

Supporting Statement for
OMB Control No. 9000-0193, FAR Part 9 Responsibility Matters

FAR Section(s) Affected: 52.209-2, 52.209-5, 52.209-6, 52.209-7, 52.209-9, 52.209-10, 52.209-11, 52.209-12, 52.212-3(h), 52.212-3(n), and 52.212-3(q)

A. Justification.

1. Administrative requirements.

The Federal Acquisition Regulatory Council is in the process of combining OMB Control Nos. for the Federal Acquisition Regulation (FAR), to reduce the administrative burdens associated with renewing the information collections by combining the information collections in a given FAR part. The review of the information collections by FAR part allows improved oversight to ensure there is not redundant or unaccounted for burden.

This justification supports the revision and extension of the expiration date of OMB Control No. 9000-0193 and combines it with the previously approved information collection OMB Control No. 9000-0094, with the new title "FAR Part 9 Responsibility Matters". Upon approval of this consolidated information collection, OMB Control No(s). 9000-0094 will be discontinued. The burden requirements previously approved under the discontinued Number(s) will be covered under OMB Control No. 9000-0193.

OMB Control#	Title	Expiration
9000-0193	Prohibition on Contracting With Corporations with Delinquent Taxes or a Felony Conviction	08/31/2019
9000-0094	Debarment and Suspension and Other Responsibility Matters	11/30/2019

This clearance covers the information that offerors and contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

a. Prohibition on Contracting With Corporations with Delinquent Taxes or a Felony Conviction (FAR 52.209-11, 52.209-12, and 52.212-3(q)). FAR provision 52.209-11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law, and its equivalent for commercial acquisitions at FAR provision 52.212-3(q), implement sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235). Sections 744 and 745 prohibit agencies from entering into a contract with any corporation with any delinquent Federal tax liability or a felony conviction, unless the agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

FAR provision 52.209-12, Certification Regarding Tax Matters, implements section 523 of the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2015 (Division B) and the same provision in subsequent appropriations acts. Agencies funded by these acts include the Department of Commerce, the Department of Justice, NASA, as well as some smaller agencies. This section prohibits award of any contract in an amount greater than \$5,000,000 by those covered agencies, unless the offeror affirmatively certifies that it has filed all Federal tax returns required during the three years preceding the certification; has not been convicted of a criminal offense under the Internal Revenue Code of 1986; and has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

b. Debarment, Suspension, and other Responsibility Matters (FAR 52.209-5, 52.209-6, and 52.212-3(h)). The Competition in Contracting Act of 1984 requires that contract awards be made to responsible prospective contractors only. To be determined responsible, a prospective contractor must meet a series of general standards. The standards include having a satisfactory record of integrity and business ethics, and being otherwise

qualified and eligible to receive an award under applicable laws and regulations. FAR provision 52.209-5, Certification Regarding Responsibility Matters, and its equivalent for commercial acquisitions at FAR provision 52.212-3(h), require the disclosure of the following critical factors by an offeror to be considered by the contracting officer in making a responsibility determination:

- Whether the offeror or any of its principals have been—
 - Debarred, suspended, proposed for debarment, declared ineligible for contract award;
 - Within a three-year period preceding their offer:
 - Convicted of or had a civil judgment rendered against them or indicted for commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract, violation of Federal or State antitrust statutes relating to the submission of offers, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;
 - Notified of any delinquent Federal taxes in an amount that exceeds \$3,500 for which the liability remains unsatisfied;
 - Had one or more contracts terminated for default by any Federal agency; or
 - Are presently indicted for, or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses identified above.
 - Have, within a three-year period preceding the offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500, for which the liability remains unsatisfied.
- Whether the offeror, within a three-year period preceding the offer has one or more contracts terminated for default by any federal agency.

If the offeror has responded affirmatively to the certifications in 52.209-5 or 52.212-3(h), the offeror shall provide additional information if requested by the contracting officer.

