associated regulation, as required by the Paperwork Reduction Act (PRA) and Executive Order 12866. The PRA requires Federal agencies to take specific steps before requiring or requesting information from the public. These steps include (1) seeking public comment on proposed information collections and (2) submitting proposed collections for review and approval by OMB. A central goal of OMB review is to help agencies strike a balance between collecting information necessary to fulfill their statutory missions and guarding against unnecessary or duplicative information that imposes unjustified costs on the American public. In this regard, OMB evaluates whether the collection of information by the agency: is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; minimizes the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected; and maximizes the practical utility of and public benefit from information collected by or for the Federal Government.

The OMB review process under Executive Order 12866 seeks to ensure that agencies, to the extent permitted by law, comply with the regulatory principles stated in the Executive Order and that the President's policies and priorities are reflected in agency rules. Such review also helps to promote adequate interagency

review of draft proposed and final regulatory actions, so that such actions are coordinated with other agencies to avoid inconsistent, incompatible, or duplicative policies. OMB review helps to ensure that agencies carefully consider the consequences of rules (including both benefits and costs) before they proceed.

Comment: The respondent commented that the Government's response to the Paperwork Reduction Act waiver for FAR Case 2007-006 is instructive on the total burden for respondents.

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 reasonable at this time.

9. Explanation of any decision to provide any payment or gift to respondents, other than re-enumeration 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 hours and cost burden. FY 2011 FPDS data shows that 230 unique vendors were awarded Fixed-Price Redetermination contracts. The data also shows that 1,970 records were processed for these vendors in regards to price redetermination. Based on these numbers, each vendor responded on average 8.6 times a year (rounded up to 9). Time required to read and prepare information is estimated at 8 hours per completion. Average wages are for a GS-9, Step 5, base rate from the 2012 OPM salary table.

Annual Public Burden and Cost

Number of respondents.....	230
Number of responses per respondent.....	<u>x 9</u>
Total responses.....	2,070
Preparation time per response.....	<u>x 8</u>
Total burden hours.....	16,560
Average wages(\$22.57 + 36.25% OH)	<u>x \$30.75</u>
Estimated cost to the public.....	\$509,220

14. Estimated cost to the Government. Time required for Governmentwide review is estimated at 2 hours per response.

Annual Reporting Burden and Cost

Total responses.....	2,070
Review time per response.....	<u>x 2</u>
Total burden hours.....	4,140
Average wages and overhead(\$22.57 + 36.25% OH)	<u>x \$30.75</u>
Total Government cost.....	\$127,305

15. Explain reasons 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 Federal Acquisition Regulation (FAR). The public annual number of responses has decreased due to the change in the number of respondents based on FY 2011 FPDS data. The public annual time burden has increased due to the change in preparation and response time per respondent.

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.