

DRAFT

SUPPORTING STATEMENT

OMB Control Number 0704-0XXX – Defense Federal Acquisition Regulation Supplement (DFARS) Part 215, Only One Offer and Related Clauses at 252.215

A. JUSTIFICATION

1. Need for the Information Collection

This justification supports a new information collection, Office of Management and Budget (OMB) Control Number 0704-0XXX. This information collection pertains to information that an offeror/contractor must submit to the Department of Defense (DoD) if only one offer was received in response to a competitive solicitation, and the contracting officer must now request certified cost or pricing data, because of the revised standard for adequate price competition that is applicable to DoD, NASA, and the Coast Guard.

This information collection requirement implements Cost or Pricing Data—Truth in negotiations, 10 U.S.C. 2306a, as amended by section 822 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L 114-328). To the extent that 10 U.S.C. 23906a is the same as 41 U.S.C. chapter 35, information collection requirements are covered under OMB clearance 9000-0013. However, section 822 of the NDAA for FY 2017 changes the standard for adequate price competition for DoD, NASA, and the Coast Guard. This supporting statement addresses only the additional burden for DoD, as implemented in DFARS clause 252.215-7008, Only One Offer, and 252.215-7010, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data.

2. Use of the Information

The information obtained through DFARS provisions 252.215-7008 and 252.215-7010 is used to determine whether the offered price is fair and reasonable and to meet the statutory requirement for certified cost or pricing data.

3. Use of Information Technology

Information technology is used to collect the information (100%). Especially when the cost or pricing data does not require certification, where offerors/contractors have automated systems that contain the information needed to report these requirements, offerors/contractors may submit the information or report in formats that are compatible with the automated systems.

4. Non-duplication

As a matter of policy, DoD reviews the Federal Acquisition Regulation to determine if adequate language already exists. DoD requires a DoD-unique provision to address the

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requirements in 10 U.S.C. 2306a and other DoD-unique policies that differ from the requirements in FAR part 15.

5. Burden on Small Business

The collection of this information is not expected to have a significant impact on a substantial number of small businesses or other small entities. The burden applied to small business is the minimum consistent with applicable laws, Executive orders, 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. The requirements for the information collection are included in the solicitation package that is sent to prospective contractors. The information must then be provided by offerors after receipt of offers, as required by the contracting officer, if only one offer was received in response to a competitive solicitation.

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. The Contract Pricing Committee was consulted with regard to some of the burden estimates for which supporting data is not available in the Federal Procurement Data System.

b. This information collection is consistent with the guidelines in 5 CFR 1320.6. Public comments were solicited in the *Federal Register* on Friday, June 29, 2018 ([83 FR 30656](#)). [REDACTED] comments were received in response to this notice. The comment is available at regulations.gov and is summarized below.

Comment: ***

Response: ***

c. A notice of submission to OMB for clearance of this information collection was published in the *Federal Register* on [REDACTED].

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9. Gifts or Payment

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

10. Confidentiality

This information is disclosed only to the extent consistent with statutory requirements, current regulations, and prudent business practices. The collection of information does not include any personally identifiable information; 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 252.215-7008, Only One Offer: The estimated respondent burden and labor cost for the new requirement for certified cost or pricing data of this provision is shown in the following table and a discussion of the burdens is provided below the table.

Estimation of Respondent Burden:	22.215-7008
Number of respondents	2,079
Responses per respondent	1.3
Number of responses	2,754
Hours per response (weighted average of estimated hours divided by number of responses)	40
Estimated hours	110,160
Cost per hour (hourly wage) – <i>Note (1)</i>	\$53
Annual public burden (estimated hours multiplied by cost per hour)	\$5,838,480

Note (1): The cost per hour is based on the Office of Personnel Management (OPM) General Schedule (GS) 12, Step 5, base hourly rate for calendar year (CY) 2017 + rest of US locality pay + plus the 36.25% civilian personnel full fringe benefit rate from OMB Memo M-08-13 (14.68) (\$52.54 rounded to \$53).

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The number of responses and respondents was based on FPDS data for DoD awards in FY 2016. For DoD, there were 918 noncommercial, competitive new awards valued at greater than \$750,000 (the certified cost or pricing data threshold) that were awarded on the basis of a solicitation that received only one offer (693 unique vendors). Of the 918 awards, 549 were awarded to 428 small businesses and 369 were awarded to 265 other than small businesses.

