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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0090; Docket No. 2020-0053; Sequence No. 5]

Information Collection; Rights in Data and Copyrights

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

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve a revision and renewal of a previously approved information collection requirement regarding rights in data and copyrights.

DATES: Submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.]**

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review - Open for Public Comments" or by using the search function.

Additionally submit a copy to GSA through <http://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments.

Instructions: All items submitted must cite Information Collection 9000-0090, Rights in Data and Copyrights. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two-to-three days after submission to verify posting. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov.

FOR FURTHER INFORMATION CONTACT: Zenaida Delgado, Procurement Analyst, at telephone 202-969-7207, or zenaida.delgado@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. OMB control number, Title, and any Associated Form(s):
9000-0090, Rights in Data and Copyrights.

B. Need and Uses

Contracts must contain terms that delineate the appropriate rights and obligations of the Government and

the contractor regarding the use, reproduction and disclosure of data. This clearance covers the information that offerors and contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

- *FAR 52.227-15, Representation of Limited Rights Data and Restricted Computer Software.* This provision requires an offeror to state, in response to a solicitation, whether data proposed for fulfilling the data delivery requirements qualifies as limited rights data or restricted computer software. If the Government does not receive unlimited rights, the offeror must provide a list of the data that qualify as limited rights data or restricted computer software. The offeror would identify any proprietary data it would use during contract performance, in order that the contracting officer might ascertain if such proprietary data should be delivered.
- *FAR 52.227-16, Additional Data Requirements.* This clause requires contractors to keep, for possible delivery to the Government, any data, in addition to data already required to be delivered under the contract, first produced or specifically used in performance of the contract for a period of three years from the final

acceptance of all items delivered under the contract. The data delivered under this clause may be in the form of computations, preliminary data, records of experiments, etc. For any data to be delivered under this clause, the Government will pay the contractor for converting the data into a specific form, and for reproducing and delivering the data. The purpose of such recordkeeping requirements is to ensure that, if all data requirements are not known prior to contract award, 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.

- *FAR 52.227-17, Rights in Data-Special Works.* This clause is included in solicitations and contracts primarily for production or compilation of data. It is used in rare and exceptional circumstances to permit the Government to limit the contractor's rights in data by preventing the release, distribution, and publication of any data first produced in the performance of the contract. This clause may also be limited to particular items and not the entire contract. This

clause requires contractors to assign (with or without registration), or obtain the assignment of, the copyright to the Government or its designated assignee.

- *FAR 52.227-18, Rights in Data-Existing Works.* This clause is used when the Government is acquiring existing audiovisual or similar works, such as books, without modification. This clause requires contractors to obtain license for the Government to reproduce, prepare derivative works, and perform and display publicly the materials.
- *FAR 52.227-19, Commercial Computer Software License.* This clause requires contractors to affix a notice on any commercial software delivered under the contract that provides notice that the Government's rights regarding the data are set forth in the contract.
- *FAR 52.227-20, Rights in Data-SBIR Program.* This clause authorizes contractors under Small Business Innovation Research (SBIR) contracts to affix a notice to SBIR data delivered under the contract to limit the Government's rights to disclose data first produced under the contract. Contractors shall obtain from their subcontractors all data and rights necessary to fulfill the contractor's obligations to the Government

under the contract. If a subcontractor refuses to accept terms affording the Government those rights, the contractor shall notify the contracting officer of the refusal.

- *FAR 52.227-21, Technical Data Declaration, Revision, and Withholding of Payment-Major Systems.* This clause requires major systems contractors to certify that the data delivered under the contract is complete, accurate, and compliant with the requirements of the contract.
- *FAR 52.227-23, Rights to Proposal Data (Technical).* This clause allows the Government to identify pages of a proposal that would not be subject to unlimited rights in the technical data.

C. Annual Burden

Respondents/Recordkeepers: 2,106.

Total Annual Responses: 5,999.

Total Burden Hours: 5,999. (1,403 reporting hours +
4,596 recordkeeping hours)

D. Public Comment

A 60-day notice was published in the *Federal Register* at 85 FR 45637, on July 29, 2020. No comments were received.

OBTAINING COPIES: Requesters may obtain a copy of the

information collection documents from the GSA Regulatory Secretariat Division by calling 202-501-4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000-0090, Rights in Data and Copyrights.

William F. Clark,
Director,
Office of Government-wide
Acquisition Policy,
Office of Acquisition Policy,
Office of Government-wide Policy.

BILLING CODE: 6820-EP

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