

SUPPORTING STATEMENT

OMB Control Number 0704-0557, Use of the Government Property Clause for Repair of Government-furnished Property

A. JUSTIFICATION

1. Need for the Information Collection. This supporting statement is in support of a new information collection requirement associated with Defense Federal Acquisition Regulation Supplement (DFARS) Case 2015-D035, Use of the Government Property Clause.

The language at FAR 45.107, Contract Clause, is discretionary relative to the use of FAR 52.245-1, Government Property, in DoD purchase orders awarded for repair, maintenance, overhaul, or modification of Government property. Specifically, contracting officers need not include FAR 52.245-1 in purchase orders (identified with a P, M, W, or V in the ninth position of the Procurement Instrument Identification Number) awarded for repair, maintenance, overhaul, or modification of Government property when the aggregate acquisition value of the items for repair does not exceed the simplified acquisition threshold (and assuming no other Government furnished property (GFP) is involved).

Given the current prescription at DFARS 245.107, when FAR 52.245-1 is excluded from purchase orders awarded for repair, maintenance, overhaul, or modification, the associated DFARS property clauses are, by extension, also excluded. Such practice predates DoD efforts aimed at achieving accountability and visibility of equipment provided to contractors as GFP, and is now viewed by DoD as an accountability gap. DFARS Case 2015-D035 closes this gap by treating purchase orders for repair, maintenance, overhaul, or modification no differently from other contractual instruments involving repair of GFP (e.g., delivery orders awarded under Basic Ordering Agreements or issued under Indefinite Delivery Contracts).

The rule also facilitates compliance with DoD Instruction 4161.02 entitled “Accountability and Management of Government Contract Property,” which requires DoD components to use electronic transactions when transferring Government property to a contractor and upon return of property to DoD. Use of FAR clause 52.245-1, in conjunction with the following associated DFARS clauses, creates an electronic end-to-end process for GFP management—

- 252.245-7001, Tagging, Labeling, and Marking of Government-Furnished Property;
- 252.245-7002, Reporting Loss of Government Property;
- 252.245-7003, Contractor Property Management System Administration; and
- 252.211-7007, Reporting of Government-Furnished Property.

The DFARS rule is an extension of DoD’s commitment to establish an electronic end-to-end process to bolster oversight and management of GFP. This commitment is demonstrated through a variety of DFARS provisions and clauses, Procedures, Guidance and Information documents, and the associated deployment of standardized tools and transactional information technology solutions.

2. Use of the Information

The property records, receiving reports, and receipt in the Wide Area WorkFlow (WAWF) system are used by DoD for Government property accountability. The DFARS requirement for electronic notification of receipt provides assurance to the Government that repair assets have arrived at the contractor's repair facility. Moreover, in the case of repair items provided under purchase orders, contractors need only report the receipt of the repair item; no other reporting is required.

3. Use of Information Technology

All of the information to be reported (100%) is collected electronically. The deployment of standardized tools and transactional information technology solutions using the WAWF suite of tools is an inherent part of the end-to-end process described in paragraph 1. DoD Components use electronic transactions when transferring Government property to a contractor and upon return of property to DoD and contractors use the WAWF system to document receipt and property transfers.

On August 30, 2016, DoD published a final rule revising DFARS Appendix F (DFARS Case 2016-D004) to add instructions for the use, preparation, and distribution of the WAWF Repairable Receiving Report (WAWF RRR) to differentiate between deliveries of Government assets (new deliveries) and contractor repair services of existing Government assets (i.e., assets furnished to contractors for repair, modification or overhaul). The WAWF RRR functionality includes the ability to automatically report to the UID registry the movement of repair items assets back to the Government.

4. Non-duplication

There is no duplication or overlap with existing acquisition regulations.

5. Burden on Small Business

The use of purchase orders for repair is not exclusive to small businesses; both large and small firms receive purchase orders. Many such firms have other contracts with GFP and, therefore, have existing property management systems. The use of existing electronic tools mitigates the impact to industry, generally.

