

OMB Clearance No. 0704-XXXX
DFARS Case 2009-D015
Organizational Conflicts of Interest in Major Defense
Acquisition Programs

A. SUPPORTING STATEMENT

1. Need for the information collection. This is a request for a new information collection requirement. DoD is issuing a final rule to implement section 207 of the Weapons System Acquisition Reform Act of 2009 (WSARA). Section 207 requires DoD to revise the Defense Federal Acquisition Regulation Supplement (DFARS) to provide uniform guidance and tighten existing requirements for organizational conflicts of interest (OCIs) by contractors in major defense programs (TAB A).

This statutory requirement will be implemented in DFARS subpart 209.572 and associated provisions and clauses in 252.209 (TAB B). While the formal information collection request is new, the information requirement to submit a mitigation plan when there is an organizational conflict of interest that can be resolved through mitigation, has existed for many years. It is only now being formalized because of the new explicit statutory requirement to address organizational conflicts of interest in Major Defense Acquisition programs (MDAPs). In order to comply with the statute, DoD needs the following information:

252.209-7008. Paragraph (d) requires an offeror to submit a mitigation plan if requesting an exemption from the statutory limitation on future contracting.

2. DoD will use this information to resolve organizational conflicts of interest arising in a systems engineering and technical assistance contract for an MDAP, as required by section 207 of WSARA.

3. Improved information technology will be used to the maximum extent practicable. Offerors and contractors may submit the required information electronically.

4. As a matter of policy, DoD reviews the Federal Acquisition Regulation (FAR) to determine if adequate language already exists. This information collection does not duplicate any other requirement at this time. It updates

and restructures the coverage of OCIs in FAR subpart 9.5 and adds a completely new provision and clause, in order to formalize the coverage of OCIs in MDAPs, which is unique to DoD and is required by the statute.

5. The information collection associated with small businesses is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

6. Less frequent collection of the information would not permit DoD to comply with the statutory requirements to identify and resolve Organizational conflicts of interest.

7. Collection is consistent with the guidelines in 5 CFR 1320.5(d). The information will not be collected in a manner that requires an explanation of special circumstances. If the information relating to OCIs is not collected, DoD could pay more for contracts that were awarded to companies only because the companies obtained an advantage due to the conflict. If the mitigation information is not collected and there is no other means for resolving the OCI, conflicts cannot be resolved.

8. Public comments were solicited in the Federal Register as required by 5 CFR 1320.8(d) 75 CFR 20958, April 22, 2010). There were no public comments specifically addressing the estimated burden of the information collection requirement.

Some respondents commented on the undue burden imposed by the disclosure requirements of the proposed clause 252.2003-70XX, but that clause has been deleted from the final rule.

9. No payment or gift will be provided to respondents, other than remuneration of contractors under their contracts.

10. Information obtained will be disclosed only to the extent consistent with statutory requirements, current regulations, and prudent business practices. Prior to award, this is source selection information and therefore protected from disclosure.

11. No sensitive questions are involved.

12. **Estimated total annual public hour burden.** We discussed the burden requirements with specialists in industrial policy. Although definitive information is not available, we

relied on the judgment and expertise of subject matter experts within DoD. The annual total burden hours are estimated as follows:

DFARS 252.209-7008, Notice of Prohibition Relating to Organizational Conflict of Interest—Major Defense Acquisition Program.

Mitigation Plan required. We estimate that there are approximately 150 MDAP and pre-MDAP contracts. We estimate one SETA contract per MADP and pre-MDAP contract. If we further estimate that there are 4 offers per solicitation, and that 40% of the offerors submit a mitigation plan, that would equal 2,304 mitigation plans per year. We also estimate that systems engineering and technical assistance contractors are submitting offers on an average of 3 solicitations per year. We estimate that it takes approximately 20 hours for the preparation and submission of the mitigation plan.

A.	Number of respondents	150
B.	Responses per respondent	5
C.	Total annual responses	750
D.	Hours per response	20
E.	Total hours	15,000
F.	Cost per hour (\$75 + 32.85 OH)	\$100
G.	Annual cost to respondents	\$1,500,000

13. Capital start-up or operational land maintenance costs.
None.

14. Estimated cost to the Government. The time required for the Government review of the mitigation plans is calculated as follows:

<u>No Mitigation Plan:</u>	
Responses/yr	750
Reviewing time/response	1
Review time/yr	750
Average wages (\$33/hr. + 32.85% OH)	<u>\$44</u>
Government cost	\$33,000

15. This is a new information collection requirement.

16. Results of this information collection will not be tabulated or published.

17. DoD does not seek approval to not display the expiration dates for OMB approval of the information collection.

18. There are no exceptions to the certification accompanying this Paperwork Reduction Act submission.

B. Collections of Information Employing Statistical Methods

Statistical methods will not be employed.