

**OMB No. 0704-0341
Supporting Statement**

**Defense Federal Acquisition Regulation Supplement (DFARS) Part
239, Acquisition of Information Technology, and associated
clauses at DFARS 252.239-7000 and 252.239-7006**

A. Justification

1. Requirement. This justification is in support of information collection requirements associated with OMB Clearance Number 0704-0341 for DFARS part 239 and the related provisions and clauses at 252.239.

a. Security and Privacy for Computer Systems. DFARS 239.7103(a) prescribes use of the clause at 252.239-7000, Protection Against Compromising Emanations, when contracting for computer equipment or systems that are to be used to process classified information. The clause requires the contractor to provide, upon request of the contracting officer, documentation supporting the accreditation of the computer system to meet the appropriate security requirements.

b. Telecommunications Services - Tariffs. DFARS subpart 239.74 prescribes policies and procedures for acquisition of telecommunication services and maintenance of telecommunications security. DFARS 239.7411 prescribes use of the clause at 252.239-7006, Tariff Information, in solicitations, contracts, and basic agreements for telecommunications services. The clause requires the contractor to provide the following information:

i. DFARS 252.239-7006(a)(1) - Upon request of the contracting officer, a copy of the contractor's existing tariffs (including changes);

ii. DFARS 252.239-7006(a)(2) - Before filing, any application to a Federal, State, or any other regulatory agency for new or changes to, rates, charges, services, or regulations relating to any tariff or any of the facilities or services to be furnished solely or primarily to the Government; and

iii. DFARS 252.239-7006(a)(3) - Upon request, a copy of all information, material and data developed or prepared in support of or in connection with an application under (ii) above.

iv. DFARS 252.239-7006(b) - Notification to the contracting officer of any application that anyone other than the contractor

files with a Governmental regulatory body that affects or will affect the rate or conditions of services under this agreement/contract.

c. Telecommunications Services - Special Construction. DFARS 239.7408 requires that a detailed special construction proposal be obtained from a common carrier that submits a proposal or quotation that has special construction requirements.

2. Purpose. The information obtained through DFARS part 239 and the provisions and clauses prescribed therein, is obtained occasionally, as required. The information is used to ensure that computer equipment or systems delivered under the contract are adequate to safeguard national security information; to ensure that DoD has information necessary to participate in the rulemaking process of Government agencies that establish tariffs that affect the rates DoD will pay for telecommunications services; and to ensure that DoD pays fair and reasonable prices for special construction under contracts for telecommunications services.

3. Information Technology. Improved information technology is used to the maximum extent practicable.

4. Duplication. As a matter of policy, DoD reviews the Federal Acquisition Regulation (FAR) to determine if adequate language already exists. The proposed DFARS language applies solely to DoD and is not considered duplicative of any language in the FAR. No similar information is available elsewhere.

5. Small Business. The collection of this information is not expected to have a significant impact on a substantial number of small businesses or other small entities. The requirements for information collection are only occasional, as the circumstances dictate, and the burden on large and small entities is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

6. Consequences for non-collection. DoD specialists who are most knowledgeable of the requirements and the need for the information reviewed the information collection frequency. Failure to collect this information may result in increased costs and compromise of sensitive national security information. DoD agencies may lack information necessary to ensure that computer systems are secure; affect the tariffs paid by DoD to common carriers; or negotiate reasonable prices for contracts involving special construction.

7. Special circumstances. There are no special circumstances that require the collection to be conducted in any manner listed in 5 CFR 1320.5(d)(2).

8. Public comments and consultation. Public comments were solicited in the Federal Register on August 22, 2014 ([79 FR 49767](#)), as required by 5 CFR 1320.8(d). No public comments were received.

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

10. Confidentiality. This information is disclosed only to the extent consistent with prudent business practices and 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.

a. Security and Privacy for Computer Systems. The burden associated with the requirement of DFARS 252.239-7000 to provide, upon request of the contracting officer, documentation supporting the security accreditation of the information technology, is estimated at 54 hours as follows:

DFARS 252.239-7000	
Number of Respondents (1)	107
Responses Per Respondent (1)	1
Number of Responses	107
Average Hours Per Response (1)	.5
Estimated Hours	54
Cost Per Hour (2)	\$25
Total Annual Public Burden	\$1,350

Notes:

(1) This estimate is based on an analysis of Fiscal Year (FY) 2013 Federal Procurement Data System (FPDS) data and consultations with DoD personnel. The data set used in this analysis included all DoD contract actions in Product Service Code (PSC) Group 70, Automatic Data Processing Equipment (Including Firmware), Software, Supplies and Support Equipment and Category D, Information Technology and Telecommunications. The list of potential contract actions subject to the clause was derived by applying filters using select PSC and NAICS codes.