6. Less Frequent Collection

The reporting requirements described above occur on an as needed basis, i.e., upon receipt of GFP.

7. Paperwork Reduction Act Guidelines

Collection is consistent with guidelines in 5 CFR 1320.5(d)(2).

8. Consultation and Public Comments

a. Public comments were solicited in the proposed rule (DFARS Case 2015-D035) in the *Federal Register* on October 21, 2016 ([81 FR 73002](#)) as required by 5 CFR 1320.8(d). The proposed rule included a notice that DoD submitted a request for approval of a new information collection requirement to the Office of Management and Budget (OMB). This information collection requirement was assigned OMB Control Number 0704-0557, entitled DFARS Part 245; Use of the Government Property Clause for Repair of Government-furnished Property. Four comments were received from one respondent as follows:

1. Support for Continued Discretionary Use of the FAR clause

Comment: The respondent recommends that DFARS 245.107 be left “as is” and that contracting officers should insert FAR clause 52.245-1 into purchase orders for repair based on the type and cost of property to be repaired.

Response: A determination for when provisions and clauses are used is driven primarily by the goods or services being procured and the type of contract being contemplated; tying the use of FAR 52.245-1 to only some forms of Government-furnished property (GFP) and not others would be impractical given the variety of property classes, types, values, uses, and conditions. Discretion, in the case of inserting FAR clause 52.245-1 in purchase orders for repair, has led to inconsistent treatment of GFP. Moreover, the discretionary use of FAR 52.245-1 has been shown to drive process inconsistency, compromise accountability, and promote non-standard processes. This complicates administration of contracts, particularly upon contract closeout when proper disposition and adjudication of remaining Government property is crucial.

2. Training for Contracting Officers

Comment: The respondent also stated that appropriate training should be provided to Contracting Officers on use of the Government property clause, rather than require a blanket prescription that fails to incorporate materiality.

Response: The purpose of this rule is to achieve greater accountability of GFP, decrease the risk of misuse or loss of Government property, and mitigate potential ownership issues. As stated previously, tying the use of FAR clause 52.245-1 to a specific property class or type would be impractical given the variety of property types, values, uses, and conditions. Moreover, the discretionary use of FAR 52.245-1 drives process inconsistencies, compromises accountability, and promotes non-standard processes. By extension, training contracting officers on the potential materiality of asset types relative to the use FAR clause 52.245-1 would be unrealistic and ultimately exacerbate the accountability gap this rule seeks to close.

3. Impact to Small Business

Comment: The respondent states the rule would adversely impact small business participation in repair, maintenance, and calibration activities, and that small businesses would be required to implement costly property systems to comply with the Government property clause and associated DFARS clauses invoked by its use.

Response: Many small businesses that do business with the Federal Government have well-established property management systems by virtue of existing purchase orders for repair or other contracts that contain FAR clause 52.245-1. Further, many of the requirements contained

in FAR 52.245-1, e.g., receiving reports, discrepancy reports and property records, are typical commercial practices, and so not unduly burdensome. For example, customary commercial practice is to create receiving reports and keep records for incoming assets regardless of the source of such assets. In addition, the policy at FAR 45.103(b) permits contractors to use their own existing property management procedures, practices, and systems to account for and manage Government property.

4. Need for Further Analysis by DoD

Comment: The respondent states that DoD should perform further analysis to ensure that its proposal is cost effective, and that the Government should ensure that cost savings from greater tracking of Government property included in contracts that meet the simplified acquisition threshold outweighs the increased cost of repair and possible contracting delays.

Response: This rule is part of a larger DoD effort to resolve DoD's material weakness relative to Government furnished property and accountability of assets is an important part of audit readiness.

b. A notice of submission to OMB for clearance of this information collection was published in the Federal Register on March 26, 2019 ([84 FR 11290](#)).

c. For the purpose of calculating respondent burden, subject matter experts were contacted to obtain current data.

9. Gifts or Payment

No payment or gift will be provided to respondents, other than remuneration of contractors under the terms of their contracts.

10. Confidentiality

This information is disclosed only to the extent consistent with prudent business practices and current regulations.

