

## SUPPORTING STATEMENT

### Defense Federal Acquisition Regulation Supplement (DFARS) Part 216, Types of Contracts, and related clauses in Part 252.216; OMB Control Number 0704-0259

#### A. JUSTIFICATION

##### 1. Need for the Information Collection

a. This justification supports a request for revision and renewal of a currently approved collection under OMB Control Number 0704-0259 for DFARS part 216, Types of Contracts, and related clauses at 252.216. DFARS 216.203-4-70 prescribes the use of the clause at:

i. DFARS 252.216-7000, Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products, in fixed-price supply solicitations and contracts for basic steel, aluminum, brass, bronze, or copper mill products, when an established catalog or market price exists for the particular product being acquired;

ii. DFARS 252.216-7001, Economic Price Adjustment—Nonstandard Steel Items, in fixed-price supply contracts when the contractor is a steel producer and manufactures the standard steel mill products used to make the contract item, and the contract item being acquired is a nonstandard steel item made wholly or in part of standard steel mill products; and

iii. DFARS 252.216-7003, Economic Price Adjustment—Wage Rates or Material Prices Controlled by a Foreign Government, in fixed-price supply and service solicitations and contracts when the contract is to be performed wholly or in part in a foreign country and a foreign government controls wage rates or material prices and may, during contract performance, impose a mandatory change in wages or prices of material.

b. Each clause requires the contractor to submit information to support a request for the contracting officer to adjust established contract prices. Submission requirements are summarized below:

i. DFARS 252.216-7000, paragraph (c), requires the contractor to notify the contracting officer of the amount and effective date of each decrease in any established price. Paragraph (d) of the clause permits the contractor to submit a written request to the contracting officer for an increase to the contract price.

ii DFARS 252.216-7001, paragraph (f)(2), requires the contractor to furnish a statement identifying the correctness of the established prices and employees' hourly earnings that are relevant to the computations of various indices. Paragraph (f)(3) of the clause requires the contractor to make available all records used in the computation of labor indices upon the request of the contracting officer.

iii. DFARS 252.216-7003, paragraph (b)(1), permits the contractor to provide a written request for contract adjustment based on increases in wage rates or material prices that are controlled by a foreign government. Paragraph (c) of the clause requires the contractor to make available its books and records that support a requested change in contract price.

## 2. Use of the Information

The information is used by contracting officers to evaluate contractor requests to adjust the contract price and to validate any price adjustments made to the contract in accordance with the economic price adjustment provisions.

## 3. Use of Information Technology

Where both the Government agency and contractors are capable of electronic interchange, contractors may submit this information collection requirement electronically. Information technology is used approximately 100% of the time to reduce burden. 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 whether adequate language already exists. The language in DFARS part 216 and the clauses at 252.216-7000, -7001, and -7003 applies solely to DoD and are not duplicative of language in the FAR. Similar information is not otherwise available to contracting officers.

## 5. Burden on Small Business

The collection of 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. The burden applied to small businesses is the minimum consistent with applicable laws, Executive orders, and prudent business practices.

## 6. Less Frequent Collection

Every attempt is made to keep the frequency of this collection to a minimum. DoD reviewed the frequency and determined that it is the minimum necessary to ensure compliance with DFARS 216 and the individual clauses. The information is collected as the need arises to adjust contract prices. A less

frequent collection will impede the ability of contracting officers to performing their administrative functions in an efficient manner and result in increased cost risk for the Government and the contractor.

7. Paperwork Reduction Act Guidelines

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

8. Consultation and Public Comments

a. Subject matter experts within DoD were consulted regarding the renewal of this information collection in order to obtain current data from the Federal Procurement Data System (FPDS) database.

b. This information collection is consistent with the guidelines in 5 CFR 1320.6. In accordance with 5 CFR 1320.8(d), public comments were solicited in the *Federal Register* on October 4, 2017 (82 FR 46226). No comments were received.

c. A notice of submission to OMB for clearance of this information collection was published in the *Federal Register* on December 8, 2017 (82 FR 57959).

9. Gifts or Payment

DoD will not provide a payment or gift to respondents of this information collection requirement.

10. Confidentiality

This information is disclosed only to the extent consistent with prudent business practices and current regulatory, statutory, and Freedom of Information Act requirements. The collection of information does not include any personally identifiable information (PII) and records are not retrievable by PII; therefore, no Privacy Impact Assessment or Privacy Act System of Records Notice is required.

11. Sensitive Questions

No sensitive questions are involved in the information collection.