Judgmental factors were then used to derive the estimated number of respondents. The estimate assumes that approximately 1% of the contract actions will contain the clause 252.239-7000. It is also estimated that the contractor will be required to submit the required documentation for 10%, of the contract actions containing the clause 252.239-7000. Since the result of the estimate closely approximates the currently approved estimate, the 2011 estimate is still considered reasonable.

(2) The cost per hour was calculated using the OPM CY2014 GS-07 step 5 salary of \$18.64 then adding a burden of \$6.76 which was computed using the current OMB burden rate of 36.25 percent as follows:

<u>Cost per Hour</u>	
GS-7, step 5	\$18.64
Burden @ 36.25%	\$6.76
	<u>\$25.40</u>

The hourly rate was rounded to \$25 per hour.

b. Telecommunications Services - Tariffs. The burden associated with the requirement of DFARS 252.239-7006 to provide the contracting officer copies of information relating to tariffs, are estimated at 6,412 hours as follows:

DFARS 252.239-7006	(a)(1)	(a)(2)	(a)(3)	(b)
Number of Respondents (1)	280	48	48	80
Responses Per Respondent (1)	45	1	1	1
Number of Responses	12,600	48	48	80
Average Hours Per Response (1)	.5	.5	1	.5
Estimated Hours	6,300	24	48	40
Cost Per Hour (2)	\$25	\$25	\$25	\$25
Total Annual Public Burden	\$157,500	\$600	\$1,200	\$1,000

Notes:

(1) This estimate is based on an analysis of the FY2013 FPDS dataset described in paragraph 12.a.

Based on an analysis of FPDS data, the information collection burden increased substantially over the past four years due to the transition from the expiring FTS 2001 contract to the GSA's successor "Networx" program. Although the transition was scheduled to be completed in FY2012, analysis indicates that contracting activity in FY2014 and beyond will return to the averages experienced in the years prior to the transition. Accordingly, the FY2013 data used to prepare this estimate was

adjusted to reflect the average contracting activity from FY2006 through FY2010. Since the contracting activity in the first 10 months of FY2014 has returned to the pre-transition volume, this adjustment is considered appropriate.

Baseline data from FY2013 is considered a good indicator of future activity since it includes new contract actions associated with the GSA Worldwide SATCOM and Custom SATCOM Solutions programs. Although future years may fluctuate as DoD converts to new information and telecommunications technologies, contracting activity is expected to remain fairly stable in FY2014 and beyond.

DFARS 252.239-7006(a)(1) - The estimated number of respondents assumes that the contracting officer will require the contractor to provide supporting documentation for every application. The estimated number of respondents and number of responses per respondent are based on FY2013 FPDS data. The estimated hours required to gather and submit new tariff data to the contracting officer remains unchanged from the 2011 estimate of 0.5 hours. It is routine for contractors to request rate adjustments when tariffs change. Accordingly, the previously estimated hours are considered reasonable.

DFARS 252.239-7006(a)(2) - This estimate assumes four applications will be submitted each month for a total of forty-eight per year as previously estimated. The currently approved estimate of 0.5 hours is also considered reasonable. This reflects the amount of time required to submit a copy of an application via email or fax to the contracting officer.

DFARS 252.239-7006(a)(3) - This estimate assumes supporting data for four applications will be submitted each month for a total of 48 per year. This is based on the assumption that contracting officers will require contractors to submit supporting documentation for every application submitted in accordance with 252.239-7006(a)(2). Since the hours required to gather and submit the supporting data to the contracting officer remains unchanged at 1.0 hour per response, the estimated burden has been increased by 12 hours from 36 to 48 hours.

DFARS 252.239-7006(b) - The previous estimate assumes that each year contracting officers will receive 80 notices that applications have been submitted by someone other than the contractor that can impact the rates on the contract. Based on the estimator's judgment, the 2011 estimate is considered reasonable.

