

OMB No. 0704-0255
Supporting Statement

DFARS Part 236 – Construction and Architect-Engineer Contracts

A. JUSTIFICATION

1. Requirement. This is a request for reinstatement of the information collection requirements in the Department of Defense (DoD) currently approved under OMB Control Number 0704-0255 for DFARS Part 236 and the related provisions and clauses at Part 252.236. After review of fiscal year 2010 Federal Procurement Data System (FPDS) data, this extension increases the total number of annual burden hours from 263,281 to 359,015, an increase of 95,734 hours.

This request covers the following requirements in 48 CFR Chapter 2 (DFARS), as prescribed in DFARS 236.570, applicable to fixed-price construction contracts:

- a. DFARS 252.236-7000, Modification Proposals-Price Breakdown, requires contractors to submit a price breakdown with any proposal for a contract modification.
- b. DFARS 252.236-7002, Obstruction of Navigable Waterways, requires contractors to notify the contracting officer of obstructions in navigable waterways.
- c. DFARS 252.236-7003, Payment for Mobilization and Preparatory Work, requires contractors to provide supporting documentation when submitting requests for payment for mobilization and preparatory work.
- d. DFARS 252.236-7004, Payment for Mobilization and Demobilization, permits contracting officers to require contractors to furnish cost data justifying the percentage of the cost split between mobilization and demobilization, if the Contracting officer believes that the proposed percentages do not bear a reasonable relation to the cost of the work.
- e. DFARS 252.236-7010, Overseas Military Construction, and DFARS 252.236-7012, Military Construction on Kwajalein Atoll-Evaluation Preference, require contractors to identify their status as a U.S. firm, or, on Kwajalein Atoll, status as a Marshallese firm. This requirement implements Section 112 of the Fiscal Year 1998 Military Construction Appropriations Act (Pub. L. 104-45).

2. Purpose. DFARS Part 236 prescribes policies and procedures for contracting for construction and architect-engineer services. Government personnel use the information generated by these requirements to (a) evaluate contractor offers for modifications, (b) determine that the contractor has removed all obstructions to navigation, (c) review contractor requests for payment for mobilization and determine reasonableness of allocation costs between mobilization and demobilization, and (d) determine eligibility for the 20 percent preference for U.S. firms in some overseas construction contracts.

3. Information Technology. Improved information technology is used to the maximum extent practicable. This information collection complies with the Government Paperwork Elimination Act (Pub. L. 105-277, Title XVII).

4. 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. Similar information is not already available to the Government.

5. Small Business. 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 requirements for information collection are only occasional, as the circumstances dictate, and the burden applied to large and small entities is the minimum consistent with applicable laws, Executive Orders, regulations and prudent business practices.

6. Consequences for non-collection. The proposed collection of information will be conducted on an occasional basis when offerors submit bids or when contractors request payment or obstruct navigable waterways. Less frequent collection or no collection of information would impede contracting officers from performing their administrative functions in an effective and efficient manner and would make it impossible to enforce the statutory preference for U.S. firms.

7. Special circumstances. There are no special circumstances for collection. Collection is consistent with the guidelines in 5 CR 1320.5(d)(2).

8. Public comments and consultation. Public comments on the information collection requirement were solicited in the Federal Register on June 17, 2011 (76 FR 35424), as required by 5 CFR 1320.8(d). No public comments were received in response to the Federal Register Notice.

9. Payment to respondents. There will be no payment or gifts to respondents, other than remuneration of contractors.

10. Confidentiality. This information is disclosed only to the extent consistent with prudent business practices, and current regulations, and in accordance with the requirements of the Freedom of Information Act.

