

**SUPPORTING STATEMENT
HOMELAND SECURITY ACQUISITION REGULATION (HSAR)
Regulation on Agency Protests
(OMB No. 1600-0004)**

A. JUSTIFICATION.

1. Circumstances Making the Collection of Information Necessary

The Federal Acquisition Regulation (FAR);, 48 CFR Chapter 1, provides general procedures on handling protests submitted by contractors to Federal agencies. The FAR provides detailed guidance for contractors doing business with acquisition offices within the Department of Homeland Security (DHS). FAR Part 33.103, Protests, Disputes, and Appeals prescribes policies and procedures for filing protests and for processing contract disputes and appeals.

DHS will not be asking for anything outside of what is already required in the FAR. The FAR prescribes the procedures to be followed for protests to the agency and allows agencies to determine the method of receipt. DHS will utilize electronic mediums (email or facsimile) for collection of information and will not prescribe a format or require more information than what is already required in FAR . Should anything outside the FAR arise, DHS will submit a request for Office of Management and Budget (OMB) approval. The prior information collect request for OMB No. 1600-004 was approved through May 31, 2014 by OMB in a Notice of OMB Action.

2. Purpose of Use of the Information Collection

The information being collected will be obtained from contractors as part of their submissions whenever they file a bid protest with the DHS. The information will be used by DHS officials in deciding how the protest should be resolved. Failure to collect this information would result in delayed resolution of agency protests.

3. Use of Improved Information Technology and Burden Reduction

Agency protest information is contained in each individual solicitation document, and provides the specified contracting officer's name, email, and mailing address that the contractors would use to submit its response. The automated processing envisioned by the agency statement for this Information Collection Request (ICR) was that the contractor would use email or facsimile to submit its time sensitive responses to the specified Government point of contact. Since the responses must meet specific timeframes, a centralized mailbox or website would not be an expeditious or practical method of submission. The use of contracting officer's email or facsimile is the best solution and commonly used in the Government protest process.

The FAR does not specify the format in which the contractor should submit protest information. However, most contractors use automated word processing systems to facilitate preparation of material to be submitted. It is common place within many of

DHS's Components for submissions to be electronic as a result of implementation of e-Government initiatives.

4. Efforts to Identify Duplication and Use of Similar Information

The information to be included in a contractor's submission of a protest to the agency is specified in the FAR Part 33.103 which standardizes Federal procurement practices and eliminates unnecessary duplication. Information to be provided by contractors is the same whether the protest is to GAO (see 4 CFR 21.1) or to the agency. There will be no duplication of information,

5. Impact on Small Business or Other Small Entities

This information collection may or may not involve small business contractors, depending on the particular transaction. The burden applied to small businesses is minimal and consistent with the goals of achieving timely resolution of agency protests.

6. Consequences of Collection the Information Less Frequently

This information is collected only when contractors choose to file a protest. The information is requested from contractors so that the Government will be able to evaluate protests effectively and provide prompt resolution of issues in dispute when contractors file agency level claims.

7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5

There are no special circumstances that would cause this information collection to be conducted in a manner outside the procedures in the FAR and the GAO's Bid Protest Rules.

8. Efforts to Consult Outside the Agency

A 60 Day Federal Register Notice seeking public comments was published at 79 FR 60178 on October 6, 2014. DHS did receive done (1) comment.

A respondent advised in response to the DHS request for comments on the information collection that DHS should "Review your contractors and their costly habits and business tactics and propose a new rule that you can revoke their contract for wasting our money and time and apparently a lot information acquisition request forms." This commenter further advised that the reason for submitting the comment is the large amount of contractor waste the respondent witnessed while serving in the Navy.

DHS response – We concur with the sentiment behind the commenters recommendation. The Government needs a means of eliminating contractors from its business base who abuse their government contracts and waste taxpayer funds. We note that the Federal Acquisition Regulation (FAR) and the Homeland Security Acquisition Regulation currently include extensive policies and

procedures requiring that agencies shall impose debarment or suspension of contractors to protect the government’s interests for causes listed in the FAR. These causes include conviction for fraud, commission of embezzlement, lack of business integrity, violating government contract terms and other causes. Further, the FAR provides that the government may terminate a contract for default when the contractor fails to perform. We consider the current FAR and HSAR policies adequate for these purposes.

A 30 Day Federal Register Notice seeking public comments was published at 79 FR 77018 on December 23, 2014. No comments have been received.

9. Explanation of Payments and Gifts to Respondents

There will be no payments or gifts made to respondents for this information collection.

10. Assurance of Confidentiality Provided to Respondents

There are no assurances of confidentiality for this information collection.

11. Justification for Sensitive Questions

Questions of a personal or private nature are not asked in agency protests.

12. Estimates of Annualized Burden Hours and Costs

Based on current protest activity, we expect an estimated 95 protests per year, and we estimate that each submission will involve a burden of two hours, for a total annual burden of 190 hours.

Table A.12: Estimated Annualized Burden Hours and Costs

Type of Respondent	Form Name / Form Number	No. of Respondents	No. of Responses per Respondent	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
Contractor		95	1	2	190	\$28.25	\$5,367.50
Total		95			190		\$5,367.50

13. Estimates of annualized capital and start-up costs.

There are no capital or start-up costs associated with this information collection.

14. Annualized Cost to the Federal Government

The size and complexity of each agency protest is unique and dependent upon the circumstances of the particular acquisition and the contractor’s objections to aspects of the transactions, such as methodology used, timeliness of receipt, location receipt, mishandling receipt, etc. A description of the response methods used could range from a single-paged typed document to a detailed submission of multiple pages with

computations, statement, etc which would depend on the situation, opinions, and objections presented by the protesting contractor. Federal acquisition solicitations are not entirely repetitive in nature, so there are no set standard recurring annual costs associated with protest responses.

15. Explanation of Program Changes or Adjustments

There are no changes to the information being collected. There are no changes to the burden estimates.

16. Plans for Tabulation and Publication

DHS does not intend to publish this information collection for statistical purposes.

17. Reason(s) Display of OMB Expiration Date is Inappropriate

There are no forms associated with this information collection.

18. Exceptions to the Certification of the Paperwork Reduction Act Submissions

There are no exceptions to the certification statement.