

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

FAR Section(s) Affected: 52.203-7

A. Justification.

1. Administrative requirements. This clearance covers the information that contractors must submit to comply with the Federal Acquisition Regulation (FAR) requirements at clause 52.203-7, Anti-Kickback Procedures. FAR 52.203-7 requires that all contractors have in place and follow reasonable procedures designed to prevent and detect in its own operations and direct business relationships, violations of 41 U.S.C. chapter 87, Kickbacks. This clause requires contractors to:

- Report 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 Attorney General, a possible violation when the contractor has reasonable grounds to believe that a violation described in paragraph (b) of the FAR clause at 52.203-7 may have occurred.
- Notify the contracting officer when monies are withheld from sums owed a subcontractor under the prime contract when the contracting officer has directed the prime contractor to do so to offset the amount of a kickback.
- Incorporate the substance of the FAR 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 contracting officer will use the information 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 may 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, email, or by facsimile.

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, 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 businesses. The impact of the information collection requirement is reduced because the clause at 52.203-7 only applies to solicitations and contracts that 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.

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. A 60-day notice was published in the *Federal Register* at 84 FR 44619 on August 26, 2019. One comment was received; however, it did not change the estimate of the burden.

Comment: The commenter asked for support in urging and supporting Senator Thune to reintroduce S. 545, the Pay Our Coast Guard Act, and seek quick action in bringing it to the floor for a vote. The act was introduced in the 114th Congress to make continuous appropriations for Coast Guard pay for a government shutdown.

Response: This comment is out of scope because the information collection requirements covered through OMB Control No. 9000-0091 do not relate to the topic of appropriations for Coast Guard pay.

B. A 30-day notice was published in the *Federal Register* at 84 FR 65157, on November 26, 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 questions of a sensitive nature.** No sensitive questions are involved.

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.

Estimated respondents/yr.....	100
Responses/respondent.....	x <u>1</u>
Total annual responses.....	100
Estimated hrs/response.....	x <u>20</u>
Estimated total burden hrs.....	2,000
Hourly rate*.....	x <u>\$55</u>
Estimated cost to public	\$ 110,000

*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.

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

Responses/yr.....	100
Reviewing time/response.....	x <u>24</u>
Review time/yr.....	2,400
Hourly rate*.....	x <u>\$55</u>
Total Government cost.....	\$132,000

15. Explain reasons for program changes or adjustments to the burden reported in Item 13 or 14. This submission requests a revision and renewal of OMB approval of an information collection requirement in the FAR. The estimated cost to the public has increased due to higher cost per hour rates in FY 2019. The total burden hours to the public has not changed from the prior collection.

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.