

SUPPORTING STATEMENT

OMB Control Number 0704-0272

Defense Federal Acquisition Regulation Supplement (DFARS) Part 223,
Occupational Safety and Drug-Free Work Force and related clauses in DFARS 252.223

A. JUSTIFICATION

1. Need for the Information Collection

This information collection requirement covers the Defense Federal Acquisition Regulation Supplement (DFARS) part 223, subpart 223.3, Hazardous Material Identification and Material Safety Data, section 223.570, Drug-free Work Force, and subpart 223.72, Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives, and related clauses at 252.223. The information collection requirement pertains to the burdens associated with the required reporting of information that an offeror or contractor must submit to the Department of Defense (DoD) in response to the following solicitation provisions and contract clauses in DFARS 252.223:

a. *DFARS 252.223-7001, Hazard Warning Labels.* Paragraph (c) of the clause requires all offerors responding to a solicitation, to provide a list of the hazardous material for which the hazard warning label will conform to one of the following statutes rather than the Hazard Communication Standard (29 CFR 1910.1200)—

- i. Federal Insecticide, Fungicide, and Rodenticide Act;
- ii. Federal Food, Drug, and Cosmetics Act;
- iii. Consumer Product Safety Act;
- iv. Federal Hazardous Substances Act; or
- v. Federal Alcohol Administration Act.

Paragraph (d) of the clause requires only the apparent successful offeror to submit, before award, a copy of the hazard warning label for all hazardous materials not listed in paragraph (c) of the clause.

b. *DFARS 252.223-7002, Safety Precautions for Ammunition and Explosives.*

i. Paragraph (c) requires the contractor to inform the contracting officer of the corrective actions it has taken within 30 days from a notification from the contracting officer of a noncompliance with DoD 4145.26-M, DoD Contractor's Safety Manual for Ammunition and Explosives.

ii. Paragraph (d) requires the contractor to notify and submit a written report to the contracting officer if a mishap involving ammunition or explosives occurs.

iii. Paragraph (g)(4) requires the contractor to notify the contracting officer before issuing any subcontract involving ammunition or explosives.

c. *DFARS 252.223-7003, Change in Place of Performance—Ammunition and Explosives.*

i. Paragraph (a) requires the offeror to identify the place of performance of all ammunition and explosives work described in 252.223-7002.

ii. Paragraphs (b) and (c) require the contractor to inform the contracting officer of any change in the place of performance.

d. *DFARS 252.223-7007, Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives.* Paragraph (e) requires the contractor to notify the cognizant Defense Security Service field office within 10 days of the award of a subcontract.

e. *DFARS 252.223-7004, Drug-Free Work Force.* The clause requires that certain contractors maintain records necessary to demonstrate reasonable efforts to eliminate the unlawful use by contractor employees of controlled substances. DoD does not regularly collect any information with regard to this clause. This information collection requirement—

i. Applies to contracts that involve contractor access to classified information;

ii. Applies to any other contract if the contracting officer determines that it is necessary for reasons of national security, or to protect the health or safety of those using the product, or those that may be affected by the performance of the contract; and

iii. Does not apply to contracts for commercial items, contracts performed outside of the United States, or when the value of the acquisition is below the simplified acquisition threshold.

2. Use of the Information

a. *DFARS 252.223-7001:* The contracting officer uses this information to verify compliance with requirements for labeling of hazardous material.

b. *DFARS 252.223-7002 and 252.223-7003:* The contracting officer uses this information to monitor compliance of contractors with DoD 4145.26-M, DoD Contractor's Safety Manual for Ammunition and Explosives, and the schedule provisions, to ensure that contractors take reasonable precaution in handling ammunition and explosives and minimize the risk of future mishaps.

c. *DFARS 252.223-7007:* The contracting officer uses this information to monitor the contractor's compliance with the security requirements set forth in 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives.

d. *DFARS 252.223-7004*: Records kept by certain contractors, with regard to programs for achieving the objective of a drug-free work force, will be used to document compliance with the requirements of the clause.

3. Use of Information Technology

Information technology is used 100% of the time. 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 if adequate language already exists. *DFARS* part 223 and related clauses at 252.223 apply only to DoD and do not duplicate any other regulations. Similar information is not readily available from any other source.

