

SUPPORTING STATEMENT

OMB Control Number 07040-0321: DFARS Part 232, Contract Financing, and the Clause at 252.232-7002, Progress Payments for Foreign Military Sales Acquisition

A. JUSTIFICATION

1. Need for the Information Collection

This supporting statement covers the following requirements for the collection of information relating to Defense Federal Acquisition Regulation Supplement (DFARS) section 232.502-4-70(a), Progress Payments for Foreign Military Sales (FMS) Acquisitions, and the related clause at 252.232-7002, Progress Payments for Foreign Military Sales Acquisitions. The Arms Export Control Act requires, in the absence of a special Presidential Finding, that the U.S. Government purchase military equipment for foreign governments using foreign funds and without any charge to U.S. appropriated funds. In order to comply with this requirement, the Government needs to know how much to charge each country as progress payments are made for foreign military sales (FMS) purchases. The Government can only obtain this information from the contractor preparing the progress payment request. The clause at 252.232-7002, requires a contractor whose contract includes FMS requirements to submit a progress payment request with a supporting schedule that clearly distinguishes the contract's FMS requirements from U.S. contract requirements.

- a. DFARS 252.232-7002(a) requires contractors to submit a separate progress payment request for each progress payment rate.
- b. DFARS 252.232-7002(b) requires contractors to submit a supporting schedule showing—
 - (i) The amount of each request distributed to each country's requirements; and
 - (ii) Total price per contract line item applicable to each separate progress payment rate.
- c. DFARS 252.232-7002(c) requires contractors to identify in each progress payment request the contract requirements to which it applies (i.e., FMS or U.S.).
- d. DFARS 252.232-7002(d) requires contractors to calculate each request on the basis of the prices, costs (including costs to complete), subcontractor progress payments, and progress payment liquidations of the contract requirements to which it applies.
- e. DFARS 252.232-7002(e) requires contractors to distribute costs among contract line items and countries in a manner acceptable to the Administrative Contracting Officer.

2. Use of the Information

The customary progress payment rates for DoD contracts, as prescribed in DFARS part 232, are 80 percent for large business concerns and 90 percent for small business concerns. The information generated by the progress payment submission requirements of DFARS part 232 is used by contracting officers to maintain an audit trail and permit verification of calculations. The Government also uses this information to determine how much to disburse to the contractor. Absent this information, the Government would be unable to pay the FMS portion of the progress payment request, thereby breaching its contractual duties, with subsequent damages payable to the contractor; the Disbursing Officer would commit a statutory violation in wrongfully disbursing U.S. funds contrary to the Congressional instructions for payments for FMS work; or the U.S. Government would violate its fiduciary duty to the foreign country whose funds are improperly disbursed for some other country's purchases.

3. Use of Information Technology

Improved information technology is used 100% of the time. A procedure has been implemented that allows contractors to submit, and DoD to process, progress payments electronically. This method of collection was adopted to reduce input errors and increase cash flow.

4. Non-duplication

As a matter of policy, DoD reviews the Federal Acquisition Regulations (FAR) to determine if adequate language already exists. The language in DFARS 252.232-7002 applies solely to DoD and is not considered duplicative of the language in the FAR. Similar information is not readily available.

5. Burden on Small Business

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

6. Less Frequent Collection

The information will be collected no more than once per month, but may be collected less frequently depending on the frequency of the contractor's submission of progress payment requests. The monthly limitation is imposed by FAR 52.232-16, Progress Payments, which is a required clause in contracts under which the Government will provide progress payments based on costs.

7. Paperwork Reduction Act Guidelines

Collection of this information does not require any of the characteristics of collection cited at 5 CFR 1320.5(d)(2).

8. Consultation and Public Comments

a. DoD consulted with contracting professionals familiar with these requirement with regard to estimated response times and wage rates for the public and Government burden.

b. As required by 5 CFR 1320.8(d), public comments on the information collection requirement were solicited in the Federal Register on October 22, 2018 ([83 FR 53233](#)). No comments were received.

c. A notice of submission to OMB for clearance of this information collection was published in the Federal Register on January 31, 2019 ([84 FR 674](#)).

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 statutory requirements, current regulations and prudent business practices.

11. Sensitive Questions

No sensitive questions are involved.