The offeror shall also provide immediate written notice to the contracting officer if, at any time prior to contract award, the offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

FAR clause 52.209-6, Protecting the Government's Interest When Subcontracting with Contractor's Debarred, Suspended, or Proposed for Debarment, similarly ensures that the Government deals with responsible subcontractors. Paragraph (b) of 52.209-6 prohibits contractors from entering into any subcontract in excess of \$35,000 with a subcontractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so. (There is an exception for subcontracts for commercially available off-the-shelf (COTS) items.) Paragraph (c) of the clause requires the contractor to require each proposed subcontractor whose subcontract will exceed \$35,000, to disclose to the contractor in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Government. Paragraph (d) of clause requires that before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment, a corporate officer or designee of the contractor must notify the contracting officer, in writing, of the name of the subcontractor; why the subcontractor is debarred, suspended, or ineligible; the compelling reason(s) for doing business with the subcontractor; and how the contractor will protect the Government's interests when dealing with such subcontractor. For any subcontract subject to Government consent, contracting officers shall not consent to such subcontracts, unless the agency head or a designee states in writing the compelling reasons for approving such subcontract.

c. Information Regarding Responsibility Matters and Updates to that Publicly Available Information (FAR 52.209-7 and 52.209-9). The Competition in Contracting Act of 1984 requires that contract awards be made to responsible prospective contractors only. To be

determined responsible, a prospective contractor must meet a series of general standards. The standards include having a satisfactory record of integrity and business ethics, and being otherwise qualified and eligible to receive an award under applicable laws and regulations. Section 872 of the Duncan Hunter National Defense Authorization Act of 2009 (Public Law 110-417), enacted on October 14, 2008, required the development and maintenance of an information system that contains specific information on the integrity and performance of covered Federal agency contractors and grantees. The Federal Awardee Performance and Integrity Information System (FAPIIS) was developed to address these requirements. FAPIIS provides users access to integrity and performance information from the FAPIIS reporting module in the Contractor Performance Assessment Reporting System (CPARS), as well as proceedings information and suspension/debarment information from SAM.

FAR provision 52.209-7, Information Regarding Responsibility Matters, requires information that is necessary to: (1) determine the responsibility of prospective contractors; and (2) ensure that contractors maintain for accuracy and completeness, their integrity and performance information upon which responsibility determinations rely. Paragraph (b) of the provision contains a check box to be completed by the offeror indicating whether or not it has current active Federal contracts and grants with total value greater than \$10,000,000. Paragraph (c) of the provision states that, if the offeror indicated in paragraph (b) that it has current active Federal contracts and grants with total value greater than \$10,000,000, then, by submission of the offer, the offeror represents that the information entered into FAPIIS is current, accurate, and complete as of the date of submission of the offer with regard to-

- Whether the offeror and/or any of its principals has, or has not, within the past five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level, that resulted in:
 - (A) A criminal conviction in the case of a criminal proceeding;

(B) The finding of fault and liability in a civil proceeding resulting in the payment of \$5,000 or more in damages, restitution, reimbursement, fine or penalty;

(C) The finding of fault and liability in an administrative proceeding resulting in the payment of a monetary fine or penalty of \$5,000 or more, or the payment of a reimbursement, restitution, or damages in excess of \$100,000; or

(D) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgement of fault by the contractor if the proceeding could have led to any of the outcomes specified in (A) through (C) above.

- If the offeror has been involved in the last five years in any of the occurrences listed in the provision (see (A) through (D) above), whether the offeror has provided the requested information with regard to each occurrence.

Paragraph (d) of the provision requires the offeror to post the information identified in the provision (see (A) through (D) above) in FAPIIS as required by maintaining an active registration in SAM.

FAR clause 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters, implements the requirement to keep FAPIIS up-to-date and the requirement of section 3010 of the Supplemental Appropriations Act, 2010 (Pub. L. 111-212), to make all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, publicly available. Paragraph (a) of the clause at 52.209-9 requires the contractor to update responsibility information on a semiannual basis, throughout the life of the contract, by posting the information in SAM. Paragraph (c) of the clause lets contractors know of their ability to provide feedback on information posted by the Government in FAPIIS and the procedure to follow in the event information exempt from public disclosure is slated to become publicly available information in FAPIIS.

d. Prohibition on Contracting with Inverted Domestic Corporations (FAR 52.209-2, 52.209-10, and 52.212-3(n)). Section 745 of

Division D of the Consolidated Appropriations Act, 2008 (Pub. L. 110-161) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions) prohibit, on a Governmentwide basis, the use of appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a subsidiary of such a corporation.