11. Sensitive questions. There are no questions of sensitive nature.

12. Estimates of Public Burden Hours and Associated Annualized Cost.

The burden associated with the requirements of DFARS 252.236 were developed using fiscal year 2010 FPDS database figures and through discussions with contracting professionals who are familiar with construction contracting.

| | Note | 252.236-7000 | 252.236-7002 | 252.236-7003 & 7004 | 252.236-7010 & 7012 | Total |
|-----------------------------|------|--------------|--------------|---------------------|---------------------|--------------|
| Number of Respondents | (1) | 3409 | 34 | 48 | 48 | 3,539 |
| Responses per Respondent | (1) | 1 | 1 | 1 | 2 | 1.01 |
| Annual Responses | | 3409 | 34 | 48 | 96 | 3,587 |
| Hours Per Response | (1) | 105 | 3 | 20 | .08 | 100.09 |
| Total Hours | | 357,945 | 102 | 960 | 8 | 359,015 |
| Cost Per Hour | (2) | \$38.20 | \$38.20 | \$38.20 | \$38.20 | \$38.20 |
| Total Annual Cost to Public | | \$13,673,499 | \$3,896 | \$36,672 | \$304 | \$13,714,372 |

Notes:

(1) The estimates of hour burdens for this information collection requirement are based on the DoD FPDS database of contract actions for fiscal year 2010 and consultations with DoD personnel. In FY 2010, there were 17,045 contract actions relating to construction. We estimate that 3,409 (20%) of these contract actions were contract modifications requiring submission of a price breakdown. The total burdens are summarized in TAB A. These percentages have not been updated since 2008 due to the moratorium on public-private competition (A-76).

(2) Based on GS-09 step 5 salary (\$58,511) plus 36.25% benefits (\$21,211), divided by 2,087 hours equals \$38.20. The 36.25% fringe benefit rate is derived from Circular No. A-76, Revised Supplemental Handbook (Memorandum M-08-13 dated March 11, 2008) as follows:

| | |
|-------------------------------|-------------|
| Base Payroll | 26.1% |
| Insurance and health benefits | 7.0% |
| Medicare | 1.45% |
| Misc | <u>1.7%</u> |
| | 36.25% |

13. Estimated nonrecurring costs. We estimate that there are no nonrecurring costs, i.e., capital and start-up operation and maintenance costs other than the hour burden detailed in section 12.

14. Estimated cost to Government. The time required for the Government to review the requirements of Part 236 is estimated to be approximately 272,988 hours. This estimate is based on receiving reviewing and analyzing the information submitted by the contractor and was developed as a result of discussions with contracting specialists who are familiar with construction contracting. (See matrix at TAB A for details)

| | Note | 252.236-7000 | 252.236-7002 | 252.236-7003 & 7004 | 252.236-7010 & 7012 | Total |
|----------------------------|------|--------------|--------------|---------------------|---------------------|--------------|
| Total annual responses | (1) | 3409 | 34 | 48 | 96 | 3587 |
| Hours per response | (2) | 80 | 2 | 4 | .08 | 86 |
| Total annual hours | | 272,720 | 68 | 192 | 8 | 272,988 |
| Cost per hour | | \$38.20 | \$38.20 | \$38.20 | \$38.20 | \$38.20 |
| Total annual cost to Gov't | (1) | \$10,417,904 | \$2,598 | \$7334 | \$304 | \$10,428,140 |

Notes:

(1) Based on GS-9, step 5, salary plus 36.25% fringe benefit rate. See Note (2) under Item 12, above.

(2) The estimated hours per response is based on the time required for Government receive, review, and analyze the information submitted by the contractor. The estimate was developed as a result of discussions with DoD personnel.

15. Program changes. The changes to Items 12 and 14, above, are due to using more current cost per hour data and an increase in the estimated number of contract modifications to construction contracts.

16. Publication. Results of this information collection will not be published.

17. Expiration Date. We do not seek approval not to display the expiration date for OMB approval of the information collection.

18. Certification. There are no exceptions to the certificate statement identified in Item 19 of OMB Form 83-I.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Results will not be tabulated. Statistical methods will not be employed.