

227.72, Rights in Computer Software and Computer Software Documentation, and related provisions and clauses of the Defense Federal Acquisition Regulation Supplement (DFARS); OMB Control Number 0704–0369.

*Needs and Uses:* DFARS Subparts 227.71 and 227.72 prescribe the use of solicitation provisions and contract clauses containing information collection requirements that are associated with rights in technical data and computer software. DoD needs this information to implement 10 U.S.C. 2320, Rights in technical data, and 10 U.S.C. 2321, Validation of proprietary data restrictions. DoD uses the information to recognize and protect contractor rights in technical data and computer software that are associated with privately funded developments; and to ensure that technical data delivered under a contract are complete and accurate and satisfy contract requirements.

*Affected Public:* Businesses or other for-profit and not-for-profit institutions.

*Number of Respondents:* 75,250.

*Responses per Respondent:* About 13.

*Annual Responses:* 959,602.

*Average Burden per Response:* About 1 hour.

*Annual Response Burden Hours:* 904,574 hours.

*Annual Recordkeeping Burden Hours:* 90,600 hours.

*Total Annual Burden Hours:* 995,174 hours.

*Frequency:* On occasion.

#### Summary of Information Collection

DoD uses the following DFARS provisions and clauses in solicitations and contracts to require offerors and contractors to identify and mark data or software requiring protection from unauthorized use, release, or disclosure in accordance with 10 U.S.C. 2320:

252.227–7013, Rights in Technical Data—Noncommercial Items.

252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation.

252.227–7017, Identification and Assertion of Use, Release, or Disclosure Restrictions.

252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program.

In accordance with 10 U.S.C. 2320(a)(2)(D), DoD may disclose limited rights data to persons outside the Government, or allow those persons to use data with use, release, or disclosure restrictions, if the recipient agrees not to further release, disclose, or use the data. Therefore, the clause at DFARS

252.227–7013, Rights in Technical Data—Noncommercial Items, requires the contractor to identify and mark data or software that it provides with limited rights.

In accordance with 10 U.S.C. 2321(b), contractors and subcontractors at any tier must be prepared to furnish written justification for any asserted restriction on the Government's rights to use or release data. The following DFARS clauses require contractors and subcontractors to maintain adequate records and procedures to justify any asserted restrictions:

252.227–7019, Validation of Asserted Restrictions—Computer Software.

252.227–7037, Validation of Restrictive Markings on Technical Data.

In accordance with 10 U.S.C. 2320, DoD must protect the rights of contractors that have developed items, components, or processes exclusively at private expense. Therefore, the clause at DFARS 252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends, requires a contractor or subcontractor to submit a use and non-disclosure agreement when it obtains data from the Government to which the Government has less than unlimited rights. In addition, DFARS 227.7103–7, Use and non-disclosure agreement, requires intended recipients of technical data or computer software delivered to the Government with restrictions on use, modification, reproduction, release, performance, display, or disclosure, to sign the use and non-disclosure agreement at 227.7103–7(c) prior to release or disclosure of the data, unless the recipient is a Government contractor that requires access to a third parties data or software for the performance of a Government contract that contains the clause at 252.227–7025, Limitations on Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends. According to 10 U.S.C. 2320(a)(2)(D), DoD may disclose limited rights data to persons outside the Government, or allow those persons to use limited rights data, if the recipient agrees not to further use, release, or disclose the data.

The provision at DFARS 252.227–7028, Technical Data or Computer Software Previously Delivered to the Government, requires an offeror to identify any technical data or computer software that it previously delivered, or will deliver, under any Government contract. DoD needs this information to avoid paying for rights in technical data

or computer software that the Government already owns.

**Jennifer L. Hawes,**

*Editor, Defense Acquisition Regulations System.*

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

[Docket Number DARS–2016–0024; (OMB Control Number 0704–0332)]

#### Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; DoD Pilot Mentor-Protégé Program

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Notice and request for comments regarding a proposed extension of an approved information collection requirement.

**SUMMARY:** In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection under Control Number 0704–0332 for use through September 30, 2016. DoD proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

**DATES:** DoD will consider all comments received by August 22, 2016.

**ADDRESSES:** You may submit comments, identified by OMB Control Number 0704–0332, using any of the following methods:

○ *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

○ *Email:* [dfars@mail.mil](mailto:dfars@mail.mil). Include OMB Control Number 0704-0225 in the subject line of the message.

○ *Fax:* (571) 372-6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Jennifer Johnson, OUSD(AT&L)DPAP/DARS, Rm. 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jennifer Johnson, at (571) 372-6100. The information collection requirements addressed in this notice are available on the World Wide Web at: <http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>. Paper copies are available from Ms. Jennifer Johnson, OUSD (AT&L) DPAP (DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060.

**SUPPLEMENTARY INFORMATION:**

*Title, Associated Form, and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS) Appendix I, DoD Pilot Mentor-Protege Program; OMB Control Number 0704-0332.

