

SUPPORTING STATEMENT

Defense Federal Acquisition Regulation Supplement (DFARS); Part 236, Construction and Architect-Engineer Contracts, and related clauses at 252.236; OMB Control Number 0704-0255

A. JUSTIFICATION

1. Need for the Information Collection

This justification supports a request for extension of the expiration date of the DoD information collection requirements currently approved under OMB Control Number 0704-0255 for DFARS part 236 related provisions and clauses at DFARS 252.236. This supporting statement addresses 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-Preference for United States Firms, when contract performance is expected to exceed \$1 million and will be in a United States outlying area in the Pacific or in a country bordering the Arabian Gulf, requires an offeror to specify whether or not it is a United States firm.

f. DFARS 252.236-7012, Military Construction on Kwajalein Atoll-Evaluation Preference, when contract performance is expected to exceed \$1 million and will be on Kwajalein Atoll, requires contractors to identify their status as a U.S. firm, or, on Kwajalein Atoll, status as a Marshallese firm.

2. Use of the Information

In accordance with DFARS Part 236 policies and procedures for contracting for construction and architect-engineer services, Government personnel use the information generated by these requirements as follows:

- a. DFARS 252.236-7000 – To evaluate contractor requests for modifications.
- b. DFARS 252.236-7002 – To determine that the contractor has removed all obstructions to navigation;
- c. DFARS 252.236-7003 and -7004 – To review contractor requests for payment for mobilization and determine reasonableness of allocation costs between mobilization and demobilization; and
- d. DFARS 252.236-7010 and -7012 – To determine eligibility for the 20 percent preference in some overseas construction contracts for U.S. or Marshallese firms.

3. Use of Information Technology

Information technology is used approximately 100% of the time to reduce burden. Where the DoD, prospective offerors/bidders, and contractors are capable of electronic interchange, this information collection requirement may be submitted electronically. This request for information collection complies with the Government Paperwork Elimination Act (Pub. L.105-277, Title XVII; 44 U.S.C. 3504 note).

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. 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

6. Less Frequent Collection

The proposed collection of information will be conducted on an occasional basis when offerors submit bids or when contractors request payment or provide notices regarding 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. 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, subject matter experts for construction matters within DoD 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 March 14, 2018 ([83 FR 11185](#)). One comment was received that addressed environmental issues related to wind turbines.

c. A notice of submission to OMB for clearance of this information collection was published in the *Federal Register* on May 23, 2018 ([83 FR 23905](#)).

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 burdens and labor costs associated with the collections contained in DFARS 251.236 construction-related requirements are summarized in the table below. These estimates are based on the data available in the Federal Procurement Data System (FPDS) for DoD contract actions for fiscal year (FY) 2017, the Electronic Data Access (EDA) data system, and consultations with DoD personnel. The combined totals are adjusted by rounding upward the total number of responses per respondent and total hours per response, which are then used to calculate the estimated annual responses and total hours. A breakdown of the individual estimates for each DFARS clause or provision are provided paragraphs 12.a. through 12.f. that follow.

DFARS 252.236	-7000 (12.a.)	-7002 (12.b.)	-7003 (12.c.)	-7004 (12.d.)	-7010 (12.e.)	-7012 (12.f.)	Total	Adjusted for Whole #'s
Number of Respondents	1,601	72	10	25	17	10	1,735	1,735
Responses / Respondent	5.06	4.38	7.7	3.6	1.24	1	4.9695	5
Annual Responses	8,109	315	77	90	21	10	8,622	8,675
Hours / Response	11.44	3	20	20	.08	1	11.258	12
Total Hours	92,767	945	1,540	1,800	2	10	97,064	104,100
Hourly Rate	\$45	\$45	\$45	\$45	\$45	\$45	\$45	\$45
Total Annual Public Cost	\$4,172,969	\$42,525	\$69,300	\$81,000	\$90	\$450	\$4,284,884	\$4,684,500

a. DFARS 252.236-7000. The following is a summary of the estimated annual public burden for contractors to submit a price breakdown with any proposal for a contract modification:

Estimation of Respondent Burden Hours: 252.236-7000	
Number of respondents	1,601
Responses per respondent	5.06
Number of responses	8,109
Hours per response	11.44
Estimated hours (number of responses multiplied hours per response)	92,767
Cost per hour (hourly wage)	\$45
Annual public burden (estimated hours multiplied by cost per hour)	\$4,172,969

