

**SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION
OMB Control No. 9000-0130, BUY AMERICAN ACT—FREE TRADE AGREEMENTS
—ISRAELI TRADE ACT CERTIFICATE**

1. **Administrative requirements.** Under the Free Trade Agreements Act of 1979, unless specifically exempted by statute or regulation, agencies are required to evaluate offers (over a certain dollar limitation) to supply an eligible product, without regard to restrictions of the Buy American Act. Offerors identify covered Free Trade Agreement (FTA) country end products and other foreign end products on this certificate in accordance with FAR clause 52.225-4.

2. **Uses of information.** The contracting officer uses the information to identify the offered items which are domestic end products. Items having components of unknown origin are considered to have been mined, produced, or manufactured outside the United States.

Contracting officers also use the information to identify covered FTA country end products. Offers are evaluated by giving a preference to domestic and covered FTA country end products over other products.

3. **Consideration of information technology.** We use improved information technology to the maximum extent practicable. Where both the Government agency and contractors are capable of electronic interchange, the contractors may submit this information collection requirement

4. **Describe efforts to identify duplication.** This requirement is being issued under the Federal Acquisition Regulation (FAR), which has been developed to standardize Federal procurement practices and eliminate unnecessary duplication.

5. **If the collection of information impacts small businesses or other entities, describe methods used to minimize burden.** The burden applied to small businesses is the minimum consistent with applicable laws, Executive Orders, regulations, and prudent business practices.

6. **Describe consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently.** Collection of information on a basis other than solicitation-by-solicitation is not practical. Without this information, the contracting officer will not be able to give the appropriate consideration to domestic offers and offers of

eligible products from covered FTA countries.

7. **Special circumstances or collection.** Collection is consistent with guidelines in 5 CFR 1320.6.

8. **Efforts to consult with persons outside the agency.** A notice was published in the *Federal Register* at 77 FR 43081, on July 23, 2012. One respondent submitted public comments on the extension of the previously approved information collection. The analysis of public comments is summarized as follows:

Comment: The respondent commented that the extension of the information collection would violate the fundamental purposes of the Paperwork Reduction Act because of the burden it puts on the entity submitting the information and the agency collecting the information.

Response: In accordance with the Paperwork Required Act (PRA), agencies can request an OMB approval of an existing information collection. The PRA requires that agencies use the Federal Register notice and comment process, to extend the OMB's approval, at least every three years. This extension, to a previously approved information collection, pertains to implementation of FAR 25.406 and the provision at FAR 52.225-4, Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate, in accordance with the terms of the Free Trade Agreements Act of 1979. Under the Free Trade Agreements Act of 1979, unless specifically exempted by statute or regulation, agencies are required to evaluate offers (over a certain dollar limitation) to supply an eligible product, without regard to restrictions of the Buy American Act. Offerors identify covered Free Trade Agreement (FTA) country end products and other foreign end products on this certificate in accordance with the FAR provision at 52.225-4. The contracting officer uses the information to identify covered FTA country end products. Offers are evaluated by giving a preference to domestic and covered FTA country end products over other products, as provided for by law and treaty.

Comment: The respondent commented that the agency did not accurately estimate the public burden challenging that the agency's methodology for calculating it is insufficient and inadequate and does not reflect the total burden. For this reason, the respondent provided that the agency should reassess the total burden hours and revise the estimate upwards to be more accurate, as was done in FAR Case 2007-006. The same respondent also provided that the burden of compliance with the agency's

information collection requirement greatly exceeds the agency's estimate and outweighs any potential utility of the extension.

Response: Serious consideration is given, during the open comment period, to all comments received and adjustments are made to the paperwork burden estimate based on reasonable considerations provided by the public. This is evidenced, as the respondent notes, in FAR Case 2007-006 where an adjustment was made from the total preparation hours from three to 60. This change was made considering particularly the hours that would be required for review within the company, prior to release to the Government.

The burden is prepared taking into consideration the necessary criteria in OMB guidance for estimating the paperwork burden put on the entity submitting the information. For example, consideration is given to an entity reviewing instructions; using technology to collect, process, and disclose information; adjusting existing practices to comply with requirements; searching data sources; completing and reviewing the response; and transmitting or disclosing information. The estimated burden hours for a collection are based on an average between the hours that a simple disclosure by a very small business might require and the much higher numbers that might be required for a very complex disclosure by a major corporation. Also, the estimated burden hours should only include projected hours for those actions which a company would not undertake in the normal course of business.

Careful consideration went into assessing the estimated burden hours for this collection, and it is determined that an upward adjustment is not required at this time related to the responses per respondent. The revised estimate of two responses per respondent is based upon contractor use of the Online Representation and Certifications Application (ORCA) function in the System for Award Management (SAM) rather than the completion of representations and certifications for each solicitation/contract for which a vendor submits an offer. The ORCA function was developed to eliminate the administrative burden for contractors of submitting the same information to various contracting offices, and to establish a common source for this information to procurement offices across the Government. Prior to the ORCA function's implementation, prospective contractors were required to submit representations and certifications in paper form for each individual contract award. Under these conditions, a higher response rate per year per contractor as suggested by the respondent may have been necessary. However, using the ORCA function in SAM, a contractor can enter their representations and certification information

once for use on all Federal contracts and solicitations. FAR 4.1201(a) requires prospective contractors to complete electronic annual representations and certifications at the SAM Internet site in conjunction with required registration in the Central Contractor Registration (CCR) function in SAM. The representations and certifications are effective until one year from the date of submission or update to the ORCA function in SAM. For purposes of this information collection, initial data entry plus one update per year was considered reasonable and was used to estimate the number of responses per respondent per year, i.e., 2 responses per respondent.

