

SUPPORTING STATEMENT – PART A

Defense Federal Acquisition Regulation Supplement (DFARS) Information Collection in Support of the DoD Acquisition Process (Various Miscellaneous Requirements); OMB Control Number 0704-0187

Summary of Changes from Previously Approved Collection

- Increase in burden due to the following:
 - Increased use of DFARS 252.209-7002 resulting from the incorporation of the provision in solicitations for the Small Business Innovation Research Program and Small Business Technology Transfer Program.
 - Use of more recent and accurate data and the hourly wage rate for 2021.

A. JUSTIFICATION

1. Need for the Information Collection

This is a request for revision and renewal of the information collection requirements currently approved under OMB Control Number 0704-0187. These Defense Federal Acquisition Regulation Supplement (DFARS) solicitation provisions and contract clauses implement 10 U.S.C. 2327, 10 U.S.C. 2354, and 10 U.S.C. 2536. The information collection requirements are as follows:

a. DFARS 252.208-7000, Intent to Furnish Precious Metals as Government-Furnished Material, paragraphs (b) and (c). This contract clause is prescribed at DFARS 208.7305(a) for use in solicitations and contracts exceeding the simplified acquisition threshold except when the contracting officer has determined that the required precious metals are not available from the Defense Supply Center, Philadelphia (DSCP), or when the contracting officer knows that the items being acquired do not require precious metals in their manufacture. The clause requires contractors to use the clause in subcontracts and purchase orders, unless the contractor knows that the item being purchased does not contain precious metals. Paragraph (b) requires offerors to cite the type and quantity of precious metals required in performance of the contracts, and the national stock number and nomenclature, if known, of the deliverable item requiring precious metals. Paragraph (c) requires offerors to submit two prices for each deliverable item which contains precious metals — one based on the Government furnishing the precious metals, the other based on the contractor furnishing the precious metals.

b. DFARS 252.209-7002, Disclosure of Ownership or Control by a Foreign Government, paragraph (c). This provision is prescribed at DFARS 209.104-70 for use in solicitations when access to proscribed information is necessary for contract performance. Paragraph (c) requires an offeror to disclose and provide additional information to the Government if a foreign government has a controlling interest in the offeror, or in a parent company of which the offeror is a subsidiary.

c. DFARS 252.209-7004, Subcontracting with Firms That Are Owned or Controlled by the Government of Country that is a State Sponsor of Terrorism, paragraph (b). This clause is

prescribed at DFARS 209.409 for use in solicitations and contracts with a value of \$150,000 or more. Paragraph (b) requires the contractor to notify the contracting officer in writing before entering into a subcontract in excess of \$35,000 with a party that is identified in the System for Award Management (SAM) Exclusions as being ineligible for award of Defense contracts or subcontracts because it is owned or controlled by the government of a country that is a state sponsor of terrorism. The contractor must provide the name of the proposed subcontractor and the compelling reasons for doing business with the subcontractor.

d. DFARS 252.235-7000, Indemnification Under 10 U.S.C. 2354–Fixed Price, paragraph (f) and DFARS 252.235-7001, Indemnification Under 10 U.S.C. 2354–Cost-Reimbursement, paragraph (e). These clauses are prescribed at DFARS 235.070-3 for use in solicitations and contracts when the contractor is to be indemnified against unusually hazardous risks in accordance with DFARS 235.070-1. Paragraphs (f) and (e), respectively, require contractors to notify the contracting officer of any claim and provide (i) proof or evidence of a claim, and (ii) copies of all pertinent papers when the contractor is to be indemnified.

e. DFARS 252.235-7003, Frequency Authorization, paragraph (b). This clause is prescribed at DFARS 235.072(b) for use in solicitations and contracts for developing, producing, constructing, testing, or operating a device requiring frequency authorization. Paragraph (b) requires that the contractor or subcontractor provide to the contracting officer the technical operating characteristics for any experimental, developmental, or operational equipment for which the appropriate frequency allocation has not been made.

2. Use of the Information

This information is used by Government contracting officers as follows:

a. DFARS 252.208-7000(b) and (c). The information is used to determine whether to provide precious metals as Government-furnished material.

b. DFARS 252.209-7002(c). The information is used to determine whether a foreign government owns or controls the offeror to prevent access to proscribed information.

c. DFARS 252.209-7004(b). The information is used to determine whether there is a compelling reason for a contractor to enter into a subcontract in excess of \$35,000 with a firm, or subsidiary of a firm, that is identified in the SAM Exclusions as being ineligible for award of defense subcontracts because it is owned or controlled by the government of a country that is a state sponsor of terrorism.

d. DFARS 252.235-7000(f) and DFARS 252.235-7001(e). This information is used to evaluate claims of indemnification for losses or damages occurring under a research and development contract.

e. DFARS 252.235-7003(b). This information is used to keep track of radio frequencies on electronic equipment under research and development contracts so that the user does not override or interfere with the use of that frequency by another user.

