

## SUPPORTING STATEMENT - PART A

### OMB Control Number 0704-0574 – Defense Federal Acquisition Regulation Supplement (DFARS) Part 215, Only One Offer and Related Clauses at 252.215

#### 1. Need for the Information Collection

This justification supports the renewal of Office of Management and Budget (OMB) Control Number 0704-0574. This information collection pertains to information that an offeror/contractor must submit to the Department of Defense (DoD) if only one offer was received in response to a competitive solicitation, and the contracting officer must now request certified cost or pricing data because of the revised standard for adequate price competition that is applicable to DoD, NASA, and the Coast Guard.

This information collection requirement implements Cost or Pricing Data—Truth in negotiations, 10 U.S.C. 2306a, as amended by section 822 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114-328). To the extent that 10 U.S.C. 2306a is the same as 41 U.S.C. chapter 35, information collection requirements are covered under OMB Control Number 9000-0013. However, section 822 of the NDAA for FY 2017 changes the standard for adequate price competition for DoD, NASA, and the Coast Guard. This supporting statement addresses only the additional burden for DoD, as implemented in DFARS provisions 252.215-7008, Only One Offer, and 252.215-7010, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data.

#### 2. Use of the Information

DoD uses the information obtained through DFARS 252.215-7008 and 252.215-7010 to determine whether the offered price is fair and reasonable and to meet the statutory requirement for certified cost or pricing data.

#### 3. Use of Information Technology

Information technology is used to collect the information 100% of the time, especially when the cost or pricing data does not require certification, where offerors or contractors have automated systems that contain the information needed to report these requirements, offerors or contractors may submit the information or report in formats that are compatible with the automated systems.

#### 4. Non-duplication

The information obtained through this collection is unique and is not already available for use or adaptation from another cleared source. As a matter of policy, DoD reviews the Federal Acquisition Regulation (FAR) to determine if adequate language already exists. DoD requires a DoD-unique provision to address the requirements in 10 U.S.C. 2306a and other DoD-unique policies that differ from the requirements in FAR part 15.

## 5. Burden on Small Businesses

The collection of this information is not expected to have a significant impact on a substantial number of small businesses or other small entities. The burden applied to small businesses is the minimum consistent with applicable laws, Executive orders, 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. Every attempt has been made to keep the frequency of collection to a minimum. The requirements for the information collection are included in the solicitation package that is sent to prospective contractors. The information must then be provided by offerors after receipt of offers, as required by the contracting officer, if only one offer was received in response to a competitive solicitation.

## 7. Paperwork Reduction Act Guidelines

This collection of information is consistent 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 April 28, 2022, at [87 FR 25230](#). No comments were received during the 60-day comment period.

ii. A 30-day notice for the collection was published in the *Federal Register* on July 19, 2022, at [87 FR 43013](#).

### b. Consultation

DoD solicited public comments through the *Federal Register* and consulted with subject matter experts within DoD regarding estimates for which supporting data is not available in the Federal Procurement Data System. No additional consultation was conducted for this submission.

## 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

a. DFARS 252.215-7008, Only One Offer: The estimated respondent burden and labor cost for the requirement for certified cost or pricing data of this provision is shown in the following table and a discussion of the burdens is provided below the table.

1. Respondent Burden

| Estimation of Respondent Burden Hours: 252.215-7008                                   |         |
|---|---------|
| Number of respondents   | 2,079   |
| Number of responses per respondent  | 1.3     |
| Number of total annual responses  | 2,754   |
| Hours per response  | 40      |
| Annual respondent burden hours ( <i>Total annual responses * hours per response</i> ) | 110,160 |

2. Labor Cost of Respondent Burden

| Labor Cost of Respondent Burden: 252.215-7008  |             |
|--|-------------|
| Number of total annual responses   | 2,754       |
| Hours per response   | 40          |
| Cost per hour (hourly wage) (1)  | \$59        |
| Labor burden per response ( <i>Hours per response * hourly wage</i> )                    | \$2,360     |
| Annual Labor Burden ( <i>Total annual responses * hours per response * hourly wage</i> ) | \$6,499,440 |

Note (1): The cost per hour is based on the Office of Personnel Management (OPM) General Schedule (GS) 12, Step 5, base hourly rate for calendar year (CY) 2022 + rest of US locality pay

+ plus the 36.25% civilian personnel full fringe benefit rate from OMB Memo M-08-13 (\$58.72, rounded to \$59).

The number of responses and respondents was based on data from the Federal Procurement Data System (FPDS) for DoD awards in FY 2016. For DoD, there were 918 noncommercial, competitive new awards valued at greater than \$750,000 (the certified cost or pricing data threshold) that were awarded on the basis of a solicitation that received only one offer (693 unique contractors). Of the 918 awards, 549 were awarded to 428 small businesses and 369 were awarded to 265 other than small businesses.

