

## SUPPORTING STATEMENT

### OMB Control Number 0704-0477 - Organizational Conflicts of Interest in Major Defense Acquisition Programs

#### A. JUSTIFICATION

##### 1. Need for the Information Collection

This justification supports a request for renewal of OMB Control Number 0704-0477. This information collection concerns organizational conflicts of interest in Major Defense Acquisition Programs (MDAPs). This collection requirement is necessary to implement section 207 of the Weapon Systems Acquisition Reform Act of 2009 (WSARA). Section 207 requires that DoD provide uniform guidance in the Defense Federal Acquisition Regulation Supplement (DFARS) and tighten existing requirements for organizational conflicts of interest (OCIs) by contractors in major defense programs.

This statutory requirement is implemented in DFARS 209.571-8 and the associated solicitation provision 252.209-7008, Notice of Prohibition Relating to Organizational Conflict of Interest–Major Defense Acquisition Program. Notwithstanding the section 207 information collection language, the requirement to submit a mitigation plan when there was an organizational conflict of interest that can be resolved through mitigation has existed for many years. It was formalized under this information collection clearance because of the new explicit statutory requirement to address organizational conflicts of interest in MDAPs. In order to comply with the statute, DFARS provision 252.209-7008 requires an offeror to submit a mitigation plan if requesting an exemption from the statutory limitation on future contracting.

##### 2. Use of the Information

DoD will use this information to resolve organizational conflicts of interest arising in a systems engineering and technical assistance contract for an MDAP, as required by section 207 of WSARA.

##### 3. Use of Information Technology

Information technology is used to the maximum extent practicable. Offerors and contractors submit the required information electronically (100% of the time).

##### 4. Non-duplication

As a matter of policy, DoD reviews the Federal Acquisition Regulation to determine if adequate language already exists. The language in DFARS subpart 209.5 and in the provision is required by statute.

##### 5. Burden on Small Business

The collection of this information is not expected to have a significant impact on a substantial number of small businesses or other small entities. The burden applied to small business is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

6. Less Frequent Collection

Less frequent collection of the information would not permit DoD to comply with the statutory requirements to identify and resolve organizational conflicts of interest.

7. Paperwork Reduction Act Guidelines

There are no special circumstances for collection. Collection of this information is consistent with the guidelines at 5 CFR 1320.5(d)(2).

8. Consultation and Public Comments

a. The Program Acquisition and Contract Policy Directorate was consulted as to the current number of major defense acquisition programs and pre-major defense acquisition programs.

b. This information collection is consistent with the guidelines in 5 CFR 1320.6. Public comments were solicited in the *Federal Register* on February 26, 2020, ([85 FR 11052](#)). One comment was received.

c. A notice of submission to OMB for clearance of this information collection was published in the *Federal Register* on May 28, 2020 ([85 FR 32020](#)).

9. Gifts or Payment

DoD will not provide a payment or gift to respondents to this information collection requirement.

10. Confidentiality

This information is disclosed only to the extent consistent with statutory requirements, current regulations, and prudent business practices. The collection of information does not include any personally identifiable information; therefore, no Privacy Impact Assessment or Privacy Act System of Records Notice is required.

11. Sensitive Questions

No sensitive questions are involved in the information collection.

12. Respondent Burden and its Labor Costs

The estimated respondent burdens and labor costs are shown in the following table and a discussion of the burdens is provided below the table.

Estimation of Respondent Burden: 252.209-7008	
Number of respondents	20
Responses per respondent (approximately)	3
Number of responses	60
Hours per response	40
Estimated hours (number of responses multiplied hours per response)	2,400
Cost per hour (hourly wage)	\$93.82
Annual public burden (estimated hours multiplied by cost per hour)	\$225,168

*Note:* The hourly wage was developed by using the 2020 Office of Personnel Management GS-15, step 5, rate of \$68.86 x 1.3625 O/H rate = \$93.82 rounded to \$79.

Although definitive information is not available on how often a mitigation plan is required to comply with DFARS clause 252.209-7008, DoD relied on the judgment and expertise of subject matter experts within DoD. The annual total burden hours are estimated on the following basis:

There are an estimated 100 MDAP and pre-MDAP programs. DoD estimates that there is approximately one Systems Engineering and Technical Assistance (SETA) contract per year per MDAP and pre-MDAP. DoD further estimates that there are four offers per solicitation for a SETA contract and that approximately 15 percent of the offerors may submit a mitigation plan with their offer. Since enactment of the statute, many companies have divested themselves of divisions or subsidiaries that could cause a hindrance to participation by the company in subsequent phases of the MDAP, either as a prime contractor or a major subcontractor. That would equal about 60 mitigation plans per year (100 x 4 x .15). If an offeror submitting a mitigation plan submits approximately 3 per year, then there are 20 respondents that submit mitigation plans in a given year (60/3). DoD estimates that it takes approximately 40 hours for the preparation and submission of the mitigation plan.

### 13. Respondent Costs Other Than Burden Hour Costs

DoD does not estimate any annual cost burden apart from the hourly burden in Item 12 above.

### 14. Cost to the Federal Government

The time required for the Government review of the mitigation plans is calculated as follows:

Estimation of Costs to the Federal Government: 252.209-7008	
Number of responses	60
Hours per response	8
Estimated hours (number of responses multiplied hours per response)	480
Cost per hour (hourly wage)	\$56.76
Annual public burden (estimated hours multiplied by cost per hour)	\$27,244.80

Note: The hourly wage was developed by using the 2020 Office of Personnel Management GS-12, step 5, rate of \$41.66 x 1.3625 O/H rate = \$56.76.

15. Reasons for Change in Burden

The estimates are revised, based on a reduced number of MDAPS and pre-MDAPS.

Change in Burden	2016	2019	Difference
Number of respondents	22	20	- 2
Responses/respondent	3	3	-
Total annual responses	67	60	- 7
Hours per response	40	40	-
Total hours	2,680	2,400	- 280

16. Publication of Results

Results of this collection will not be published.

17. Non-Display of OMB Expiration Date

DoD does not seek approval to not display the expiration dates for OMB approval of the information collection.

18. Exceptions to "Certification for Paperwork Reduction Submissions"

There are no exceptions to the certification accompanying this Paperwork Reduction Act submission.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods will not be employed.