3. Use of Information Technology

Information technology is used approximately 100% of the time to reduce burden.

4. Non-duplication

The information obtained through this collection is unique and is not already available for use or adaptation from another cleared source.

5. Burden on Small Business

The collections associated with small businesses are 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. This information is collected in response to individual solicitations or contracts. Collecting this information less frequently would impede contracting officers from making informed contract-award and contract administration decisions.

7. Paperwork Reduction Act Guidelines

This collection of information does not require collection to be conducted in a manner inconsistent with the guidelines delineated in 5 CFR 1320.5(d)(2).

8. Consultation and Public Comments

a. Public Notice

i. A 60-day notice for the collection was published in the *Federal Register* on May 7, 2021, at 86 FR 24598. One comment was received during the 60-day comment period.

Comment: The respondent expressed concern that the information collected is empirical in nature and not based on lobbyists or falsehoods.

Response: The information submitted by the public is in response to requirements of one solicitation provision and four contract clauses. The information provided should be experiential in nature in response to the solicitation or contract requirements and, therefore, empirical in nature.

ii. A 30-day notice for the collection was published in the *Federal Register* on July 30, 2021, at 86 FR 41025.

b. Consultation

Subject matter experts within DoD were consulted regarding the renewal and revision of this information collection.

9. Gifts or Payment

No payments or gifts are being offered to respondents as an incentive to participate in the collection, other than remuneration to 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. No assurance of confidentiality is provided to respondents. A Privacy Act Statement is not required for this collection because DoD is not requesting individuals to furnish personal information for a system of records. A System of Record Notice (SORN) is not required for this collection because records are not retrievable by personally identifiable information (PII). A Privacy Impact Assessment (PIA) is not required for this collection because PII is not being collected electronically.

11. Sensitive Questions

No questions considered sensitive are being asked in this collection.

12. Respondent Burden, and its Labor Costs

The estimated respondent burdens and labor costs associated with the information collections covered under OMB Control Number 0704-0187 are summarized in the table below. These estimates are based on recent data available in the Federal Procurement Data System (FPDS) for DoD contract actions, DoD's Electronic Data Access (EDA) application, and consultations with DoD subject matter experts.

a. DFARS 252.208-7000(b) and (c). The following is a summary of the estimated annual burden for offerors to cite the type and quantity of precious metals required in performance of the contracts and to submit two prices for each deliverable item which contains precious metals — one based on the Government furnishing the precious metals, the other based on the contractor furnishing the precious metals.

1. Estimation of Respondent Burden

Based on fiscal year (FY) 2019 and FY 2020 data from the Defense Logistics Agency, DoD estimates that 10 contractors will receive precious metals under this clause in approximately 38 different shipments in a year. DoD estimates there will be twice as many respondents as contractors receiving shipments ($10 \times 2 = 20$), because responses are required from all offerors, not only those who are awarded contracts and ultimately receive a shipment. DoD also estimates that the number of solicitations equals the number of shipments (38); i.e.,

each solicitation results in a contract under which precious metals are shipped to the contractor. DoD further estimates there are four responses per solicitation (38 x 4 = 152) and that each response takes one hour to prepare and submit.

Estimation of Respondent Burden: DFARS 252.208-7000(b) and (c)	
Number of respondents	20
Number of responses per respondent	7.60
Number of total annual responses	152
Hours per response	1
Annual Respondent burden hours	152

2. Labor Cost of Respondent Burden

The fully burdened rate per hour is \$48, based on the OPM GS-11, step 5, base hourly rate for 2021 (\$35.11) plus the 36.25% civilian personnel full fringe benefit rate from OMB Memo M-08-13, rounded to the nearest dollar (\$48). The OPM rate used includes locality pay area for the rest of the U.S.

Labor Cost of Respondent Burden: 252.208-7000(b) and (c)	
Number of total annual responses	152
Hours per response	1
Cost per hour (hourly wage)	\$48
Labor burden per response	\$48
Annual Labor Burden	\$7,296

b. DFARS 252.209-7002(c). The following is a summary of the estimated annual burden for offerors to disclosure if a foreign government has a controlling interest in the offeror, or in a parent company of which the offeror is a subsidiary.

1. Estimation of Respondent Burden

DoD estimates that such disclosure rarely occurs, because 10 U.S.C. 2536(a) prohibits award to a firm or a subsidiary of a firm controlled by a foreign government under such circumstances, unless the Secretary of Defense grants a waiver. However, the use of the provision in solicitations for the Small Business Innovation Research (SBIR) Program and Small Business Technology Transfer (STTR) has increased the potential for such disclosures. Based upon data from FPDS for FY 2020, 1,870 additional contractors are subject to the disclosure requirements. DoD estimates that 10 respondents will provide a response annually and each response will take approximately 1 hour to prepare and submit.

