**Federal Acquisition Regulation (FAR)**
**Novation and Change-of-Name Agreements**
**OMB Control No. 9000-0076**
**Justification – Part A Supporting Statement**

**FAR sections affected: 42.1203(a), 42.1204(e) and (f), and 42.1205(a)**

Overview of Information Collection:

- This justification supports clearance of an extension of the collection.

  There are no program changes. 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, the U.S. Bureau of Labor Statistics most recent estimate of the average mean wage for "legal services", 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 subpart 42.12 requirements:
   - **FAR 42.1203(a), Written Request**. If a contractor wishes the Government to recognize a successor in interest to its contracts or a name change, the contractor must submit a written request to the responsible contracting officer.

   - **FAR 42.1204(e) and (f), Novation Agreement**. Pursuant to 42.1203(b)(1), upon request from the contracting officer, the contractor shall submit three signed copies of the proposed novation agreement, plus copies of the supporting documentation listed at 42.1204(e) and (f), as applicable.

   - **FAR 42.1205(a), Change-of-Name Agreement**. Pursuant to 42.1203(b)(1), upon request from the contracting officer, the contractor shall submit three signed copies of the proposed change-of-name agreement, plus copies of the supporting documentation listed at 42.1205(a), as applicable.

2. Use of the Information. The information collected is used by the Government as follows:
   - **FAR 42.1203(a), Written Request**. The written request is used by the contracting officer to determine what additional

supporting documentation should be submitted by the contractor and to determine what other contract administration offices should be notified of the contractor's request.

- **FAR 42.1204(e) and (f), Novation Agreement**. The documentation is used by the contracting officer to evaluate and, if appropriate, execute a proposed agreement for recognizing a third party as a successor in interest.

- **FAR 42.1205(a), Change-of-Name Agreement**. The documentation is used by the contracting officer to evaluate and, if appropriate, execute a proposed agreement for recognizing a contractor's name change.

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. Collection of information on a basis other than contract-by-contract is not practical.

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 24001, on April 5, 2024. Comments from 3 respondents were received; however, they did not change the estimate of the burden.
   **Comment**: Three respondents submitted the following recommendations for changes to the FAR:
      - For novation agreements:
      - ✓ Define time frames in which the government will review the novation request and request any further information.
      - ✓ Explicitly permitting the electronic submission of

novation packages.

- ✓ Reserve the novation process for only actual transfer of assets which are embodied in a sale between two entirely separate unaffiliated legal entities.
- ✓ Include recognition of a successor in interest to Government contracts among entities registered in the System for Award Management (SAM) that have a common parent company when there is no transfer of assets.
- ✓ Allow for a streamlined process for a transfer of assets between two affiliated entities within the same corporate parent structure.
- ✓ Remove the requirement to provide the “approximate remaining unpaid balance” of contracts to be novated at FAR 42.1204(e)(2)(iv).
- ✓ Clarify that a novation process can begin before all the documents are submitted although it won’t be complete until all necessary requirements are fully satisfied.
- ✓ Remove the requirement for a corporate seal or require it only if the novated contracts are above a very high dollar threshold.
- ✓ Replace the listed documents at FAR 42.1204(f)(1) to (3) with a simple Secretary’s Certificate, certifying that all the activities (registration, approval by the board, etc.) have been completed.
- ✓ Require the government to appropriately deem an acquirer as a successor in interest to the proposals. This could be a confirmation or certification in SAM that the resources proposed remain available to perform and that the acquisition or novation does not change the ability to perform.
- ✓ Require that the contracting officer managing the contract with the largest total contract value be the responsible contracting officer to execute the novation agreement including a review by the government’s legal counsel.
- ✓ Limit the list requested at FAR 42.1204(e)(2) to multiple year contracts identified at the time of submission of the request.
- ✓ Review the list of documentation being requested in light of the advancement of electronic records.

- For change-of-name agreements:

- ✓ Run the change-of-name process through SAM exclusively. Deem the name change automatically effective on all existing contracts and work orders and all pending submitted proposals via SAM.

- ✓ Limit the list requested at FAR 42.1205(a)(3) to multiple year contracts identified at the time of submission of the request.
- ✓ Explicitly permitting the electronic submission of change-of-name packages.

**Response**: The respondents' input is appreciated. The recommendations made by the commenters may be considered for future action. Any necessary revisions to FAR subpart 42.12, Novation and Change-of-Name Agreements, will be accomplished through rulemaking.

**Comment**: In the process of updating a legal entity name in SAM, Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Review requires a signed statement from a contracting officer before an update to a contractor's CAGE will be made. At the same time, the responsible contracting officer requests that SAM be updated before issuing a novation or name change. This apparently irreconcilable administrative conflict causes delay in updating SAM resulting in more awards being issued against the original contractor that would need a modification. This creates additional burden for both the contractor and the government.

**Response**: If a contractor is changing its name in SAM–

1. After completing the steps required by FAR 42.1205, the contractor would have to update/renew its entire Entity Registration in SAM and should be able to upload either the signed Change-of-Name Agreement or the signed SF30, Modification of Contract, satisfying what's required by the DLA CAGE team for screening and validation. See SAM's Knowledge Base articles #KB 0016829 and KB 0016831.
2. Before completing the steps required by FAR 42.1205, the contractor–

0. Must provide the notification required by paragraph (d) of the FAR clause at 52.204-13, System for Award Management Maintenance.

a. Would have to update/renew its entire Entity Registration in SAM.

b. When SAM sends the CAGE for screening and validation to the CAGE team, the team may request legal documentation to support the name change. This could result in the contractor getting a request from the DLA CAGE team for the same documentation needed to complete the steps required by FAR 42.1205. See SAM's Knowledge Base

article #KB 0016831.

