

SUPPORTING STATEMENT FOR INFORMATION COLLECTION
Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment
under Lease Acquisitions and Commercial Solution Openings
OMB Control Number 3090-XXXX

A. Justification

1. Circumstances that make the collection of information necessary. This information collection supports implementation of Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) for the leasing of real property (lease acquisitions) and commercial solutions openings (CSOs). This section prohibits the head of an executive agency from procuring, obtaining, extending or renewing a contract with contractors that will provide or use covered telecommunication equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system, 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 provision at FAR 52.204-26, Covered Telecommunications Equipment or Services—Representation and the clause at FAR 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. OMB Control Numbers 9000-0199 and 9000-0201 cover the FAR provisions and clause. As the FAR does not account for lease acquisitions and CSOs, GSA issued a class deviation for lease acquisitions and CSOs under Class Deviation CD-2020-15. The class deviation adds requirements that GSA lease acquisitions and CSOs follow GSA’s supply chain risk management procedures at General Services Administration Acquisition Manual (GSAM) subpart 504.70 and requires all new leases and CSO solicitations to include substantially the same language as in FAR 52.204-24, FAR 52.204-25, and FAR 52.204-26, as applicable.

2. Use of information. Information collected for lease acquisitions under provisions at FAR 52.204-26 and at FAR 52.204-24 will be used to identify if an offeror intends to provide covered telecommunications equipment or services and whether the offeror uses covered telecommunications equipment or services in order to determine whether the offer presents a risk to national security or if an exception applies.

Information collected for lease acquisitions under the clause at FAR 52.204-25 will consist of reports from contractors who have identified covered telecommunication equipment or services used during performance of a contract, and these reports 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.

3. Consideration of information technology. GSA 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.

4. Describe efforts to identify duplication. There is no similar data and no duplication of

information exists under this collection. OMB Control Numbers 9000-0199 and 9000-0201 cover the burden of the FAR provisions and clause, but do not fully account for the burden associated with lease acquisitions and CSOs.

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. 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.

7. 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. GSA submitted a request to the Office of Management and Budget on August 14, 2020 for an emergency approval of this information collection to be effective immediately for the maximum period of 6 months. The information to be collected is needed immediately to ensure proper implementation of Section 889. GSA cannot comply with the normal clearance procedures providing for public notice and comment because public harm is reasonably likely as GSA would be more likely to enter into a contract with an entity that uses covered telecommunication equipment or services. Going forward, GSA will prepare a *Federal Register* notice in order to submit a permanent information collection requirement.

9. Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees. 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 FAR 52.204-26:

The representation at FAR 52.204-26 must be completed by each entity at least annually. The supporting statement for OMB Control Number 9000-0199 calculates the burden for this provision based on data from the System for Award Management (SAM). Lessors for GSA lease

acquisitions are required to register in SAM. So, OMB Control Number 9000-0199 does account for the burden associated with this provision for lease acquisitions.

Representation burden for FAR 52.204-24:

The representation at FAR 52.204-24 must be completed by each offeror if the offeror selects “does” in response to the provision at FAR 52.204-26 or FAR 52.212-3(v). The provision at FAR 52.204-24 requires an offeror to represent whether they will provide any covered telecommunications equipment or services and if so, describe in more detail the use of the covered telecommunications equipment or services.

The supporting statements for OMB Control Numbers 9000-0199 and 9000-0201 calculate the burden for this provision based on data from the Federal Procurement Data System (FPDS). GSA lease acquisitions are not required to be entered into FPDS. So, OMB Control Numbers 9000-0199 and 9000-0201 do not account for the burden associated with this provision for lease acquisitions – that burden is calculated below.

As of July 2020, GSA awarded lease contracts to an average of 6,256 unique entities. GSA assumes that half (50%), or 3,128 unique lessors, will have to complete this representation and that each lessor will take an estimated 3 hours to do so.

Number of respondents:	3,128
Responses per respondent:	1
Total annual responses:	3,128
Hours per response:	3
Total hours:	9,384
Hourly rate:	\$68*
Total Annual Cost:	\$638,112

*The hourly rate is based on the equivalent of a FY 2020 GS-13, Step 5, of \$49.54, with locality pay for the Rest of the U.S., plus overhead of 36.25 percent, for a total of \$67.50, rounded to the nearest dollar.

Reporting burden for FAR 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 covered telecommunication equipment or services has been used as a substantial or essential component of any system, or as critical technology as part of any system during contract performance.

The supporting statements for OMB Control Numbers 9000-0199 and 9000-0201 calculate the burden for this clause based on data from the Federal Procurement Data System (FPDS). GSA lease acquisitions are not required to be entered into FPDS. So, OMB Control Numbers 9000-0199 and 9000-0201 do not account for the burden associated with this clause for lease acquisitions – that burden is calculated below.

GSA estimates that 5%, or 313 lessors, will annually submit an average of 5 written reports each and will take an estimated 3 hours to submit each report.

Number of respondents:	313
Responses per respondent:	5
Total annual responses:	1,565
Hours per response:	3
Total hours:	4,695
Hourly rate:	\$68*
Total Annual Cost:	\$319,260

*The hourly rate is based on the equivalent of a FY 2020 GS-13, Step 5, of \$49.54, with locality pay for the Rest of the U.S., plus overhead of 36.25 percent, for a total of \$67.50, rounded to the nearest dollar.

Total Public Burden:

FAR 52.204-24 Representation:	\$638,112
FAR 52.204-25 Reporting:	<u>\$319,260</u>
Total Public Burden:	\$957,372

13. Capital start-up or operational land maintenance costs. GSA does not estimate any annual cost burdens other than the burdens described in items 12 and 14.

14. Estimated cost to the Government.

Government Burden for FAR 52.204-26:

OMB Control Number 9000-0199 already accounts for the Government burden associated with this provision for lease acquisitions.

Government Burden for FAR 52.204-24:

The average time required by the Government to review representations is estimated at 5 minutes (.08333 hours) per response:

Representation responses:	3,128
Hours per response:	.08333
Total hours:	261
Hourly rate:	\$68*
Total Annual Cost:	\$17,748

*The hourly rate is based on the equivalent of a FY 2020 GS-13, Step 5, of \$49.54, with locality pay for the Rest of the U.S., plus overhead of 36.25 percent, for a total of \$67.50, rounded to the nearest dollar.

Government Burden for FAR 52.204-25:

The average time required by the Government to review reports is estimated at 3 hours per report:

Report responses:	1,565
Hours per response:	3
Total hours:	4,695
Hourly rate:	\$68*
Total Annual Cost:	\$319,260

*The hourly rate is based on the equivalent of a FY 2020 GS-13, Step 5, of \$49.54, with locality pay for the Rest of the U.S., plus overhead of 36.25 percent, for a total of \$67.50, rounded to the nearest dollar.

Total Government Burden:

FAR 52.204-24 Representation:	\$17,748
FAR 52.204-25 Reporting:	<u>\$319,260</u>
Total Government Burden:	\$337,008

15. Explain reasons for program changes or adjustment reported. There are no program changes or adjustments.

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. GSA is 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.