(2) The cost per hour was calculated using the OPM CY2014 GS-07 step 5 salary of \$18.64 then adding a burden of \$6.76 which was computed using the current OMB burden rate of 36.25 percent as follows:

<u>Cost per Hour</u>	
	\$18.6
GS-7, step 5	4
Burden @ 36.25%	\$6.76
	<u>\$25.4</u>
	0

The hourly rate was rounded to \$25 per hour.

c. Telecommunications Services - Special Construction. The burden associated with the requirement of DFARS 239.7408 to provide a detailed special construction proposal is estimated at 640 hours, broken out as follows:

DFARS 239.7408	
Number of Respondents (1)	32
Responses Per Respondent (1)	1
Number of Responses	32
Average Hours Per Response (1)	20
Estimated Hours	640
Cost Per Hour (2)	\$54
Total Annual Public Burden	\$34,560

Notes:

(1) This estimate is based on input from DoD personnel familiar with the requirement for contractors to submit a proposal for any special construction necessary to provide telecommunications services in accordance with a contract.

(2) The cost per hour was calculated using the OPM CY2014 GS-13 step 5 salary of \$39.31 then adding a burden of \$14.25 which was computed using the current OMB burden rate of 36.25 percent as follows:

<u>Cost per Hour</u>	
GS-13, step 5	\$39.31
Burden @ 36.25%	\$14.25
	<u>\$53.56</u>

The hourly rate was rounded to \$54 per hour.

d. Composite public burden estimate. The following table summarizes the calculations shown in paragraphs a. through c. above. For estimating purposes, respondents to 252.239-7006 (a)

(2), (a)(3), (b), and 239.7408 are the same as respondents to 252.239-7006(a)(1), and therefore are not added to the total.

Composite Public Burden	
Number of Respondents	387
Responses Per Respondent	33
Annual Responses	12,915
Average Burden <u>Hours</u> Per Response	0.6
Annual Burden Hours	7,106
Average Cost Per Hour	\$27.61
Total Annual Public Burden	\$196,210

13. Estimated nonrecurring costs. There are no estimated nonrecurring costs, i.e., capital and start-up operation and maintenance costs other than the hour burden detailed in section 12.

14. Estimated cost to Government. The time required for Government review of the requirements is based on receiving, reviewing, and analyzing the information submitted by the contractor. The total Government estimate of 14,163 hours and \$764,802 is calculated as follows.

a. Security and Privacy for Computer Systems. (DFARS 252.239-7000)

DFARS 252.239-7000	
Number of Responses (1)	107
Average Hours Per Response (1)	1
Estimated Hours	107
Cost Per Hour (2)	\$54
Total Annual Public Burden (3)	\$5,778

b. Telecommunications Services - Tariffs. (DFARS 252.239-7006(a)(1), (a)(2), (a)(3), (b))

DFARS 252.239-7006	(a)(1)	(a)(2)	(a)(3)	(b)
Number of Responses (1)	12,600	48	48	80
Average Hours Per Response (1)	1	1	1	1
Estimated Hours (1)	12,600	48	48	80
Cost Per Hour (2)	\$54	\$54	\$54	\$54
Total Annual Public Burden (3)	\$680,400	\$2,592	\$2,592	\$4,320

c. Telecommunications Service - Special Construction.

DFARS 239.7408	
Number of Responses (1)	32
Average Hours Per Response (1)	40
Estimated Hours	1,280
Cost Per Hour (2)	\$54
Total Annual Public Burden	\$69,120

Notes:

(1) The estimated hours per response is based on the time required for Government receive, review, and analyze the information submitted by the contractor. The estimates were developed as a result of discussions with DoD personnel.

(2) The cost per hour was calculated using the OPM CY2014 GS-13 step 5 salary of \$39.31 then adding a burden of \$14.25 which was computed using the current OMB burden rate of 36.25 percent as follows:

<u>Cost per Hour</u>	
GS-13, step 5	\$39.31
Burden @ 36.25%	\$14.25
	\$54

The hourly rate was rounded to \$54 per hour.

d. Total Government Burden - The total estimated hours and cost to the Government addressed in paragraphs a. through c. above are summarized below.

Total Government Burden	Hours	Cost
DFARS 252.239-7000	107	\$5,778
DFARS 252.239-7006(a)(1)	12,600	\$680,400
DFARS 252.239-7006(a)(2)	48	\$2,592
DFARS 252.239-7006(a)(3)	48	\$2,592
DFARS 252.239-7006(b)	80	\$4,320
DFARS 239.7408	1,280	\$69,120
Total	14,163	\$764,802

15. Reasons for Changes in Burden. The estimated changes in the burden hours addressed in Item 12 above are based on an adjustment due an increase in the estimated number of respondents and responses, using FY 2013 FPDS data and based on consultation with DoD personnel. The estimated change in the estimated cost is due to using more current cost per hour data. The following table summarizes the adjustment to burden hours and associated cost.

