

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
OMB CONTROL NO. 9000-0076
Novation and Change-of-Name Agreements**

FAR sections affected: 42.1203(a), 42.1204(e) and (f), and 42.1205(a)

A. Justification.

1. Administrative requirements. This clearance covers the information that contractors must submit to comply with the following requirements in Federal Acquisition Regulation (FAR) subpart 42.12:

- **FAR 42.1203(a), Written Request.** If a contractor wishes the Government to recognize a successor in interest to its contracts or a name change, the contractor must submit a written request to the responsible contracting officer.
- **FAR 42.1204(e) and (f), Novation Agreement.** Pursuant to 42.1203(b)(1), upon request from the contracting officer, the contractor shall submit three signed copies of the proposed novation agreement, plus copies of the supporting documentation listed at 42.1204(e) and (f), as applicable.
- **FAR 42.1205(a), Change-of-Name Agreement.** Pursuant to 42.1203(b)(1), upon request from the contracting officer, the contractor shall submit three signed copies of the proposed change-of-name agreement, plus copies of the supporting documentation listed at 42.1205(a), as applicable.

2. Uses of information. The information collected is used by the Government as follows:

- **FAR 42.1203(a), Written Request.** The written request is used by the contracting officer to determine what additional supporting documentation should be submitted by the contractor and to determine what other contract administration offices should be notified of the contractor's request.

- **FAR 42.1204(e) and (f), Novation Agreement.** The documentation is used by the contracting officer to evaluate and, if appropriate, execute a proposed agreement for recognizing a third party as a successor in interest.
- **FAR 42.1205(a), Change-of-Name Agreement.** The documentation is used by the contracting officer to evaluate and, if appropriate, execute a proposed agreement for recognizing a contractor's name change.

3. Consideration of information technology. Improved information technology is used 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. These requirements are issued under the 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. Collection on a basis other than contract-by-contract is not practical.

7. Special circumstances for collection. Collection is consistent with guidelines in 5 CFR 1320.6.

8. Efforts to consult with persons outside the agency.

- A. A 60-day notice was published in the *Federal Register* at 86 FR 8017, on February 3, 2021. No comments were received.
- B. A 30-day notice was published in the *Federal Register* at 86 FR 19891, on April 15, 2021.

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, current regulations, and statutory requirements.

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

12 & 13. Estimated total annual public hour and cost burden.

- **Total Public Burden.** The following is a summary of the total public burden for preparing and submitting novation and change-of-name agreements:

| <u>Requirement</u> | <u>Responses</u> | <u>Burden Hours</u> | <u>Public Cost</u> |
|--------------------|------------------|---------------------|--------------------|
| Novation | 593 | 1,779 | \$128,088 |
| Change-of-Name | 922 | 922 | \$68,384 |
| TOTAL | 1,515 | 2,701 | \$194,472 |

- **FAR 42.1203(a), Written Request.** According to data available from the Federal Procurement Data System (FPDS) for fiscal years (FYs) 2017 through 2020, an average of 4,424 modifications are issued to an average of 1,515 unique vendors (respondents). The burden associated with submission of the initial written request to recognize a successor in interest or name change is included in the public burden estimates for novation agreements and change-of-name agreements.
- **FAR 42.1204(e) and (f), Novation Agreement.** According to the FPDS data, an average of 1,596 modifications citing "Novation Agreement" as the reason for the modification were issued annually on contracts with an average of 593 unique vendors. A contractor is only required to submit documentation once for a novation agreement, regardless of how many contracts may require modification to reflect the

agreement. Based on reviews by subject matter experts, it is estimated that it takes a junior attorney three hours to prepare and submit the information.

| | |
|-----------------------------------|---------------|
| Estimated respondents/year..... | 593 |
| Responses annually..... | <u>x 1</u> |
| Total annual responses..... | 593 |
| Estimated hours/response..... | <u>x 3</u> |
| Estimated total burden/hours..... | 1,779 |
| Hourly rate*..... | <u>x \$72</u> |
| Estimated cost to public..... | \$128,088 |

- FAR 42.1205(a), Change-of-Name Agreement.** According to the FPDS data, an average of 2,828 modifications citing “Vendor DUNS or Name Change – Non-Novation” as the reason for the modification were issued annually on contracts with an average of 922 unique vendors. A contractor is only required to submit documentation once for a change-of-name agreement, regardless of how many contracts may require modification to reflect the agreement. Based on reviews by subject matter experts, it is estimated that it takes a junior attorney one hour to prepare and submit the information.

