

## SUPPORTING STATEMENT

OMB Control Number 0750-XXXX—Defense Federal Acquisition Regulation Supplement (DFARS) Part 227, Patents, Data, and Copyrights; Small Business Technology Transfer Program

### 1. Need for the Information Collection

DoD must impose an information collection requirement to implement the intellectual property (IP) (e.g., data rights) portions of the revised Small Business Innovation Research (SBIR) Program and Small Business Technology Transfer (STTR) Program Policy Directives. The Small Business Administration (SBA) issued a notice of proposed amendments to the SBIR Program and STTR Program policy directives, which included combining the two directives in a single document, on April 7, 2016, at 81 FR 20483. The final combined SBIR/STTR Policy Directive was published on April 2, 2019, at 84 FR 12794, and became effective on May 2, 2019.

The SBIR/STTR Policy Directive includes as necessary the requirement that a small business, before receiving an STTR award, must negotiate a written agreement between the small business and the partnering research institution, allocating IP rights, including rights to carry out follow-on research, development, or commercialization. The small business must submit this agreement to DoD with its proposal. The small business must certify in all proposals that the agreement is satisfactory to the small business. This requirement therefore directly benefits small businesses, and, in receiving and reviewing the information collection, DoD has a role in protecting the IP rights of small businesses participating in the STTR program.

To implement these STTR-specific requirements, the DoD proposes both a new, STTR-only solicitation provision at 252.227-70XX, Additional Preaward Requirements for Small Business Technology Transfer (STTR) Program, and a new, STTR-only contract clause at 252.227-70YY, Additional Postaward Requirements for Small Business Technology Transfer (STTR) Program. The new provision at 252.227-70XX requires offerors to prepare and submit the written agreement between the offeror and a partnering research institution. The written agreement must specify certain aspects of this agreement, e.g., the allocation of ownership, rights, and responsibilities for intellectual property resulting from the STTR award. The new provision at 252.227-70XX further requires offerors to prepare and submit a written representation regarding the written agreement. Submission of both the written agreement and the written representation is a prerequisite to contract award. The new clause at 252.227-70YY requires contractors to submit, as necessary, updated versions of the written agreement and written representation.

### 2. Use of the Information

DoD contracting officers will review the representation and the agreement submitted by the offeror to ensure the agreement does not conflict with the requirements of the solicitation or any right to carry out follow-on research. If such conflicts exist and cannot be resolved, the offeror's proposal will not be eligible for award.

After contract award, if there is a modification to the written agreement between the contractor and partnering research institution, the contracting officer will review the agreement

and representation to ensure the modified agreement complies with the requirements of 252.227-70YY.

### 3. Use of Information Technology

DoD uses improved information technology to the maximum extent practicable. The information collection requirements may be submitted electronically.

### 4. Non-duplication

As a matter of policy, DoD reviews the Federal Acquisition Regulation to determine if adequate language already exists. This request for information applies solely to DoD and does not duplicate any other requirement. DoD cannot obtain similar information from any other source.

### 5. Burden on Small Businesses

Given the nature of the SBA STTR program, this information collection applies necessarily and exclusively to small businesses. This information collection directly reflects SBA requirements stated in the SBIR/STTR Policy Directive. No less burdensome approach to the information collection exists while implementing the SBA Policy Directive.

### 6. Less Frequent Collection

The requirements are the minimum information and frequency that will support implementing the SBA SBIR/STTR Policy Directive. Contracting officers could not perform their administrative functions effectively and efficiently if the information were collected less frequently.

### 7. Paperwork Reduction Act Guidelines

This collection of information does not require collection to be conducted in a manner inconsistent with the guidelines delineated in 5 CFR 1320.5(d)(2).

### 8. Consultation and Public Comments

#### a. Public Notice

i. Public comments were solicited in the *Federal Register* on December 19, 2022 ([87 FR 77680](#)). No comments on this information collection were received in response to this notice.

ii. A 30-day notice for the collection was published in the *Federal Register* on **Xxx xx, 20xx**, at **XX FR XXXX**.

#### b. Consultation

No additional consultation, apart from soliciting public comments through the *Federal Register*, 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 252.227-70XX, Additional Preaward Requirements for Small Business Technology Transfer (STTR) Program

1. Estimation of Respondent Burden

DoD obtained data from SBA for DoD STTR awards issued in fiscal years 2018 through 2020. The number of annual STTR awards remained stable during this 3-year period, so DoD used the average over the 3 years. The data reveal that DoD issued an average of 444 STTR awards per year to an average of 302 unique contractors per year. DoD therefore estimated the number of responses per respondent to be 1.5 per year. DoD estimated 20 hours for completion and submission of the written agreement and 1 hour for the written representation, for a total of 21 hours.

