

SUPPORTING STATEMENT – PART A

Defense Federal Acquisition Regulation Supplement (DFARS)
Part 243, Contract Modifications and Related Clause at DFARS 252.243-7002
OMB Control Number 0704-0397

Summary of Changes from Previously Approved Collection

- Decrease in estimated cost results from a change in the ratio of actions assessed that have differing associated burdens compared to the prior assessment.
- Increase in the number of respondents and responses as a result of the use of current data.

1. Need for the Information Collection

This statement supports the renewal of a currently approved collection under OMB Control Number 0704-0397, Defense Federal Acquisition Regulation Supplement (DFARS) Part 243, Contract Modifications, and the Related Clause at DFARS 252.243-7002, Requests for Equitable Adjustment. DFARS 252.243-7002 implements 10 U.S.C. 3862(a), which requires a contractor to certify, at the time of submission, that its request for equitable adjustment is made in good faith and that the supporting data are accurate and complete to the best of the contractor's knowledge and belief. The clause also clarifies the requirement for full disclosure of all relevant facts.

2. Use of the Information

The information submitted under the clause at DFARS 252.243-7002 is used by DoD contracting officers and auditors to evaluate requests for equitable adjustment.

3. Use of Information Technology

Information technology is used approximately 100% of the time to reduce burden. Where both DoD and contractors are capable of electronic interchange, this information collection requirement is submitted electronically.

4. Non-duplication

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

5. Burden on Small Business

The burden applied to small business is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

6. Less Frequent Collection

This information is collected on occasion, only when the contractor requests an equitable adjustment to the contract price. Collecting this information less frequently would not comply with the certification requirements of 10 U.S.C. 3862(a).

7. Paperwork Reduction Act Guidelines

Collection of this information is consistent with the guidelines at 5 CFR 1320.5(d)(2).

8. Consultation and Public Comments

a. Public Notice

i. Public comments were solicited in the *Federal Register* on March 22, 2024, at [89 FR 20457](#). One comment was received in response to this notice. A summary of the comment is included below along with DoD's response to the comment.

Comment: The respondent objected to the method used at DFARS 243.204-71 to determine whether a request for equitable adjustment meets the threshold for certification. The respondent also recommended changes to the clause at DFARS 252.243-7002 to replace the current requirement for the contractor to provide "full disclosure of all relevant facts" for certified requests for equitable adjustment with a requirement for the contractor to provide the contracting officer with access to records to the extent the contracting officer deems appropriate and necessary. The respondent also recommended increasing the number of hours associated with the information collection to approximately 30 hours per cost element for uncertified requests for equitable adjustment.

Response: DoD does not concur with increasing the number of hours associated with uncertified requests for equitable adjustment. The estimate of 20 hours per response is based on the information collection approved for the FAR under OMB Control Number 9000-0013 for submission of information other than certified cost or pricing data for actions between \$250,000 and \$2 million. The respondent's other comments are recommendations for changes to the DFARS. Such changes can only be made via rulemaking, which is not part of the renewal process for information collections under the Paperwork Reduction Act.

ii. A notice of submission to OMB for clearance of this information collection was published in the *Federal Register* on June 27, 2024, [89 FR 53591](#).

b. Consultation

Subject matter experts were consulted regarding the renewal of this information collection.

9. Gifts or Payment

DoD will not provide a payment or gift to respondents under this information collection requirement, other than remuneration of contractors under their contracts.

10. Confidentiality

This information is disclosed only to the extent consistent with statutory requirements, current regulations, and prudent business practices. No assurance of confidentiality is provided to respondents. The collection of information does not include any personally identifiable information; therefore, no Privacy Impact Assessment or System of Records Notice is required.

11. Sensitive Questions

No sensitive questions are involved in the information collection.

12. Respondent Burden and its Labor Costs

The number of respondents and responses estimated for this information collection and the resulting number of annual burden hours and cost to respondents were derived from historical information and data obtained from the Federal Procurement Data System (FPDS) for fiscal years 2021 through 2023. Estimates of processing times were validated with contracting professionals familiar with the process.

The clause at DFARS 252.243-7002, Requests for Equitable Adjustment, is prescribed at DFARS 243.205-71 for use in solicitations and contracts estimated to exceed the simplified acquisition threshold (currently \$250,000). The clause requires the preparation and submission of a certification that the supporting data are accurate and complete when requesting an equitable adjustment. The clause also requires contractors to fully disclose all facts relevant to the requests for adjustment. The burden addressed in this information collection is the burden of preparing and submitting data, when required, and for certifying the data in support of a request for equitable adjustment.

For actions between the simplified acquisition threshold and the \$2 million threshold for obtaining certified cost or pricing data (see FAR 15.403-4), the estimated burden is calculated to include the time to prepare the data to support a request for equitable adjustment as well as to prepare and submit the accompanying certification. The estimate of 20 hours per response for submission of supporting pricing information for actions between \$250,000 and \$2 million reflects the same estimate historically used in the information collection approved for the FAR under OMB Control Number 9000-0013 for submitting information other than certified cost or pricing data in this range.

