

**SUPPORTING STATEMENT
FOR INFORMATION COLLECTION SUBMISSION
9000-0091, ANTI-KICKBACK PROCEDURES**

A. Justification.

1. **Administrative requirements.** This is a request for extension of the information collection requirement currently approved under OMB Control Number 9000-0091 for Federal Acquisition Regulation (FAR) 3.502 and 52.203-7, Anti-Kickback Procedures.

This information collection is necessary to support ethical business practices through implementation of the requirements of the 41 U.S.C. chapter 87, Kickbacks, to deter subcontractors from making payments and contractors from accepting payments for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract, or a subcontract relating to a prime contract.

Anti-Kickback Procedures (52.203-7)

Applicability: The prescription at FAR 3.502-3 requires contracting officers to insert the clause at 52.203-7 in solicitations and contracts exceeding the simplified acquisition threshold, other than those for commercial items.

Subparagraph (c)(2) of the clause requires that whenever contractors have reasonable grounds to believe that a violation described in FAR 52.203-7(b) may have occurred, they are required to promptly report the possible violation in writing to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

Under subparagraph (c)(5) of the clause, the contractor agrees to incorporate the substance of the clause at 52.203-7, including subparagraph (c)(5) but excepting subparagraph (c)(1) in all subcontracts under the contract which exceed \$150,000.

2. **Uses of information.** The information provided in accordance with the clause at FAR 52.203-7 is used to determine whether violations of 41 U.S.C. chapter 87, Kickbacks have occurred.

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 are encouraged to submit

this information collection requirement electronically. For example, many Inspector General Hotline Internet sites accept written allegations of waste, fraud, or abuse through online forms, e-mail, or by facsimile.

4. Efforts to identify duplication. The clause at FAR 52.203-7 implements the reporting requirements of 41 U.S.C. chapter 87, Kickbacks. There is no duplication of information.

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, regulations, and prudent business practices. Acquisitions of supplies or services that have an anticipated dollar value between the micro-purchase threshold and the simplified acquisition threshold are generally set aside for small business. The impact of the information collection requirement in 52.203-7 is reduced because the clause at 52.203-7 does not apply to solicitations and contracts that do not exceed the simplified acquisition threshold.

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 contract-by-contract is not practical. Under the terms of the clause at FAR 52.203-7, contractors and subcontractor employees are required to report possible violations of 41 U.S.C. chapter 87, Kickbacks, observed in operations or direct business relationships.

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 81 FR 31239 on May 18, 2016. No comments were received. A 30-day notice was published in the *Federal Register* at 81 FR 58918 on August 26, 2016.

9. Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees. There will be no payment or gift to respondents, other than remuneration of contractors.

10. Describe assurance of confidentiality provided to respondents. This information is disclosed only to the extent consistent with law, regulation, and prudent business practices.

11. Additional justification questions of a sensitive nature.

There are no questions of a sensitive nature regarding matters commonly considered private.

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

There is no Governmentwide data collection process or system which identifies the number of alleged violations of 41 U.S.C. chapter 87, Kickbacks, that are reported annually to agency inspector generals, the heads of the contracting agency if an agency does not have an inspector general, or the Department of Justice. The estimated number of respondents (100) is based on the estimated number of contractors or subcontractors that report a suspected violation of the Kickback statute in a given year. According to subject matter experts with experience in an Office of the Inspector General this estimate is probably on the high side. Time required to compile documents and prepare information is estimated at 20 hours per allegation reported (In 2013 the estimated response time was increased from 1 hour to 20 hours after careful review).

Estimated respondents/yr.....	100
Responses annually.....	x <u>1</u>
Total annual responses.....	100
Estimated hrs/response.....	x <u>20</u>
Estimated total burden/hrs.....	2,000
Average wages (\$30.81 + 36%).....	x <u>\$46*</u>
Estimated cost to public.....	\$92,000

* We used a rate equivalent to a GS-12, Step 5 or \$33.72/hour (from the Office of Personnel Management (OPM) 2016 GS Salary Table - Hourly Rate), added overhead at 36.25 percent and rounded the average wages and overhead to the nearest dollar, or \$46 an hour. The estimated cost per response is approximately \$920.

14. Estimated cost to the Government. Time required for Governmentwide review is estimated by subject matter experts at 24 hours per response.

Annual Reporting Burden and Cost

Responses/yr.....	100
Reviewing time/hr.....	x <u>24</u>
Review time/yr.....	2,400
Average wages and overhead (\$30.81 + 36%).....	x <u>\$46*</u>
Total Government cost.....	\$110,400

* We used a rate equivalent to a GS-12, Step 5 or \$33.72/hour (from the Office of Personnel Management (OPM) 2016 GS Salary Table - Hourly Rate), added overhead at 36.25 percent and rounded the average wages and overhead to the nearest dollar, or \$46 an hour.

15. Explain reasons for program changes or adjustments to the burden reported in Item 13 or 14 of the OMB Form 83-I. There is no program change or adjustment increase of the estimated burden on the public.

16. Outline plans for published results of information collections. Results of this information collection will not be 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.