5. Burden on Small Business

The collection associated with small businesses is the minimum consistent with applicable laws, 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 without jeopardizing the ability of the Government to assure that contractors are performing the contractual requirements. Collecting this information less frequently would impede contracting officers from making informed contract award decisions and from performing their administrative functions in an effective and efficient manner.

7. Paperwork Reduction Act Guidelines

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

8. Consultation and Public Comments

a. This information collection is consistent with the guidelines in 5 CFR 1320.6. Public comments were solicited in the *Federal Register* on September 11, 2020 ([85 FR 56221](#)). One comment was received in response to this notice; however, the comment was out of scope as it was not relevant to the renewal of this information collection.

b. A notice of submission to OMB for clearance of this information collection was published in the *Federal Register* on November 20, 2020 ([85 FR 74323](#)).

c. Subject matter experts within DoD were also consulted.

9. Gifts or Payment

DoD will not provide a payment or gift to respondents under 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.

12. Respondent Burden and its Labor Costs

a. *DFARS 252.223-7001, Hazard Warning Labels, paragraphs (c) and (d)*. This clause is prescribed at DFARS 223.303, for use in solicitations and contracts that require submission of a Material Safety Data Sheet (MSDS). FAR clause 52.223-3, Hazardous Material Identification and Material Safety Data, requires the submission of a MSDS meeting the requirements of the Hazard Communication Standard at 29 CFR 1910.1200 and the latest version of Federal Standard No. 313, for any hazardous material to be delivered under a contract.

Examination of fiscal year (FY) 2019 FPDS data reveals that approximately 15,989 contracts were awarded that may have involved the use of hazardous materials. Approximately 53,831 offers were received from offerors participating in the solicitations associated with these contracts, and approximately 1,578 unique vendors received the resultant contract awards.

i. Paragraph (c) of the DFARS clause requires offerors to list which hazardous materials will be labeled in accordance with one of the statutes delineated in paragraphs (b)(1) through (5), instead of the Hazard Communication Standard, in their offers. We estimate that 75 percent or approximately 40,370 of the offers received ($53,831 * .75$) will be required to provide this list. We estimate 10 responses per respondent, a total of 4,037 respondents ($40,370/10$) and on average, 1 hour per response. We have estimated a cost of \$47 per hour (equivalent of a GS-11, step 5 salary of \$34.76, plus 36.25 percent burden, rounded to the nearest whole dollar¹):

¹ In all instances, the hourly rates are based on OPM 2020 General Schedule and Locality Payment of 15.95% hourly rates plus OMB Memorandum M-08-13 March 11, 2008 Civilian Position Full Fringe Benefit Cost Factor.

Estimation of Respondent Burden Hours: 252.223-7001(c)	
Number of respondents	4,037
Responses per respondent	10
Number of responses	40,370
Hours per response	1
Estimated hours	40,370
Cost per hour (hourly wage)	\$47
Cost per response	\$47
Annual public burden	\$1,897,390

ii. Paragraph (d) of the clause requires only the successful offeror to submit, before award, a copy of the hazard warning label for all hazardous materials not listed in paragraph (c) of the clause. Based on an estimate that 80 percent of the unique vendors received awards involving hazardous material not listed in paragraph (c), we estimate the number of respondents to be approximately 1,262(1,578* .80), 80% of awarded contracts (8 contracts per unique vendor) are impacted resulting in 10,096 responses (1,262* 8), 30 minutes per response, and an estimated cost of \$32 per hour (the equivalent of a GS-7, step 5 salary of \$23.49, plus 36.35 percent burden rounded to the nearest whole dollar):

Estimation of Respondent Burden Hours: 252.223-7001(d)	
Number of respondents	1,262
Responses per respondent	8
Number of responses	10,096
Hours per response	.50
Estimated hours	5,048
Cost per hour (hourly wage)	\$32
Cost per response	\$16
Annual public burden	\$161,536

NOTE: Respondents shown in 12.a.ii. above are a subset of respondents represented in paragraph 12.a.i., and are therefore not additive.

b. 252.223-7002, *Safety Precautions for Ammunition and Explosives, paragraphs (c), (d), and (g)*. This clause is prescribed at DFARS 223.370-5 for use in solicitations and contracts for acquisitions requiring the use or the incorporation of materials involving initiation, propulsion, or detonation as an integral or component part of an explosive, an ammunition, or explosive end item or weapon system.