*Needs and Uses:* DoD needs this information to ensure that participants in the Mentor-Protege Program (“the Program”) are fulfilling their obligations under the mentor-protege agreements and that the Government is receiving value for the benefits it provides through the Program. DoD uses the information as source data for reports to Congress required by section 811(d) of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106-65). Participation in the Program is voluntary.

*Affected Public:* Businesses and other for-profit entities and not-for-profit institutions.

*Number of Respondents:* 112.

*Responses per Respondent:* 1.97.

*Annual Responses:* 240.

*Average Burden per Response:* Approximately 1.0 hour.

*Annual Response Burden Hours:* 240.

*Reporting Frequency:* Two times per year for mentor firms; one time per year for protege firms.

**Summary of Information Collection**

DFARS Appendix I, section I-112.2(a)-(d), requires mentor firms to report on the progress made under active mentor-protege agreements semiannually for the periods ending March 31 and September 30. The September 30 report must address the entire fiscal year. Reports must include the following:

(1) Data on performance under the mentor-protege agreement, including dollars obligated, expenditures, subcontracts awarded to the protege firm, developmental assistance provided, impact and progress of the agreement.

(2) A copy of the Individual Subcontracting Report (ISR) or SF 294 and Summary Subcontracting Report (SSR) for each contract where developmental assistance was credited to subcontracting goals.

Section I-112.2(e) requires protege firms to submit reports on an annual basis. Reports must include progress made by the protege firm in employment, revenues, and participation in DoD contracts during each fiscal year of the Program participation term and each of the two fiscal years following the expiration of the Program participation term. During the Program participation term, the protege firms may provide this data to the mentor firm for inclusion in the mentor report required by I-112(a)-(d) for the period ending September 30.

Jennifer L. Hawes,  
*Editor, Defense Acquisition Regulations System.*

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**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**Government-Industry Advisory Panel; Request for Information on Rights in Technical Data and the Validation of Proprietary Data Restrictions**

**AGENCY:** Department of Defense.

**ACTION:** Notice.

**SUMMARY:** The Government-Industry Advisory Panel, a Department of Defense (DoD) advisory committee established in accordance with the Federal Advisory Committee Act (FACA), is seeking information to facilitate a review of sections 2320 and 2321 of Title 10 of the United States Code (U.S.C.), regarding rights in technical data and the validation of proprietary data restrictions.

**DATES:** Submit written comments to the address shown in the **ADDRESSES** section on or before July 21, 2016.

**ADDRESSES:** Submit comments to Office of the Assistant Secretary of Defense (Acquisition), ATTN: LTC Andrew Lunoff/Designated Federal Officer (DFO), 3090 Defense Pentagon, Washington, DC 20301-3090; or by email to [andrew.s.lunoff@mail.mil](mailto:andrew.s.lunoff@mail.mil).

**FOR FURTHER INFORMATION CONTACT:** LTC Andrew Lunoff, Office of the Assistant Secretary of Defense (Acquisition), 3090 Defense Pentagon, Washington, DC 20301-3090; email: [andrew.s.lunoff@mail.mil](mailto:andrew.s.lunoff@mail.mil); phone: 571-256-9004.

**SUPPLEMENTARY INFORMATION:** Section 813 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016 required DoD to establish the Government-Industry Advisory Panel for the purpose of reviewing 10 U.S.C. 2320 and 2321, regarding rights in technical data and the validation of proprietary data restrictions, and the regulations implementing such sections, for the purpose of ensuring that such statutory and regulatory requirements are best structured to serve the interests of the taxpayers and the national defense. The advisory panel is to give appropriate consideration to the following: (1) Ensuring that DoD does not pay more than once for the same work; (2) ensuring that the DoD contractors are appropriately rewarded for their innovation and invention; (3) providing for cost-effective re-procurement, sustainment, modification, and upgrades to the DoD systems; (4) encouraging the private sector to invest in new products, technologies, and processes relevant to the missions of the DoD; and (5) ensuring that the DoD has appropriate access to innovative products, technologies, and processes developed by the private sector for commercial use.

The regulatory implementation of 10 U.S.C. 2320 and 2321 are in the Defense Federal Acquisition Regulation Supplement (DFARS) at subpart 227.71, covering both commercial and noncommercial technical data. This regulatory scheme is also adapted to cover computer software in DFARS subpart 227.72, where nearly all elements of the technical data scheme are applied to noncommercial computer software, but not to commercial computer software. Thus, although the statutory sections apply only to technical data, the regulatory implementation has historically also affected how DoD acquires and manages computer software and, therefore, is another factor to be considered. In addition, a significant streamlining and integration of these DFARS subparts was published for public comment in 2010 entitled “Patent, Data, and Copyrights (DFARS case 2010-D001)” (see 75 FR 59411); the key elements of that proposed revision of regulatory scheme, and the public comments received in response to that proposed