

**Supporting Statement for
Paperwork Reduction Act Submission
Department of Transportation Acquisition Regulation (TAR)
Part 1239 Clauses 1252.239-89 and 1252-239-90
2105-XXXX**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify legal or administrative requirements that necessitate the collection of information.

As a result of proposed rule, RIN 2105-AE26: Streamline and Update the Department of Transportation Acquisition Regulation posted to the Federal Register, 86FR69452, on December 7, 2021, TAR Case 2020-001, this is a request from the Department of Transportation (DOT) for OMB approval of a new Information Collection (IC). Under Public Law 113-283, Federal Information Security Modernization Act of 2014, each agency of the Federal Government must provide security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source.

In order for DOT to comply with Public Law 113-283, Federal Information Security Modernization Act of 2014, DOT developed clauses 1252.239-89, Technology Modernization, and 1252.239-90, Technology Upgrades/Refreshment. These clauses contain the following information collection requirements from the public:

1252.239-89, Technology Modernization: Submittal of price or cost proposals for modernization approach.

1252.239-90, Technology Upgrades/Refreshment: Submittal of price or cost proposals for upgrade / refreshment approach.

2. Indicate how, by whom, and for what purposes the information is to be used; indicate actual use the agency has made of the information received from current collection.

Clause 1252.239-89, Technology Modernization, encourages the contractor to propose independently a modernization approach to the hardware, software, specifications, or other requirements of the contract. This modernization approach may be proposed to increase efficiencies (both system and process level), reduce costs, strengthen the cyber security posture, or for any other purpose which presents an advantage to the Government. The clause requires the contractor to submit a price or cost proposal to the Contracting Officer for evaluation.

Clause 1252.239-90, Technology Upgrades/Refreshment, encourages contractors to propose independently technology improvements to the hardware, software, specifications, or other requirements of the contract. These improvements may be proposed to save money, to improve performance, to save energy, to satisfy increased data processing requirements, or for

any other purpose that presents a technological advantage to the Government. The clause requires the contractor to submit a price or cost proposal to the Contracting Officer for evaluation.

The required information collection requirements are to be used by DOT to assess the contractor's proposal(s), the comparative advantages and disadvantages of the existing contract requirement and the proposed change; itemized requirements of the contract that must be changed; an estimate of the changes in performance and price or cost; and potential delivery schedule impact(s). The information is needed by the Government to adequately evaluate the proposals and negotiate any contract modification terms and conditions, to include cost or price.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Information collection requirement responses and proposals can be submitted via electronic submission.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The information collections required by the clauses are based on the need for DOT to seek opportunities to modernize, refresh and upgrade the agency's IT infrastructure and systems to better enable it to comply with Federal and DOT security requirements. Each contract awarded requires specific information collections and other previous contract submissions cannot be used. Submissions are specific to individual contracts. Therefore, there will be no duplication.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

Small businesses will be affected in the same way as large businesses in order to comply with statutes and other Federal requirements which require security of information technology, information and information systems.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently as well as any technical or legal obstacles to reducing burden.

Failure to collect the information could impede DOT's ability to ensure its IT systems are appropriate refreshed and modernized during a contract performance period in order to protect DOT information technology, information and information systems.

7. Explain any special circumstances that would cause an information collection to be conducted more often than quarterly or require respondents to prepare written

responses to a collection of information in fewer than 30 days after receipt of it; submit more than an original and two copies of any document; retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years; in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study and require the use of a statistical data classification that has not been reviewed and approved by OMB.

DOT does not expect that any contractor/subcontractor would submit a response more often than quarterly and more likely no more than annually due to technology products and services deployed by commercial activities.

8. a. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the sponsor's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the sponsor in responses to these comments. Specifically address comments received on cost and hour burden.

Note: this section will be updated when the proposed rule 1239 is published in the Federal Register and at the end of public comment period. OSPE will address comments received related to this IC, if any.

b. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, clarity of instructions and recordkeeping, disclosure or reporting format, and on the data elements to be recorded, disclosed or reported. Explain any circumstances which preclude consultation every three years with representatives of those from whom information is to be obtained.

There were no efforts to consult with persons outside the agency beyond the publication of this proposed rule in the Federal Register.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payments or gifts have been provided.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

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

11. Provide additional justification for any questions of a sensitive nature (Information that, with a reasonable degree of medical certainty, is likely to have a serious adverse effect on an individual's mental or physical health if revealed to him or her), such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private; include specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

The request for information does not include any questions of a sensitive nature.