The costs associated with the preparation and certification of cost or pricing data for contracts in excess of \$2 million are addressed in the information collection associated with the

clause at FAR 52.215-21, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data–Modifications. (See OMB Control Number 9000-0013.) Therefore, the estimated cost and burden associated with the DFARS clause, when the contractor’s request for an equitable adjustment is over \$2 million, includes only an estimate of the cost and burden to execute the certification requirement under the DFARS clause.

Using historical data from FPDS, DoD estimates that approximately 1% of modifications identified as change orders or various supplemental agreements will be for equitable adjustments. The available data in FPDS from fiscal year 2021 through 2023 for the number of modifications awarded is homogeneous, so the 14,144 modifications awarded in the most recent fiscal year 2023 is used to determine the baseline 1% of actions reflecting requests for equitable adjustments. DoD therefore estimates that there will be approximately 142 requests for equitable adjustment annually. This estimate was derived using the approximate number of modifications in FPDS containing one of the modification codes commonly used for equitable adjustments. The FPDS data reflect that of this total, approximately 24 percent, or 34, of the requests for equitable adjustment were between \$250,000 and \$2 million and approximately 76 percent, or 108, are above \$2 million.

| | <u>Requests between \$250,000-\$2 million</u> | <u>Requests above \$2 million</u> |
|----------------------|--|--|
| Respondents | 34 | 108 |
| Responses/respondent | 1 | 1 |
| Responses | 34 | 108 |
| Hours per response | 20 | 0.5 |
| Annual hours | 680 | 54 |

The number of respondents is equal to the sum of the respondents who submit requests for equitable adjustment valued in the range of \$250,000 to \$2 million and the respondents who submit requests valued in excess of \$2 million. The number of total annual responses is equal to the sum of the responses valued in the range of \$250,000 to \$2 million and the responses valued in excess of \$2 million. The hours per response is calculated by dividing the annual estimated hours by the number of responses. The annual respondent burden hours are calculated by adding the number of annual hours for requests valued in the range of \$250,000 to \$2 million and the number of annual hours for requests valued in excess of \$2 million. The cost per hour is \$54, based on the Office of Personnel Management (OPM) GS-11, step 5, base hourly rate for 2024 (\$39.40) plus the 36.25% civilian personnel full fringe benefit rate from OMB Memo M-08-13, rounded to the nearest dollar (\$54). The OPM rate used includes locality pay for the rest of the U.S.

| Estimation of Respondent Burden Hours: 252.243-7002 | |
|---|-----|
| Number of respondents | 142 |
| Number of responses per respondent | 1 |
| Number of total annual responses | 142 |

| | |
|--------------------------------|----------|
| Hours per response (rounded) | 5.2 |
| Annual respondent burden hours | 734 |
| Cost per hour (hourly wage) | \$54 |
| Labor burden per response | \$279 |
| Annual labor burden | \$39,636 |

13. Respondent Costs Other Than Burden Hour Costs

There are no annualized costs to respondents for this information collection other than the labor burden costs addressed in Section 12.

14. Cost to the Government

a. Labor Cost to the Federal Government

The cost per hour is calculated at \$54, based on the OPM GS-11, step 5, base hourly rate for 2024 (\$39.40) plus the 36.25% civilian personnel full fringe benefit rate from OMB Memorandum M-08-13, rounded to the nearest dollar (\$54). The OPM rate used includes locality pay for the rest of the U.S. The time required to receive, review, and analyze the information submitted by contractors is estimated at 24 hours, 20 minutes (24.33 hours) per response. The total Government cost burden is estimated as follows:

| Estimation of Government Burden Hours: DFARS 252.243-7002 | |
|---|-----------|
| Number of total annual responses | 142 |
| Hours per response (rounded) | 24 |
| Annual estimated hours | 3,454 |
| Cost per hour (hourly wage) | \$54 |
| Total cost | \$186,516 |

b. Operational and Maintenance Costs

There are no operational and maintenance costs to the Government associated with this information collection.

15. Reasons for Changes in Burden

There is no change in the information collection requirements covered under OMB Control Number 0704-0397. The change in burden is the result of using:

a. Data from FPDS for the most recent three fiscal years (2021 through 2023) for modifications that contained one of the codes commonly used for equitable adjustments. The data reflected a lower number of actions under \$2 million than in prior years, which are calculated to be the most labor intensive compared to those over \$2 million that have part of the burden addressed under another OMB control number as discussed in paragraph 12; and

b. The current OPM GS hourly labor rates for calendar year 2024 to calculate the cost per hour. The change in burden is as follows:

| Change in Respondent Burden: 0704-0397 | | | |
|--|----------|----------|-----------|
| Totals | 2021 | 2024 | Change |
| Number of respondents | 131 | 142 | 11 |
| Number of responses | 131 | 142 | 11 |
| Annual estimated hours | 1,879 | 734 | -1,145 |
| Cost per hour (hourly wage) | \$48 | \$54 | |
| Annual public burden | \$90,192 | \$39,636 | -\$50,556 |

16. Publication of Results

The results of this information collection will not be published.

17. Non-Display of OMB Expiration Date

DoD is not requesting approval to omit display of the expiration date of the OMB approval on the instrument of collection.

18. Exceptions to “Certification for Paperwork Reduction Submissions”

There are no exceptions to the certification accompanying this Paperwork Reduction Act submission.