

**SUPPORTING STATEMENT
FOR INFORMATION COLLECTION SUBMISSION
9000-0198, VIOLATIONS OF ARMS CONTROL TREATIES OR AGREEMENTS**

A. Justification.

1. **Administrative requirements.** This is a request for approval of a new information collection requirement: OMB Control Number 9000-0198 for Federal Acquisition Regulation (FAR) 52.209-XX, Violation of Arms Control Treaties or Agreements—Certification.

This information collection is necessary to implement section 1290 of the National Defense Authorization Act for Fiscal Year 2017. Unless the contract is for the procurement of goods or services along a major route of supply to a zone of active combat or major contingency operation, the prescription at FAR 9.109-5 requires contracting officers to insert the provision at 52.209-XX in solicitations exceeding the simplified acquisition threshold, other than those for the acquisition of commercial items.

Unless the offeror is providing evidence of a waiver or determination in accordance with paragraph (b)(2) of the provision, paragraph (b)(1) of the provision requires certification that—

(i) The offeror does not engage and has not engaged in any activity that contributed to or is a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act (22 U.S.C. 2593a); and

(ii) No entity owned or controlled by the Offeror is an entity organized under the laws of such country, that engages or has engaged in any activity that contributed to or is a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not

adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state.

In the interim rule, this certification will not be included in the annual representations and certifications because implementation considerations that will ensure minimum burden to prospective contractors are still being developed.

2. **Uses of information.** The information provided in accordance with the provision at FAR 52.209-XX is used to determine whether the offeror is eligible for award.

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.

4. **Non-duplication.** As a matter of policy, the FAR Council reviews the FAR to determine whether adequate language already exists. This information collection does not duplicate any other requirement.

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. The clause at 52.209-XX applies to solicitations and contracts exceeding the simplified acquisition threshold, which is set-aside for small businesses and also excludes contracts for the acquisition of commercial items.

6. **Describe consequence(s) to Federal program or policy activities if the collection is not conducted or is conducted less frequently.** Collection of information is allowed on an annual basis, unless there is a change. Representations and certifications will become outdated if the offeror is not required to review and update at least annually.

7. **Special circumstances or collection.** There are no 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 notice was published in the *Federal Register* at 83 FR XXXXX, on DATE.

XX respondent(s) submitted public comments. There were _____ public comments.

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. The collection of information does not include personally identifiable information; therefore no Privacy Impact Assessment or Privacy Act System of Records Notice is required.

11. Additional justification questions of a sensitive nature. No sensitive questions are involved in this information collection.

12 & 13. Estimated total annual public hour and cost burden. According to Federal Procurement Data System data for FY 2017, there were 24,949 new awards (13,439 to small entities) to 10,577 unique awardees (6,924 were small entities). Some offerors, however, may not receive an award in a given year, so the number of awardees was multiplied by a factor of 1.1, to estimate the number of entities submitting the annual certification into the System for Award Management database ($10,577 \times 1.1 = 11,634$, of which 7,616 are small entities). The first response of each offeror will be the most time consuming, because of the need to review the State Department compliance report. Time required to complete and review the certification the first time in a year is estimated at 40 minutes for small entities and 6.6 hours per year for other than small entities. These weighted averages are based on the following assumptions: To complete the certification, offerors' need to review the compliance report of the Department of State will vary on a case-by-case basis. For small entities, DoD, GSA, and NASA have estimated that 90 percent of the entities will not need to review the compliance report beyond checking the list of foreign countries in the table of contents. Five percent of the entities may also need to review the findings related to one or more listed countries, another 3 percent may also need to review the supporting background and analysis for the findings, and only 2 percent will need to send an inquiry to the Department of State. With regard to other than small businesses, which are more likely to also have subsidiaries, DoD, GSA, and NASA estimate 80 percent will just review the table of contents, 10 percent may review some of the findings, 9 percent will review

the supporting rationale, and only 1 percent will email the Department of State with an inquiry. Because a certification is required, we estimated senior level review would be required for the initial certification.

Although this interim rule requires separate certifications for each offer, most of the time related to the certification is due to the need to become familiar with the Department of State Compliance Report and determine that the offeror has not engaged in any prohibited activities. Once that research has been done, the time required to complete additional certifications will be significantly less.

We estimate the following burden for the first certification from each unique entity in a given year:

Estimated respondents/yr.....	11,634
Responses annually.....x	<u>1</u>
Total annual responses.....	11,634
Estimated hrs/response.....x	<u>2.72</u>
Estimated total burden/hrs.....	31,662
Average wages (\$30.81 + 36%).....x	<u>\$73.83*</u>
Estimated cost to public.....	\$2,337,605

The burden for additional certifications in a given year are estimated as follows:

Estimated respondents.....	11,634
Responses/ per year.....x	<u>7.6</u>
Additional offers received/per year.....	88,162
Estimated hours per response.....	.1
Estimated hours per year.....	8,816
Average wages and overhead (\$30.81 + 36%).....x	<u>\$73.83*</u>
Estimated cost to public	\$650,885

(Offers subsequent to the initial offer = 24,949 awards x 4 responses per award = 99,796 offers per year less 11,634 initial offers = 88,162)

Total burden for first year:

Estimated respondents/yr.....	11,634
Responses annually.....	x8.6
Total annual responses.....	99,796
Estimated hrs/response.....x	<u>.40</u>

Estimated total burden/hrs	40,478
Average wages (\$30.81 + 36%).....x	\$73.83*
Estimated cost to public.....	\$2,988,491

* We used a rate equivalent to a GS-14, Step 5 base pay + rest of US Locality pay, plus overhead at 36.25 percent = \$73.83 per hour.

Estimated cost to the Government. Time required for contracting officer review is estimated at .01 hours per response.

Annual Reporting Burden and Cost

Offers received/yr.....	99,796
Reviewing time/hr.....	.01
Review time/yr.....	998
Average wages and overhead (\$30.81 + 36%).....x	_____
<u>\$36.23**</u>	
Total Government cost.....	\$36,156

** We used a rate equivalent to a GS-9, Step 5 base pay + rest of US Locality pay, plus overhead at 36.25 percent = \$36.23 per hour.

15. **Explain reasons for program changes or adjustments reported in Item 12 or 14.** This is a new submission.

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.