According to data available in FPDS for DoD, in FY 2017, there were 11,837 fixed-price contract awards made to 2,746 unique contractors for construction that would have included this clause. Modifications to these contracts to change the contract price would have required submission of a price breakdown pursuant to this clause and resulted in a contract modification supplemental agreement. Of the total fixed-price contract awards, there were 8,109 modifications (responses) made to contracts held by 1,601 unique contractors (respondents). This results in a calculated average of 5.06 responses per respondent. A weighted average of 11.44 hours per response was similarly derived to determine the total estimated burden hours. The weighted average for hours per response was calculated as follows: 6,550 modifications valued at less than \$150,000 were assigned a 1 hour response time; 1,166 modifications valued between \$150,000 and \$750,000 were assigned a 20 hour response time; and the approximately 393 actions greater than \$750,000 were assigned a response time of 160 hours. The fully burdened rate of \$45 was developed using the Office of Personnel Management (OPM) 2018 basic hourly salary (for the rest of U.S. locality) of \$33.24 for a General Schedule (GS) 11, step 5, employee, plus a burden of 36.25 percent (per OMB Circular A-76, Attachment C), which equals \$45.29, rounded down to \$45.

b. DFARS 252.236-7002. The following is a summary of the estimated annual public burden for contractors to notify the contracting officer of obstructions in navigable waterways:

Estimation of Respondent Burden Hours: 252.236-7002	
Number of respondents	72
Responses per respondent	4.38
Number of responses	315
Hours per response	3
Estimated hours (number of responses multiplied hours per response)	945
Cost per hour (hourly wage)	\$45
Annual public burden (estimated hours multiplied by cost per hour)	\$42,525

The estimate for fixed-priced construction contracts for work on or near navigable waterways is revised based on consultations with DoD personnel and data from the EDA system. This clause is only used when applicable and would apply to a small percentage of contracts as most construction work is not done within the continental U.S. and not on or near navigable waters. A query of EDA revealed that in February 2018, there were 716 unique contractors with 3,153 active contracts that contained the clause. Consultation with the three military services revealed that responses and notifications required by this clause occur at a very low rate, approximately 10% of the time. Accordingly, this estimate reflects approximately 10% of the contractors as respondents (72) and 10% of the contracts as responses (315). This equates to 4.38 responses per respondent. DoD subject matter experts estimated three hours to provide a response. The fully burdened rate of \$45 was developed using the OPM 2018 basic hourly

salary (for the rest of U.S. locality) of \$33.24 for a GS-11, step 5, employee, plus a burden of 36.25 percent, which equals \$45.29, rounded down to \$45.

c. DFARS 252.236-7003. The following is a summary of the estimated annual public burden for contractors to provide supporting documentation when submitting requests for payment for mobilization and preparatory work:

Estimation of Respondent Burden Hours: 252.236-7003	
Number of respondents	10
Responses per respondent	7.7
Number of responses	77
Hours per response	20
Estimated hours (number of responses multiplied hours per response)	1,540
Cost per hour (hourly wage)	\$45
Annual public burden (estimated hours multiplied by cost per hour)	\$69,300

This clause is used on an exception basis, requires higher-approval by the Head of the Contracting Activity, and is for use in major construction contracts that requires major or special items of plant and equipment or large stockpiles of material. The estimate is based on consultations with DoD personnel and data from the EDA system. The estimate for this clause is based on 104 unique contractors with 773 active contracts that contain the clause. Consultation with the three military services revealed that responses and notifications required by this clause occur at a very low rate at approximately 10% of the time for contracts that contain this clause. Accordingly, this estimate reflects approximately 10% of the contractors as respondents (10) and 10% of the contracts as responses (77). This equates to 7.7 responses per respondent. DoD subject matter experts estimate twenty hours are required to provide a response. The fully burdened rate of \$45 was developed using the OPM 2018 basic hourly salary (for the rest of U.S. locality) of \$33.24 for a GS-11, step 5, employee, plus a burden of 36.25 percent, which equals \$45.29, rounded down to \$45.

d. DFARS 252.236-7004. The following is a summary of the estimated annual public burden for 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:

Estimation of Respondent Burden Hours: 252.236-7004	
Number of respondents	25

Responses per respondent	3.6
Number of responses	90
Hours per response	20
Estimated hours (number of responses multiplied hours per response)	1,800
Cost per hour (hourly wage)	\$45
Annual public burden (estimated hours multiplied by cost per hour)	\$81,000

This clause is also used on an exception basis, requires higher-approval by the Head of the Contracting Activity, and is for use in major construction contracts that may require major mobilization expense, or plant equipment and material due to location or nature of the work. The estimate is based on consultations with DoD personnel and data from the EDA system. The estimate for this clause is based on 250 unique contractors with 908 active contracts that contain the clause. Consultation with the three military services revealed that responses and notifications required by this clause occur at a very low rate at approximately 10% of the time for contracts that contain this clause. Accordingly, this estimate reflects approximately 10% of the contractors as respondents (25) and 10% of the contracts as responses (90). This equates to 3.6 responses per respondent. DoD subject matter experts estimate twenty hours are required to provide a response. See Note (1) for details on the computation of the hourly rate of \$45.

e DFARS 252.236-7010. The following is a summary of the estimated annual public burden for offerors to specify whether or not it is a United States firm, when contract performance is expected to exceed \$1 million and will be in a United States outlying area in the Pacific or in a country bordering the Arabian Gulf:

Estimation of Respondent Burden Hours: 252.236-7010	
Number of respondents	17
Responses per respondent	1.24
Number of responses	21
Hours per response	.08
Estimated hours (number of responses multiplied hours per response)	2
Cost per hour (hourly wage)	\$45
Annual public burden (estimated hours multiplied by cost per hour)	\$90

This provision is used in military construction contracts that exceed \$1 million, when performance will be in a U.S. outlying area in the Pacific, or in a country bordering the Arabian

Gulf. The estimates are based on FPDS data reflecting new DoD awards of contracts in FY 2017 for the geographic regions denoted in the clause prescription that exceeded \$1 million. The FPDS data reflected that there were 17 unique contractors that received 21 contract actions that exceeded \$1million in the specified geographic regions. This results in an average of 1.24 responses per respondent. DoD subject matter experts estimate that it will take a contractor approximately five minutes (.08 hours) to check the block in the provision and to provide a response. The fully burdened rate of \$45 was developed using the OPM 2018 basic hourly salary (for the rest of U.S. locality) of \$33.24 for a GS-11, step 5, employee, plus a burden of 36.25 percent, which equals \$45.29, rounded down to \$45.

e. DFARS 252.236-7012. The following is a summary of the estimated annual public burden for contractors to identify their status as a U.S. firm, or, on Kwajalein Atoll, status as a Marshallese firm, when contract performance is expected to exceed \$1 million and will be on Kwajalein Atoll:

Estimation of Respondent Burden Hours: 252.236-7012	
Number of respondents	10
Responses per respondent	1
Number of responses	10
Hours per response	1
Estimated hours (number of responses multiplied hours per response)	10
Cost per hour (hourly wage)	\$45
Annual public burden (estimated hours multiplied by cost per hour)	\$450

This provision is used in military construction contracts that exceed \$1 million, when performance will be on the Kwajalein Atoll in the Marshall Islands. FPDS data reflected there were no new awards of contracts in FY 2017 for the geographic region denoted in the clause that exceeded \$1 million. Therefore, an estimate of 10 respondents and 10 responses is used to keep the information collection active, should conditions change in the future that would require construction on the Kwajalein Atoll. This results in an average of one response per respondent and a one hour response time was used for estimating purposes. The fully burdened rate of \$45 was developed using the OPM 2018 basic hourly salary (for the rest of U.S. locality) of \$33.24 for a GS-11, step 5, employee, plus a burden of 36.25 percent, which equals \$45.29, rounded down to \$45.

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.

The time required for the Government to review the requirements of the part 236 clauses and provisions is provided below. The estimates are 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. The combined total hours per response is adjusted by rounding upward, which is then used to calculate the total estimated hours. The fully burdened rate of \$45 for an OPM 2018 GS-11, step 5, employee was used to calculate the burden for all clauses.

Estimation of Government Hours/Response: OMB Control # 0704-0255								
252.236 -	7000	7002	7003	7004	7010	7012	Average	Adjusted for Whole #s
Hours / Response	11.44	2	4	4	.08	.08	3.60	4

Estimation of Total Government Burden: OMB Control # 0704-0255	
Number of responses (see table at paragraph 12)	8,675
Hours per response	4
Estimated hours (number of responses multiplied hours per response)	34,700
Cost per hour (hourly wage)	\$45
Annual public burden (estimated hours multiplied by cost per hour)	\$1,561,500

15. Reasons for changes in burden.

There is no change to the methodology for collecting the information covered under OMB Control Number 0704-0255. The change in burden is the result of using: (1) actual data from the FPDS and EDA databases for the most recent complete fiscal year (2017); (2) the current OPM GS hourly labor rates for calendar year 2018 to calculate the cost per hour, and; (3) a change in the method of evaluating and calculating response time for contract modifications. An increase in the number of contract modifications to construction contracts is based on the current FPDS data; however, the response time (hours) per response is significantly reduced based on arraying the modifications by value and applying an appropriate time factor that is reflective of the value and perceived complexity of the modification based on dollar value. This results in a weighted average number of hours that is much less than the prior estimate for this collection that had applied a single factor to all modifications, regardless of the value and complexity of the modification.

The following table summarizes the changes discussed above.

Change in Respondent Burden: 0704-0255			
Totals	2018	2015	Change
Number of respondents	1,735	3,353	-1,618
Responses per respondent	5	1.01	-
Number of responses	8,675	3,398	+5,277
Hours per response	12	101	-89
Estimated hours	104,100	342,315	-238,215
Cost per hour (hourly wage)	\$45	\$38	+\$7
Annual public burden	\$4,684,500	\$13,007,970	-\$8,323,470

16. Publication.

Results of this information collection will not be published.

17. Expiration date.

DoD does 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.

B. Collections of Information Employing Statistical Methods

Statistical methods are not used in this information collection.