

SUPPORTING STATEMENT

OMB Control Number 0704-0272

Defense Federal Acquisition Regulation Supplement (DFARS) Part 223,
Occupational Safety and Drug-Free Work Force and related clauses in DFARS 252.223

A. JUSTIFICATION

1. Need for the Information Collection

This information collection requirement covers the Defense Federal Acquisition Regulation Supplement (DFARS) part 223, subpart 223.3, Hazardous Material Identification and Material Safety Data, section 223.570, Drug-free Work Force, and subpart 223.72, Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives, and related clauses at 252.223. The information collection requirement pertains to the burdens associated with the required reporting of information that an offeror or contractor must submit to the Department of Defense (DoD) in response to the following solicitation provisions and contract clauses in DFARS 252.223:

a. DFARS 252.223-7001, Hazard Warning Labels. Paragraph (c) of the clause requires all offerors responding to a solicitation, to provide a list of the hazardous material for which the hazard warning label will conform to one of the following statutes rather than the Hazard Communication Standard (29 CFR 1910.1200)—

- i. Federal Insecticide, Fungicide, and Rodenticide Act;
- ii. Federal Food, Drug, and Cosmetics Act;
- iii. Consumer Product Safety Act;
- iv. Federal Hazardous Substances Act; or
- v. Federal Alcohol Administration Act.

b. DFARS 252.223-7002, Safety Precautions for Ammunition and Explosives.

i. Paragraph (c) requires the contractor to inform the contracting officer of the corrective actions it has taken within 30 days from a notification from the contracting officer of a noncompliance with DoD 4145.26-M, DoD Contractor's Safety Manual for Ammunition and Explosives.

ii. Paragraph (d) requires the contractor to notify and submit a written report to the contractor if a mishap involving ammunition or explosives occurs.

iii. Paragraph (g)(4) requires the contractor to notify the contracting officer before issuing any subcontract involving ammunition or explosives.

c. DFARS 252.223-7003, Change in Place of Performance—Ammunition and Explosives.

i. Paragraph (a) requires the offeror to identify the place of performance of all ammunition and explosives work described in 252.223-7002.

ii. Paragraphs (b) and (c) require the contractor to inform the contracting officer of any change in the place of performance.

d. DFARS 252.223-7007, Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives. Paragraph (e) requires the contractor to notify the cognizant Defense Security Service field office within 10 days of the award of a subcontract.

e. DFARS 252.223-7004, Drug-Free Work Force. The clause requires that certain contractors maintain records necessary to demonstrate reasonable efforts to eliminate the unlawful use by contractor employees of controlled substances. DoD does not regularly collect any information with regard to this clause. This information collection requirement—

i. Applies to contracts that involve contractor access to classified information;

ii. Applies to any other contract if the contracting officer determines that it is necessary for reasons of national security, or to protect the health or safety of those using the product, or those that may be affected by the performance of the contract; and,

iii. Does not apply to contracts for commercial items, contracts performed outside of the United States, or when the value of the acquisition is below the simplified acquisition threshold.

2. Use of the Information

The information collected under clauses 252.223-7001, -7002, -7003, and -7007 is used by DoD contracting officers as discussed below. In addition, 252.223-7004 requires contractors to keep records related to their drug-free work force program.

a. 252.223-7001: Verify compliance with requirements for labeling of hazardous material;

b. 252.223-7002 and 252.223-7003: Monitor compliance of contractors with DoD 4145.26-M, DoD Contractor's Safety Manual for Ammunition and Explosives, and the schedule provisions, to ensure that contractors take reasonable precaution in handling ammunition and explosives and minimize the risk of future mishaps;

c. 252.223-7007: Monitor the contractor's compliance with the security requirements set forth in 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives;" and

d. 252.223-7004: Records kept by certain contractors, with regard to programs for achieving the objective of a drug-free work force, will be used to document compliance with the requirements of the clause.

3. Use of Information Technology

Information technology is used 100% of the time. In compliance with 44 U.S.C. 3504 (a)(1) (B)(vi), DoD provides the option for the electronic submission of information, when practicable, as a substitute for paper. In addition, Federal Acquisition Regulation (FAR) 2.101 defines the terms “in writing” and “written” to include “electronically transmitted and stored information. Standardized or repetitive data is not involved. Contractors may, however, submit any required information in formats that are compatible with their automated systems.

4. Non-duplication

As a matter of policy, DoD reviews the FAR to determine if adequate language already exists. DFARS part 223 and related clauses at 252.223 apply only to DoD and do not duplicate any other regulations. Similar information is not readily available from any other source.

