

Federal Acquisition Regulation (FAR)
Small Business Size Rerepresentation
OMB Control No. 9000-0163
Justification - Part A Supporting Statement

FAR section affected: 52.219-28

Overview of Information Collection:

- This justification supports clearance of an extension of the collection, currently expiring on June 30, 2024. The final rule for FAR Case 2020-016, Rerepresentation of Size and Socioeconomic Status, will result in revisions to this information collection. While the timing of the publication of this request for extension of the information collection and the final rule for FAR Case 2020-016 is close, awaiting the publication of the FAR final rule would delay the publication of this supporting statement and risk the expiration of the information collection clearance.

There are no program changes at this time. The FAR requirements remain the same. This extension includes adjustments to the burden due to use of the latest Federal Procurement Data System (FPDS) data available, and the calendar year 2024 OPM GS wage rates for the rest of the United States as explained in item 15.

1. Need & Method for the Information Collection. This clearance covers the information that contractors must submit to comply with the following FAR requirements:

52.219-28, Post-Award Small Business Program Rerepresentation.

This clause requires contractors who originally represented themselves as a small business for a contract award to rerepresent their size and socioeconomic status at the prime contract level by updating their representations in the Representations and Certifications section of the System for Award Management (SAM). Contractors are also required to notify the contracting officer by email, or otherwise in writing, that the rerepresentations have been made, and provide the date on which they were made.

Small business contractors are required to rerepresent their size and socioeconomic status upon occurrence of any of the following:

- (a) For the NAICS code(s) in the contract—

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include FAR clause 52.219-28 if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition of the contractor that does not require novation or within 30 days after modification of the contract to include the clause at 52.219-28 if the merger or acquisition occurred prior to inclusion of this clause in the contract;

(3) For long-term contracts—

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(b) When contracting officers explicitly require it for an order issued under a multiple-award contract.

2. Use of the Information. The collected information is used by the Small Business Administration, Congress, Federal agencies and the general public for various reasons such as determining if agencies are meeting statutory goals, set-aside determinations, and market research.

3. Use of Information Technology. Federal agencies use 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. Non-duplication. These requirements are issued under the FAR, which has been developed to standardize Federal procurement practices and eliminate unnecessary duplication.

5. Burden on Small Business. The burden applied to small businesses is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

6. Less Frequent Collection. Without the information collection covered by this clearance, the Federal Government will be unable to ensure accurate reporting of small business data used to report on small business and other socioeconomic programs to Congress.

FAR clause 52.219-28 allows for contractors to make the rerepresentations through SAM, a centralized database, instead of on a contract-by-contract basis, so as to reduce the reporting frequency as much as possible.

7. Paperwork Reduction Act Guidelines. Collection is consistent with guidelines in 5 CFR 1320.5(d)(2).

8. Consultation and Public Comments.

A. A 60-day notice was published in the *Federal Register* at 89 FR 6523, on February 1, 2024. A comment was received; however, it did not change the estimate of the burden.

Comment: The respondent expressed concerns about proposed changes that could result in small businesses missing contracting opportunities because their small business size standard changes while waiting for the Government to evaluate proposals and make awards. The respondent stated that a gap of multiple years is not uncommon for the Government's process. The respondent indicated that the proposed changes are not needed.

Response: The comment is not relevant to the request for comments. The respondent's comment appears to express views regarding the proposed rule for FAR Case 2020-016, Rerepresentation of Size and Socioeconomic Status, published on September 29, 2023 (88 FR 67189). The respondent supports the current FAR policy and did not express opposition to its associated information collection as described on the 60-day notice published in the *Federal Register* and this supporting statement for the extension of the collection.

B. A 30-day notice was published in the *Federal Register* at 89 FR 25269, on April 10, 2024.

9. Gifts or Payment. This collection does not provide any payment or gift to respondents, other than remuneration of contractors.

10. Privacy & Confidentiality. This information is disclosed only to the extent consistent with prudent business practices, current regulations, and statutory requirements.

11. Sensitive Questions. No sensitive questions are involved.

12. Burden Estimate.

SUMMARY 52.219-28	Contract-level Rereps	Order-level Rereps	Total
Respondents	2,674	808	3,482
Responses annually	1	3	
Responses	2,674	2,424	5,098
Hours/responses	0.5	0.5	
Burden Hours	1,337	1,212	2,549
Hourly rate	\$48.00	\$48.00	\$48.00
Estimated cost to public	\$64,176	\$58,176	\$122,352

It is estimated to take contractors 30 minutes on average (0.5 hour) to rerepresent. Some contractors will only have to “validate” their representations in SAM (if their data already reflects their current size and socioeconomic status), while other contractors will have to “update” their representations in SAM (if their data reflects outdated size and socioeconomic status). Validating SAM data is expected to only take a few minutes whereas updating SAM data can take over an hour. Note: it is not possible to only update the Representations and Certifications portion of SAM; contractors would have to update their entire SAM registration if needing to update their size and

socioeconomic status. All contractors have to notify the contracting officer of their rerepresentations and the date on which they made them. The estimate of 30 minutes is an average of the "validate" contractors and "update" contractors.