i. Paragraph (c)(2) requires the contractor, within 30 days of notification of noncompliance, to notify the contracting officer of the corrective action(s) it has taken. Based on

data for FY 2019 provided by the DoD Explosives and Safety Board technical expert, we estimate there are approximately 323 DoD contractors performing on contracts involving ammunition and explosives (A&E). Of those 323 contractors, there were approximately 165 noncompliance reports which required corrective action. This indicates that approximately 51 percent of DoD contractors involved in A&E will be notified of some sort of noncompliance requiring corrective action. These numbers are expected to remain steady, so DoD estimates that 165 actions will be subject to reporting and corrective action per year. Some of these actions are minor, while other corrective actions are more extensive. DoD estimates that, on average, it takes the contractor 1 hour to report the corrective action taken. DoD estimates a cost per hour of \$57 (equivalent to GS-12, step 5 salary of \$41.66 plus 36.25 percent burden rounded to the nearest whole dollar):

Estimation of Respondent Burden Hours: 252.223-7002(c)(2)	
Number of respondents	165
Responses per respondent	1
Number of responses	165
Hours per response	1
Estimated hours	165
Cost per hour (hourly wage)	\$57
Cost per response	\$57
Annual public burden	\$9,405

ii. Paragraph (d)(1) requires contractors to notify the contracting officer immediately of any mishaps involving ammunition or explosives. Paragraph (d)(3) requires the contractor to submit a written report of the investigation of the incident to the contracting officer. Based on data for FY 2019 provided by the DoD Explosives and Safety Board technical expert, we estimate 11 mishaps per year. These mishaps will be attributed to 8 contractors, approximately 1.38 responses per contractor. Each report will require approximately 16 hours to complete, at a cost of \$57 (equivalent of a GS-12, step 5 salary of \$41.66 plus 36.25 percent burden rounded to the nearest whole dollar):

Estimation of Respondent Burden Hours: 252.223-7002(d)	
Number of respondents	8
Responses per respondent	1.375
Number of responses	11
Hours per response	16
Estimated hours	176
Cost per hour (hourly wage)	\$57
Cost per response	\$912

Annual public burden	\$10,032
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iii. Paragraph (g)(4) requires contractors to notify the contracting officer when placing a subcontract for ammunition or explosives. DoD estimates an average of 6 responses per contractor performing on an A&E contract, 15 minutes per response, at a cost of \$32 per hour (equivalent of a GS-7, step 5 salary of \$23.49, plus 36.25 percent burden rounded to the nearest whole dollar):

Estimation of Respondent Burden Hours: 252.223-7002(g)(4)	
Number of respondents	323
Responses per respondent	6
Number of responses	1,938
Hours per response	.25
Estimated hours	485.5
Cost per hour (hourly wage)	\$32
Cost per response	\$8
Annual public burden	\$15,504

NOTE: Respondents shown in 12.b.i. and 12.b.ii. above are a subset of respondents represented in 12.b.iii., and are therefore not additive.

c. 252.223-7003, Changes in Place of Performance—Ammunition and Explosives, paragraphs (a), (b), and (c). This clause is prescribed at DFARS 223.370-5, for use in contracts under which ammunition and explosives are handled.

i. Paragraph (a) of the clause requires the offeror to identify, in the “Place of Performance” provision of the solicitation, the place of performance of all ammunition and explosives work covered by DFARS 252.223-7002, Safety Precautions for Ammunition and Explosives. Based on FY 2019 data provided by the DoD Explosives and Safety Board technical expert, DoD estimates approximately 5,150 responses (515 solicitations *10 responses per solicitation). Using the estimate of 323 contractors established in 252.223-7002(c)(2) (see section 12.b.i.), DoD calculates an average of approximately 16 responses per respondent (5,150/323 = 15.94). We further estimate that it takes an offeror approximately ten minutes to identify the place of performance in the solicitation, at a cost of \$39 per hour (equivalent of a GS-9, step 5 salary of \$28.73, plus 36.25 percent burden rounded to the nearest whole dollar):

Estimation of Respondent Burden Hours: 252.223-7003(a)	
Number of respondents	323
Responses per respondent	~16
Number of responses	5,150
Hours per response	.17