FAR provision 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations-Representation, and its equivalent for commercial acquisitions at FAR provision 52.212-3(n), requires each offeror to represent whether it is, or is not, an inverted domestic corporation or a subsidiary of an inverted domestic corporation.

FAR clause 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations, requires the contractor to promptly notify the contracting officer in the event the contractor becomes an inverted domestic corporation or a subsidiary of an inverted domestic corporation during the period of performance of the contract.

2. Uses of information. The information collected under this clearance is used in the source selection process, in evaluating an offeror's responsibility for contract award:

- When an offeror provides an affirmative response to the representation in FAR provisions 52.209-11 or 52.212-3(q), the contracting officer is required to request additional information from the offeror and notify the agency official responsible for initiating debarment or suspension action. The contracting officer shall not make an award using appropriated funds to the corporation unless the agency suspending or debarring official has considered suspension or debarment of the corporation and determined that this further action is not necessary to protect the interests of the Government.
- When FAR provision 52.209-12 is applicable, the contracting officer is unable to make an award using appropriated funds to an offeror unless the offeror made an affirmative certification under that provision.

- When an offeror provides an affirmative response to the certifications in FAR provisions 52.209-5 or 52.212-3(h), the contracting officer is required to request additional information from the offeror and notify, prior to proceeding with award, the agency official responsible for initiating debarment or suspension action.
- Similar to FAR provision 52.209-5, with regards to the information an offeror provides in FAPIIS in accordance with FAR provision 52.209-7, the contracting officer is required to request additional information from the offeror and notify if appropriate, prior to proceeding with award, the agency official responsible for initiating debarment or suspension action. The contracting officer is also required to document the contract file for each contract in excess of the simplified acquisition threshold to indicate how the information in FAPIIS was considered in any responsibility determination, as well as the action that was taken as a result of the information.
- The information provided by a contractor in accordance with FAR clause 52.209-9, is used by contracting officers in determining responsibility of that contractor when they are an offeror for subsequent procurements.
- When an offeror provides an affirmative response to the representation in FAR provisions 52.209-2 or 52.212-3(n), the contracting officer is prohibited from making an award to that offeror. The prohibition can be waived by the agency head if the agency head determines in writing that the waiver is required in the interest of national security, documents the determination, and reports it to the Congress.

The information provided by the subcontractors under 52.209-6(c) is used by prime contractors to evaluate the responsibility of the subcontractors. The information provided by the prime contractor under 52.209-6(d) when proposing to contract with a subcontractor that is debarred, suspended, or proposed for debarment, among other things, describes how the Government's interests will be protected by the contractor when dealing with such subcontractor.

The information provided by contractors under 52.209-10 is used to determine if the Government is prohibited from paying the

contractor for activities performed after the date when it becomes an inverted domestic corporation or subsidiary. Contracting officers should consult with legal counsel if, during the performance of a contract, a contractor becomes an inverted domestic corporation or a subsidiary of one.

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 electronically (e.g. in the System for Award Management (SAM)).

4. Efforts to identify duplication. These requirements are issued under the 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. With regards to the representations made under provisions 52.209-11 or 52.212-3(q), 52.209-2 or 52.212-3(n), and the certifications made under provisions 52.209-5 or 52.212-3(h), while the information is requested on a solicitation-by-solicitation basis, offerors may provide the information as infrequently as once if the information is provided through SAM. If the offeror plans on continuing to submit offers to Government, then the information provided through SAM needs to be updated at least annually. The representations and certifications in SAM need to stay current for any contracting officers evaluating offers in response to Government solicitations. Similarly, with regards to the information provided under provision 52.209-7, offerors provide the information through FAPIIS as opposed to individual proposals on a solicitation-by-solicitation basis.

With regards to the certifications made under provision 52.209-12, the information is provided on a solicitation-by-solicitation basis; this certification is not included in the SAM annual representations and certifications.