11. Sensitive Issues or Questions

There are no issues or questions of a sensitive nature.

12. Respondent Burden, and its Labor Costs

a. Estimation of Respondent Burden

The annual estimated cost to the public is based on Electronic Document Asses System data for fiscal year 2018 for purchase orders for repairs of equipment. Use of FAR clause 52.245-1, pursuant to DFARS 245.107(1)(i) in DoD purchase orders for repair of Government property, is estimated to impose public burden discussed as follows. The number of respondents of 766 reflects the number of contractors that received purchase orders for repairs in fiscal year

(FY) 2018 where the orders did not contain the Government property clause. This universe of vendors represents the estimated number of vendors expected to be impacted when the Government property clause is included in these orders. Per FY 2018 Federal Procurement Data System data there were 1,562 vendors that received 3,666 repair orders where the Government property clause was included, indicating that each vendor received an average of 2.3 contracts per vendor. For the estimated 766 vendors estimated to be affected by this rule, a total of 1,762 new purchase orders each year are expected to be impacted ($766 \times 2.3 = 1,762$ (rounded)). Each of the estimated 1,762 orders would require two submissions, or a total of 3,524 responses.

Estimation of Respondent Burden Hours: Reporting	
Number of respondents	766
Responses per respondent (approximately)	4.6
Number of responses	3,524
Hours per response	.5
Estimated hours (number of responses multiplied hours per response)	1,762
Cost per hour (hourly wage)	\$54
Annual public burden (estimated hours multiplied by cost per hour)	\$95,148

The respondent burden hours shown above represent the time required to comply with FAR 52.245-1(f)(1)(ii) to prepare records of receipt and to input receipt records into the WAWF system (see DFARS Appendix F) in accordance with DFARS clause 252.211-7007. The Contractor, upon receipt of Government property, must document receipt and record the information necessary to meet the record requirements the clause, identify the property as Government owned in a manner appropriate to the type of property (e.g., stamp, tag, mark, or other identification), and manage any discrepancies incident to shipment.

Estimation of Burden Hours: Recordkeeping	
Number of respondents (Record Keepers)	766
Responses per respondent (approximately)	1
Number of responses	766
Hours per response	.5
Estimated hours (number of responses multiplied hours per response)	383
Cost per hour (hourly wage)	\$54
Annual public burden (estimated hours multiplied by cost per hour)	\$20,682

The recordkeeping burden hours shown above represent the time required to comply with FAR 52.245-1(f)(1)(iii) to create and maintain records of all Government property accountable to the contract, including Government-furnished and Contractor-acquired property.

Additionally, pursuant to 52.245-1(f)(2), the Contractor must establish and maintain Government accounting source data, as may be required by the contract, particularly in the areas of recognition of acquisitions, loss of Government property, and disposition of material and equipment.

Estimation of Burden Hours: Total Reporting + Recordkeeping	
Number of respondents	766
Responses per respondent (approximately)	5.6
Number of responses	4,290
Hours per response	.5
Estimated hours (number of responses multiplied hours per response)	2,145
Cost per hour (hourly wage)	\$54
Annual public burden (estimated hours multiplied by cost per hour)	\$115,830

(Hourly rate computation: 2019 OPM rate of \$39.85 x 1.3625 O/H rate = \$54.29 rounded to \$54. Reference: OPM General Schedule Locality Pay Area “Rest of U.S.”.)

13. Respondent Costs Other Than Burden Hour Costs

There are no capital, start-up costs, or operation and maintenance costs associated with this collection.

14. Cost to the Federal Government

Estimation of Respondent Burden Hours	
Number of responses (excludes recordkeeping)	1,532
Hours per response	.3
Estimated hours (number of responses multiplied hours per response)	460
Cost per hour (hourly wage)	\$54
Annual public burden (estimated hours multiplied by cost per hour)	\$24,840

15. Reasons for Change in Burden

This submission requests a new OMB approval for an information collection requirement in the DFARS.

16. Publication of Results

Results will not be tabulated or 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.