

**SUPPORTING STATEMENT
INFORMATION COLLECTION 9000-0078
Certain Federal Acquisition Regulation Part 15 Requirements**

FAR Section Affected: 15.407-2(e), 52.215-9, 52.215-19, 52.215-22, and 52.215-23

A. Justification.

1. **Administrative requirements.** The Federal Acquisition Regulatory Council is in the process of combining OMB control numbers for the Federal Acquisition Regulation (FAR) by FAR part. This consolidation is expected to improve industry's ability to easily and efficiently identify all burdens associated with a given FAR part. The review of the information collections by FAR part allows improved oversight to ensure there is no redundant or unaccounted for burden placed on industry. Lastly, combining information collections in a given FAR part is also expected to reduce the administrative burden associated with processing multiple information collections.

This justification supports revision and extension of the expiration date of OMB Control No. 9000-0078 and combines it with the previously approved information collections OMB control numbers 9000-0115 and 9000-0173, with the new title "Certain Federal Acquisition Regulation Part 15 Requirements". Upon approval of this consolidated information collection, OMB control numbers 9000-0115 and 9000-0173 will be discontinued. The burden requirements previously approved under the discontinued numbers will be covered under OMB control number 9000-0078.

OMB Control #	Title	Expiration
9000-0078	Make-or-Buy Program	10/31/2019
9000-0115	Notification of Ownership Changes	10/31/2019
9000-0173	Limitations on Pass-Through Charges	10/31/2019

This clearance covers the information that offerors/contractors must submit to comply with the following FAR requirements:

- a. **15.407-2(e), Make-or-buy programs.** When prospective contractors are required to submit proposed make-or-buy program plans for negotiated acquisitions, paragraph (e) requires the following information in their proposal: a description of each major item or work effort; categorization of each major item or work effort as "must make," "must buy, or "can either make or buy;" for each item

or work effort categorized as "can either make or buy," a proposal either to "make" or to "buy;" reasons for categorizing items and work efforts as "must make" or "must buy," and proposing to "make" or to "buy" those categorized as "can either make or buy;" designation of the plant or division proposed to make each item or perform each work effort, and a statement as to whether the existing or proposed new facility is in or near a labor surplus area; identification of proposed subcontractors, if known, and their location and size status; any recommendations to defer make-or-buy decisions when categorization of some items or work efforts is impracticable at the time of submission; and any other information the contracting officer requires in order to evaluate the program.

- b. **52.215-9, Changes or Additions to Make-or-Buy Program.** This clause requires the contractor to submit, in writing, for the contracting officer's advance approval a notification and justification of any proposed change in the make-or-buy program incorporated in the contract.
- c. **52.215-19, Notification of Ownership Changes.** This clause requires contractors to notify the administrative contracting officer when the contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records. Notice of changes of ownership are necessary to adequately administer the cost principle at FAR 31.205-52, Asset valuations, which addresses the allowability of certain costs resulting from asset valuations following business combinations.
- d. **52.215-22, Limitations on Pass-Through Charges— Identification of Subcontract Effort.** This provision requires offerors submitting a proposal for a contract, task order, or delivery order to provide the following information with their proposal: (1) the total cost of the work to be performed by the offeror, and the total cost of the work to be performed by each subcontractor; (2) if the offeror intends to subcontract more than 70 percent of the total cost of work to be performed, the amount of the offeror's indirect costs and profit/fee applicable to the work to be performed by the subcontractor(s), and a description of the value added by the offeror as related to the work to be performed by the subcontractor(s); and (3) if any subcontractor proposed intends to subcontract to a lower-tier subcontractor more than 70 percent of the total cost of work to be performed the amount of the subcontractor's indirect costs and profit/fee applicable to

the work to be performed by the lower-tier subcontractor(s), and a description of the added value provided by the subcontractor as related to the work to be performed by the lower-tier subcontractor(s).

- e. **52.215-23, Limitations on Pass-Through Charges.** This clause requires contractors to provide a description of the value added by the contractor or subcontractor, as applicable, as related to the subcontract effort if this effort changes from the amount identified in the proposal such that it exceeds 70 percent of the total cost of work to be performed. The following contract types are excluded from this information collection requirement: a firm-fixed-price contract awarded on the basis of adequate price competition; a fixed-price contract with economic price adjustment awarded on the basis of adequate price competition; a firm-fixed-price contract for the acquisition of a commercial item; a fixed-price contract with economic price adjustment, for the acquisition of a commercial item; a fixed-price incentive contract awarded on the basis of adequate price competition; or a fixed-price incentive contract for the acquisition of a commercial item.

