

**Ownership of Offeror
(DFARS Case 2011-D044)
Supporting Statement
DFARS Part 204 – Administrative Matters**

A. Justification

1. Requirement. Currently, DoD does not have the ability to identify whether an offeror is owned by another business entity. This case would require a provision be included in the annual representations and certifications completed in the Online Representations and Certifications Application, and therefore collected in a common location that the Defense Logistics Agency (DLA) could use to supplement the Commercial and Government Entity (CAGE) code file maintained by its DLA Logistics Information Service. This rule requires offerors represent that if it is owned or controlled by another business entity, that it has provided the CAGE code and name of that entity.

2. Purpose. DoD proposes to collect the owner's CAGE code and name from offerors, if an owner exists, in a new provision with an offeror's representations and certifications. The ability to consistently, uniquely, and easily identify whether or not an offeror is owned by another business entity, is becoming increasingly needed to support the implementation of business intelligence tools that provide insight into spending patterns for entire corporations. This new provision will-

- Enable the tracking of performance issues that affect the entire corporation;
- Provide insight for the deployed commander on contractor personnel in-theater;
- Support the Office of the Under Secretary of Defense for Acquisition, Technology and Logistics' preferred supplier program; and
- Facilitate Defense Procurement and Acquisition and Policy priorities for a common price negotiation and audit history tool.

This rule proposes to make the following DFARS changes:

- Revise 204.1202, Solicitation provision and contract clause, to add the provision at 252.204-70XX, Ownership of Offeror;
- Revise 204.7207, Solicitation provision, to prescribe the use of the provision at 252.204-70XX, Ownership of Offeror;
- Revise 212.301(f)(iv), Solicitation provisions and contract clauses for the acquisition of commercial items, to add the provision at 252.204-70XX, Ownership of Offeror;

- Revise 252.204-7007, Alternate A, Annual Representations and Certifications, to add the provision at 252.204-70XX, Ownership of Offeror; and
- Add a provision at 252.204-70XX, Ownership of Offeror.

3. Information Technology. Improved information technology is used to the maximum extent practicable.

4. Duplication. As a matter of policy, DoD reviews the Federal Acquisition Regulation (FAR) to determine if adequate language already exists. The proposed DFARS language applies solely to DoD and is not considered duplicative of any language in the FAR. No similar information is available elsewhere.

5. Small Business. The collection of this information is not expected to have a significant impact on a substantial number of small businesses or other small entities. The requirements for information collection are only occasional, as the circumstances dictate, and the burden on large and small entities is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

6. Consequences for non-collection. DoD specialists who are most knowledgeable of the requirements and the need for the information reviewed the information collection frequency. Failure to collect this information may result in increased costs for the implementation of business intelligence tools to identify spending pattern with entire corporations.

7. Special circumstances. There are no special circumstances that require the collection to be conducted in any manner listed in 5 CFR 1320.5(d)(2).

8. Public comments and consultation. Public comments were received on the proposed rule as published in the Federal Register at 77 FR 43477 on July 24, 2012. Several comments were received regarding the DoD information collection portion of the proposed DFARS rule. Two comments of the comments stated that the requirements of the collection are overly burdensome and goes against several executive orders and another comment disagreed with the analysis that the rule was not determined to be a significant regulatory action. No changes were made to the rule in response to these comments.

9. Payment to respondents. No payment or gift will be provided to respondents to this information collection requirement.

10. Confidentiality. This information is disclosed only to the extent consistent with prudent business practices and current regulations and statutory requirements. No assurance of confidentiality is provided to respondents.

11. Sensitive questions. No sensitive questions are involved.

12. Estimate of Public Burden. The burden associated with this requirement is estimated at 78,925 hours as follows:

Number of Respondents Note (1)	157,850
Responses per Respondent Note (2)	1
Annual responses	157,850
Hours per response Note (2)	.50
Total Hours	78,925
Cost per Hour Note (3)	\$25
Total annual cost to public	\$1,973,125

Notes:

(1) DoD made over 308,000 new contract awards to contractors in Fiscal Year 2011. Of the 308,000 awards made in FY 2011, 55,000 were to contractors with unique Data Universal Numbering System (DUNS) numbers. There was an average of 2.87 offers made per solicitation that resulted in an award. Federal procurement data does not distinguish unique offerors. It is possible, but not likely, that 55,000 offers were made by unique contractors that resulted in 55,000 awards to unique contractors. It is possible, but not likely that for each of 55,000 awards to unique contractors, the average of 2.87 offerors per solicitation would have been composed of unique offerors, totaling 157,850 unique offerors required to report under this burden. Without data available to show the average number of unique offerors, the Government is unable to accurately calculate the number of unique offerors. In order to ensure that the burden is not underestimated, the Government has elected to employ a methodology of estimating using 2.87 unique offerors as the average per unique award, resulting in the higher estimated total of 157,850 respondents. The number of responses per respondent is one as the reporting of information is done one time in the online SAM representations and certifications.

(2) The estimated hours per response is based on the time required for Government receive, review, and analyze the

information submitted by the contractor. The estimate was developed as a result of discussions with DoD personnel.

(3) Based on a GS-07 step 5 (calendar year 2013) salary plus 32.65 percent burden, rounded to the nearest dollar, and is estimated as follows:

Base Payroll	\$18.45
Times estimated overhead	<u>32.65%</u>
Equals	\$24.47
Rounded to	\$25.00

13. Estimated nonrecurring costs. We estimate that there are no nonrecurring costs, i.e., capital and start-up operation and maintenance costs other than the hour burden detailed in section 12 above.

14. Estimated cost to Government. The time required for Government review of the requirements is based on receiving, reviewing, and analyzing the information submitted by the contractor. A total Government cost of 115,607 hours (\$6,011,564) is calculated as follows.

A. Total annual responses	157,850
B. Hours per response Note (1)	.25
C. Total annual hours	39,463
D. Cost per hour Note (2)	\$53
E. Total annual cost to Government	\$2,091,513

Notes:

(1) The estimated hours per response is based on the time required for Government receive, review, and analyze the information submitted by the contractor. The estimate was developed as a result of discussions with DoD personnel.

(2) Based on GS-13 step 5 salary (calendar year 2013) plus 32.65 percent burden, rounded to the nearest dollar, and is estimated as follows:

Base Payroll	\$38.92
Times estimated overhead	<u>32.65%</u>
Equals	\$51.62
Rounded to	\$52.00

15. Program changes. There are no program changes. The changes to items 12 and 14, above, are due to using more current cost per hour data and increase in the estimated number of respondents and responses, based on Fiscal Year 2010 data and consultation with DoD personnel.

16. Publication. Results of this information collection will not be published.

17. Expiration Date. Not applicable.

18. Certification. There are no exceptions to the certification statement identified in Item 19 of OMB Form 83-I.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHOD

Results will not be tabulated. Statistical methods will not be employed.