12. Respondent Burden, and its Labor Costs

a. DFARS clause 252.216-7000, Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products. Paragraph (c), requires contractors to notify the contracting officer of the amount and effective date of each decrease in any established price. Paragraph (d) permits the contractor to submit a written request to the contracting officer for an increase in contract price.

The estimated public burden is as follows:

Estimation of Respondent Burden Hours: 252.216-7000	
Number of respondents (Note 1)	11
Responses per respondent (Note 2)	1.73
Number of responses (Note 1)	19
Hours per response (Note 3)	4
Estimated hours	76
Cost per hour (hourly wage) (Note 4)	\$37
Annual public burden	\$2,812

Notes:

(1) This estimated number of respondents and responses is based on an analysis of FPDS data for FY 2014 through FY 2016, which is the most recent three-year’s worth of data. The data used in this analysis included all DoD fixed-price contracts for basic steel, aluminum, brass, bronze, or copper mill products that contain an economic price adjustment clause. The FPDS query was further refined to include contract actions for product services code (PSC) 95XX (Metal Bars, Sheets, and Shapes) and PSC 96XX (Ores, Minerals, and Their Primary Products). PSCs 9520 and 9540 were excluded. During this three-year period an average of 19 awards were made to 11 unique awardees each year.

(2) This calculation reflects that each unique awardee will submit an average of one request for price adjustment each fiscal year for each of the 19 contract awards. The prices of some contracts will be adjusted two or more times each year while the prices of others will remain unchanged throughout the fiscal year.

(3) This estimate includes the time required to prepare and submit a written request for contract adjustment to the contracting officer. This includes determining the need for an adjustment, preparing the request, management reviewing and approving, and submitting the request via email.

(4) The fully burdened rate of \$37 was developed using the Office of Personnel Management (OPM) 2017 basic hourly salary (with locality) of \$27.02 for a GS-9, step 5, plus a burden of

36.25 percent from Office of Management and Budget (OMB) Memo M-08-13, which equals \$36.81 and rounded to \$37.

b. DFARS clause 252.216-7001, Economic Price Adjustment—Nonstandard Steel Items. Paragraph (f)(2), requires the contractor to furnish a statement identifying the correctness of the established prices and employee hourly earnings that are relevant to the computation of various indices. Paragraph (f)(3) of the clause requires the contractor to make available all records used in the computation of labor indices upon the request of the contracting officer. Paragraph (e)(1) states that each contract price shall be revised for each month in which delivery of supplies is required to be made.

The estimated public burden is as follows:

Estimation of Respondent Burden Hours: 252.216-7001	
Number of respondents (Note 1)	2
Responses per respondent (Note 2)	12
Number of responses	24
Hours per response (Note 3)	4
Estimated hours	96
Cost per hour (hourly wage) (Note 4)	\$37
Annual public burden	\$3,552

Notes:

(1) This estimated number of respondents and responses is based on an analysis of FPDS data for FY 2014 through FY 2016. The data used in this analysis included DoD fixed-price contracts for basic steel, aluminum, brass, bronze, or copper mill products that contain an economic price adjustment clause. The FPDS query was further refined to include only contract actions for product services codes PSC 9520 (Structural Shapes - Bulk Material) and PSC 9540 (Structural Shapes - Nonferrous Base Metal). The FPDS data reflected that only one contract each year was awarded in FY 2014 and 2016, while two contracts were awarded in FY 2015 for these two PSCs. For estimating purposes, two respondents were used to calculate the potential burden.

(2) This calculation reflects that the contractor will submit one request each month for price adjustment during each fiscal year pursuant to paragraph (e)(1) of the clause.

(3) This estimate includes the time required to identify, certify, prepare and submit a written request for contract adjustment to the contracting officer as required. While the supporting information required to be provided by the clause is fairly complex, requiring use of both labor and steel indices, purveyors of these products should have expertise and familiarity with using those pricing mechanisms. The estimated hours also include the time required to ensure records are available to the contracting officer.

(4) See paragraph 12a. Note (4), above, for hourly rate calculations.

c. DFARS clause 252.216-7003, paragraph (b)(1), requires the contractor to provide a written request for a contract adjustment within 10 days of an increase in wage rates or prices that are established and controlled by a host country.