With regards to the disclosure required by subcontractors under clause 52.209-6, the information is provided on a solicitation-by-solicitation basis; collection on a less frequent basis is not practical as subcontractors are not required to register in SAM. In terms of the notification required by prime contractors under clause 52.209-6, the collection is only required in the event the prime contractor chooses to enter into a subcontract with a subcontractor that is debarred, suspended, or proposed for debarment.

With regards to the information required by contractors under clause 52.209-9, the responsibility information has to be updated on a semi-annual basis, throughout the life of the contract, through SAM. The clause allows, but does not require, contractors to post comments regarding information that has been posted by the Government in FAPIIS. The clause also allows contractors to assert in writing if some of the information posted to the non-public segment of FAPIIS is covered by a disclosure exemption under the Freedom of Information Act; in the assertion, the contractor must cite 52.209-9 and request removal within 7 calendar days of the posting to FAPIIS.

With regards to the information required by contractors under clause 52.209-10, the collection is only required in the event the prime contractor becomes either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation during contract performance.

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

8. Efforts to consult with persons outside the agency. A 60-day notice published in the *Federal Register* at 84 FR 24523 on May 28, 2019. No comments were received. A 30-day notice published in the *Federal Register* at 84 FR 38982 on August 8, 2019.

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

10. Describe assurance of confidentiality provided to respondents. This information is disclosed only to the extent consistent with prudent business practices, current regulations, and statutory requirements.

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

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

a. Prohibition on Contracting With Corporations with Delinquent Taxes or a Felony Conviction (FAR 52.209-11, 52.209-12, and 52.212-3(q)). For FAR provisions 52.209-11 and 52.212-3(q), the number of respondents is estimated based on SAM data – the number of active registrants in SAM as of April 12, 2019. This representation is included in the SAM annual representations and certifications. Therefore, submission is required only once per year, unless the offeror's circumstances change (estimated at .01). It is estimated that it takes 6 minutes to read and complete the 2 representations at 52.209-11 or 52.212-3(q).

Number of respondents	370,904
Number of responses per respondent	x 1.01
Total annual responses	374,613
Review time per response (hours)	x 0.1
Total burden hours	37,461.3
Average wages and overhead*	x \$55
Total estimated annual cost to the public	\$2,060,371.50

For FAR provision 52.209-12, the number of respondents is based on Federal Procurement Data System (FPDS) data for FY 2018 – the number of contract awards valued at greater than \$5 million from the Department of Commerce, the Department of Justice, and NASA. In general, we estimate receipt of 3 offers per solicitation. It is estimated that it takes 6 minutes to read and complete the 3 certifications 52.209-12.

Number of respondents	360
Number of responses per respondent	x 3
Total annual responses	1,080
Review time per response (hours)	x 0.1
Total burden hours	108
Average wages and overhead*	x \$55
Total estimated annual cost to the public	\$5,940

Total of 52.209-11, 52.212-3(q), and 52.209-12

Number of respondents	370,904 ¹
Number of responses per respondent	x 1.01 ²
Total annual responses	375,693
Review time per response (hours)	x 0.1
Total burden hours	37,569.30
Average wages and overhead*	x \$55
Total estimated annual cost to the public	\$2,066,311.50

*Based on the OPM GS-12/step 5 salary (\$40.51 an hour) plus 36.25% burden, rounded to the nearest dollar, or \$55 an hour. Reference Salary Table 2019-RUS, Effective January 2019, found at www.opm.gov.

b. Debarment, Suspension, and other Responsibility Matters (FAR 52.209-5, 52.209-6, and 52.212-3(h)). For FAR provisions 52.209-5 and 52.212-3(h), the number of respondents is estimated based on SAM data – the number of active registrants in SAM as of April 12, 2019. This certification is included in the SAM annual representations and certifications. Therefore, submission is required only once per year, unless the offeror’s circumstances change (estimated at .01). It is estimated that it takes half an hour to read and complete the certifications at 52.209-5 or 52.212-3(h).

It is estimated that one percent of respondents (3,709) will be required to submit additional information at the request of the

1The respondents to 52.209-12 are also subject to 52.209-11/52.212-3(q).

