

SUPPORTING STATEMENT
Defense Federal Acquisition Regulation Supplement (DFARS)
DFARS Subpart 249 – Termination of Contracts; OMB Control Number 0704-0533

A. JUSTIFICATION

1. Need for the Information Collection

This statement supports a request for renewal of a currently approved collection under OMB clearance 0704-0533 to cover Defense Federal Acquisition Regulation Supplement (DFARS) part 249, Termination of Contracts, and a related clause at DFARS 252.249-7002, Notification of Anticipated Contract Termination or Reduction. This clause is prescribed at DFARS 249.7003(c) for inclusion in all contracts under a major defense program. In accordance with section 1372 of the National Defense Authorization Act for FY 1994 (Pub. L. 103-160) and section 824 of the National Defense Authorization Act for FY 1997 (Pub. L. 104-201), this clause requires contractors, within 60 days after receipt of notice from the contracting officer of anticipated termination or substantial reduction, to provide notice of the anticipated termination or substantial reduction to first-tier subcontractors with a subcontract of \$700,000 or more and requires flowdown to lower-tier subcontractors with a subcontract of \$150,000 or more.

2. Use of the Information

The data helps establish benefit eligibility under the Job Training Partnership Act (29 U.S.C. 1661 and 1662) for employees of DoD contractors and subcontractors adversely affected by contract termination or substantial reductions under major defense programs.

3. Use of Information Technology

Information technology is used approximately 100% of the time to reduce burden.

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. Similar information is not already available to the Government.

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. Although the information collection requirement does not reduce the burden on small entities, the information is the minimum required.

6. Less Frequent Collection

Every attempt has been made to keep the frequency of collection to a minimum. However, in order to meet the requirements of the statute and fulfill the objectives of providing the information, contractors are required to provide timely notification to subcontractors, upon receipt of notification from the contracting officer.

7. Paperwork Reduction Act Guidelines

There are no special circumstances for collection. Collection of this information is consistent with the guidelines at 5 CFR 1320.5(d)(2).

8. Consultation and Public Comments

a. For the purpose of calculating respondent burden, DoD subject matter experts in Program Acquisition were contacted to obtain current data.

b. This information collection is consistent with the guidelines in 5 CFR 1320.6. In accordance with 5 CFR 1320.8(d), public comments were solicited in the *Federal Register* on February 7, 2018 ([83 FR 5408](#)). Nine comments were received, all of which are outside the scope of this information collection related to termination of contracts. The public comments addressed:

- i. Air and water quality;
- ii. Russia's use of environmental activists to stop American oil and gas exports and pipelines;
- iii. America's needs for new Tariffs on EU dumping of cars;
- iv. The need for money for budget and American jobs, Training for the Poor Blue Collar worker and restoration of deteriorating infrastructure as a priority;
- v. Federal agencies responsibility to ensure regulations they issue do not have an adverse economic impact on those affected by the rules and cited a long list of environmental subjects and other regulatory areas;
- vi. The Shelby Amendment of November 1999 to make federally funded research data accessible to the public, the Data Quality Act, the Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act analyses required when issuing a rule;
- vii. A discussion of two prior period of "Globe" warming that occurred before the invention of the SUV or human GHG industrial activity;
- viii. A discussion that extreme events are poor metrics to use for detecting climate change and provided examples; and

ix. Section 301 of the Trade Act of 1974 and the authority given to the U.S. Trade Representative to respond to a foreign country's unfair trade practices.

c. A notice of submission to OMB for clearance of this information collection was published in the *Federal Register* on April 24, 2018 ([83 FR 17806](#)).

9. Gifts or Payment

No payment or gift will be provided to respondents, other than remuneration of 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. The collection of information does not include any personally identifiable information (PII) and records are not retrievable by PII; therefore, no Privacy Impact Assessment or Privacy Act 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 estimated costs are based on the advice of senior DoD Program Acquisition officials, who estimate that such notification of the termination or substantial reduction in a major defense program does not occur, on the average, more than once or twice per year. We estimate that a contractor under a major defense program may have an average of 50 subcontractors with subcontracts that are \$700,000 or more. Of those first-tier subcontractors, we estimate that 80 percent of them will have an average of 4 lower-tier subcontractors with subcontracts that are \$150,000 or more. We estimate this takes 2 hours for the first notification and .5 hours per each additional notification.

2 prime contractors x 2 hours per initial notification = 4 hours

2 prime contractors x 49 additional notifications x .5 = 49 hours

40 subcontractors x 2 hours per initial notification = 80 hours

40 subcontractors x 3 additional notification x .5 = 60 hours

Totals: 42 respondents and 260 notifications = 193 hours

Estimation of Respondent Burden Hours: DFARS 252.249-7002

Number of respondents	42
Responses per respondent	6.19
Number of responses	260
Hours per response	0.74
Estimated hours	193
Cost per hour (hourly wage)	\$65
Annual public burden	\$12,545

Notes:

The fully burdened rate of \$65.00 was developed using the Office of Personnel Management (OPM) 2018 basic hourly salary (for the rest of U.S. locality) of \$47.38 for a General Schedule (GS) 13, step 5, employee, plus a burden of 36.25 percent (per OMB Circular A-76, Attachment C), which equals \$64.56. This rate was rounded to \$65.00.

13. Estimated nonrecurring costs.

There are no nonrecurring costs, i.e., capital and start-up, or operation and maintenance costs for contractors.

14. Estimated cost to the Government.

DFARS 252.249-7002 requires prime contractors to submit the requested information directly to the subcontractors. Since the Government does not review or participate in any manner in the transaction, there is no Government burden associated with this requirement.

15. Reasons for changes in burden.

There is no change to the information collection requirements covered under OMB Control Number 0704-0533 from the prior renewal. The change in estimated cost results from using the current OPM GS hourly labor rates for fiscal year 2018 to calculate the cost per hour.

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 certification accompanying this Paperwork Reduction Act submission. The information to respondents required by 50 CFR 1320.8(b)(3) will be provided in a separate Federal Register notice announcing the OMB approval of this collection of information.

B. Collections of Information Employing Statistical Methods

Statistical methods are not used in this information collection.