Estimation of Respondent Burden Hours: 252.216-7003	
Number of respondents (Note 1)	119
Responses per respondent	4.1
Number of responses (Note 2)	490
Hours per response (Note 3)	4
Estimated hours	1,960
Cost per hour (hourly wage) (Note 4)	\$37
Annual public burden	\$72,520

Notes:

(1) The FPDS data set reviewed in determining the number of respondents included DoD contracts containing an economic price adjustment where the primary place of performance is in a foreign country. The estimated number of respondents represents an average of the discreet number of vendors for the contracts awarded during FY 2014 through FY 2016. For this period, DoD awarded an average of 245 fixed-price contracts per year to approximately 119 unique awardees. The current FPDS data reflects a continuing downward trend over the past two renewal cycles. The decrease may be attributed to the sustained drawdown in Iraq and Afghanistan, which was continuing to occur during the periods evaluated.

(2) It is estimated that respondents will submit an average of two responses per year for each of the 245 contracts (245 \* 2= 490 responses). A significant number of the contracts are for petroleum products, air and sea freight, and delivery services, all of which may be subject to labor and material rate fluctuations, depending on the foreign country where performance occurs.

(3) This estimate includes the time required to prepare and submit a written request for contract adjustment to the contracting officer as required by the clause. This includes determining the need for an adjustment, preparing the request, management reviewing and approving, and submitting the request via email.

(4) See paragraph 12a. Note (4), above, for hourly rate calculations.

d. The total estimated public burden for DFARS 252.216-7000, 252.216.7001, and 252.216.7003 is provided in the following table:

Estimation of Respondent Burden Hours: 0704-0259	
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Number of respondents (Note 1)	132
Responses per respondent (Note 2)	4.04
Number of responses (Note 3)	533
Hours per response	4
Estimated hours (Note 4)	2,132
Cost per hour (hourly wage)	\$37
Annual public burden (Note 5)	\$78,884

Notes:

(1) The total estimated number of respondents equals the sum of respondents in subparagraphs 12.a. through 12.c. ( $11 + 2 + 119 = 138$  respondents).

(2) The number of responses per respondent is calculated to be the responses for 12a-c, i.e., 533 responses, divided by 132 respondents, results in an average of 4.04 responses per respondent.

(3) The number of responses equals the sum of responses in subparagraph 12.a. through 12.c. ( $19 + 24 + 490 = 533$  responses).

(4) The estimated hours equals the sum of estimated hours in subparagraphs 12.a. through 12.c. ( $76 + 96 + 1,960 = 2,132$  hours)

(5) See paragraph 12a. Note (4), above, for hourly rate calculations.

13. Estimated nonrecurring costs. There are no nonrecurring costs, i.e., capital and start—up, or operation and maintenance costs for contractors.

14. Estimated cost to the Government. Government review of the submissions from contractors is estimated to take eight hours per submission, assuming that electronic processes will be used. The estimated Government burden is:

Estimation of Government Burden Hours: 0704-0259	
Number of respondents	132
Responses per respondent	4.04
Number of responses	533
Hours per response	8
Estimated hours (Note 4)	4,264
Cost per hour (hourly wage)	\$37
Annual public burden	\$157,768

Notes: All of the estimates for computing the public burden were used to estimate the corresponding Government burden with one adjustment. The hours per response for the Government was increased to reflect the amount of time and effort required to evaluate the vendor requests, determine whether an adjustment to the contract amount is supported and warranted, and to issue a bilateral modification.

15. Reasons for changes in burden. The estimated changes in Item 12 above are based on a decrease in projected hours, which is attributed to a decline in the number of fixed-price contracts being awarded with a DFARS part 216 economic price adjustment clause. The overall decline in the number of contract awards may also be associated with and attributed to the drawdown in Iraq and Afghanistan. The drawdown, which began during FY 2011, was projected to taper off by the end of 2014. Based on current economic conditions, the number of annual number of contract associated with DFARS 252.216-7000, -7001, and -7003 is expected to remain relatively stable for the next three years.

The change in burden for this renewal is projected as follows:

Change in Burden: 0704-0259			
	2014	2017	Difference
Number of respondents	258	132	-126
Responses/respondent	7.55	4	-
Total annual responses	1,949	533	-1,416
Hours per response	4	4	-
Total Hours	7,844	2,132	-5,712
Cost per hour	\$31	\$37	-
Total Cost	\$243,164	\$78,884	-\$164,280

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

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

18. Certification. There are no exceptions to the certification accompanying this Paperwork Reduction Act submission. The information to respondents required by 50 CFR 1320.8(b)(3) will be provided in a separate Federal Register notice announcing the OMB approval of this collection of information.

#### B. Collections of Information Employing Statistical Methods

Statistical methods are not used in this information collection.