2Weighted average: # of respondents for 52.209-12/# of respondents for 52.209-11 (360/370,904). So 3 annual responses is 0.097% of the total annual responses and 1.01 respondents is 99.903% of the total annual responses, for an average of 1.01291 responses per respondent.

contracting officer or notify the contracting officer of a change in the certification prior to contract award, with an estimate of 8 hours per response (ref 52.209-5(b)).

	52.209-5(a)/ 52.212-3(h)	52.209-5(b)	Total
Number of respondents	370,904	3,709	374,613
Number of responses per respondent	1.01	1	1.01 ³
Total annual responses	374,613	3,709	378,322
Review time per response (hours)	0.5	8	0.57 ⁴
Total burden hours	187,306.50	29,672	216,978.50
Average wages and overhead*	\$55	\$55	\$55
Total estimated annual cost to the public	\$10,301,857.50	\$1,631,960	\$11,933,817.50

*Based on the OPM GS-12/step 5 salary (\$40.51 an hour) plus 36.25% burden, rounded to the nearest dollar, or \$55 an hour.

³Weighted average: 1.0099

⁴Weighted average: 0.57353

Reference Salary Table 2019-RUS, Effective January 2019, found at www.opm.gov.

For FAR clause 52.209-6, subcontract award data in the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) for FY 2018 was used as a basis to estimate number of respondents. For FY 2018, there were 90,267 subcontract awards reported into FSRS⁵. With regards to paragraph (c) of 52.209-6, prime contractors require each proposed subcontractor whose subcontract will exceed \$35,000, other than a subcontractor providing a COTS item, to disclose whether the subcontractor or its principals are debarred, suspended, or proposed for debarment by the Federal Government. This requirement flows down to all tiers if the prime contract is for the acquisition of noncommercial items. If the prime contract is for the acquisition of commercial items, the requirement does not flow down. It is estimated that this will result in 180,534 disclosures by subcontractors⁶. Since each subcontract requires 1 disclosure, by the proposed subcontractor, it is estimated to be 1 response per respondent. This response is estimated to average half an hour per response.

With regards to paragraph (d) of 52.209-6, prime contractors must notify the contracting officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a COTS item) that is debarred, suspended, or proposed for debarment. It is estimated that the number of prime contractors planning to enter into such a subcontract should be few, less than 1 respondent in a thousand (180). To justify such an action is estimated to require an average of 8 hours per response.

⁵In accordance with FAR clause 52.204-10, prime contractors report awards of first-tier subcontracts of \$30,000 or more into FSRS.

⁶FSRS data is both an overestimate and an underestimate. The 90,267 is an overestimate because it contains subcontracts between \$30,000 to \$35,000 and subcontracts for COTS. The 90,267 is an underestimate because it does not reflect subcontracts at all tiers. To account for subcontracts at all tiers, the first-tier data is doubled to 180,534.

	52.209-6(c)	52.209-6(d)	Total
Number of respondents	180,534	180	180,534 ⁷
Number of responses per respondent	1	1	1
Total annual responses	180,534	180	180,714
Review time per response (hours)	0.5	8	0.5 ⁸
Total burden hours	90,267	1,440	91,707
Average wages and overhead*	\$55	\$55	\$55
Total estimated annual cost to the public	\$4,964,685	\$79,200	\$5,043,885

*Based on the OPM GS-12/step 5 salary (\$40.51 an hour) plus 36.25% burden, rounded to the nearest dollar, or \$55 an hour. Reference Salary Table 2019-RUS, Effective January 2019, found at www.opm.gov.

c. Information Regarding Responsibility Matters and Updates to that Publicly Available Information (FAR 52.209-7 and 52.209-9). FAR provision 52.209-7 and FAR clause 52.209-9 has both reporting burden as well as record-keeping burden.

Reporting Burden for 52.209-7: The provision at FAR 52.209-7 requires that for each solicitation where the resultant contract value is expected to exceed \$550,000, the offeror responds in

⁷The respondents to 52.209-6(d) are also subject to 52.209-6(c).

