

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
Information Collection Request, OMB Control No. 3090-00XX
Reporting and Use of Information Concerning Integrity and Performance of Recipients of
Grants and Cooperative Agreements**

A. JUSTIFICATION

This is a request for a new information collection requirement. The use of the word “recipient” in this Information Collection Request refers to both grant and cooperative agreement recipients. Use of the words “person” and “entity” are understood to include both individuals and organizations and that apply for and receive Federal awards.

- 1. Explain the circumstances that make the collection of information necessary.** GSA is requesting OMB’s emergency review and clearance of this new information collection requirement. An emergency clearance is desired to enable grant-making agencies and agencies that execute cooperative agreements to start collecting the information by October 1, 2010, which is the implementation date in the proposed guidance, “Guidance for Reporting and Use of Information Concerning Recipient Integrity and Performance,” Federal Register, Vol. 75, No. 32, February 18, 2010.

Section 872 of the Duncan Hunter National Defense Authorization Act of 2009, Pub. L. 110-417, as amended by Pub. L. 111-212 (hereafter referred to as “NDAA”) requires that GSA establish and maintain a database of information regarding the integrity and performance of certain persons awarded Federal agency contracts and grants for use by Federal agency officials having authority over contracts and grants. The proposed implementing guidance for grants also would apply to cooperative agreements, as a matter of Government-wide policy. The database will cover any person awarded a Federal agency contract or grant in excess of \$500,000, and any person awarded Federal agency contracts and grants valued at \$10,000,000 in aggregate, if any information described below exists with respect to such person. Information in the database is to be updated semiannually. Recipients will first answer a “has/has not” question as to whether they are the recipient of an award in excess of \$500,000. If recipients have received an award in excess of \$500,000, they will then be required to enter the data, as specified below.

The database shall include information in the form of a brief description for the most recent five-year period regarding the following:

- a) Each civil or criminal proceeding, or any administrative proceeding, in connection with the award or performance of a contract or grant with the Federal Government with respect to the person during the period to the extent that such proceeding results in the following dispositions:
 - 1) In a criminal proceeding, a conviction;
 - 2) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - 3) In an administrative proceeding, a finding of fault and liability that results in
 - a. The payment of a monetary fine or penalty of \$5,000 or more; or

- b. The payment of a reimbursement, restitution, or damages in excess of \$100,000;
 - 4) To the maximum extent practicable and consistent with applicable laws and regulations, in a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the person if the proceeding could have led to any of the outcomes specified in 1) - 3) above.
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- b) Each Federal contract and grant awarded to the person that was terminated in such period due to default.
 - c) Each Federal suspension and debarment of the person in that period.
 - d) Each Federal administrative agreement entered into by the person and the Federal Government in that period to resolve a suspension or debarment proceeding.
 - e) Each final finding by a Federal official in that period that the person has been determined not to be a responsible source under subparagraph (C) or (D) of section 4(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(7)).
 - f) Such other information as shall be provided for purposes of this section in the Federal Acquisition Regulation.
 - g) To the maximum extent practical, information similar to the information covered by a) through d) in connection with the award or performance of a contract or grant with a State government.

The database to be used is the Federal Awardee Performance and Integrity Information System (FAPIS) and is located at <https://www.cpars.csd.disa.mil>. FAPIS is a web-enabled application that is used to collect contractor and recipient performance information. FAPIS records are retained for a period of five years.

- 2. Use of information.** The information in the database will be available to appropriate acquisition and assistance officials of Federal agencies, to such other Government officials determined to be appropriate, and, to the public through a website, except that past performance reviews may not be available publically.

Before making an award to a recipient, the Federal agency official responsible for making the award shall review the database and shall consider all information in the database with regard to any offer or proposal.

Appropriate Federal agency officials can input and update information in the database relating to actions such officials have taken with regard to recipients. The recipient will be notified in a timely manner when relevant information has been entered into the database and will have an opportunity to submit comments for inclusion in the database.

- 3. Use of information technology.** We use improved information technology to the maximum extent practicable. Where recipients are capable of electronic interchange, recipients may submit this information collection requirement electronically.
- 4. Efforts to identify duplication.** Recipients will be submitting their information into the FAPIS database. Information required by NDAA will not be required to be entered into any other database.

