

SUPPORTING STATEMENT FOR INFORMATION COLLECTION 9000-0013
Certified Cost or Pricing Data and Data Other Than Certified Cost
or Pricing Data

A. Justification.

1. **Administrative requirements.** The Truth in Negotiations Act, 10 U.S.C. 2306a and 40 U.S.C. 254(d), require that the Government obtain certified cost or pricing data from contractors prior to the award of certain contract actions. Contractors may be exempt from this requirement under certain conditions. This information collection pertains to burdens associated with the following clauses:

a. 52.214-28, Subcontractor Certified Cost or Pricing Data—Modifications—Sealed Bidding, is used in solicitations and contracts if the contract amount is expected to exceed the threshold for submission of certified cost or pricing data (\$750,000).

b. 52.215-12, Subcontractor Certified Cost or Pricing Data, is used in in solicitations and contracts when the clause 52.215-10, Price Reduction for Defective Certified Cost or Pricing Data, is included.

c. 52.215-13, Subcontractor Certified Cost or Pricing Data—Modifications, in solicitations and contracts when the clause 52.215-11, Price Reduction for Defective Certified Cost or Pricing Data—Modifications, is included.

d. 52.215-20, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, is used in solicitations it is reasonably certain that certified cost or pricing data or data other than certified cost or pricing data will be required. This provision also provides instructions to offerors on how to request an exception from the requirement to submit certified cost or pricing data

e. 52.215-21, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data—Modifications, considering the hierarchy at 15.402, is used in solicitations and contracts if it is reasonably certain that certified cost or pricing data or data other than certified cost or pricing data will be required for modifications. This clause also provides instructions to contractors on how to request an exception from the requirement to submit certified cost or pricing data.

2. **Uses of information.** Certified cost or pricing data are used by agencies to assure that contract prices and any subsequent contract modifications are fair and reasonable.

3. **Consideration of information technology.** We use improved information technology to the maximum extent practicable. Where both the Government agency and contractors are capable of electronic interchange, the contractors may submit this information collection requirement electronically.

4. **Efforts to identify duplication.** This requirement was issued under the Federal Acquisition Regulation (FAR) which has been developed to standardize Federal procurement practices and eliminate unnecessary duplication.

5. **If the collection of information impacts small businesses or other entities, describe methods used to minimize burden.** The burden applied to small businesses is the minimum consistent with applicable laws, executive orders, regulations, and prudent business practices.

6. **Describe consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently.** Similar information is not already available to the contracting officer or buyer.

7. **Special circumstances for collection.** The data for collection is not collected on a periodic basis, but whenever the offeror submits a proposal on a contract covered by the requirement to submit certified cost or pricing data. The data must be submitted with each offer. Collection is generally consistent with guidelines in 5 CFR 1320.6.

8. **Efforts to consult with persons outside the agency.** A 60 day notice was published in the *Federal Register* at 82 FR 43022, on September 13, 2017. One comment was received.

Comment: The commenter urges the FAR Council to emphasize the need for submitting certified cost or pricing data and that any exceptions to providing certified cost or pricing data should only apply when the Government is acquiring goods or services on a competitive basis, including when commercial item purchases are made and there is not adequate price competition.

Response: The FAR Council shares your concern and is committed to obtaining certified cost or pricing data when it is required. To that end, the FAR Council will continue to ensure that the

policies and procedures at FAR 15.403-1, 15.403-2, 15.403-3, 15.403-4, and 15.403-5 are adhered to.

A 30-day notice was published in the *Federal Register* at 82 FR 60996, on December 26, 2017.

9. Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.
Not applicable.

10. Describe assurance of confidentiality provided to respondents. This information is disclosed only to the extent consistent with prudent business practices and current regulations.

11. Additional justification for questions of a sensitive nature. No sensitive questions are involved.

12 & 13. Estimated total annual public hour and cost burden. Fiscal year 2016 data was obtained from the Federal Procurement Data System to estimate burdens for the provisions and clauses addressed in paragraph 1 above. This update does not include the requirements at FAR 42.7, Indirect Cost Rates, as this requirement is covered under OMB Control Number 9000-0069. The data for 52.215-20 is for new contract awards in FY 2016. The data for modifications and orders executed in FY 2016 applies to new contract awards as well as to prior multiple year contracts that continue to be active. The following is a summary of the FY 2016 data:

| Requirement | Respondents | Responses per Respondent | Responses | Hrs/Res | Total Hours |
|-------------|-------------|--------------------------|-----------|---------|-------------|
| 52.214-28 | 8 | 1 | 8 | 160 | 1,280 |
| 52.215-12 | 3,832 | 1 | 3,832 | 160 | 613,120 |
| 52.215-13 | 1,292 | 1 | 1,292 | 160 | 206,720 |
| 65.215-20 | 25,853 | 1.69 | 117,225 | 143 | 6,506,140 |
| 52.215-21 | 8,440 | 3 | 27,623 | 106 | 2,432,560 |
| Totals | 39,425 | 3.80 | 149,980 | 65 | 9,759,820 |

Estimated respondents/year 39,425
 Annual Responses (rounded average # responses/respondents) \times 3.80
 Total annual responses..... 149,980
 Estimated hours/response (rounded avg. hours/responses) \times 65
 Estimated total burden/hours..... 9,759,820
 Average wages + overhead (\$39.19/hr + 36.25 OH)... \times \$53

Estimated cost to public.....\$517,270,460

Note: Based on a GS 12, Step 05 rate of \$39.19 X 1.3625 = \$53.40 rounded to \$53. Personnel compiling and certifying the data will range from GS 07 to GS 15 personnel equivalents. Midrange of GS 12 selected for estimation purposes.

14. **Estimated Cost to the Government.** Time required for Government personnel review of the cost data is estimated at 4.99 hours per response.

Annual Reporting Burden and Cost

| | |
|---|--------------|
| Responses/year..... | 149,980 |
| Reviewing time/hour (approximately)..... | 5 |
| Review time/year..... | 749,900 |
| Average wages + overhead (\$39.19/hour + 36.25 OH)... | x \$53 |
| Total Government Cost..... | \$39,744,700 |

Note: Based on a GS 12, Step 5 rate of \$39.19 X 1.3625 = \$53.40 rounded to \$53. Personnel compiling and certifying the data will range from GS 07 to GS 15 personnel equivalents. Midrange of GS 12 selected for estimation purposes.

15. **Explain reasons for program changes or adjustments reported in Item 13 or 14.** The average hourly burdened rate from the previously approved information collection has increased from \$49.36 to \$53 based on using a midrange Step 5, GS 12 rate in lieu of Step 1. The public burden hours are increased by 28,260 hours, from 9,731,560 to 9,759,820 hours, based on using FY 2016 data from the Federal Procurement Data System tailored as closely as possible to the provision/clause requirements. The annual overall cost to the public has increased by \$36,920,657 from \$480,349,803 to \$517,270,460, in part, from using a midrange Step 5 GS rate and using an OPM pay schedule that includes locality pay area for the rest of U.S.

16. **Outline plans for published results of information collections.** Results will not be tabulated or published.

17. **Approval not to display expiration date.** Not applicable.

18. **Explanation of exception to certification statement.** Not applicable.

B. Collections of Information Employing Statistical Methods.

Statistical methods are not employed.