⁸Weighted average: 0.50747

paragraph (b) as to whether or not it has active Federal contracts and grants that total greater than \$10,000,000. Only if the offeror responds affirmatively to paragraph (b) is there any further information collection requirement (i.e. paragraph (c)). Because a firm can quickly retrieve the total dollar amount of its current Federal contracts and grants, the estimated number of hours for response to the check block in paragraph (b) of the provision at 52.209-7 is 0.1 hours. For those firms who need to enter information into FAPIIS in accordance with paragraph (c), it is estimated to take one hour for that additional collection.

In order to estimate the number of respondents for both paragraph (b) and (c) of 52.209-7, award data from FPDS was used. In FY2018, there were 26,760 contracts awarded that would have been subject to 52.209-7, i.e. contracts over \$550,000. The Government estimates that there was an average of 3 responses per solicitation, resulting in 80,280 offers (26,760 x 3, rounded to the nearest hundred). Of the 80,280 offers, the Government estimates that an average of five responses annually will be received from 16,056 unique vendors (80,280/5). Based on the analysis, it has determined that the 16,056 unique vendors will be used as the basis for the number of initial respondents for this information collection (i.e. paragraph (b)). The Government further estimates that one third of the unique vendors (5,351) will be required to provide additional information under the provision (i.e. paragraph (c)).

	52.209-7(b)	52.209-7(c)	Total
Number of respondents	26,760	5,351	26,760 ⁹
Number of responses per respondent	5	1	3.2 ¹⁰
Total annual	80,280	5,351	85,631

9 Since the respondents to 52.209-7(c) are already accounted for under 52.209-7(b), the total is the number of respondents for 52.209-7(b) instead of a sum of the two sets of respondents.

10 Weighted average: 3.19996

responses			
Review time per response (hours)	0.1	1	0.16 ¹¹
Total burden hours	8,028	5,351	13,379
Average wages and overhead*	\$55	\$55	\$55
Total estimated annual cost to the public	\$441,540	\$294,305	\$735,845

*Based on the OPM GS-12/step 5 salary (\$40.51 an hour) plus 36.25% burden, rounded to the nearest dollar, or \$55 an hour. Reference Salary Table 2019-RUS, Effective January 2019, found at www.opm.gov.

Reporting Burden for 52.209-9: The clause at FAR 52.209-9 applies to that same solicitations that include the provision at FAR 52.209-7, and to contracts in which the offeror has indicated in paragraph (b) of the provision at 52.209-7 that it has current active Federal contracts and grants with total values greater than \$10,000,000. Of the unique vendors that were awarded contracts pursuant to FAR 52.209-9, and were required to enter information in FAPIIS, those contractors will have to update the FAPIIS-related data in SAM every 6 months. Because the FAPIIS information in SAM is maintained on individual vendors, contractors awarded more than one contract will still only have to update the data two times per year regardless of the number of contracts awarded them. An average burden estimate of 1 hour is used to make the semi-annual updates.

In order to estimate the number of respondents for 52.209-9, award data from FPDS was used. In FY2018, there were 26,760 contracts awarded that would have been subject to 52.209-7, i.e.

11 Weighted average: 0.15624

contracts over \$550,000, awarded to 14,206 unique vendors. The Government estimates that approximately one third (4,735) of the unique vendors submitting offers may answer the first question affirmatively (from the clause at FAR 52.209-7), and then will have to enter data into FAPIIS for 52.209-9.

Number of respondents	4,735
Number of responses per respondent	x 2
Total annual responses	9,470
Review time per response (hours)	x 1
Total burden hours	9,470
Average wages and overhead*	x \$55
Total estimated annual cost to the public	\$520,850

*Based on the OPM GS-12/step 5 salary (\$40.51 an hour) plus 36.25% burden, rounded to the nearest dollar, or \$55 an hour. Reference Salary Table 2019-RUS, Effective January 2019, found at www.opm.gov.

Recordkeeping Burden for 52.209-7 and 52.209-9: The number of recordkeepers is based on the number of respondents submitting data into FAPIIS, whether or not they receive an award (i.e. those having to provide information for FAR provision 52.209-7(c)). For recordkeeping, the Government has used an average burden estimate of 100 hours annually per respondent to include the time necessary per respondent to maintain the company's information internally. Most large businesses and some small businesses have established systems to track compliance.