12. Respondent Burden, and its Labor Costs

a. Estimation of Respondent Burden

Estimation of Respondent Burden Hours ¹					
	Number of Respondents ²	Responses/ Respondent	Annual Responses ³	Response Time	Respondent Burden Hours
252.232-7002	144	30	4,320	0.5	2,160
Recordkeeping ⁴	144	30	4,320	1.0	4,320
Total	144	30	4,320	1.5	6,480

¹ Estimates are based on information available in the Federal Procurement Data System (FPDS) for fiscal years (FYs) 2015-2018.

² Respondents are those who choose to sell goods and services through FMS arrangements and obtain progress payments financing. There are 144 unique firms (respondents) represented in the 360 total actions (see footnote 3).

³ The total annual responses was calculated by taking the average number of contract actions valued at greater than \$25,000 with FMS funding and progress payment financing for the period FY 2015-2018 (equals 360 actions) and multiplying by 12 submissions per contract (equals 4,320 responses).

⁴ Recordkeeping hours consist of the estimated time necessary to maintain the information internally, considering most companies already have accounting practices for tracking incurred costs.

b. Labor Cost of Respondent Burden

Labor Cost of Respondent Burden					
	Number of Responses	Response Time per Response	Respondent Hourly Wage	Labor Burden per Response	Total Labor Burden ⁵
252.232-7002	4,320	0.5	\$46 ⁶	\$22.50	\$97,200
Recordkeeping	4,320	1.0	\$31 ⁷	\$31.00	\$133,920
Total					\$231,120

13. Respondent Costs Other Than Burden Hour Costs

We estimate that there are no nonrecurring expenses (e.g., capital and start-up, or operation and maintenance costs). The clause at DFARS 252.232-7002 is authorized for use when the clause at FAR 52.232-16, Progress Payments, is used as a method of contract financing and the contract includes FMS requirements. Paragraph (f) states, “The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.” Our assessment is that this system and related controls are normally in place prior to obtaining a contract for FMS supplies and services since they are required in order for the contractor to receive progress payments for U.S. supplies and services; therefore, there is no additional nonrecurring charge needed to establish or revise accounting systems already in place.

14. Cost to the Federal Government

DFARS 252.232-7002 - Labor Cost to the Federal Government ⁸	
Number of Responses	4,320
Processing Time Per Response (in hours)	1.0
Hourly Wage of Worker(s) Processing Responses	\$46
Cost to Process Each Response ⁹	\$46
Total Cost to Process Responses ¹⁰	\$198,720

⁵ The total labor burden is the number of respondents multiplied by response time multiplied by respondent hourly wage.

⁶ Based on General Schedule (GS) pay for a GS-11, step 5 salary for 2018 plus 36.25% Civilian Position Full Fringe Benefit Cost Factor for 2012 per OMB Memo M-08-13 (\$33.24 X 136.25% = \$45.55 rounded to \$46 per hour).

⁷ Based on GS pay for a GS-7, step 5 salary for 2018 plus 36.25% Civilian Position Full Fringe Benefit Cost Factor.

⁸ The time estimates are based on receiving, reviewing, and analyzing the information submitted by the contractor.

⁹ The cost to process a responses equals the processing time per response multiplied by the hourly wage of worker(s) processing the response.

¹⁰ The total cost equals the cost to process each response multiplied by the number of responses.

15. Reasons for Change in Burden

The estimate of public burden hours is increased as a result of using the most recent data available in the FPDS. The average number of respondents and contract awards for this submission is based on FPDS data for FY 2015 – 2018, which is 144 unique DUNS contractors representing 360 contract actions on an annual basis. These 360 contract actions would each require 12 monthly reports during the year, which equals 4,320 responses that are required. In addition, current wage rates from OPM for GS-employee equivalents were used. The following table reflects the change in burden:

OMB Control # 0704-0321	2015 Estimate	2018 Estimate	Change in Burden
Number of respondents	124	144	+20
Responses per respondent	26.6	30	
Total annual responses	3,298	4,320	+1,022
Hours per response	1.5	1.5	-
Total hours	4,947	6,480	+1,533
Total annual cost to public	\$159,953	\$231,120	+ \$71,167

16. Publication of Results

Results of this collection will not be published.

17. Non-Display of OMB Expiration Date

DoD does not seek approval not to display the expiration date 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.