5. Burden on Small Business

The collection associated with small businesses is the minimum consistent with applicable laws, regulations, and prudent business practices.

6. Less Frequent Collection

The frequency for collecting this information was reviewed by the DoD specialists who are most knowledgeable of the requirements and the need for the information. Every attempt has been made to keep the frequency of collection to a minimum without jeopardizing the ability of the Government to assure that contractors are performing the contractual requirements. Collecting this information less frequently would impede contracting officers from making informed contract award decisions and from performing their administrative functions in an effective and efficient manner.

7. Paperwork Reduction Act Guidelines

There are no special circumstances for this collection. The collection of information is consistent with the guidelines delineated in 5 CFR 1320.5(d)(2).

8. Consultation and Public Comments

a. Public comments were solicited in the *Federal Register* on August 18, 2017, at 82 FR 39416 as required by 5 CFR 1320.8(d)). No comments were received.

b. On Tuesday, October 24, 2017, DARS published a notice in the *Federal Register* at 82 FR 49187 stating that the proposed information collection had been submitted to OMB for approval.

c. Subject matter experts within DoD were also consulted.

9. Gifts or Payment

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

10. Confidentiality

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. Sensitive Questions

No sensitive questions are involved.

12. Respondent Burden, and its Labor Costs

a. 252.223-7001, Hazard Warning Labels, paragraphs (c) and (d). This clause is prescribed at DFARS 223.303, for use in solicitations and contracts that require submission of a Material Safety Data Sheet (MSDS). FAR clause 52.223-3, Hazardous Material Identification and Material Safety Data, requires the submission of a MSDS’s meeting the requirements of the Hazard Communication Standard at 29 CFR 1910.1200 and the latest version of Federal Standard No. 313, for any hazardous material to be delivered under a contract.

Examination of fiscal year (FY) 2016 FPDS information reveals that approximately 15,105 contracts were awarded that may have involved the use of hazardous materials. Approximately 42,859 offers were received from offerors participating in the solicitations associated with these contracts, and approximately 1,903 unique vendors received the resultant contract awards.

i. Paragraph (c) of the DFARS clause requires offerors to list which hazardous materials will be labeled in accordance with one of the statutes delineated in paragraphs (b)(1) through (5), instead of the Hazard Communication Standard, in their offers. We estimate that 75 percent or approximately 32,142 of the offers received (42,859 * .75) will be required to provide this list. We estimate 10 responses per respondent, a total of 3,214 respondents (32,142/10) and on average, 1 hour per response. We have estimated a cost of \$45 per hour (equivalent of a GS-11, step 5 salary of \$32.70, plus 36.25 percent burden, rounded to the nearest whole dollar¹):

Estimation of Respondent Burden Hours: 252.223-7001(c)	
Number of respondents	3214
Responses per respondent	10
Number of responses	32,142

¹ In all instances, the hourly rates are based on OPM 2017 General Schedule and Locality Payment of 15.06% hourly rates plus OMB Memorandum M-08-13 March 11, 2008 Civilian Position Full Fringe Benefit Cost Factor

Hours per response	1
Estimated hours	32,142
Cost per hour (hourly wage)	\$45
Annual public burden	\$1,446,390

ii. Paragraph (d) of the clause requires only the successful offeror to submit, before award, a copy of the hazard warning label for all hazardous materials not listed in paragraph (c) of the clause. Based on an estimate that 80 percent of the unique vendors received awards involving hazardous material not listed in paragraph (c), we estimate the number of respondents to be approximately 1,522 ($1,903 * .80$), 80% of awarded contracts are impacted resulting in 12,176 responses ($15,105 * .8$), 30 minutes per response, and an estimated cost of \$30 per hour (the equivalent of a GS-7, step 5 salary of \$220.9, plus 36.35 percent burden rounded to the nearest whole dollar):

Estimation of Respondent Burden Hours: 252.223-7001(d)	
Number of respondents	1,522
Responses per respondent	8
Number of responses	12,176
Hours per response	.25
Estimated hours	3,044
Cost per hour (hourly wage)	\$30
Annual public burden	\$91,320

NOTE: Respondents shown in 12.a.ii. above are a subset of respondents represented in paragraph 12.a.i., and are therefore not additive.

b. 252.223-7002, Safety Precautions for Ammunition and Explosives, paragraphs (c), (d), and (g). This clause is prescribed at DFARS 223.370-5 for use in solicitations and contracts for acquisitions requiring the use or the incorporation of materials involving the initiation, propulsion, or detonation as an integral or component part of an explosive, an ammunition or explosive end item or weapon system.

