

SUPPORTING STATEMENT

Defense Federal Acquisition Regulation Supplement (DFARS) Part 243, Contract Modifications and related clause at DFARS 252.243-7002; OMB Control Number 0704-0397

A. JUSTIFICATION

1. Need for the Information Collection

This statement supports a request for renewal of a currently approved collection under OMB 0704-0397, which covers Defense Federal Acquisition Regulation Supplement (DFARS) part 243, Contract Modifications, and the related clause at DFARS 252.243-7002, Requests for Equitable Adjustment. DFARS 252.243-7002 implements 10 U.S.C. 2410(a), Requests for Equitable Adjustment or Other Relief: Certification, which requires a contractor to certify, at the time of submission, that its request for equitable adjustment is made in good faith and that the supporting data are accurate and complete to the best of the contractor's knowledge and belief. The clause also clarifies the requirement for full disclosure of all relevant facts.

2. Use of the Information

The information submitted under the clause at DFARS 252.243-7002 is used by DoD contracting officers and auditors to evaluate requests for equitable adjustment.

3. Use of Information Technology

Information technology is used approximately 100% of the time to reduce burden. Where both DoD and contractors are capable of electronic interchange, this information collection requirement may be submitted electronically.

4. Non-duplication

As a matter of policy, DoD reviews the Federal Acquisition Regulation (FAR) to determine if adequate language already exists. This request for information applies solely to DoD and does not duplicate any other requirement. Similar information is not already available to the Government.

5. Burden on Small Business

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

6. Less Frequent Collection

This information is collected on occasion, only when the contractor determines to request an equitable adjustment to the contract price. Collecting this information less frequently would not comply with the certification requirements of 10 U.S.C. 2410(a).

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. For the purpose of calculating respondent burden, subject matter experts were contacted to obtain current data.

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 February 26, 2018 ([83 FR 8250](#)). Seven comments were received; however, none of the comments were directly related to the extension of this information collection. The comments addressed, in part, the Kyoto Protocol, regulations, and global agreements; environmental activist activities; China imports; air quality; Earth Day and green socialism; China's material dumping; regulations and air and water quality in the U.S., China, India, and Pakistan.

c. A notice of submission to OMB for clearance of this information collection was published in the *Federal Register* on May 3, 2018 ([83 FR 19549](#)).

9. Gifts or Payment

No payment or gift will be provided to respondents, other than remuneration of contractors under their contracts.

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

The number of respondents and responses estimated for the collection of information and the resulting number of annual burden hours and cost to respondents were derived based on

information obtained from the Federal Procurement Data System (FPDS). Estimates of processing times were validated with contracting professionals familiar with the process.

The clause at DFARS 252.243-7002, Requests for Equitable Adjustment, is prescribed at DFARS 243.205-71 for use in all solicitations and contracts estimated to exceed the simplified acquisition threshold (currently \$150,000). The clause requires the preparation and submission of a certification that the supporting data are accurate and complete when requesting an equitable adjustment. The clause also requires contractors to fully disclose all facts relevant to the requests for adjustment. The burden addressed in this information collection is the burden of preparing and submitting data, when required, and for certifying the data in support of a request for equitable adjustment.

For actions between the simplified acquisition threshold and the \$750,000 threshold, the estimated burden is calculated to include the time to prepare the data to support a request for equitable adjustment as well as to prepare and submit the accompanying certification. The estimate of 20 hours per response for submission of supporting pricing information for actions between \$150,000 and \$750,000 reflects the same estimate used in FAR OMB clearance 9000-0013 for submitting information other than certified cost or pricing data in this range.

The costs associated with the preparation and certification of cost or pricing data for contracts in excess of \$750,000 are addressed in the information collection associated with the FAR clause, 52.215-21, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data—Modifications. (See 9000-0013.) Therefore, the estimated cost and burden associated with the DFARS clause, when the contractor’s request for an equitable adjustment is over \$750,000, includes only an estimate of the cost and burden to execute the certification requirement under the DFARS clause.

We estimate that there will be approximately 94 requests for equitable adjustment annually based on the number of modifications in FPDS described as an equitable adjustment action. The FPDS data reflect that of this total, approximately 70 percent, or 66, of the requests for equitable adjustment were between \$150,000 and \$750,000 and 28, or approximately 30 percent are above \$750,000.

Amount of Request	\$150,000- \$750,000	≥ \$750,000
Respondents	63	25
Responses/respondent	<u>1.05</u>	<u>1.1</u>
Responses	66	28
Hours per response	<u>20</u>	<u>.5</u>
Total hours	1,320	14

Estimation of Respondent Burden Hours: 252.243-7002	
Number of respondents	88
Responses per respondent	1.1

Number of responses	94
Hours per response	14.2
Estimated hours	1,334
Cost per hour (hourly wage)	\$45
Annual public burden	\$60,030

Notes: The fully burdened rate of \$45.00 was developed using the Office of Personnel Management (OPM) 2018 basic hourly salary (for the rest of U.S. locality) of \$33.24 for a General Schedule (GS) 11, step 5, employee, plus a burden of 36.25 percent (per OMB Circular A-76, Attachment C), which equals \$45.29. This rate was rounded to \$45.00.

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.

The total Government hourly and cost burden to receive, review, and analyze the information submitted by contractors is estimated as follows:

Estimation of Government Burden Hours: DFARS 252.243-7002	
Number of responses	94
Hours per response	7.2
Estimated hours	6,614
Cost per hour (hourly wage)	\$45
Annual Government burden	\$297,630

Notes: The fully burdened rate of \$45.00 was developed using the Office of Personnel Management (OPM) 2018 basic hourly salary (for the rest of U.S. locality) of \$33.24 for a General Schedule (GS) 11, step 5, employee, plus a burden of 36.25 percent (per OMB Circular A-76, Attachment C), which equals \$45.29. This rate was rounded to \$45.00.

15. Reasons for changes in burden.

There is no change to the information collection requirements covered under OMB Control Number 0704-0397. The change in burden is the result of using: (1) actual data from the FPDS database for the most recent fiscal year (2017) for modifications that were described as an “equitable adjustment,” (2) an estimate of 20 hours per response for submission of supporting pricing information for actions between \$150,000 and \$750,000 (established in FAR OMB

clearance 9000-0013); and (3) the current OPM GS hourly labor rates for calendar year 2018 to calculate the cost per hour. The change in burden is as follows:

Change in Respondent Burden: 0704-0397			
Totals	2018	2015	Change
Number of respondents	88	328	-240
Responses per respondent	1.1	1.6	
Number of responses	94	520	-426
Hours per response	14.2	4.8	
Estimated hours	1,334	2,483	-1,149
Cost per hour (hourly wage)	\$45	\$38	
Annual public burden	\$60,030	\$94,354	-\$34,324

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.