

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
OMB CONTROL NO.9000-0069
Indirect Cost Rate Proposals, Payments to Small Business
Subcontractors, and Bankruptcy Notifications**

**FAR sections affected: 52.216-7, 52.216-15, 52.242-4, 52.242-5
and 52.242-13**

A. Justification.

1. Administrative requirements.

The Department of Defense, General Services Administration, and National Aeronautics and Space Administration are combining OMB Control Nos. for the Federal Acquisition Regulation (FAR) by FAR part. This consolidation is expected to improve industry's ability to easily and efficiently identify burdens associated with a given FAR part. The review of the information collections by FAR part allows improved oversight to ensure there is no redundant or unaccounted for burden placed on industry. Lastly, combining information collections in a given FAR part is also expected to reduce the administrative burden associated with processing multiple information collections.

This justification supports the revision of OMB Control No. 9000-0069 and combines it with the previously approved information collections under OMB Control No. 9000-0196, with the new title "Indirect Cost Rate Proposals, Payments to Small Business Subcontractors, and Bankruptcy Notifications". Upon approval of this consolidated information collection, OMB Control No. 9000-0196 will be discontinued. The burden requirements previously approved under the discontinued number will be covered under OMB Control No. 9000-0069.

This clearance covers the information that contractors must submit to comply with the following FAR requirements:

FAR 52.216-7, Allowable Cost and Payment. This clause requires the contractor to submit an adequate final indirect cost rate proposal to the contracting officer and the auditor within the 6-month period following the expiration of each of its fiscal years. The proposed rates shall be based on the contractor's actual cost experience for that period. Paragraphs (d)(2)(iii) and (iv) of this clause provide a list of the data required to be submitted. The data is customary business financial information that the contractor can access from its automated business systems.

FAR 52.216-15, Predetermined Indirect Cost Rates. This clause repeats the requirement in the FAR clause at 52.216-7, paragraph (d), for the contractor to submit an adequate final indirect cost rate proposal, however it does not impose any additional reporting requirements.

FAR 52.242-4, Certification of Final Indirect Costs. This clause requires the contractor's final indirect cost rate proposal to be certified to establish or modify the rates used to reimburse the contractor for the costs of performing under the contract. The supporting cost data are the cost accounting information normally prepared by organizations under sound management and accounting practices. This clause is incorporated into all solicitations and contracts that provide for establishment of final indirect cost rates, but the Department of Energy may provide an alternate clause for its Management and Operating contracts.

FAR 52.242-5, Payments to Small Business Subcontractors. This clause requires the prime contractor to self-report to the contracting officer when the prime contractor makes late or reduced payments to small business subcontractors. The notice shall include the reason(s) for making the reduced or untimely payment.

FAR 52.242-13, Bankruptcy. This clause requires contractors to notify the contracting officer within five days after initiating the proceedings relating to bankruptcy filing.

2. Uses of information.

FAR 52.216-7, 52.216-15, and 52.242-4. The contracting officer and auditor use the proposal and supporting data provided under these clauses to verify and analyze the indirect costs and to determine the final indirect cost rates or to prepare the Government negotiating position if negotiation of the rates is required under the contract terms.

FAR 52.242-5. The contracting officer uses the information provided under this clause to record the identity of contractors with a history of late or reduced payments to small business subcontractors in the Federal Awardee Performance and Integrity Information System. The contracting officer considers and evaluates the contractor's written explanation for a reduced or an untimely payment to determine whether the reduced or untimely payment is justified.

FAR 52.242-13. The contracting officer uses the notification received under this clause to ensure the contractor's ability to perform its government contract.

3. Consideration of information technology. Federal agencies use improved information technology 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, 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. Regarding the collection of information under the FAR clause at 52.242-5, small businesses do not submit responses because they are not required to have subcontracting plans.

6. Describe consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently. Collection of information on a basis other than contract-by-contract is not practical.