Estimation of Respondent Burden: DFARS 252.209-7002(c)	
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Number of respondents	10
Number of responses per respondent	1
Number of total annual responses	10
Hours per response	1
Annual respondent burden hours	10

2. Labor Cost of Respondent Burden

The fully burdened rate per hour is \$48, based on the OPM GS-11, step 5, base hourly rate for 2021 (\$35.11) plus the 36.25% civilian personnel full fringe benefit rate from OMB Memo M-08-13, rounded to the nearest dollar (\$48). The OPM rate used includes locality pay area for the rest of the U.S.

Labor Cost of Respondent Burden: 252.209-7002(c)	
Number of total annual responses	10
Hours per response	1
Cost per hour (hourly wage)	\$48
Labor burden per response	\$48
Annual Labor Burden	\$480

c. 252.209-7004(b). The following is a summary of the estimated annual burden for contractors to notify the contracting officer in writing before entering into a subcontract in excess of \$35,000 with a party that is identified in the SAM Exclusions as being ineligible for award of Defense contracts or subcontracts, because it is owned or controlled by the government of a country that is a state sponsor of terrorism.

1. Estimation of Respondent Burden

DoD estimates that such notification rarely occurs, because 10 U.S.C. 2327 prohibits award of subcontracts exceeding \$35,000 to a firm owned or controlled by the government of a country that is a state sponsor of terrorism, unless the Government determines that there is a compelling reason to do so. DoD estimates that 10 respondents will provide a response annually and each response will take 1 hour to prepare and submit.

Estimation of Respondent Burden: DFARS 252.209-7004(b)	
Number of respondents	10
Number of responses per respondent	1
Number of total annual responses	10
Hours per response	1

Annual respondent burden hours	10
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2. Labor Cost of Respondent Burden

The fully burdened rate per hour is \$48, based on the OPM GS-11, step 5, base hourly rate for 2021 (\$35.11) plus the 36.25% civilian personnel full fringe benefit rate from OMB Memo M-08-13, rounded to the nearest dollar (\$48). The OPM rate used includes locality pay area for the rest of the U.S.

Labor Cost of Respondent Burden: 252.209-7004(b)	
Number of total annual responses	10
Hours per response	1
Cost per hour (hourly wage)	\$48
Labor burden per response	\$48
Annual Labor Burden	\$480

d. DFARS 252.235-7000(f) and 252.235-7001(e). The following is a summary of the estimated annual burden for contractors to notify the contracting officer of any claim and provide (i) proof or evidence of a claim, and (ii) copies of all pertinent papers when the contractor is to be indemnified.

1. Estimation of Respondent Burden

Based on information from EDA for FY 2020 and specialists responsible for reviewing and processing claims under the requirements of these clauses, DoD estimates approximately 98 contractors may file an applicable claim, however, there has not been more than one claim per year. In order to keep the information collection in an active state, DoD has used 10 respondents and 1 response for each clause, for a total of 20 respondents and 20 responses. The contractor should already have the information available, as the same information is necessary to answer suits filed against them by a third party. DoD has estimated 1 hour per response to prepare and submit the information.

Estimation of Respondent Burden: DFARS 252.235-7000(f)/-7001(e)	
Number of respondents	20
Number of responses per respondent	1
Number of total annual responses	20
Hours per response	1
Annual respondent burden hours	20

2. Labor Cost of Respondent Burden

The fully burdened rate per hour is \$48, based on the OPM GS-11, step 5, base hourly rate for 2021 (\$35.11) plus the 36.25% civilian personnel full fringe benefit rate from OMB Memo M-08-13, rounded to the nearest dollar (\$48). The OPM rate used includes locality pay area for the rest of the U.S.

Labor Cost of Respondent Burden: 252.235-7000(f)/-7001(e)	
Number of total annual responses	20
Hours per response	1
Cost per hour (hourly wage)	\$48
Labor burden per response	\$48
Annual Labor Burden	\$960

e. DFARS 252.235-7003(b). The following is a summary of the estimated annual burden for contractors or subcontractors provide to the contracting officer the technical operating characteristics for any experimental, developmental, or operational equipment for which the appropriate frequency allocation has not been made.

1. Estimation of Respondent Burden

According to EDA, in FY 2020 there were 409 contracts that would require approval to use a radio frequency. DoD estimates that it will take the contractor approximately 2 hours to prepare and submit the required information.