2. **Use of Information.**

- a. **15.407-2(e), and 52.215-9 (Make-or-buy programs).** The Government uses the information to ensure negotiation of reasonable contract prices, satisfactory performance, or implementation of socioeconomic policies.
- b. **52.215-19, Notification of Ownership Changes.** The notification of ownership change enables the Government to determine properly allowable costs in a timely manner.
- c. **52.215-22, and 52.215-23 (Limitations on Pass-Through Charges).** Contracting officers will use the information to assess the value added by a contractor or subcontractor in relation to proposed, billed, or claimed indirect costs or profit/fee on work performed by a subcontractor. This information is required to ensure that pass-through charges under contracts and subcontracts are not excessive, in accordance with section 852 of Public Law 109-364 as well as section 866 of Public Law 110-417.

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.

4. **Efforts to identify duplication.** This requirement is being 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.** Collection of information on a basis other than solicitation-by-solicitation or contract-by-contract is not practical.

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. A 60-day notice was published in the *Federal Register* at 84 FR 29207, on June 21, 2019. No comments were received.

B. A 30-day notice was published in the *Federal Register* at 84 FR 44896, on August 27, 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 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.**

a. **15.407-2(e), and 52.215-9 (Make-or-buy programs).** There is no centralized database in the Federal Government that maintains information regarding this matter. Therefore, the parameters for this information collection were defined based on the guidance to

contracting officers to require make-or-buy programs per FAR 15.407-2(c). The contracts associated with this information collection are: negotiated acquisitions requiring certified cost or pricing data whose estimated value is \$13.5 million or more, except when the proposed contract is for research or development. Based on FY18 Federal Procurement Data System (FPDS) data, it is estimated that 130 unique vendors (respondents) met the above parameters and likely to have a make-or-buy program subject to the requirements of this collection. Additionally, a review of the estimated burden by agency experts revealed that the estimated burden was realistic. Time required to read and prepare information is estimated at 8 hours per response.

Annual Reporting Burden

Estimated respondents/yr	130
Responses annually	<u>x 3</u>
Total annual responses	390
Estimated hrs/response	<u>x 8</u>
Estimated total burden/hrs	3,120
Hourly rate*.....	<u>x \$ 55</u>
Estimated cost to public.....\$	171,600

b. 52.215-19, Notification of Ownership Changes. The number of contractors required to report changes in ownership that are expected to impact their indirect costs and rate structures was based on two calculations: (1) the percentage of all Federal contractors who experience changes in ownership in a given year, and (2) that percentage was applied to all Federal contractors who must submit certified cost or pricing data in a given year. Based on FY18 FPDS data, it is estimated that 142,091 unique entities received awards that year, and 555 unique entities either: (a) submitted new representations, given a recent merger or acquisition (and stock ownership changes) without novation agreements, or (b) entered novation agreements (given a change in ownership of contractor assets). The rate of ownership changes equates to 0.39%. This percentage was applied to the total number of contracts awarded in FY18 that involved submission of certified cost or pricing data, or other pre-award or post-award cost determination (FAR 31.2), which was 1,573. Assuming that the rate of ownership changes is constant for all types of Federal contractors, the number of contractors affected by this information collection requirement, rounded to the nearest number, is 6. However, we are using 10 respondents as this is the lowest threshold in the definition of collection of information at 5 CFR 1320.3(c). Time required to prepare and read information

is estimated at 1 hour and 1/2 hour for recordkeeping, per completion.

Annual Reporting and Recordkeeping Burden

Estimated respondents/recordkeepers per year	10
Responses annually	x <u>1</u>
Total annual responses	10
Estimated hrs/response	x 1.5_
Estimated total burden/hrs	15
Hourly rate**	x \$ 78
Estimated response cost to public.....	\$1,170.00

Total burden hours 15 (10 reporting hours + 5 recordkeeping hours)

c. 52.215-22, and 52.215-23 (Limitations on Pass-Through Charges). There is no centralized database in the Federal Government that maintains information regarding the use of the provision at FAR 52.215-22 or the clause at FAR 52.215-23. Therefore, the parameters for this information collection were defined based on the prescription from the provision and clause. It was determined that the types of contracts associated with this information collection are:

(1) For civilian agencies, cost-reimbursement type contracts and the total estimated contract or order value exceeds the simplified acquisition threshold (SAT). The National Defense Authorization Act for Fiscal Year 2018 (NDAA FY18) (Public Law 115-91) (Section 805) increased the SAT to \$250,000. FAR Case 2018-004 was opened to implement the appropriate statutory changes in the FAR that are compelled by section 805 of the NDAA FY18. However, 23 agencies have issued deviations and governmentwide systems have already been updated to use the new threshold ahead of the FAR.

(2) For DoD, the total estimated contract or order value exceeds the threshold for obtaining cost or pricing data in FAR 15.403-4 (Section 811 of the NDAA FY18 increased this threshold to \$2,000,000. FAR Case 2018-005 was opened to implement the appropriate statutory changes in the FAR. However, DoD and a number of civilian agencies have issued deviations to use the new threshold ahead of the FAR.); and the contract type is expected to be any contract type except—

(i) A firm-fixed-price contract awarded on the basis of adequate price competition;

- (ii) A fixed-price contract with economic price adjustment awarded on the basis of adequate price competition;
- (iii) A firm-fixed-price contract for the acquisition of a commercial item;
- (iv) A fixed-price contract with economic price adjustment, for the acquisition of a commercial item;
- (v) A fixed-price incentive contract awarded on the basis of adequate price competition; or
- (vi) A fixed-price incentive contract for the acquisition of a commercial item.