We have reassessed the hours of burden per response based on the respondent's comment, and have determined that an upward estimate of thirty minutes would provide a more accurate measure of the time required to complete or update the initial certification.

However, at any point, members of the public may submit comments for further consideration, and are encouraged to provide data to support their request for an adjustment.

9. Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or guarantees. Not applicable.

10. Describe assurance of confidentiality provided to respondents. This information is disclosed only to the extent consistent with prudent business practices and current regulations. No sensitive questions are involved.

11. Additional justification questions of a sensitive nature. There are no questions of a sensitive nature.

12 & 13. Estimated total annual public hour and cost burden.

The clause at FAR 52.225-4, Buy American Act - Free Trade Agreements - Israeli Trade Act Certificate (Basic, Alternates I, II, and III) is among the representations and certifications that are available for completion in the Online Representations and Certifications Application (ORCA) function of the System for Awards Management (SAM). As of May 2012 there were 162,000 vendors registered in the ORCA function of SAM. For purposes of estimation, the number of vendors registered in the ORCA function of SAM will serve as the number of respondents). Because ORCA allows for multiple uses from one entry, i.e., a contractor can enter their representations and certification information once a year (with any needed updates) for use on all Federal solicitations and contracts, the number of responses per respondent has decreased from the currently approved estimate of

5 to 2. For purposes of this information collection, initial entry plus one update are estimated as the number of responses per respondent per year, i.e., 2 responses per respondent. Time required for reading and preparing information is estimated at 30 minutes per completion.

Annual Public Reporting Burden

Number of respondents.....	162,000
Number of responses per respondent per year.....	x <u>2</u>
Total annual responses.....	324,000
Preparation time per response.....	x <u>.5</u>
Total response burden hours.....	162,000
Average wage + overhead*(\$30.81 + 36% OH).....	x <u>\$42</u>
Estimated cost to the public.....	\$6,804,000

*We used a rate equivalent to a GS-12, Step 3 or \$30.81/hour (from the OPM 2012 GS Salary Table), added overhead at 36.45 percent (the OMB-mandated burden rate for A-76 public-private competitions), and rounded it to the nearest whole dollar, or \$42/hour.

14. **Estimated cost to the Government.** According to agency data submissions to the Federal Procurement Data System (FPDS), in FY 2011, 707,996 base awards exceeding the simplified acquisition threshold of \$150,000 were made by Federal agencies. Government officials must verify prospective contractor representations and certifications made in ORCA prior to the award of each contract. (This would include the certification at FAR 52.225-4.) For purposes of estimation, we will use the total base awards made in FY 2011 as reported to FPDS as the basis for estimating the minimum total responses to the Government. Time required for Governmentwide review is estimated at 10 minutes per response.

Annual Government Recordkeeping Burden and Cost

Total annual responses.....	707,996
Review time per response.....	x <u>.117</u>
Total burden hours.....	82,835
Average wages + overhead**(\$22.57/hr + 36% OH)....	x <u>\$31</u>
Total Government Cost (hrs. x 22.57/hr + 36% OH)...	\$2,567,885

** We used a rate equivalent to a GS-09, step 5 plus 36.45 percent overhead burden rounded to the nearest dollar, or \$31 an hour to estimate the annual cost to the Government to review and analyze the responses to this information collection requirement

(based on the Office of Personnel Management 2012 GS Salary Table).

15. Explain reasons for program changes or adjustments reported in Item 13 or 14. Because the ORCA function in SAM allows for multiple uses from a single entry, i.e., a contractor can enter their representations and certification information once a year (with any needed updates) for use on all Federal solicitations and contracts, the number of estimated responses per respondent (public) has decreased from the currently approved number of 5 to 2. In addition, we have reassessed the hours of burden per response based on the respondent's comment, and have determined that an upward estimate of thirty minutes would provide a more accurate measure of the time required to complete or update the initial certification. With regard to the estimated cost to the Government, Government officials must verify prospective contractor representations and certifications made in ORCA prior to the award of each contract. According to agency data report submissions to the Federal Procurement Data System (FPDS), in FY 2011, 707,996 base awards exceeding the simplified acquisition threshold of \$150,000 were made by Federal agencies. (This would include the certification at FAR 52.225-4.) For purposes of estimation, we used the total base awards made in FY 2011 as reported to FPDS as the basis for estimating the total responses reviewed by the Government. In addition, for greater accuracy, an adjustment is being made to the average wages and overhead calculation for Government review in Item 14. We estimate the annual cost to the Government to review and analyze the responses to this information collection requirement at \$22.57 an hour based on the Office of Personnel Management 2012 salary for a GS-09, step 5 plus 36.45 percent burden rounded to the nearest dollar, or \$31 an hour, instead of the \$20 per hour plus 100% overhead (\$40 per hour) formula used for calculation of the Government review costs under the current information collection.

16. Outline plans for published results of information collections. Results will not be tabulated or published.

17. Approval not to display expiration date. Not applicable.

18. Explanation of exception to certification statement. Not applicable.

B. Collections of Information Employing Statistical Methods. Statistical methods are not used in this information collection.