7. Special circumstances for collection. Collection is consistent with guidelines in 5 CFR 1320.5(d)(2).

8. Efforts to consult with persons outside the agency.

A. A 60-day notice was published in the *Federal Register* at 87 FR 17292, on March 28, 2022. No comments were received.

B. A 30-day notice was published in the *Federal Register* at 87 FR 34687, on June 7, 2022.

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.

SUMMARY	FAR 52.216-7, 52.216-15, and 52.242-4	FAR 52.242-5	FAR 52.242-13	Total
Estimated respondents/yr	5,367	425	473	6,265
Responses/respondent	1.00	1.00	1.0	
Total annual responses	5,367	425	473	6,265
Estimated hrs/response	280	2	1	
Estimated total burden hrs	1502760	850	473	1,504,083
Hourly rate	\$62	\$49	\$59	
Estimated annual cost to the public	\$93,171,120	\$41,650	\$27,907	93,240,677

FAR 52.216-7, 52.216-15, and 52.242-4 - Indirect Costs.

DCMA provided disposition for 3,578 annual final indirect cost rate proposals in Fiscal Year 2020¹. Estimating an addition of one half of the DCMA total to account for civilian agencies, this results in a total of approximately 5,367 (3,578 X 1.5) proposals annually.

For the estimated hours per response, the estimates use a historical baseline of 160 hours for a contractor to provide and certify cost and pricing data for an individual contract. Proposals for indirect cost rates may require more comprehensive data to be analyzed to provide the basis for indirect cost rates that will become the basis for future billings under certain contracts. FAR 52.216-7 provides a list of the information required, which reflects information that is readily available in a firm's accounting system; therefore, there is no separate mandated recordkeeping requirement. Contractor automated systems that track costs facilitate the development of the indirect cost rate proposals. As this is an annual requirement, companies have their prior data submission models that utilized customary business records to build on for their annual submissions. Therefore, extrapolating from the 160 hours projected for a

¹ Report to Congress on FY 2020 Activities Defense Contract Audit Agency dated March 31, 2021.

unique proposal that may not leverage data mined for prior proposals, it is estimated that each final indirect cost rate proposal would take approximately 50% more time, or 240 hours to complete an indirect final cost rate proposal.

The skill set required to prepare the proposal is comparable to a journeyman GS 12 step 5, or \$59 per hour**.

For the 5,367 contractors that will submit final indirect cost rate proposals, it is estimated that approximately 40 hours per proposal are required to comprehensively review the final proposal and provide the required certification. Historically, it is estimated it takes 40 hours to certify cost or pricing data submitted with proposals. That framework also informed the decision to use 40 hours as the estimate for certifying a final indirect cost rate proposal. The skill set required is that of a senior individual comparable to a GS 14 step 5, or \$83 per hour***.

Using the weighted average of both hourly rates, the estimates are as follows:

Estimated number of respondents/yr.....	5,367
Responses per respondent.....	<u>x 1</u>
Total annual responses.....	5,367
Estimated hrs/response.....	<u>x 280</u>
Estimated annual burden hours.....	1,502,760
Hourly rate***.....	<u>x \$62</u>
Estimated annual cost to the public.....	\$93,171,120

FAR 52.242-5, Payments to Small Business Subcontractors.

For this information collection, the following data was retrieved from the Federal Procurement Data System (FPDS) for fiscal years 2019 through 2021. FPDS lists an annual average of 6,891 new commercial contracts over \$750,000 where the size determination was other than small, and a subcontracting plan was required awarded to an annual average of 1,024 unique vendors. FPDS also lists an annual average of 10,549 new noncommercial contracts over \$750,000 where the size determination was other than small, and a subcontracting plan was required awarded to an annual average of 1,100 unique vendors. It is estimated that no more than 20 percent of contractors with new commercial and noncommercial contracts, where the size determination was other than small and where a subcontracting plan was required (20% of (1,024 + 1,100) = 425), would have to notify the contracting officer that the prime contractor paid a reduced or an untimely payment to a small business subcontractor. It is also estimated that the average time required for a contractor to prepare the

information for this collection is 2 hours. It is further estimated that each respondent would submit 1 response. The estimates are as follows:

Estimated number of respondents/yr.....	425
Responses per respondent.....	<u>x 1</u>
Total annual responses.....	425
Estimated hrs/response.....	<u>x 2</u>
Estimated annual burden hours.....	850
Hourly rate*.....	<u>x \$49</u>
Estimated annual cost to the public.....	\$41,650

FAR 52.242-13, Bankruptcy.

Because of the Government’s stringent contract responsibility requirements in FAR part 9, the ratio of bankruptcies among Government contractors is very low. Using data from the American Bankruptcy Institute (www.abiworld.org), business bankruptcies declined by 6.9% between 2017 and 2020 (at present, 2020 is the latest annual data available on bankruptcies). The revised estimate of 473 reflects the 6.9% decline in business bankruptcies between 2017 and 2020. We used the estimated 508 respondents from the 2019 information collection extension as the basis for calculating the 6.9% decrement.

There is no single data collection process or system, e.g., FPDS, that identifies the number of bankruptcies Governmentwide. To date, no public comments or questions have been received regarding the burden estimates included in the currently approved clearance. The skill sets required are those of a journeyman GS 12, step 5, or \$59 per hour**. The estimates are as follows:

Estimated number of respondents/yr.....	473
Responses per respondent.....	<u>x 1</u>
Total annual responses.....	473
Estimated hrs/response.....	<u>x 1</u>
Estimated annual burden hours.....	473
Hourly rate**.....	<u>x \$59</u>
Estimated annual cost to the public.....	\$27,907

* Based on the Office of Personnel Management (OPM) 2022 General Schedule (GS) 11/step 5 salary for the rest of the United States (\$35.96 per hour) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar (\$49). The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition.

** Based on the Office of Personnel Management (OPM) 2022 General Schedule (GS) 12/step 5 salary for the rest of the United States (\$43.10 per hour) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar (\$59). The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition.

*** Based on the Office of Personnel Management (OPM) 2022 General Schedule (GS) 14/step 5 salary for the rest of the United States (\$60.56 per hour) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar (\$83). 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.

SUMMARY	FAR 52.216-7, 52.216-15, and 52.242-4	FAR 52.242-5	FAR 52.242-13	Total
Total annual responses	5,367	425	473	6,265
Review time per response (hours)	40	1	1	
Review time per year (hours)	214,680	425	473	215,578
Hourly rate	\$59	\$49	\$59	
Estimated Government Cost	\$12,666,120	\$20,825	\$27,907	12,714,852

FAR 52.216-7, 52.216-15, and 52.242-4 - Indirect Costs.

Total annual responses..... 5,367
 Review Time per response (hours)..... x 40
 Review time per year (hours).....214,680
 Hourly rate**..... x \$59
 Estimated annual cost to the Government.....\$12,666,120

FAR 52.242-5, Payments to Small Business Subcontractors.

Total annual responses..... 425
 Review Time per response (hours)..... x 1
 Review time per year (hours)..... 425
 Hourly rate*..... x \$49
 Estimated annual cost to the Government..... \$20,825

FAR 52.242-13, Bankruptcy.

Total annual responses.....	473
Review Time per response (hours).....	<u>x 1</u>
Review time per year (hours).....	473
Hourly rate**.....	<u>x \$59</u>
Estimated annual cost to the Government.....	\$27,907

15. Explain reasons for program changes or adjustments reported in Item A.13 or A.14. There are no program changes. The FAR requirements remain the same. Adjustments are made to the public and Government burden estimates based on the following:

- The estimated number of respondents and responses per year are based on the latest data available as described in Item A.12&13.
- The estimated cost per hour is based on use of the calendar year 2022 OPM GS wage rate for the rest of the United States.

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.