i. Paragraph (c)(2) requires the contractor, within 30 days of notification of noncompliance, to notify the contracting officer of the corrective action(s) it has taken. Based on information provided by the DoD Explosives and Safety Board technical expert, we estimate there are approximately 332 DoD contractors performing on contracts involving ammunition and explosives (A&E). It is further estimated that 30 percent of these contractors or approximately 100 ($332 * .30$), will have 1 or more non-compliances and require corrective action (average of 1.5). These contractors will be notified of some sort of noncompliance requiring corrective action, for a total of 150 corrective actions per year ($100 * 1.5$). Some of these actions are minor, while other corrective actions are more extensive. We estimate that, on the average, it

takes the contractor 1 hour to report the corrective action taken. We estimate a cost per hour of \$53 (equivalent to GS-12, step 5 salary of \$39.19 plus 36.25 percent burden rounded to the nearest whole dollar):

Estimation of Respondent Burden Hours: 252.223-7002(c)(2)	
Number of respondents	100
Responses per respondent	1.5
Number of responses	150
Hours per response	1
Estimated hours	150
Cost per hour (hourly wage)	\$53
Annual public burden	\$7,950

ii. Paragraph (d)(1) requires contractors to notify the contracting officer immediately of any mishaps involving ammunition or explosives. Paragraph (d)(3) requires the contractor to submit a written report of the investigation of the incident to the contracting officer. Based on information provided by the DoD Explosives and Safety Board technical expert, we estimate 10 mishaps per year. These mishaps will be attributed to 10 contractors, one response per contractor. Each report will require 24 hours to complete, at a cost of \$46 (equivalent of a GS-12, step 5 salary of \$39.19 plus 36.25 percent burden rounded to the nearest whole dollar):

Estimation of Respondent Burden Hours: 252.223-7002(d)	
Number of respondents	10
Responses per respondent	1
Number of responses	10
Hours per response	24
Estimated hours	240
Cost per hour (hourly wage)	\$53
Annual public burden	\$12,720

iii. Paragraph (g)(4) requires contractors to notify the contracting officer when placing a subcontract for ammunition or explosives. We estimate an average of 6 responses per contractor performing on an A&E contract, 15 minutes per response, at a cost of \$26 per hour (equivalent of a GS-7, step 5 salary of \$22.02, plus 36.25 percent burden rounded to the nearest whole dollar):

Estimation of Respondent Burden Hours: 252.223-7002(g)(4)	
Number of respondents	332
Responses per respondent	6

Number of responses	1,992
Hours per response	.25
Estimated hours	498
Cost per hour (hourly wage)	\$30
Annual public burden	\$14,940

NOTE: Respondents shown in 12.b.i. and 12.b.ii. above are a subset of respondents represented in 12.b.iii., and are therefore not additive.

c. 252.223-7003, Changes in Place of Performance—Ammunition and Explosives, paragraphs (a), (b), and (c). This clause is prescribed at DFARS 223.370-5, for use in contracts under which ammunition and explosives are handled.

i. Paragraph (a) of the clause requires the offeror to identify, in the “Place of Performance” provision of the solicitation, the place of performance of all ammunition and explosives work covered by DFARS 252.223-7002, Safety Precautions for Ammunition and Explosives. Based on information provided by the DoD Explosives and Safety Board technical expert, we estimate approximately 2,324 responses (485 solicitations * 5 responses per solicitation). Using the estimate of 332 contractors established in 252.223-7002(c)(2) (see section 12.b.i.), we calculate an average of approximately 7 responses per respondent (2,425/332 = 7.3 rounded to 7). We further estimate that it takes an offeror approximately ten minutes to identify the place of performance in the solicitation, at a cost of \$37 per hour (equivalent of a GS-9, step 5 salary of \$27.02, plus 36.25 percent burden rounded to the nearest whole dollar):

Estimation of Respondent Burden Hours: 252.223-7003(a)	
Number of respondents	332
Responses per respondent	7
Number of responses	2,324
Hours per response	.17
Estimated hours	395
Cost per hour (hourly wage)	\$37
Annual public burden	\$14,615

ii. Paragraphs (b) and (c) require the contractor to obtain written permission from the contracting officer before changing the place of performance of any portion of the contract covered by 252.223-7002, Safety Precautions for Ammunition and Explosives. Discussions with the technical expert from the DoD Explosives and Safety Board, indicate that generally, 30 percent of the 332 contractors performing A&E contracts will request a change of its place of performance. These 100 respondents (332 * .30) will submit approximately 5 responses each, many times due to a change in the place of performance of their subcontractors. Each response will require approximately 8 hours to complete, due to the amount of detailed information the

contractor is required to submit in order to demonstrate that the new place of performance meets the stringent safety requirements associated with this type of work, at a cost of \$32 per hour (equivalent of a GS-9, step 5 salary of \$27.02, plus 36.25 percent burden rounded to the nearest whole dollar):