Number of recordkeepers	5,351
Review time per response (hours)	x 100
Total burden hours	535,100
Average wages and overhead*	x \$55
Total estimated annual cost to the public	\$29,430,500

*Based on the OPM GS-12/step 5 salary (\$40.51 an hour) plus 36.25% burden, rounded to the nearest dollar, or \$55 an hour. Reference Salary Table 2019-RUS, Effective January 2019, found at www.opm.gov.

d. Prohibition on Contracting with Inverted Domestic Corporations (FAR 52.209-2, 52.209-10, and 52.212-3(n)). For FAR provisions 52.209-2 and 52.212-3(n), the number of respondents is estimated based on SAM data – the number of active registrants in SAM as of April 12, 2019. This certification is included in the SAM annual representations and certifications. Therefore, submission is required only once per year, unless the offeror’s circumstances change (estimated at 0.1). It is estimated that it takes 1 minute to read and complete the certifications at 52.209-2 or 52.212-3(n).

For FAR clause 52.209-10, the number of respondents (i.e. contractors that become either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation during contract performance and as such is required to notify the contracting officer) is estimated to be minimal since this may result in the Government being prohibited from paying the contractor. For those respondents, it is estimated that it takes 10 minutes to provide the notification required by paragraph (d) of the clause.

	52.209-2 / 52.212-3(n)	52.209-10	Total
Number of respondents	370,904	2	370,904 ¹²
Number of responses per respondent	1.1	1	1.1 ¹³
Total annual responses	407,994.4	2	407,996.4
Review time per response	0.01667	0.1667	0.01667 ¹⁴

12 The respondents to 52.209-10 are also subject to 52.209-2/52.212-3(n) and so the respondents for these provisions include any possible respondents to 52.209-10.

13 Weighted average

14 Weighted average

(hours)			
Total burden hours	6,801.3	0.3334	6,801.6 ¹⁵
Average wages and overhead*	\$55	\$55	\$55
Total estimated annual cost to the public	\$374,071.50	\$18.34	\$374,088

*Based on the OPM GS-12/step 5 salary (\$40.51 an hour) plus 36.25% burden, rounded to the nearest dollar, or \$55 an hour. Reference Salary Table 2019-RUS, Effective January 2019, found at www.opm.gov.

e. Summary

Estimated total number of respondents	1,328,450
Total annual responses	1,437,826.4
Estimated total burden hours	375,905.4
Total estimated annual cost to public	\$20,674,797

14. Estimated cost to the Government.

a. Prohibition on Contracting With Corporations with Delinquent Taxes or a Felony Conviction (FAR 52.209-11, 52.209-12, and 52.212-3(q)). The time estimates are based on receiving, reviewing and analyzing the information submitted by the offeror. The estimated cost to the Government is estimated as follows:

Total annual responses	375,693
Review time per response (hours)	x 0.5 ¹⁶
Total burden hours	187,846.50
Average wages and overhead*	x \$55
Total estimated annual cost	\$10,331,557.50

¹⁵ Rounded to the nearest tenth.

¹⁶ This is a weighted average of the negligible amount of time to review negative representations, and the occasional more substantial amount of time required if a respondent indicates a problem with regard to felony conviction or delinquent taxes.

*Based on the OPM GS-12/step 5 salary (\$40.51 an hour) plus 36.25% burden, rounded to the nearest dollar, or \$55 an hour. Reference Salary Table 2019-RUS, Effective January 2019, found at www.opm.gov.

b. Debarment, Suspension, and other Responsibility Matters (FAR 52.209-5, 52.209-6, and 52.212-3(h)). The time estimates are based on receiving, reviewing and analyzing the information submitted by the offeror and contractor. Note that no burden is estimated for the Government in terms of paragraph (c) of 52.209-6 because the Government is not reviewing the disclosures made by prospective subcontractors to the prime contractor.

