

**SUPPORTING STATEMENT  
FOR INFORMATION COLLECTION SUBMISSION  
9000-0136, COMMERCIAL ITEM ACQUISITIONS**

**A. Justification.**

1. **Administrative requirements.** The Federal Acquisition Streamlining Act of 1994 reformed Federal acquisition statutes to encourage and facilitate the acquisition of commercial items and services by the Federal Government. Accordingly, the Federal Acquisition Regulation (FAR) was amended to include streamlined/simplified procedures for the acquisition of commercial items. As part of the FAR streamlined/simplified procedures, FAR Provision 52.212-3, "Offeror Representations and Certifications - Commercial Items," was implemented to combine the multitude of individual provisions used in Government solicitations into a single provision for use in commercial acquisitions. With exception to the circumstances listed at FAR 12.102(e), FAR 12.301(b)(2) requires the incorporation of FAR 52.212-3 in all solicitations for commercial items or services.

2. **Use of the information.** Contracting officers use the information in a prospective contractor's response to FAR 52.212-3 to determine a contractor's eligibility for award, and to incorporate terms and conditions into the contract award.

3. **Use of information technology.** We use improved information technology to the maximum extent practicable. FAR 4.1201(a) requires most prospective contractors to complete their annual representations and certifications electronically via the System for Award Management (SAM). The data in SAM can be electronically maintained by contractors and retrieved by contracting officers. By using SAM to collect FAR 52.212-3 information, we eliminate the contractor's administrative burden of submitting the same information to various contracting offices, and establish a common source of this information for procurement offices across the Government.

4. **Efforts to identify duplication.** This requirement is being issued under the Federal Acquisition Regulation (FAR) which was developed to standardize Federal procurement practices and eliminate unnecessary duplication.

**5. If collection of information impacts small businesses or other entities, describe methods used to minimize burden.** The burden applied to small businesses is minimal and 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 less frequent basis is not practical. The information must be accurate at time of contract award to allow the most current and applicable representations and certifications to be applied to and incorporated in the contract.

**7. Special circumstances for collection.** Collection is consistent with guidelines in 5 CFR 1320.5(d)(2).

**8. Efforts to consult with persons outside the agency.** A 60-day notice was published in the *Federal Register* at 81 FR 43201 on July 1, 2016. No comments were received. A 30-day notice was published in the *Federal Register* at 81 FR 68416 on October 4, 2016.

**9. Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or guarantees.** No payments or gifts are provided to respondents.

**10. Describe assurance of confidentiality provided to respondents.** The information collected is disclosed only to the extent consistent with prudent business practices and current regulations.

**11. Additional justification for questions of a sensitive nature.** No sensitive questions are involved.

**12 & 13. Estimated Total Annual Public Hour and cost burden.** For purposes of estimation, the total number of vendors registered in SAM will serve as the number of possible respondents. As of May 2016, there were 397,000 vendors registered in SAM. Based on the data reported to the Federal Procurement Data System (FPDS), it is estimated that 60% of contracts awarded in FY15 were for services and 40% were for supplies. Applying the same ratio to the total number of vendors registered in SAM, there are an estimated 158,800 service vendors and 238,200 supply vendors registered in SAM.

All vendors are required to complete FAR 52.212-3 as part of their SAM record in order to be eligible for contract award and must update FAR 52.212-3 annually. As an additional certification responsibility within FAR 52.212-3, supply vendors must maintain lists of various country end products. Therefore, the number of responses for supply contractors is estimated to be two per respondent per year (i.e., one required initial entry/or annual review and one update per year); the number of responses for service contractors is estimated to be 1.1 per respondent per year (i.e., one required initial entry/or annual review per year for all respondents and one update per year for 10% of the respondents); and, the number of responses per respondent per year is estimated to be 1.46 (i.e., (total # of responses per respondent per year for supply contractors + total # of responses per respondent per year for service contractors)/number of respondents for contractors)).

We estimate the preparation time by contractors to be 30 minutes per response at \$46.00 an hour (rounded to the nearest dollar) based on the Office of Personnel Management (OPM) 2016 salary for a GS-12, step 5, plus 36.25 percent overhead. The 36.25 percent overhead rate is derived from Office of Management and Budget (OMB) Memorandum M-08-13, dated March 11, 2008. The estimated cost per response is approximately \$23.

Annual Reporting Burden for Contractors

Number of respondents . . . . .	397,000
Number of responses per respondent per year. . . . .	<u>x 1.46</u>
Total annual responses . . . . .	579,620
Preparation time per response. . . . .	<u>x .5</u>
Total response burden hours. . . . .	289,810
Average wage (\$33.72 + 36.25% OH). . . . .	<u>x \$46.00</u>
Estimated cost to public . . . . .	\$13,331,260

14. **Estimated cost to the Government.** For purposes of estimation, the total number of base contract awards valued greater than \$3,000 that used commercial item acquisition procedures, as reported to FPDS-NG, will serve as the total annual responses. According to agency data submissions to the FPDS in FY 2015, 337,465 base awards valued greater than \$3,000 using commercial item acquisition procedures were awarded by Federal agencies. We estimate the time needed by the Government to review and analyze each response to be 10

minutes per response at \$32.00 an hour (rounded to the nearest dollar) based on the OPM 2016 salary for a GS-09, step 5, plus 36.25 percent overhead. The 36.25 percent overhead rate is derived from OMB Memorandum M-08-13, dated March 11, 2008.

Annual Recordkeeping Burden and Cost

Total annual responses. . . . .	337,465
Review time per response. . . . .	x 0.167
Total burden hours. . . . .	<u>56,357</u>
Average wages + overhead (\$23.25/hr + 36.25% OH) x	<u>\$32.00</u>
Total Government cost . . . . .	\$1,803,413

**15. Explain reasons for program changes or adjustments reported in Item 13 or 14.** The number of respondents and the number of responses changed because they are fluid numbers that fluctuate based on changing variables (e.g., time, vendor capabilities, and available resources). The average hourly wage for both Government and contractor responses increased because OPM increased the GS hourly wage for both GS-9 and GS-12 employees. The number of responses per respondent per year changed because a substantial amount of the requested data in 52.212-3 remains consistent for a vendor from year to year. The remaining data that may change is either linked to another module in SAM that is not captured under this collection, or applies to only supply vendors. The total annual responses also changed because we changed the variables for the data in an effort to gain greater accuracy. Instead of utilizing the number of base awards exceeding the simplified acquisition threshold, we used the number of all base awards valued greater than \$3,000 that used commercial item acquisition procedures, as reported in FPDS-NG.

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

**17. Approval not to display expiration date.** An approval to not display the expiration date is not applicable to this collection.

**18. Explanation of exception to certification statement.** An exception to certification statement is not applicable to this collection.

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