(a) Contract-level rerepresentations.

FAR clause 52.219-28 requires rerepresentations on contracts upon the occurrence of novations, mergers/acquisitions, and for long-term contracts, at the 5th year and for every option thereafter. These rerepresentations are applied to the contract through modifications. According to FPDS, in the past 3 fiscal years (FY) there were 1,946 rerepresentation modifications done in FY 2021, 3,330 rerepresentation modifications done in FY 2022, and 2,745 rerepresentation modifications done in FY 2023. This averages out to 2,674 rerepresentation modifications in a given fiscal year $((1,946+3,330+2,745)/3)$.

Note: According to the FPDS User Manual (Appendix C), rerepresentations must be reported in FPDS via the following modification types: Novation Agreement, Rerepresentation of Non-novated Merger Acquisition, or Rerepresentation.

Estimated respondents/yr.....	2,674
Responses annually.....	x 1
Total annual responses.....	2,674
Estimated hrs/response.....	x 0.5
Estimated total burden hrs.....	1,337
Hourly rate*.....	x \$48
Estimated cost to public.....	\$64,176

(b) Order-level rerepresentations.

Contracting officers for task/delivery orders are not required to seek order-level rerepresentations from contractors; it is a discretionary authority.

It is estimated that there will be 2,424 order-level rerepresentations per year. The 2,424 figure is based on reasoning that contracting officers will exercise their discretionary authority to require rerepresentations only for large dollar value orders (i.e., over \$1 million) and then only for a portion of such orders (i.e., 10%). According to FPDS, there were an average of 8,084 task and delivery orders over \$1 million awarded to small business contractors in FYs 2021-2023. Ten percent of these orders are approximately 808 orders. Estimating that the Request for Quotation (RFQ) for each order resulted on average 3 quotations, there would be 2,424

rerepresentations per year (808 orders X 3 quotations per order) at the order-level.

Note: as of January 2023, FPDS does not yet capture data on order-level rerepresentations.

Estimated respondents/yr.....	808
Responses annually.....	x 3
Total annual responses.....	2,424
Estimated hrs/response.....	x 0.5
Estimated total burden hrs.....	1,212
Hourly rate*.....	x \$48
Estimated cost to public.....	\$58,176

* Fully burdened rates include a 36.25 percent fringe factor (pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition), and a 12 percent overhead rate (from A-76 revised supplemental handbook). Based on the Office of Personnel Management (OPM) 2024 General Schedule (GS) 9/step 5 salary for the rest of the United States (\$32.56 per hour) plus the fringe factor and the overhead rate, rounded to the nearest whole dollar (\$48).

13. Estimated nonrecurring costs. Not applicable.

14. Estimated cost to the Government.

SUMMARY 52.219-28	Contract-level Rereps	Order-level Rereps	Total
Responses annually	2,674	2,424	5,098
Hours/response	2	0.5	
Burden Hours	5,348	1,212	6,560
Hourly rate	\$48.00	\$48.00	\$48.00
Estimated cost to Government	\$256,704	\$58,176	\$314,880

(a) Contract-level rerepresentations.

It is estimated to take a contracting officer 2 hours to process a contract-level rerepresentation. A contract-level rerepresentation requires a modification to be executed for the contract and for that modification to be reported into FPDS.

Total annual responses.....2,674
Estimated hrs/response..... x 2
Estimated total burden hrs..... 5,348
Hourly rate*.....x \$48
Estimated cost to the Government..... \$256,704

(b) Order-level rerepresentations.

It is estimated to take a contracting officer 30 minutes to process an order-level rerepresentation. As of this renewal, there is no requirement for the ordering contracting officer to execute a modification or process additional reporting into FPDS than what the award of a task/delivery order already requires.

Total annual responses..... 2,424
Estimated hrs/response.....x 0.5
Estimated total burden hrs..... 1,212
Hourly rate*.....x \$48
Estimated cost to the Government..... \$58,176

15.Reasons for changes. There are no program changes. The FAR requirements remain the same. This extension includes adjustments to the public and Government burden estimates based on the following:

- The estimated number of respondents and responses per year is based on FPDS data for the three most recent fiscal years (2021 through 2023).
- The estimated cost per hour is based on use of the current (calendar year 2024) OPM GS wage rates for the rest of the United States.

	2021 Estimate	2024 Estimate	Change in Burden
Number of respondents	2,647	3,482	835
Total annual responses	4,029	5,098	1,069
Total burden hours	2,015	2,549	534
Total annual cost to public	\$80,580	\$122,352	\$41,772

16.Publicizing Results. Results will not be tabulated or published.

17. OMB Not to Display Approval. Approval to *not* display the expiration date for OMB approval of the information collection is not sought.
18. Exceptions to "Certification for Paperwork Reduction Submissions". There is no exception to the certification statement.
19. Surveys, Censuses, and Other Collections that Employ Statistical Methods. Statistical methods are not used in this information collection. A Part B supporting statement is not needed, or required, and therefore was not completed.