The estimated cost to the Government is estimated as follows:

	52.209-5(a)/ 52.212-3(h)	52.209-5(b)	52.209-6(d)	Total
Annual Responses	374,613	3,709	180	378,502
Review time per response (hours)	0.02	4	16	0.07 ¹⁷
Total burden hours	7,492.3	14,836	2,880	25,208.3
Average wages and overhead*	\$55	\$55	\$55	\$55
Total estimated annual cost	\$412,076.50	\$815,980	\$158,400	\$1,386,456.50

*Based on the OPM GS-12/step 5 salary (\$40.51 an hour) plus 36.25% burden, rounded to the nearest dollar, or \$55 an hour. Reference Salary Table 2019-RUS, Effective January 2019, found at www.opm.gov.

c. Information Regarding Responsibility Matters and Updates to that Publicly Available Information (FAR 52.209-7 and 52.209-9).

¹⁷Weighted average: 0.0666

The time estimates are based on receiving, reviewing and analyzing the information submitted by the offeror and contractor.

The estimated cost to the Government is estimated as follows:

	52.209-7(b)	52.209-7(c)	52.209-9	Total
Annual Responses	80,280	5,351	9,470	95,101
Review time per response (hours)	0.02	1	.1	0.08 ¹⁸
Total burden hours	1,605.6	5,351	947	7,903.6
Average wages and overhead*	\$55	\$55	\$55	\$55
Total estimated annual cost	\$88,308	\$294,305	\$52,085	\$434,698

*Based on the OPM GS-12/step 5 salary (\$40.51 an hour) plus 36.25% burden, rounded to the nearest dollar, or \$55 an hour. Reference Salary Table 2019-RUS, Effective January 2019, found at www.opm.gov.

d. Prohibition on Contracting with Inverted Domestic Corporations (FAR 52.209-2, 52.209-10, and 52.212-3(n)). The time estimates are based on receiving, reviewing and analyzing the information submitted by the offeror and contractor.

The estimated cost to the Government is estimated as follows:

	52.209-2 / 52.212-3(n)	52.209-10	Total
Annual Responses	407,994.4	2	407,996.4
Review time	0.02	24	0.02 ¹⁹

¹⁸Weighted average: 0.08311

per response (hours)			
Total burden hours	8,160	48	8,208
Average wages and overhead*	\$55	\$91	\$55 ²⁰
Total estimated annual cost	\$448,800	\$4,368	\$453,168

*Based on either a) the OPM GS-12/step 5 salary (\$40.51 an hour) plus 36.25% burden, rounded to the nearest dollar, or \$55 an hour or b) the OPM GS-15-step 5 salary (\$66.96 an hour) plus 36.25% burden, rounded to the nearest dollar, or \$91 an hour. Reference Salary Table 2019-RUS, Effective January 2019, found at www.opm.gov.

e. Summary

Total annual responses	1,257,292.4
Total burden hours	229,166.4
Total estimated annual cost to the Government	\$12,605,880

15. Explain reasons for program changes or adjustments reported in Item 13 or 14. The FAR requirement remains the same for all of these information collections. However, there were adjustments to each based on the following:

a. Prohibition on Contracting With Corporations with Delinquent Taxes or a Felony Conviction. The total annual burden increased by 1,885.3 hours (from 35,684 hours to 37,569.3 hours) due to use of more current data. For example, in the prior renewal the number of active SAM registrants was approximately 20,000 less than the number of active SAM registrants for this renewal.

b. Debarment, Suspension, and other Responsibility Matters. The total annual burden decreased by 80,864.5 hours (from 389,550 hours to 308,685.5 hours) due to use of more current

¹⁹Weighted average: 0.020118

²⁰Weighted average: \$55.2105

data as well as a change in methodology for calculating the burden due to use of a more relevant data source. For example, in the prior renewal, the number of subcontracts was estimated by looking at the number of prime contracts awarded in FPDS; for this renewal, FSRS was used as the data source since FSRS contains data on number of subcontracts awarded by prime contractors.

c. Information Regarding Responsibility Matters and Updates to that Publicly Available Information. The total annual burden increased by 1,569 hours (from 21,280 hours to 22,849 hours) due to use of more current data from FPDS.

d. Prohibition on Contracting with Inverted Domestic Corporations. The total annual burden increased by 2,485 hours (from 4,317 hours to 6,802 hours) due to new estimated hours per response as well as use of more current SAM data. The time estimated for representations of an offeror's inverted domestic corporation status was increased from 36 seconds to a full minute; a minute is believed to be more appropriate than half a minute.

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.