Estimation of Respondent Burden Hours: 252.227-70XX	
Number of respondents	302
Number of responses per respondent	1.5
Number of total annual responses	453
Hours per response	21
Annual respondent burden hours	9,513

2. Labor Cost of Respondent Burden

DoD consulted subject matter experts to estimate the number of hours and expertise required to complete and submit the written agreement and the written representation. The hourly rate was calculated using equivalent rates from the Office of Personnel Management (OPM) 2024 General Schedule for the rest of the U.S. locality pay for a GS 14, step 5 individual (\$66.36), plus a fringe rate of 36.25% (\$24.06), for a burdened rate of \$90.42. DoD applied the GS 14, step 5 rate as appropriate for the complexity of the task, and further, only individuals with authority to bind the offeror or contractor may make the written representation.

Labor Cost of Respondent Burden: 252.227-70XX	
Number of total annual responses	453
Hours per response	21
Cost per hour (hourly wage)	\$90.42
Labor burden per response	\$1,898.82
Annual Labor Burden (rounded)	\$860,165

b. DFARS 252.227-70YY, Additional Postaward Requirements for Small Business Technology Transfer (STTR) Program

1. Estimation of Respondent Burden

DoD estimated 50% of STTR awardees would in any year have a requirement to submit an updated written agreement and written representation. DoD estimated 20 hours for completion and submission of the updated written agreement and 1 hour for the updated written representation, for a total of 21 hours. The respondents are not additive to those discussed in paragraph 12.a.

Estimation of Respondent Burden Hours: 252.227-70YY	
Number of respondents	151
Number of responses per respondent	1
Number of total annual responses	151
Hours per response	21
Annual respondent burden hours	3,171

2. Labor Cost of Respondent Burden

DoD consulted subject matter experts to estimate the number of hours and expertise required to complete and submit the updated written agreement and the written representation.

The hourly rate was calculated using equivalent rates from the OPM 2024 General Schedule for the rest of the U.S. locality pay for a GS 14, step 5 individual (\$66.36), plus a fringe rate of 36.25% (\$24.06), for a burdened rate of \$90.42.. DoD applied the GS 14 step 5 rate as appropriate for the complexity of the task, and further, only individuals with authority to bind the offeror or contractor may make the written representation.

Labor Cost of Respondent Burden: 252.227-70YY	
Number of total annual responses	151
Hours per response	21
Cost per hour (hourly wage)	\$90.42
Labor burden per response	\$1,898.82
Annual Labor Burden (rounded)	\$286,722

c. Total for 252.227-70XX and 252.227-70YY

1. Total Submission Burden

The total estimated burden hours for DFARS 252.227-70XX and 252.227-70YY are provided in the following table:

Estimation of Respondent Burden Hours: 0750-XXXX	
Total number of respondents	302
Total number of annual responses	604
Total burden hours	12,684

2. Overall Labor Burden

The total estimated labor cost of the respondent burden for DFARS 252.227-70XX and 252.227-70YY is provided in the following table:

Labor Cost of Respondent Burden: 0750-XXXX	
Total number of annual responses	604
Annual Labor Burden	\$1,146,887

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

1. DFARS 252.227-70XX, Additional Preaward Requirements for Small Business Technology Transfer (STTR) Program

DoD consulted subject matter experts to estimate the number of hours and expertise required to review the written agreement and the written representation provided by the offeror. The hourly rate was calculated using equivalent rates from the OPM 2024 General Schedule for the rest of the U.S. locality pay for a GS 13, step 5 individual (\$56.16), plus a fringe rate of 36.25% (\$20.36) for a burdened rate of \$76.52. DoD applied the GS 13, step 5 rate as appropriate for the complexity of the task.

Labor Cost to the Federal Government: 252.227-70XX	
Number of total annual responses	453
Hours per response	1.5
Cost per hour (hourly wage)	\$76.52
Cost per response	\$114.78
Total cost (rounded)	\$51,995

2. DFARS 252.227-70YY, Additional Postaward Requirements for Small Business Technology Transfer (STTR) Program

Labor Cost to the Federal Government: 252.227-70YY	
Number of total annual responses	151
Hours per response	4
Cost per hour (hourly wage)	\$76.52
Cost per response	\$306.08
Total cost (rounded)	\$46,218

3. Total for 252.227-70XX and 252.227-70YY

Overall Labor Burden to the Federal Government	
Total number of annual responses	604
Total Labor Burden	\$98,213

b. Operational and Maintenance Costs

None.

c. Total Cost to the Federal Government

Total labor burden	\$98,213
Total operational and maintenance costs	\$0
Total cost to the Federal Government	\$98,213

15. Reasons for Change in Burden

This is a new collection with a new associated burden.

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.