The number of respondents is less than the number of responses, because some respondents will receive more than one award. Based on FPDS data for FY 2016 on the number of unique contractors receiving award in circumstances with only one offer in response to a competitive solicitation, DoD calculates that each respondent will submit approximately 1.3 responses.

DoD further estimates, based on the advice of subject matter experts within DoD, that when only one offer is received the average hours per response for requested certification and additional data will equal 60 hours per prime contractor and 30 hours per subcontractor.

b. DFARS 252.215-7010, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data. The estimated respondent burden and labor cost for the new requirement for certified cost or pricing data of this provision is shown in the following table. A discussion of the burdens is provided below the table.

#### 1. Respondent Burden

| Estimation of Respondent Burden Hours: 252.215-7010                                   |        |
|---|--------|
| Number of respondents   | 612    |
| Number of responses per respondent  | 1.3    |
| Number of total annual responses  | 839    |
| Hours per response  | 30     |
| Annual respondent burden hours ( <i>Total annual responses * hours per response</i> ) | 25,170 |

#### 2. Labor Cost of Respondent Burden

| Labor Cost of Respondent Burden: 252.215-7010                         |         |
|---|---------|
| Number of total annual responses                                      | 839     |
| Hours per response  | 30      |
| Cost per hour (hourly wage)   | \$59    |
| Labor burden per response ( <i>Hours per response * hourly wage</i> ) | \$1,770 |

|  |             |
|--|-------------|
| Annual Labor Burden ( <i>Total annual responses * hours per response * hourly wage</i> ) | \$1,485,030 |
|--|-------------|

Note (1): The cost per hour is based on the Office of Personnel Management (OPM) General Schedule (GS) 12, Step 5, base hourly rate for calendar year (CY) 2022 + rest of US locality pay + plus the 36.25% civilian personnel full fringe benefit rate from OMB Memo M-08-13 (\$58.72, rounded to \$59).

The burden estimated for this clause relates only to subcontracts that may now receive only one offer, for which the prime contractor or higher tier subcontractor will be required to request certification and perhaps additional data, due to lack of adequate price competition at the subcontract level. Based on FPDS data for FY 2016, DoD awarded to 612 unique awardees 839 negotiated contracts and orders valued at more than \$750,000 for which certified cost or pricing data was required. DoD estimates that for each prime contractor providing certified cost or pricing data, there may be an average of 1 additional competitive subcontract for which certified cost or pricing data will now be required because there is only one offer on that subcontract (839 total prime contracts x 1 subcontract = 839). It is further estimated that of these 839 subcontracts, all would require the same amount of time to provide certification and any additional required data as the subcontractors to a prime contractor that submitted the only offer. DoD estimates an average 30 hours per response.

c. Total Burden for 252.215-7008 and 252.215-7010.

1. Total Submission Burden

The total estimated burden hours for DFARS 252.215-7008 and 252.215-7010 are provided in the following table:

| Estimation of Respondent Burden Hours: 0704-0574   |         |
|--|---------|
| Total number of respondents  | 2,691   |
| Total number of annual responses   | 3,593   |
| Total burden hours ( <i>Sum of annual respondent burden hours from 12.a. and 12.b.</i> ) | 135,330 |

2. Overall Labor Burden

The total estimated labor cost of the respondent burden for DFARS 252.215-7008 and 252.215-7010 is provided in the following table:

| Labor Cost of Respondent Burden: 0704-0574                                     |             |
|--|-------------|
| Total number of annual responses   | 3,593       |
| Annual Labor Burden ( <i>Sum of annual labor burden from 12.a. and 12.b.</i> ) | \$7,984,470 |

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 time required for the Government review of cost or pricing data is calculated as follows:

| Labor Cost to the Federal Government: 252.215-7008 and 252.215-7010 |             |
|---|-------------|
| Number of total annual responses                                    | 1,186       |
| Hours per response  | 35.5        |
| Cost per hour (hourly wage)   | \$59        |
| Cost per response   | \$2,084.56  |
| Total cost  | \$2,482,130 |

b. Operational and Maintenance Costs

No operational and maintenance costs for the Federal Government are associated with this information collection.

c. Total Cost to the Federal Government

|   |             |
|---|-------------|
| Total labor burden                      | \$2,482,130 |
| Total operational and maintenance costs | \$0         |
| Total cost to the Federal Government    | \$2,482,130 |

*Note (1): The cost per hour is based on the Office of Personnel Management (OPM) General Schedule (GS) 12, Step 5, base hourly rate for calendar year (CY) 2022 + rest of US locality pay + plus the 36.25% civilian personnel full fringe benefit rate from OMB Memo M-08-13 (\$58.72, rounded to \$59).*

DoD subject matter experts estimate the hours per response for the Government at 40 hours per prime contractor response and 20 hours per subcontractor response. However, DoD estimates that the Government will only review 10 percent of the subcontractor responses to the prime contractor.

15. Reasons for Change in Burden

There has been no change in burden since the last approval.

16. Publication of Results

The 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.