| | |
|-----------------------------------|---------------|
| Estimated respondents/year..... | 922 |
| Responses annually..... | <u>x 1</u> |
| Total annual responses..... | 922 |
| Estimated hours/response..... | <u>x 1</u> |
| Estimated total burden/hours..... | 922 |
| Hourly rate*..... | <u>x \$72</u> |
| Estimated cost to public..... | \$66,384 |

* Based on the U.S. Bureau of Labor Statistics estimate, as of May 2019, of the average mean wage of \$52.72 for “legal services” (reference https://www.bls.gov/oes/current/oes_230000.htm) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar. The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition.

14. Estimated cost to the Government.

- **Total Government Burden.** The following is a summary of the total Government burden for reviewing novation and change-of-name agreement documentation:

| <u>Requirement</u> | <u>Responses</u> | <u>Burden Hours</u> | <u>Govt Cost</u> |
|--------------------|------------------|---------------------|------------------|
| Novation | 593 | 1,779 | \$101,403 |
| Change-of-Name | 922 | 922 | \$52,554 |
| TOTAL | 1,515 | 2,701 | \$153,957 |

- **FAR 42.1203(a), Written Request.** Per FAR 42.1203(b)(1), the responsible contracting officer responsible for reviewing the written request and communicating to the contractor what documentation listed at 42.1204(e) and (f) or 42.1205(a) is necessary to evaluate the proposed agreement. The burden associated with review of a contractor’s written request is included in the Government burden estimates for novation agreements and change-of-name agreements.

- **FAR 42.1204(e) and (f), Novation Agreement.** Per FAR 42.1203(f), the contracting officer shall ensure that Government counsel has reviewed the documentation for legal sufficiency. It is estimated that it will take the contracting officer and Government counsel on average three hours per response to review the information provided by the contractor.

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|---------------------------------------|---------------|
| Total annual responses..... | 593 |
| Review time/response (hours)..... | <u>x 3</u> |
| Review time/year (hours)..... | 1,779 |
| Hourly rate*..... | <u>x \$57</u> |
| Estimated cost to the Government..... | \$101,403 |

- **FAR 42.1205(a), Change-of-Name Agreement.** Per FAR 42.1203(f), the contracting officer shall ensure that Government counsel has reviewed the documentation for legal sufficiency. Given that the documentation for a change-of-name agreement is less substantial, it is estimated that it will take the Government one hour per response to review the information provided by the contractor.

| | |
|-----------------------------------|------------|
| Total annual responses..... | 922 |
| Review time/response (hours)..... | <u>x 1</u> |

| | |
|---------------------------------------|-------------------|
| Review time/year (hours)..... | 922 |
| Hourly rate*..... | <u> x \$57</u> |
| Estimated cost to the Government..... | \$52,554 |

* Based on the Office of Personnel Management (OPM) 2021 General Schedule (GS) 12/step 5 salary for the rest of the United States (\$42.08 per hour), plus the OMB M-08-13 36.25 percent fringe factor, rounded to the nearest whole dollar.

15. Explain reasons for program changes or adjustments reported in Item 13 or 14.

- A. The increase of responses from 547 to 1,515 and the associated increase in estimated burden hours from 1,094 to 2,701 is an adjustment based on the following:
 - o The burden associated with preparing and reviewing a novation agreement is treated separate from the burden for a change-of-name agreement. The prior estimate assumed two hours for either type of agreement; however, given the complexity of and additional documentation needed for a novation agreement, it is estimated that novation agreements take more time (3 hours) than a name change (1 hour).
 - o FPDS data on modifications for the four most recent fiscal years was used to develop the estimates.

- B. The estimated cost to the public and the Government has increased slightly based on the following:
 - o The Bureau of Labor Statistics most recent estimate of the average mean wage for "legal services" was used to calculate public costs, in lieu of a national survey salary that is converted into a GS hourly rate.
 - o The OPM 2021 hourly rate for a GS-12, step 5, employee was used in lieu of the 2018 hourly rate, to calculate the Government costs.

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 used in this information collection.