

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****[OMB Control No. 9000-0090]****Clearance Request for Rights in Data
and Copyrights**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000-0090).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Rights in Data and Copyrights.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501-4755.

SUPPLEMENTARY INFORMATION:**A. Purpose**

Rights in data is a regulation which concerns the rights of the Government, and organizations with which the Government contracts, to information developed under such contracts. The delineation of such rights is necessary in order to protect the contractor's rights to not disclose proprietary data and to insure that data developed with public funds is available to the public.

The information collection burdens and recordkeeping requirements included in this regulation fall into the following four categories.

(a) A provision which is to be included in solicitations where the proposer would identify any proprietary data he would use during contract performance in order that the contracting officer might ascertain if such proprietary data should be delivered.

(b) Contract provisions which, in unusual circumstances, would be included in a contract and require a contractor to deliver proprietary data to the Government for use in evaluation of work results, or is software to be used in a Government computer. These situations would arise only when the very nature of the contractor's work is

comprised of limited rights data or restricted computer software and if the Government would need to see that data in order to determine the extent of the work.

(c) A technical data certification for major systems, which requires the contractor to certify that the data delivered under the contract is complete, accurate and compliant with the requirements of the contract. As this provision is for major systems only, and few civilian agencies have such major systems, only about 30 contracts will involve this certification.

(d) The Additional Data Requirements clause, which is to be included in all contracts for experimental, developmental, research, or demonstration work (other than basic or applied research to be performed solely by a university or college where the contract amount will be \$500,000 or less). The clause requires that a contractor keep all data first produced in the performance of the contract for a period of three years from the final acceptance of all items delivered under the contract. Much of this data will be in the form of the deliverables provided to the Government under the contract (final report, drawings, specifications, etc.). Some data, however, will be in the form of computations, preliminary data, records of experiments, etc., and these will be the data that will be required to be kept over and above the deliverables. The purpose of such recordkeeping requirements is to insure that the Government can fully evaluate the research in order to ascertain future activities and to insure that the research was completed and fully reported, as well as to give the public an opportunity to assess the research results and secure any additional information. All data covered by this clause is unlimited rights data paid for by the Government.

Paragraph (d) of the Rights in Data—General clause outlines a procedure whereby a contracting officer can challenge restrictive markings on data delivered. Under civilian agency contracts, limited rights data or restricted computer software is rarely, if ever, delivered to the Government. Therefore, there will rarely be any challenges. Thus, there is no burden on the public.

Under the procedures established for development of the FAR, agency and public comments were solicited and each comment was addressed before finalization of the text. The comments which were received were for the most part from educational institutions, which stated that requiring their investigators to keep records of unlimited rights data for three years

after acceptance of deliverables was unreasonable, in that such investigators in reality do not segregate their research by contract, but rather combine it with other data in order to continue their research. In light of this, the proposed rule was changed to state that the Additional Data Requirements clause would not be placed in contracts for basic or applied research with educational institutions where the value was \$500,000 or less. The \$500,000 threshold was adopted after surveying the major civilian research and development (R&D) agencies, whose data suggested that an average R&D contract was \$250,000 to \$300,000; commensurate with other clause thresholds (e.g., small business subcontracting), the \$500,000 threshold was chosen. Thus, for most R&D contracts with universities, no recordkeeping is required.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 2.7 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th & F Streets, NW., Room 4037, Washington, DC 20405, and to the FAR Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The annual reporting burden is estimated as follows: Respondents, 1,100; responses per respondent, 1; total annual responses, 1,100; preparation hours per response, 2.7; and total response burden hours, 2,970.

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, 9,000; hours per recordkeeper, 3; and total recordkeeping burden hours, 27,000.

Obtaining Copies of Proposals: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), Room 4037, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0090, Rights in Data and Copyrights, in all correspondence.