

OMB CONTROL NUMBER 0704-0397
Supporting Statement

A. Justification

1. This is a request for extension of OMB Control Number 0704-0397 that expires on November 30, 2012. The clearance covers Defense Federal Acquisition Regulation Supplement (DFARS) part 243, Contract Modifications, and the related clauses at DFARS 252.243-7001, Pricing of Contract Modifications, and 252.243-7002, Requests for Equitable Adjustment (TAB A). Only the latter clause requires the submission of any data by contractors. We are requesting a total of 2,120 hours, which does not represent any increase in the prior level approved.

a. 10 U.S.C. 2410(a), entitled "Requests for Equitable Adjustment or Other Relief: Certification," (TAB B) requires a contractor to certify, at the time of submission, that its request for equitable adjustment is made in good faith and that the supporting data are accurate and complete to the best of the contractor's knowledge and belief. The clause at DFARS 252.243-7002, Requests for Equitable Adjustment, implements this statutory requirement and also clarifies the requirement for full disclosure of all relevant facts.

b. DFARS 252.243-7001: States that the FAR cost principles at part 31 and the DFARS cost principles at part 231 that are in effect on the contract date are applicable to the contract. There is no information collection associated with this clause.

2. The information submitted under the clause at DFARS 252.243-7002 is used by DoD contracting officers and auditors to evaluate requests for equitable adjustment.

3. Improved information technology is used to the maximum extent practicable. Where both the DoD and contractors are capable of electronic interchange, this information collection requirement may be submitted electronically.

4. As a matter of policy, DoD reviews the Federal Acquisition Regulation (FAR) and the DFARS to determine if adequate language already exists. This request for information does not duplicate any other requirement.

5. The collections associated with small businesses are the minimum consistent with applicable laws, regulations, and prudent

business practices.

6. This information is collected on occasion, only when the contractor determines to request an equitable adjustment to the contract price. Collecting this information less frequently would not comply with the certification requirements of 10 U.S.C. 2410(a).

7. The information will not be collected in a manner that requires an explanation of special circumstances.

8. Public comments on the information collection requirement were solicited in the Federal Register on November 18 2011 (76 FR 71558). No comments were received in response to the Federal Register notice.

9. No payment or gift will be provided to respondents to this information collection requirement.

10. The information collected will be disclosed only to the extent consistent with prudent business practices, current regulations, and in accordance with the requirements of the Freedom of Information Act. No assurance of confidentiality is provided to respondents.

11. No sensitive questions are involved.

12. Estimated Cost. The public burden is estimated as follows:

The hours estimated for the collection of information and the estimated annualized cost to respondents were based on information obtained from the Defense Contract Audit Agency and estimates of processing times from contracting professionals familiar with the solicitation process. The burden addressed in this information collection requirement is the burden of preparing, submitting, and certifying the data in support of a request for equitable adjustment.

252.243-7002, Requests for Equitable Adjustment, paragraphs (a) and (b). This clause is prescribed at DFARS 243.205-71 for use in all solicitations and contracts estimated to exceed the simplified acquisition threshold (currently \$150,000). We estimate that there will be approximately 440 requests for equitable adjustment annually. Of this total, we estimate that approximately 55 percent, or 240, of the requests for equitable adjustment will be in excess of \$750,000, the dollar threshold for requiring cost or pricing data and at which certification is

required.¹ Therefore, the additional burden of this certification is minimal when the amount of the equitable adjustment request is \$750,000 or more.

Amount of Request	\$150,000- \$750,000	≥ \$750,000	Total
Respondents	240	200	440
Responses/respondent	<u>1</u>	<u>1</u>	<u>1</u>
Responses	240	200	440
Hours per response	<u>10</u>	<u>.5</u>	<u>4.8</u>
Total hours	2,000	120	2,120
Cost per hour			x <u>\$36.50</u> ²
Total annual cost to public			\$77,380

13. We estimate no cost burden other than the hourly burden shown in Item 12.

14. Estimated annual cost to the Government.

252.243-7002, Certification of Requests for Equitable Adjustment, paragraphs (a) and (b). We estimate the annual cost to the Government to review and analyze the responses to this information collection requirement to be approximately 100 hours per response up to \$750,000. Above \$750,000, cost or pricing data is generally required, and the incremental review³ necessitated by this certification is minimal (estimated at 0.5 hours per response).

Amount of Request	\$150,000- \$750,000	≥ \$750,000	Total
Responses	200	240	440
Hours per response	<u>100</u>	<u>.5</u>	<u>45.7</u>

¹ Because certified cost or pricing data are required to be submitted by a separate contract clause, FAR 52.215-21, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data—Modifications (OCT 2010), the costs associated with the preparation and submission of certified cost or pricing data are addressed in the information collection burden associated with the FAR clause. Therefore, the costs and preparation time associated with this DFARS clause, when the contractor’s request for an equitable adjustment is over the threshold for the submission of certified cost or pricing data, include only the additional incremental cost, not the total cost associated with the submission.

² Based on 2011 OPM GS-11, Step 5 salary, plus 33% estimated overhead computed as follows:

GS-11 Step 5 Hourly Rate	\$27.31
Times Estimated Overhead	<u>33%</u>
Equals	\$36.41
Rounded to	<u>\$36.50</u>

³ See footnote 1.

Total hours	20,000	120	20,120
Cost per hour			x \$36.50 ⁴
Total annual cost to Government			\$734,380

15. This is an extension of a previously approved collection.

16. Results of this information collection will not be published.

17. We do not seek approval not to display the expiration date for OMB approval of the information collection.

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

B. Collections of Information Employing Statistical Methods.

Results will not be tabulated. Statistical methods will not be employed.

⁴ See footnote 2.