Estimated hours	875.5
Cost per hour (hourly wage)	\$39
Cost per response	\$6.63
Annual public burden	\$34,145

ii. Paragraphs (b) and (c) require the contractor to obtain written permission from the contracting officer before changing the place of performance of any portion of the contract covered by 252.223-7002, Safety Precautions for Ammunition and Explosives. Discussions with the technical expert from the DoD Explosives and Safety Board, indicate that generally, 10 percent of the 323 contractors performing A&E contracts will request a change of its place of performance. These 32 respondents (323 * .10) will submit approximately 5 responses each, many times due to a change in the place of performance of their subcontractors. Each response will require approximately 8 hours to complete, due to the amount of detailed information the contractor is required to submit in order to demonstrate that the new place of performance meets the stringent safety requirements associated with this type of work, at a cost of \$39 per hour (equivalent of a GS-9, step 5 salary of \$28.73, plus 36.25 percent burden rounded to the nearest whole dollar):

Estimation of Respondent Burden Hours: 252.223-7003(b) & (c)	
Number of respondents	32
Responses per respondent	5
Number of responses	160
Hours per response	8
Estimated hours	1,280
Cost per hour (hourly wage)	\$39
Cost per response	\$312
Annual public burden	\$49,920

NOTE: Respondents shown in 12.c.i. and 12.c.ii. above are a subset of respondents represented in paragraph 12.b.iii. for 252.223-7002(g), and are therefore not additive.

d. 252.223-7007, Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives, paragraph (e). This clause is prescribed in DFARS 223.7203, for use in solicitations and contracts for acquisitions involving items within the scope (Chapter 1, paragraph B) of DoD 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunitions, and Explosives (AA&E). Paragraph (e) requires the contractor to notify the cognizant Defense Security Service (DSS) field office within 10 days of any subcontract involving AA&E.

According to subject matter experts (SMEs) from DSS, as of July 2020 the estimated number of facilities in the AA&E program is 167, and the office performs an estimated 250 surveys annually. As a result, we estimate that the number of respondents per year is 167; the average number of notifications per respondent is 1.5 based upon 250 surveys per year; and the amount

of time required to prepare each notification is 30 minutes, at a cost of \$47 per hour (equivalent of a GS-11, step 5 salary of \$34.75, plus 36.25 percent burden rounded to the nearest whole dollar):

Estimation of Respondent Burden Hours: 252.223-7007(e)	
Number of respondents	167
Responses per respondent	~1.5
Number of responses	250
Hours per response	.50
Estimated hours	125
Cost per hour (hourly wage)	\$47
Cost per response	\$23.50
Annual public burden	\$5,875

e. 252.223-7004, Drug-Free Work Force. This clause is prescribed at DFARS 223.570-2, for use in contracts that involve access to classified information or when the contracting officer determines that the clause is necessary for reasons of national security or for the purpose of protecting the health or safety of those using or affected by the product of, or performance of, the contract.

i. Ongoing recordkeeping – existing contracts: According to FPDS data, there were approximately 16,269 contractors with existing ongoing noncommercial item contracts valued at greater than the simplified acquisition threshold that are performed in the U.S., of which approximately 8,865 were small businesses. According to subject matter experts, it is estimated that 50% of the small businesses and 90% of the large businesses are performing sensitive contracts. In addition, it is estimated that it would take a recordkeeper 40 hours per year to maintain records of compliance with the clause requirements under an existing contract at a cost of \$39 per hour (equivalent of a GS-09, step 5 salary of \$28.73, plus 36.25 percent burden rounded to the nearest dollar).

Estimation of Respondent Recordkeeping: 252.223-7004 (Existing Contracts)			
Ongoing Program Requirements - Businesses	Small	Large	Total
Respondents	8,865	7,404	16,269
% performing sensitive contracts	50%	90%	
Total number of recordkeepers	4,433	6,664	11,096
Recordkeeping hours per year per contractor			40
Total recordkeeping burden hours			443,840
Cost per hour			\$39
Cost per contractor			\$1,560

Total annual cost burden	\$17,309,760
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ii. Start-up recordkeeping – new awards: Of the total number of recordkeepers estimated in section 12.e.i. above, it is estimated that 10% are establishing a new program. It is estimated that it takes a recordkeeper 80 hours to start up a program to document compliance with the clause at a cost of \$80 per hour (equivalent of a GS-14, step 5 salary of \$58.54, plus 36.25 percent burden rounded to the nearest dollar).