The number of respondents is less than the number of responses, because some respondents will receive more than one award. Based on FPDS data for FY 2016 on the number of unique vendors receiving award in circumstances with only one offer in response to a competitive solicitation, DoD calculates the number of responses per respondent at 1.3 responses per respondent.

DoD further estimates, based on the advice of subject matter experts within DoD, that when only one offer is received the average hours per response for requested certification and additional data will equal 60 hours per prime contractor and 30 hours per subcontractor.

b. DFARS 252.215-7010, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data. The estimated respondent burden and labor cost for the new requirement for certified cost or pricing data of this provision is shown in the following table and a discussion of the burdens is provided below the table.

Estimation of Respondent Burden:	22.215-7010
Number of respondents	612
Responses per respondent	1.3
Number of responses	839
Hours per response (weighted average of estimated hours divided by number of responses)	30
Estimated hours	25,170
Cost per hour (hourly wage) – Note (1)	\$53
Annual public burden (estimated hours multiplied by cost per hour)	\$1,334,010

Note (1): The cost per hour is based on the Office of Personnel Management (OPM) General Schedule (GS) 12, Step 5, base hourly rate for calendar year (CY) 2017 + rest of US locality pay + plus the 36.25% civilian personnel full fringe benefit rate from OMB Memo M-08-13 (14.68) (\$52.54 rounded to \$53).

The burden estimated for this clause relates only to subcontracts that may now receive only one offer, for which the prime contractor or higher tier subcontractor will be required to

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request certification and perhaps additional data, due to lack of adequate price competition at the subcontract level. Based on FPDS data for FY 2016, DoD awarded to 612 unique awardees 839 negotiated contracts and orders valued at more than \$750,000 for which certified cost or pricing data was required. DoD estimates that for each prime contractor providing certified cost or pricing data, there may be an average of 1 additional competitive subcontract for which certified cost or pricing data will now be required because there is only one offer on that subcontract (839 total prime contracts x 1 subcontract = 839). It is further estimated that of these 839 subcontracts, all would require the same amount of time to provide certification and any additional required data as the subcontractors to a prime contractor that submitted the only offer. DoD estimates an average 30 hours per response.

c. Total

Estimation of Respondent Burden:	TOTAL
Number of respondents	2,079
Responses per respondent	1.73
Number of responses	3,593
Hours per response (weighted average of estimated hours divided by number of responses)	37.7
Estimated hours	135,330
Cost per hour (hourly wage) – <i>Note (1)</i>	\$53
Annual public burden (estimated hours multiplied by cost per hour)	\$7,172,490

Note (1): The cost per hour is based on the Office of Personnel Management (OPM) General Schedule (GS) 12, Step 5, base hourly rate for calendar year (CY) 2017 + rest of US locality pay + plus the 36.25% civilian personnel full fringe benefit rate from OMB Memo M-08-13 (14.68) (\$52.54 rounded to \$53).

13. Respondent Costs Other Than Burden Hour Costs

DoD does not estimate any annual cost burden apart from the hourly burden in Item 12 above.

14. Cost to the Federal Government

The time required for the Government review of cost or pricing data is calculated as follows:

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Estimation of Costs to the Federal Government:	
Estimated responses to be reviewed by Government	1,186
Estimated hours per response	35.5
Estimated hours	42,070
Cost per hour (hourly wage) – <i>Note (1)</i>	\$53
Annual public burden (estimated hours multiplied by cost per hour)	\$2,229,710

Note The cost per hour is based on the Office of Personnel Management (OPM) General Schedule (GS) 12, Step 5, base hourly rate for calendar year (CY) 2017 + rest of US locality pay + plus the 36.25% civilian personnel full fringe benefit rate from OMB Memo M-08-13 (14.68) (\$52.54 rounded to \$53).

DoD subject matter experts estimate the hours per response for the Government at 40 hours per prime contractor response and 20 hours per subcontractor response. However, DoD estimates that the Government will only review 10 per cent of the subcontractor responses to the prime contractor.

15. Reasons for Change in Burden

This is a new information collection requirement.

16. Publication of Results

Results of this collection will not be published.

17. Non-Display of OMB Expiration Date

DoD does not seek approval to not display the expiration dates for 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.