3. But the contractor does not have any open federal government contracts, then, the contractor would have to update/renew its entire Entity Registration in SAM. The contractor must provide the legal documentation needed to support the name change to the CAGE team to complete the CAGE/SAM validation process.

B. A 30-day notice was published in the *Federal Register* at 89 FR 55595, on July 5, 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 | Novation Agreements | Change-of-Name Agreements | Total |
|---|---|---|---|
| **Respondents** | **769** | **856** | **1,625** |
| **Responses annually** | **1** | **1** | |
| **Responses** | **769** | **856** | **1,625** |
| **Hours/responses** | **3** | **1** | |
| **Burden Hours** | **2,307** | **856** | **3,163** |
| **Hourly rate** | **$82.00** | **$82.00** | |
| **Estimated cost to public** | **$189,174** | **$70,192** | **$259,366** |

**FAR 42.1203(a), Written Request.** According to data available from FPDS for fiscal years (FYs) 2021 through 2023, an average of 4,028 modifications are issued to an average of 1,625 unique vendors (respondents). The burden associated with submission of the initial written request to recognize a successor in interest or name change is included in the public burden estimates for novation agreements and change-of-name agreements.

**FAR 42.1204(e) and (f), Novation Agreement.** According to the FPDS data, an average of 1,952 modifications citing "Novation Agreement" as the reason for the modification were issued annually on contracts with an average of 769 unique vendors. A contractor is only required to submit documentation once for a novation agreement, regardless of how many contracts may require modification to reflect the agreement. Based on reviews by subject matter experts, it is estimated that it takes a junior attorney three hours to prepare and submit the information.

| | |
|---|---|
| Estimated respondents/yr. | 769 |
| Responses annually | x 1 |
| Total annual responses | 769 |
| Estimated hrs/response | x 3 |
| Estimated total burden hours | 2,307 |
| Hourly rate* | x $82 |
| Estimated annual cost to the public | $189,174 |

**FAR 42.1205(a), Change-of-Name Agreement**. According to the FPDS data, an average of 2,076 modifications citing "Unique Entity ID or Legal Business Name Change -Non-Novation" as the reason for the modification were issued annually on contracts with an average of 856 unique vendors. A contractor is only required to submit documentation once for a change-of-name agreement, regardless of how many contracts may require modification to reflect the agreement. Based on reviews by subject matter experts, it is estimated that it takes a junior attorney one hour to prepare and submit the information.

| | |
|---|---|
| Estimated respondents/yr. | 856 |
| Responses annually | x 1 |
| Total annual responses | 856 |
| Estimated hrs/response | x 1 |
| Estimated total burden hours | 856 |
| Hourly rate* | x $82 |
| Estimated annual cost to the public | $70,192 |

***** Based on the U.S. Bureau of Labor Statistics estimate, as of May 2022, of the average mean wage of $59.87 for "legal services" (reference https://www.bls.gov/oes/current/oes230000.htm) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar. The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition.

13. Estimated nonrecurring costs. Not applicable.

| SUMMARY | Novation Agreements | Change-of-Name Agreements | Total |
|---|---|---|---|
| **Responses annually** | **769** | **856** | **1,625** |
| **Hours/response** | **3** | **1** | |
| **Burden Hours** | **2,307** | **856** | **3,163** |
| **Hourly rate** | **$70.00** | **$70.00** | |
| **Estimated cost to Government** | **$161,490** | **$59,920** | **$221,410** |

14. Estimated cost to the Government.

**FAR 42.1203(a), Written Request**. Per FAR 42.1203(b)(1), the responsible contracting officer must review the written request and communicate to the contractor what documentation listed at 42.1204(e) and (f) or 42.1205(a) is necessary to evaluate its proposed agreement. The burden associated with review of a contractor's written request is included in the Government burden estimates for novation agreements and change-of-name agreements.

**FAR 42.1204(e) and (f), Novation Agreement.** Per FAR 42.1203(f), the contracting officer shall ensure that Government counsel has reviewed the documentation for legal sufficiency. It is estimated that it will take the contracting officer and Government counsel on average three hours per response to review the information provided by the contractor.

Total annual responses.....769
Reviewing time (hr)/response..... x 3
Estimated total burden hrs..... 2,307
Hourly rate**.....x $70
Estimated annual cost to the Government. $161,490

**FAR 42.1205(a), Change-of-Name Agreement.** Per FAR 42.1203(f), the contracting officer shall ensure that Government counsel has reviewed the documentation for legal sufficiency. Given that the documentation for a change-of-name agreement is less substantial, it is estimated that it will take the Government one hour per response to review the information provided by the contractor.

Total annual responses.....856
Reviewing time (hr)/response..... x 1
Estimated total burden hrs.....856

Hourly rate**.....x $70
Estimated annual cost to the Government. $59,920

** The hourly rate is calculated by applying a 36.25 percent fringe factor and a 12 percent overhead factor to a base hourly rate ($47.22), and then rounding to the nearest whole dollar ($70). The base hourly rate is derived from the Office of Personnel Management (OPM) 2024 General Schedule (GS) Locality Pay Table for a GS-12/step 5 salary for the rest of the United States ("Salary Table 2024-RUS"). The fringe factor is derived from OMB memorandum M-08-13. The overhead factor is derived from the OMB Circular No. A-76 Revised Supplemental Handbook.

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 public estimated cost per hour is based on the U.S. Bureau of Labor Statistics estimate, as of May 2022, of the average mean wage for "legal services".

● The Government 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 | Increase in Burden |
|---|---|---|---|
| Number of respondents | 1,515 | 1,625 | 110 |
| Total annual responses | 1,515 | 1,625 | 110 |
| Total burden hours | 2,701 | 3,163 | 462 |
| Total annual cost to public | $194,472 | $259,366 | $64,894 |

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.