Estimation of Respondent Recordkeeping: 252.223-7004 (New Awards)			
New Start Program Requirements - Businesses	Small	Large	Total
Total number of recordkeepers	4,433	6,664	11,096
% establishing a new program	10%	10%	
Total number of new programs per year	443	666	1,110
Start-up hours per new program			80
Total start-up burden hours			88,800
Cost per hour			\$80
Cost per program			\$6,400
Total annual start-up cost burden			\$7,104,000

f. Total Public Burden:

i. The following is a summary of the total estimated public reporting burden:

Clause 252.223-	Respondents	Responses/ Respondent	Total Responses	Hours/ Response	Total Hours	Total Cost
-7001(c)	4037	10	40,370	1.0	40,370	\$1,897,390
-7001(d)*	1262	8	10,096	0.5	5,048	\$161,536
-7002(c)*	165	1	165	1.0	165	\$9,405
-7002(d)*	8	1.375	11	16	176	\$10,032
-7002(g)	323	6	1,938	0.25	~485	\$15,504
-7003(a)*	323	~16	5,150	.17	~876	\$34,145
-7003(b/c)*	32	5	160	8.00	1,280	\$49,920
-7007(e)	167	~1.5	250	.50	125	\$5,875
TOTAL	4,527	~13	58,140	.83	48,525	\$2,183,807

* Subset of number of respondents. Not additive.

ii. The following is a summary of the total estimated public recordkeeping burden:

Clause 252.223-	Recordkeepers	Hours/ Recordkeeper	Total Hours	Total Cost
-7004 Existing	11,096	40	443,840	\$17,309,760
-7004 New*	1,110	80	88,800	\$7,104,000
TOTAL	11,096	~48	532,640	\$24,413,760

* Subset of number of respondents. Not additive.

13. Respondent Costs Other than Burden Hour Costs

It is not anticipated that this information collection will generate any additional annualized costs to respondents other than the labor burden costs addressed in section 12.

14. Cost to the Federal Government

In the table below, the number of respondents and the number of responses are based on the same information and calculated in the same manner as discussed in section 12. The estimate of hours expended by DoD reviewing and analyzing the contractors' or offerors' documentation is based on estimations provided by the subject matter experts.

Estimation of Government Burden: Total						
Clause 252.223-	Total Responses	Hours per Response	Total Hours	Cost per Hour	Cost per Response	Total Cost
-7001(c)	40,370	1.0	40,370	\$47	\$47	\$1,897,390
-7001(d)	10,096	0.5	5,048	\$32	\$16	\$161,536
-7002(c)	165	1.0	165	\$57	\$57	\$9,405
-7002(d)	11	16	176	\$57	\$912	\$10,032
-7002(g)	1,938	0.25	484.5	\$32	\$8	\$15,504
-7003(a)	5,150	.17	875.5	\$39	\$6.63	\$34,145
-7003(b) & (c)	160	8.00	1,280	\$39	\$312	\$49,920
-7007(e)	250	.50	125	\$47	\$23.50	\$5,875
TOTAL	58,140	.83	48,524	\$45	\$37.56	\$2,183,807

15. Reasons for Change in Burden

The reasons for the change in burden are not attributed to any programmatic changes and are relatively insignificant. The number of solicitations and contracts, which required the use of 252.223-7001, increased by approximately 25% from FY 2017 to 2020 and had the most impact on the public burden. The technical expert from the DoD Explosives and Safety Board indicated that the number of solicitations and offerors had doubled, increasing the respondents and

responses associated with 252.223-7003(a), thereby increasing the total annual public burden. Other changes to the burden amounts reflect the use of updated FPDS information and the application of FY 2020 GS hourly rates. Recordkeeping hours to maintain program records under 252.223-7004 have decreased due to the increase in the Simplified Acquisition Threshold, which reduced the number of applicable contracts.

0704-0272: Reporting	2017	2020	Change
Responses	49,443	58,140	+8,697
Estimated Hours	40,554	48,525	+7,971
Annual Public Burden	\$1,739,310	\$2,183,807	+\$444,497

0704-0272: Recordkeeping	2017	2020	Change
Recordkeepers	12,610	11,096	-1,514
Estimated Hours	605,200	532,640	-72,560
Annual Public Burden	\$26,222,800	\$24,413,760	-\$1,809,040

16. Publication of Results

The results of this collection will not be published.

17. Non-Display of OMB Expiration Date

DoD is not seeking approval to omit the display of the expiration date of 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.