Estimation of Respondent Burden Hours: DFARS 252.235-7003(b)	
Number of respondents	409
Number of responses per respondent	1
Number of total annual responses	409
Hours per response	2
Annual respondent burden hours	818

2. Labor Cost of Respondent Burden

The fully burdened rate per hour is \$48, based on the OPM GS-11, step 5, base hourly rate for 2021 (\$35.11) plus the 36.25% civilian personnel full fringe benefit rate from OMB Memo M-08-13, rounded to the nearest dollar (\$48). The OPM rate used includes locality pay area for the rest of the U.S.

Labor Cost of Respondent Burden: 252.235-7003	
Number of total annual responses	409

Hours per response	2
Cost per hour (hourly wage)	\$48
Labor burden per response	\$96
Annual Labor Burden	\$39,264

f. Total Respondent Burden for OMB Control Number 0704-0187

1. Total Submission Burden

The total estimated burden hours for OMB Control Number 0704-0187 is provided in the following table:

Estimation of Respondent Burden Hours: OMB Control Number 0704-0187	
Total number of respondents	469
Total number of annual responses	601
Total burden hours	1,010

2. Overall Labor Burden

The total estimated labor cost of the respondent burden for OMB Control Number 0704-0187 is provided in the following table:

Labor Cost of Respondent Burden: OMB Control Number 0704-0187	
Total number of annual responses	601
Annual Labor Burden	\$48,480

13. Respondent Costs Other Than Burden Hour Costs

There are no annualized costs to respondents other than the labor burden costs addressed in Section 12 of this document to complete this collection.

14. Cost to the Federal Government

a. Labor Cost to the Federal Government

The estimated Government burden hours and labor costs associated with the information collections covered under OMB Control Number 0704-0187 are summarized in the table below. These estimates are based on consultations with DoD subject matter experts.

1. DFARS 252.208-7000(b) and (c)

Labor Cost to the Federal Government: 252.208-7000(b) and (c)	
Number of total annual responses	152
Hours per response	0.5
Cost per hour (hourly wage)	\$48
Cost per response	\$24
Total cost	\$3,648

2. DFARS 252.209-7002(c)

Labor Cost to the Federal Government: 252.209-7002(c)	
Number of total annual responses	10
Hours per response	1
Cost per hour (hourly wage)	\$48
Cost per response	\$48
Total Cost	\$480

3. DFARS 252.209-7004(b).

Labor Cost to the Federal Government: 252.209-7004(b)	
Number of total annual responses	10
Hours per response	1
Cost per hour (hourly wage)	\$48
Cost per response	\$48
Total Cost	\$480

4. DFARS 252.235-7000(f) and 252.235-7001(e)

Labor Cost to the Federal Government: 252.235-7000(f)/-7001(e)	
Number of total annual responses	20
Hours per response	1
Cost per hour (hourly wage)	\$48
Cost per response	\$48
Total Cost	\$960

5. DFARS 252.235-7003(b).

Labor Cost to the Federal Government: 252.235-7003	
Number of total annual responses	409
Hours per response	2
Cost per hour (hourly wage)	\$48
Cost per response	\$96
Total Cost	\$39,264

6. Total Government Burden for OMB Control Number 0704-0187

Overall Labor Burden to the Federal Government: OMB Control # 0704-0187	
Total number of annual responses	601
Total Labor Burden	\$44,832

b. Operational and Maintenance Costs

Equipment	\$0
Printing	\$0
Postage	\$0
Software Purchases	\$0
Licensing Costs	\$0
Other	\$0
Total Operational and Maintenance Costs	\$0

c. Total Cost to the Federal Government

Total labor burden	\$44,832
Total operational and maintenance costs	\$0
Total cost to the Federal Government	\$44,832

15. Reasons for Change in Burden

The burden has increased since the previous approval as a result of more recent and accurate data being obtained, specifically for DFARS 252.208-7000 and 252.235-7003. While

the previous renewal reflected reductions for both clauses, this renewal reflects increased estimates that align with historical information collection estimates.

DoD estimates that the application of DFARS 252.209-7002(c) to solicitations for the SBIR and STTR Programs will increase the potential for disclosures, resulting in an increase in the estimated burden.

The increase in the hourly rate from the 2018 rate of \$45 to the 2021 rate of \$48 has increased the total burden.

0704-0187			
Change in Burden	2018	2021	Difference
Number of respondents	308	469	161
Total annual responses	308	601	293
Total Hours	616	1,010	394
Cost per hour	\$45	\$48	\$3
Total Cost	\$27,720	\$48,480	\$20,760

16. Publication of Results

Results of this information 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 the OMB approval on the collection instrument.

18. Exceptions to “Certification for Paperwork Reduction Submissions”

DoD is not requesting any exemptions to the provisions stated in 5 CFR 1320.9.