Based on FY 2018 FPDS data regarding the types of contracts to which this information collection applies, it is estimated that the requirement for an offeror to identify the percent of effort it intends to perform, and the percent to be performed by each subcontractor, is as follows:

- For civilian agencies, FPDS shows 5,483 contracts, awarded to 2,243 unique vendors, potentially impacted by this information collection.
- For DOD, FPDS shows 4,368 contracts, awarded to 1,860 unique vendors, potentially impacted by this information collection.
- It is further estimated that 3 responses would be submitted in response to a solicitation for each of these contracts that includes the applicable clauses.

This equates to a total of 9,851 contracts awarded in FY 2018 to 4,103 unique vendors. It is estimated that an additional number of vendors, approximately 410 or 10 percent, would have submitted offers and not have been awarded a contract. Accordingly, the total number of respondents is estimated to be 4,513 (4,103 + 410) to account for these additional vendors that are not accounted for in the unique vendor total. Based on discussions with subject matter experts, it was determined that 9,851 contract awards was a sufficient baseline for estimating the number of solicitations that would include the applicable clause. It is estimated that 3 responses would be submitted in response to a solicitation that included the applicable clauses, for a total of 29,553 estimated responses per year (9,851 solicitations x 3 solicitation responses each = 29,553 responses).

The number of responses per respondent is estimated at approximately 6.5 (29,553 responses/4,513 respondents). It is

also determined that the estimated time required to read and prepare a response is 2 hours. This determination is based on the consideration of prior public comments. Computations are provided below.

Annual Reporting Burden

Estimated respondents/yr	4,513
Responses annually (approximately).....	<u>x 6.5</u>
Total annual responses.....	29,553
Estimated hrs/response.....	<u>x 2.0</u>
Estimated total burden/hrs.....	59,106
Hourly rate*	<u>x \$55</u>
Estimated cost to the public.....	\$3,250,830

Note: The hourly wage rate is based on OMB Circular A-76 guidance for quantifying the cost of efforts, includes: (1) the complexity level; and (2) a 36.25% fringe and overhead burden rate, the one mandated by OMB memorandum M-08-13 for use in public-private competition, as updated by OMB for the current year. Reference Salary Table 2019-RUS, Effective January 2019, found at www.opm.gov.

* The hourly wage based on the complexity level deemed to be at the OPM GS-12/step 5 level (\$40.51/hour) plus 36.25%, rounded to the nearest dollar, or \$55 an hour.

** The hourly wage based on the complexity level deemed to be at the OPM GS-14/step 5 level (\$56.92/hour) plus 36.25%, rounded to the nearest dollar, or \$78 an hour.

14. Estimated cost to the Government.

a. **15.407-2(e), and 52.215-9 (Make-or-buy programs).** Time required for Government review is estimated at 8 hours per response.

Estimated responses/yr.....	390
Reviewing time (hr)/response.....	<u>x 8</u>
Review time/yr.....	3,120
Hourly rate*	<u>x 55</u>
Estimated cost to the Government.....	\$171,600

b. **52.215-19, Notification of Ownership Changes.** Time required for Governmentwide review is estimated at 30 minutes (0.5 hour) per response.

Total annual responses.....	10
Reviewing time (hr)/response.....	<u>x 0.5</u>

Total burden hours	5
Hourly rate**	x \$ 78
Estimated cost to the Government.....	\$ 390.00

c. **52.215-22, and 52.215-23 (Limitations on Pass-Through Charges)**. It is estimated that it will take the Government 1 hour to review and process the information in each response.

Total annual responses.....	29,553
Review time per response.....	x 1
Total burden hours.....	29,553
*Average wages/hr. with benefits & overhead.....	x \$55
Estimated cost to the Government.....	\$1,625,415

15. Explain reasons for program changes or adjustments reported in Item 13 or 14. The information collection requirements in the FAR remain unchanged.

For the make-or-buy programs, the decrease of responses from 450 to 390 and the associated decrease in estimated burden hours from 3,600 to 3,120 hours is an adjustment due to the number of contracts in FPDS for FY18 to which this information collection applies.

For the notification of ownership changes, the decrease of responses from 138 to 10 and the associated decrease in estimated burden hours from 138 to 10 hours is an adjustment due to the number of contracts in FPDS for FY18 to which this information collection applies. It also appears an incorrect number of unique entities that received awards was used for the previous information collection extension.

For the limitations on pass-through charges, the decrease of responses from 40,351 to 29,553 and the associated decrease in estimated burden hours from 80,702 to 59,106 hours is an adjustment due to the number of contracts in FPDS for FY18 to which this information collection applies, and the increases in the threshold for obtaining cost or pricing data and the SAT.

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.