Estimation of Respondent Burden Hours: 252.223-7003(b) & (c)	
Number of respondents	100
Responses per respondent	5
Number of responses	500
Hours per response	8
Estimated hours	4,000
Cost per hour (hourly wage)	\$37
Annual public burden	\$148,000

NOTE: Respondents shown in 12.c.i. and 12.c.ii. above are a subset of respondents represented in paragraph 12.b.iii. for 252.223-7002(g), and are therefore not additive.

d. 252.223-7007, Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives, paragraph (e). This clause is prescribed in DFARS 223.7203, for use in solicitations and contracts for acquisitions involving items within the scope (Chapter 1, paragraph B) of DoD 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunitions, and Explosives (AA&E). Paragraph (e) requires the contractor to notify the cognizant Defense Security Service (DSS) field office within 10 days of any subcontract involving AA&E.

According to subject matter experts (SMEs) from DSS, AA&E records pertinent to DoD 5100.76-M are maintained in the DSS Industrial Security Facility Database (ISFD). According to the ISFD, as of June of 2017, the estimated total number of respondents per year is 149; the average number of notifications per respondent is 1; and the amount of time required to prepare each notification is 30 minutes, at a cost of \$45 per hour (equivalent of a GS-11, step 5 salary of \$32.70, plus 36.25 percent burden rounded to the nearest whole dollar):

Estimation of Respondent Burden Hours: 252.223-7007(e)	
Number of respondents	149
Responses per respondent	1
Number of responses	149
Hours per response	.50
Estimated hours	75
Cost per hour (hourly wage)	\$45
Annual public burden	\$3,375

e. 252.223-7004, Drug-Free Work Force. This clause is prescribed at DFARS 223.570-2, for use in contracts that involve access to classified information or when the contracting officer determines that the clause is necessary for reasons of national security or for the purpose of protecting the health or safety of those using or affected by the product of, or performance of, the contract.

i. Ongoing recordkeeping – existing contracts: According to FPDS data, there were approximately 20,498 contractors with existing ongoing noncommercial item contracts valued at greater than the simplified acquisition threshold that are performed in the U.S., of which approximately 14,599 were small businesses. According to subject matter experts, it is estimated that 50% of the small businesses and 90% of the large businesses are performing sensitive contracts. In addition, it is estimated that it would take a recordkeeper 40 hours per year to maintain records of compliance with the clause requirements under an existing contract at a cost of \$37 per hour (equivalent of a GS-09, step 5 salary of \$36.81, plus 36.25 percent burden rounded to the nearest dollar).

Estimation of Respondent Recordkeeping: 252.223-7004 (Existing Contracts)			
Ongoing Program Requirements - Businesses	Small	Large	Total
Respondents	14,599	5,899	20,498
% performing sensitive contracts	50%	90%	
Total number of recordkeepers	7,300	5,309	12,610
Recordkeeping hours per year per contractor			40
Total recordkeeping burden hours			504,400
Cost per hour			\$37
Total annual cost burden			\$18,662,800

ii. Start-up recordkeeping – new awards: Of the total number of recordkeepers estimated in section 12.e.i. above, it is estimated that 10% are establishing a new program. It is estimated that it takes a recordkeeper 80 hours to start-up a program to document compliance with the clause at a cost of \$75 per hour (equivalent of a GS-14, step 5 salary of \$55.07, plus 36.25 percent burden rounded to the nearest dollar).

Estimation of Respondent Recordkeeping: 252.223-7004 (New Awards)			
New Start Program Requirements - Businesses	Small	Large	Total
Total number of recordkeepers	7,300	5,309	12,610
% establishing a new program	10%	10%	
Total number of new programs per year	730	530	1,260
Start-up hours per new program			80
Total start-up burden hours			100,800

Cost per hour	\$75
Total annual start-up cost burden	\$7,560,000

f. Total Public Burden:

i. Reporting: The following is a summary of the reporting burden described in sections 12.a. through 12.d. of this supporting statement.