12. Estimate of the hour burden of the collection of information:

Summary of the total Burden for the two clauses:

Total Burden Hours: 550
 Average Number of Respondents: 366
 Average Annual Responses: 366
 Total Burden Cost: \$18,205.00

a. The number of respondents, frequency of responses, annual hour burden, and explanation for each form is reported as follows:

Total Burden Hours: 550
 Average Number of Respondents: 366
 Average Annual Responses: 366

For Clause 1252.239-89:

Total Burden Hours: 440
 Average Number of Respondents: 293
 Average Annual Responses: 293

No. of respondents	x No. of responses per respondent	x No. of minutes	÷ by 60	Number of Burden Hours
293	1	90		440

Note: DOT has estimated the number of respondents based on identified NAICS reflecting previous contract awards averaged over the last three fiscal years—FY 2017, FY 2018, and FY 2019 where the clause may be required. DOT estimates that in the future for a typical contract performance period estimated of five years, that the majority of the information collection requirements might be required in one of the years and thus estimates 20% of the total average of contract awards represents the potential pool of number of respondents who might submit an information collection requirement (ICR) response as shown below.

<u>NAICS: (As shown below)</u>	<u>(Respondents)</u> <u>Contract Award Actions (Average 3 FY)</u>
518210	196
541512	911
541513	357
	1464

Basis for estimated number of respondents: Number of NAICS contract actions = 1464 x 20% estimated number of annual respondents (based on typical five-year period of performance and ICR might be requested or submitted in one of the five total possible

years of the contract) = 293.

For Clause 1252.239-90:

Total Burden Hours: 110
 Average Number of Respondents: 73
 Average Annual Responses: 73

No. of respondents	x No. of responses per respondent	x No. of minutes	÷ by 60	Number of Burden Hours
73	1	90		

NAICS: (As shown below)

**(Respondents)
 Contract Award Actions (Average 3 FY)**

518210	196
541512	911
541513	357
	<hr/> 1464

Basis for estimated number of respondents: Number of NAICS contract actions = 1464 x 5% estimated number of annual respondents (based on typical five-year period of performance and ICR might be requested or submitted in one of the five total possible years of the contract) = 73.

b. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB 83-1.

No other form is required by the TAR for use in these collections.

c. Provide estimates of annual cost to respondents for the hour burdens for collections of information. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

Estimated annual cost to respondents: \$18,205

For Clause 1252.239-89:

Total estimated annual cost to all respondents: \$14,564 (440 hours at \$33.10 per hour). Rate of \$33.10 per hour including benefits is based on the average GS-10, Step 1, on the [OPM Salary Table, 2021-GS](#) plus OMB Civilian Position Fringe Benefits rate of 36.25% (per OMB Memorandum M-08-13, March 11, 2008).

For Clause 1252.239-90:

Total estimated annual cost to all respondents: \$3,641 (110 hours at \$33.10 per hour). Rate of \$3./10 per hour including benefits is based on the average GS-10, Step 1, on the [OPM Salary Table, 2021-GS](#) plus OMB Civilian Position Fringe Benefits rate of 36.25% (per OMB Memorandum M-08-13, March 11, 2008).

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

There are no capital or start-up costs associated with the information collection.

14. Provide estimates of annual cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operation expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

TAR clause 1252.239-89, Technology Modernization.

Estimated annualized cost to the Government: \$9,891.68

Estimate based on 293 responses x 1 hour (estimate of 1 hour of Government review time per response) = 293 hours at \$33.76/hourly rate from 2020 OPM GS Salary Table, of the average GS 9, Step 5, DOT IT specialist / staff). Rate of \$33.76 per hour including benefits based on the average GS-9, Step 5, on the [OPM Salary Table, 2020-GS](#) with a base hourly rate of \$24.78 + \$8.98 OMB Civilian Position Fringe Benefits rate of 36.25%.

TAR clause 1252.239-90, Technology Upgrades/Refreshment.

Estimated annualized cost to the Government: \$3,713.60

Estimate based on 110 responses x 1 hour (estimate of 1 hour of Government review time per response) = 110 hours at \$33.76/hourly rate from 2020 OPM GS Salary Table, of the average GS 9, Step 5, DOT IT specialist / staff). Rate of \$33.76 per hour including benefits based on the average GS-9, Step 5, on the OPM Salary Table, 2020-GS with a base hourly rate of \$24.78 + \$8.98 OMB Civilian Position Fringe Benefits rate of 36.25%.

15. Explain the reason for any burden hour changes since the last submission

This is a new information collection.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

There are no plans to publish any data received from this information collection.

- 17. If seeking approval to omit the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

DOT will display the expiration date for OMB approval of the information collection.

- 18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB 83-1.**

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods will not be employed.