**SUPPORTING STATEMENT FOR INFORMATION COLLECTION**

**Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment**

**OMB Control Number 9000-0XXX**

**A. Justification**

**1.** **Circumstances that make the collection of information necessary.**  This information collection supports implementation of subparagraph (a)(1)(B) of Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232). This section prohibits Government procurement from an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, on or after August 13, 2020, unless an exception applies or a waiver has been granted.

This requirement is implemented in the Federal Acquisition Regulation (FAR) through the provision at FAR 52.204-24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment and the clause at FAR 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

**2.** **Use of information**. Information collected under provision at 52.204-24 will be used to identify if an offeror uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, and their intended use in order to determine whether the prohibition applies.

Information collected under the clause at FAR 52.204-25 will

consist of reports from contractors who have identified, post-award, the use of any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, and requires a disclosure that will be used by agency personnel to identify and consult with legal counsel and the program office on next steps regarding the prohibited equipment or services.

If the Government seeks a waiver from the prohibition, the offeror will be required to provide a full and complete laydown of the presences of covered telecommunications or video surveillance equipment or services in the entity’s supply chain and a phase-out plan to eliminate such covered telecommunications equipment or services from the offeror’s systems.

**3.** **Consideration of information technology.** Federal agencies will use information technology to the maximum extent practicable. Where both the Government and the contractor are capable of electronic interchange, the information collection requirements may be submitted electronically. The usage of information technology will be nearly 100 percent.

**4.** **Describe efforts to identify duplication.** There is no duplication of information under this collection. This requirement is being issued under the FAR, which has been developed to standardize Federal procurement practices and eliminate unnecessary duplication. It is assumed that the review required for 889(a)(1)(A) is separate and distinct from the review required for 889(a)(1)(B) as these are very different requirements.

**5.** **If the collection of information impacts small businesses, describe any methods used to minimize the burden.** The burden applied to small businesses is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

**6.** **Describe the consequences to Federal activities if the collection is not conducted or is conducted less frequently.** Subparagraph (a)(1)(B) of section 889 is being implemented as a national security measure to protect Government information and telecommunication systems. Consequences if collection is not conducted or conducted less frequently could include the compromise of Government information systems, release and compromise of Government data, and harm to national security.

1. **Special circumstance for collection.** Collection is consistent with the guidelines in 5 CFR 1320.6.

**8.** **Summary of the public comments received in response to the publication of the information collection requirement in the Federal Register of the agency’s notice.**  Public comments have not yet been received.

**9.** **Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or guarantees.** 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 prudent business practices, current regulations, and in accordance with the requirements of the Freedom of Information Act.

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

**12.** **Estimated total annual public hour burden.**

**Representation Burden for 52.204-24:**

The representation at 52.204-24 must be completed by each offeror. This provision requires an offeror to represent whether it “does” or “does not” use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

Based on FPDS data there were 38,854,291 contracts and orders awarded to an average of 102,792 unique entities in Fiscal Years (FY) 2016-2019. DoD, GSA, and NASA estimate that all entities will be required to represent under all awarded contracts and orders, or 38,854,291 times. Based on these entity and response totals, DoD, GSA, and NASA estimate that there will be an average of 378 responses per entity. DoD, GSA, and NASA assume that completing the representation will take an average of three hours, because the unique entities that respond affirmatively will be responsible for submitting more detailed disclosures regarding the use of covered telecommunications equipment or services, and there is an assumption that most entities will respond affirmatively.

Number of respondents: 102,792

Responses per respondent\*: 378

Total annual responses: 38,854,291

Hours per response: 3

Total hours: 116,562,873

Hourly rate\*\*: $94.76

Total Annual Cost: $11,045,497,845

\* The responses per respondent was determined by dividing total annual responses by number of respondents and rounding to nearing whole number, if left unrounded the value of annual responses is 38,854,291.

\*\* The hourly rate is based on the equivalent of a FY 2019 GS-13, Step 5, of $47.38, with locality pay for the Rest of the U.S., plus overhead and fringe benefits of 100 percent, for a total of $94.76.

**Reporting Burden for 52.204-25**:

FAR 52.204-25 requires a written report in cases where a contractor (or subcontractor to whom the clause has been flowed down) identifies or receives notification from any source that an entity in the supply chain uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Data from FPDS indicates that the Government awarded contracts to an average of 102,792 unique entities in Fiscal Years (FY) 16-19. DoD, GSA, and NASA estimate that 5% of those entities (5,140) will submit approximately 5 written reports annually pursuant to FAR 52.204-25 that an entity has been discovered post-award that uses the covered telecommunications.