Estimation of Total Public Burden: Total Reporting							
Clause 252.223-	Respondents	Responses/ Respondent	Total Responses	Hours/ Resp	Total Hours	Cost/ Hour	Total Cost
-7001	3,214	13.79	44,318	.79	35,186	\$44	\$1,537,710
-7002	332	6.48	2,152	.41	888	\$40	\$35,610
-7003	*	8.51	2,824	1.56	4,395	\$37	\$162,615
-7007	149	1	149	.5	75	\$45	\$3,375
TOTAL	3,695	13.38	49,443	0.82	40,544	\$43	\$1,739,310

* *NOTE: Respondents to 252.223-7003 are the same respondents to 252.223-7002, and therefore not additive.*

ii. Recordkeeping: The following is a summary of the recordkeeping burden described in section 12.e. of this supporting statement.

Estimation of Total Public Burden: Total Recordkeeping	
Total Recordkeepers	12,610
Total Annual Burden Hours	605,200
Total Cost	\$26,222,800

iii. Reporting and Recordkeeping: The following is a summary of the total public burden, including reporting and recordkeeping described in sections 12.a. through 12.e. of this supporting statement.

Estimation of Public Burden: Total Reporting and Recordkeeping	
Number of Respondents	3,695
Responses per Respondent (approximately)	16.8
Number of Responses (49,443 responses + 12,610 recordkeepers)	62,053
Hours per Response (approximately)	10.4
Total Estimated Hours (40,544 burden + 605,200 recordkeeping)	645,744

Average Cost per Hour (approximately)	\$43
Annual public burden	\$27,692,110

13. Respondent Costs Other than Burden Hour Costs

It is not anticipated that this information collection will generate any additional annualized costs to respondents other than the labor burden costs addressed in section 12.

14. Cost to the Federal Government

In the table below, the number of respondents and the number of responses are based on the same information and calculated in the same manner as discussed in section 12. The estimate of hours expended by DoD reviewing and analysis of the contractors' or offerors' documentation is based on estimations provided by the subject matter experts.

Estimation of Government Burden: Total					
Clause 252.223-	Total Responses	Hours per Response	Total Hours	Cost per Hour	Total Cost
-7001(c)	32,142	1.0	32,142	\$45	\$1,446,390
-7001(d)	12,176	0.25	3,044	\$30	\$91,320
-7002(c)	150	1.0	150	\$53	\$7,950
-7002(d)	10	24	240	\$53	\$12,720
-7002(g)	1,992	0.25	498	\$30	\$19,940
-7003(a)	2,324	.17	395	\$37	\$14,615
-7003(b) & (c)	500	8.00	4,000	\$37	\$148,000
-7007(e)	149	.50	75	\$45	\$3,375
TOTAL	39,443	.82	40,544	\$45	\$1,739,310

15. Reasons for Change in Burden

The reasons for the change in burden are not attributed to any programmatic changes. The technical expert from the DoD Explosives and Safety Board notes that the drop in the annual number of mishaps from 15 to 10 for 252.223-7002(d) is due to the increased oversight put forth by the Defense Contract Management Agency in recent years. He also notes that in the previous 2014 Paperwork Reduction Act submission, the amount of time needed to prepare the paperwork necessary to request a change in the place of performance pursuant with 252.223-7003(c) was underestimated, since the nature of the work involved dictates that such a request must be extremely detail-oriented. Other changes to the burden amounts reflect the use of updated FPDS information and the application of FY 2017 GS hourly rates. Recordkeeping hours to maintain program records under 252.223-7004 were adjusted downward slightly from 48 to 40 to account for program maturity for ongoing programs.

0704-0272: Reporting	2014	2017	Change
Respondents	1,519	3,695	+2,176
Responses	13,507	39,443	+25,936
Estimated Hours	9,448	40,544	+31,096
Annual Public Burden	\$331,816	\$1,739,310	+\$1,407,494

0704-0272: Recordkeeping	2014	2017	Change
Recordkeepers	12,255	12,610	+355
Estimated Hours	665,631	605,200	-60,431
Annual Public Burden	\$23,110,849	\$26,222,800	+\$3,111,951

** NOTE: The above numbers represent the burden estimates illustrated in the Supporting Statement and published in the Federal Register notices associated with the request for renewal of 0704-0272 in 2014. The numbers in the 2014 notice of action do not illustrate the numbers presented in the Supporting Statement or those Federal register notices.*

16. Publication of Results

The results of this collection will not be published.

17. Non-Display of OMB Expiration Date

DoD is not seeking approval to omit the display of the expiration date of OMB approval of the information collection.

18. Exceptions to "Certification for Paperwork Reduction Submissions"

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

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods will not be employed.