5. **If the collection of information impacts small businesses or other small entities, describe methods used to minimize burden.** As stated in NDAA, any person awarded Federal contracts and/or grants in excess of \$500,000, and any person awarded Federal contracts and/or grants valued at more than \$10 million in aggregate must submit information into the database (FAPIS) semiannually. Only the information required by NDAA will be collected.
6. **Consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.** Information being collected is in compliance with NDAA. Information will be collected as described in A1 in this Supporting Statement. Failure to collect this information would not be in compliance with NDAA.
7. **Special circumstances for collection.** Collection is consistent with the guidelines in 5 CFR 1320.6.
8. **Consultations outside the Agency.** The Federal Register Notice soliciting public comment was published in the Federal Register at 75 FR 60756, October 1, 2010. The public has 60 days to comment on the Information Collection.
9. **Explain any decision to provide payments or gifts to respondents, other than remuneration of contractors or grantees.** Not applicable.
10. **Describe assurance of confidentiality provided to respondents.** The information is disclosed only to the extent consistent with prudent business practices and current regulations.
11. **Provide additional justification for any questions of a sensitive nature.** No questions of a sensitive nature are requested.
12. **Provide an estimate in hours of the burden of the collection of information.** In accordance with paragraph (b) of section 872, Pub. L. 110-417, the database must cover at least each entity awarded a Federal contract or grant in excess of \$500,000 to the extent that there exists information regarding the entity in any of the categories that the law delineates (note that “(person,” the term used in the statute, as well as the term “entity” used in the proposed guidance to implement the statute, are properly understood to include both organizations and individuals that apply for and receive Federal awards). Given that the amount of current Federal contracts and grants is basic knowledge for any recipient of such awards, the estimated number of hours for this initial response is 0.1 hours. Using the FY 2009 data from USASpending.gov, we estimate that there will be approximately 11,500 recipients with an award of \$500,000 or more each year and will answer the “has/has not” question. We estimate that 1,600 recipients will answer the first question affirmatively and then will have to enter data into the FAPIS database (<https://www.cpars.csd.disa.mil>). We have used a burden estimate of 0.5 hours to enter the recipient’s data into the database each time. Data is required to be entered into the database semiannually; therefore, there will be a total burden estimate of 1 hour for each recipient. This time estimate does not include the time necessary to maintain the recipient’s information internally. Most large organizations and some small organizations will most likely have established systems to track compliance.

Initial response:

Total annual responses	11,500
Preparation time per response (per hour)	<u>.1</u>
Total response burden hours	1,150

Additional response:

Number of respondents	1,600
Responses per respondent	<u>2</u>
Total annual responses	3,200
Preparation time per response (per hour)	<u>.5</u>
Total response burden hours	1,600

Total # of responses	13,100
Total burden hours	2,750
Average wage + overhead per hour	<u>51.97</u>
Cost to the public for information collection	\$142,917.50

Note: The hourly rate of \$51.97 duplicates the rate used in FAR Case 2008-027, OMB Control No. 9000-0174.

- 13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the burden hours in 12. above).** At this time, all or most recipients have entered relevant organization data in the Central Contractor Registration (CCR) in accordance with other information collection and systems requirements. Therefore, the estimate includes an average of 100 hours per year for recordkeeping for each of the 1,600 respondents to the request for additional information, for a total of 160,000 annual recordkeeping hours.

Recordkeeping hours	160,000
Average wage + overhead per hour	<u>51.97</u>
Cost to the public for recordkeeping hours	\$8,315,200.00

<u>Total burden hours (#'s 12 and 13 combined)</u>	162,750
<u>Average wage + overhead per hour</u>	<u>51.97</u>
<u>Total cost to the public</u>	<u>\$8,458,117.50</u>

- 14. Provide estimate of annualized cost to the Federal Government.** It is estimated that for each of the 1,600 responses, the Federal Government will be reviewing and analyzing the information for approximately .5 hrs. Information is to be updated into the database semiannually; therefore, the Federal Government will be reviewing and analyzing information approximately 1 hr for each of the 1,600 responses.

Number of respondents	1,600
Responses per respondent	<u>x 2</u>
Total annual responses	3,200
Government review and analysis per response (per hour)	<u>.5</u>
Total Government review hours	1,600
Average wages/hr (GS 12/1)	<u>x 35.88</u>
Average wages/yr	\$57,480
Benefits + overhead	<u>x 100%</u>
Total Government Cost	\$114,960

- 15. Explain the reasons for any program changes or adjustments.** Not applicable.
- 16. Outline plans for published results of the information collection.** Results of this information collection will not be tabulated or published.
- 17. Approval not to display the expiration date.** Not applicable.
- 18. Explanation of exception to the certification statement.** Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.
 Statistical methods are not used in this information collection.