Public burden adjustment:			
	<u>2014</u>	<u>2011</u>	<u>Change</u>
Hours	7,106	4,042	3,064
Dollars	\$196,210	\$56,220	\$142,295

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

17. Expiration Date. Not applicable.

18. Certification. There are no exceptions to the certification statement identified in Item 19 of OMB Form 83-I.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS.

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

0704-0341 DFARS text and clauses

252.239-7000 Protection Against Compromising Emanations.

As prescribed in [239.7103](#)(a), use the following clause:

PROTECTION AGAINST COMPROMISING EMANATIONS (JUN 2004)

(a) The Contractor shall provide or use only information technology, as specified by the Government, that has been accredited to meet the appropriate information assurance requirements of—

(1) The National Security Agency National TEMPEST Standards (NACSEM No. 5100 or NACSEM No. 5100A, Compromising Emanations Laboratory Test Standard, Electromagnetics (U)); or

(2) Other standards specified by this contract, including the date through which the required accreditation is current or valid for the contract.

(b) Upon request of the Contracting Officer, the Contractor shall provide documentation supporting the accreditation.

(c) The Government may, as part of its inspection and acceptance, conduct additional tests to ensure that information technology delivered under this contract satisfies the information assurance standards specified. The Government may conduct additional tests—

(1) At the installation site or contractor's facility; and

(2) Notwithstanding the existence of valid accreditations of information technology prior to the award of this contract.

(d) Unless otherwise provided in this contract under the Warranty of Supplies or Warranty of Systems and Equipment clause, the Contractor shall correct or replace accepted information technology found to be deficient within 1 year after proper installations.

(1) The correction or replacement shall be at no cost to the Government.

(2) Should a modification to the delivered information technology be made by the Contractor, the 1-year period applies to the modification upon its proper installation.

(3) This paragraph (d) applies regardless of f.o.b. point or the point of acceptance of the deficient information technology.

(End of clause)

252.239-7006 Tariff Information.

As prescribed in [239.7411\(a\)](#), use the following clause:

TARIFF INFORMATION (JUL 1997)

(a) The Contractor shall provide to the Contracting Officer—

(1) Upon request, a copy of the Contractor's current existing tariffs (including changes);

(2) Before filing, any application to a Federal, State, or any other regulatory agency for new or changes to, rates, charges, services, or regulations relating to any tariff or any of the facilities or services to be furnished solely or primarily to the Government; and

(3) Upon request, a copy of all information, material, and data developed or prepared in support of or in connection with an application under paragraph (a)(2) of this clause.

(b) The Contractor shall notify the Contracting Officer of any application that anyone other than the Contractor files with a governmental regulatory body which affects or will affect the rate or conditions of services under this agreement/contract. These requirements also apply to applications pending on the effective date of this agreement/contract.

(End of clause)

239.7408 Special construction.

239.7408-1 General.

(a) "Special construction" normally involves a common carrier giving a special service or facility related to the performance of the basic telecommunications service requirements. This may include—

(1) Moving or relocating equipment;

(2) Providing temporary facilities;

(3) Expediting provision of facilities; or

(4) Providing specially constructed channel facilities to meet Government requirements.

(b) Use this subpart instead of FAR part 36 for acquisition of "special construction."

(c) Special construction costs may be—

(1) A contingent liability for using telecommunications services for a shorter time than the minimum to reimburse the contractor for unamortized non-recoverable costs. These costs are usually expressed in terms of a termination liability, as provided in the contract or by tariff;

(2) A onetime special construction charge;

(3) Recurring charges for constructed facilities;

(4) A minimum service charge;

(5) An expediting charge; or

(6) A move or relocation charge.

(d) When a common carrier submits a proposal or quotation which has special construction requirements, the contracting officer shall require a detailed special construction proposal. Analyze all special construction proposals to—

(1) Determine the adequacy of the proposed construction;

(2) Disclose excessive or duplicative construction; and

(3) When different forms of charge are possible, provide for the form of charge most advantageous to the Government.

(e) When possible, analyze and approve special construction charges before receiving the service. Impose a ceiling on the special construction costs before authorizing the contractor to proceed, if prior approval is not possible. The contracting officer must approve special construction charges before final payment.

239.7408-2 Applicability of construction labor standards for special construction.

(a) The construction labor standards in FAR subpart 22.4 ordinarily do not apply to special construction. However, if the special construction includes construction, alteration, or repair (as defined in FAR 22.401) of a public building or public work, the construction labor standards may apply. Determine applicability under FAR 22.402.

(b) Each CSA or other type contract which is subject to construction labor standards under FAR 22.402 shall cite that fact.