Number of respondents: 5,140

Responses per respondent: 5

Total annual responses: 25,700

Hours per response: 3

Total hours: 77,100

Hourly rate\*: $94.76

Total Annual Cost: $7,305,996

\* The hourly rate is based on the equivalent of a FY 2019 GS-13, Step 5, of $47.38, with locality pay for the Rest of the U.S., plus overhead and fringe benefits of 100 percent, for a total of $94.76.

**Waiver Reporting Burden:**

If the Government seeks a waiver from the prohibition, the offeror will be required to provide a full and complete laydown of the presences of covered telecommunications or video surveillance equipment or services in the entity’s supply chain and a phase-out plan to eliminate such covered telecommunications equipment or services from the offeror’s systems. There is no way to estimate the total number of waivers at this time. For the purposes of complying with the PRA analysis, the FAR Council estimates 20,000 waivers and 160 hours (4 weeks); however there is no data for the basis of these estimates. The total estimated hours may be higher or lower once the rule is in effect.

Number of respondents: 20,000

Responses per respondent: 1

Total annual responses: 20,000

Hours per response: 160

Total hours: 3,200,000

Hourly rate\*: $94.76

Total Annual Cost: $303,232,000

\* The hourly rate is based on the equivalent of a FY 2019 GS-13, Step 5, of $47.38, with locality pay for the Rest of the U.S., plus overhead and fringe benefits of 100 percent, for a total of $94.76.

Total Public Burden:

52.204-24 Representation: $11,045,497,845

52.204-25 Clause: $7,305,996

Waiver Reporting: $303,232,000

Total Public Burden: $11,356,035,841

**13.** **Capital start-up or operational land maintenance costs.** We do not estimate any annual cost burdens other than the burdens we describe in items 12 and 14.

**14.** **Estimated cost to the Government.**

**Government burden 52.204-24:**

The average time required by the Government to review representations from the provision at 52.204-24 is estimated at 3 hours per response:

Representation Responses: 38,854,291

Average hours per response: 3

Government burden hours: 116,562,873

Hourly Rate\*: $94.76

Estimated Annual Government Burden: $11,045,497,845

\*The hourly rate is based on the equivalent of a FY 2019 GS-13, Step 5, of $47.38, with locality pay for the Rest of the U.S., plus overhead and fringe benefits of 100 percent, for a total of $94.76.

**Government for 52.204-25:**

The average time required by the Government to review reports from the clause at 52.204-25 is estimated at 3 hours per response:

Report Responses: 25,700

Average hours per response: 3

Government burden hours: 77,100

Averages wages\*\*: $94.76

Estimated Annual Government Burden: $7,305,996

\* The hourly rate is based on the equivalent of a FY 2019 GS-13, Step 5, of $47.38, with locality pay for the Rest of the U.S., plus overhead and fringe benefits of 100 percent, for a total of $94.76.

**Government for Waiver:**

There is no way to estimate the total number of waivers at this time. For the purposes of complying with the PRA analysis, the FAR Council estimates 20,000 waivers and 320 hours (8 weeks); however there is no data for the basis of these estimates. The total estimated hours may be higher or lower once the rule is in effect. The average time estimated for the Government to review and process waivers is 320 hours per response:

Number of respondents: 20,000

Responses per respondent: 1

Total annual responses: 20,000

Hours per response: 320

Total hours: 6,400,000

Hourly rate\*: $94.76

Total Annual Cost: $606,464,000

**Total Government Burden:**

52.204-24 Representation: $11,045,497,845

52.204-25 Reporting: $7,305,996

Waiver Reporting: $606,464,000

Total Government Burden: $11,659,267,841

**15.** **Explain reasons for program changes or adjustment reported in Item 13 or 14.**  There are no changes to report.

**16.** **Outline plans for published results of information collection.** There are no plans to publish the results of this collection of information.

**17.** **Approval not to display expiration date.** DoD, GSA and NASA are not seeking such approval.

**18.** **Explanation of exception to certification statement.** There are no exceptions to the certification accompanying this Paperwork Reduction Act submission.

**B. Collections of Information Employing Statistical Methods.**

Statistical methods are not used in this information collection.