

**SUPPORTING STATEMENT FOR INFORMATION COLLECTION**  
**Prohibition on Contracting with Entities Using Certain**  
**Telecommunications and Video Surveillance Services or Equipment**  
**(FAR Case 2019-009)**  
**OMB Control Number 9000-0201**

**FAR sections affected: 52.204-24, 52.204-25, and 52.204-26**

**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 executive agencies from entering into, or extending or renewing, a contract with 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, the clause at FAR 52.204-25, and the provision at FAR 52.204-26. This second interim rule further implements section 889(a)(1)(B) by allowing an offeror that represents "does not" in a new annual representation at FAR 52.204-26(c)(2) or at FAR 52.212-3(v)(2) (ii) to skip the offer-by-offer representation within the provision at FAR 52.204-24(d)(2).

**2. Use of information.** Information collected under the provision at FAR 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.

Information collected under the provision at FAR 52.204-26 will be used to identify if an offeror uses any covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

**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. 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.** Section 889(a)(1)(B) 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**  
**A. publication of the information collection requirement in the**  
**Federal Register of the agency's notice.** The first interim rule to implement Section 889(a)(1)(B) was published at 85 FR 42665 on July 14, 2020 and included the information collection for the updates to FAR at 52.204-24 and 52.204-25. The request for public comment (60-day notice) on that information collection was published separately at 85 FR 50026 on August 17, 2020. Subsequently, a second interim rule was published at 85 FR 53126 on August 27, 2020 that added an information collection requirement for the provision at FAR 52.204-26 and included a request for public comment (60-day notice) on the revised information collection.

A total of four comments were received on the 60-day notice published on August 17<sup>th</sup>, and no comments were received on the revised information collection in response to the second interim rule. The comments did not address Paperwork Reduction Act issues. None of the commenters expressed an opinion on whether these collections of information are needed; whether the estimated number of burden hours is accurate; or ways to minimize the burden of the collection of information. We have not changed the estimate of the burden in the rule.

**B.** A 30-day notice was published in the *Federal Register* at 85 FR 80101, on December 11, 2020.

**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.**

**Burden at FAR 52.204-24 (resulting from adding FAR 52.204-26):**  
The representation at 52.204-24 requires offerors to identify

whether they use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The representation at FAR 52.204-24 is estimated to average 3 hours per response to review the prohibitions, research the source of the product or service, and complete the additional detailed disclosure, if applicable.

Number of Respondents*:	81,902
Average Responses per Respondent**:	380
Total Annual Responses***:	31,083,433
Average hours per response:	3
Public burden hours:	93,250,299
Hourly Rate****:	\$94.76
Estimated Annual Public Burden:	\$8,836,398,333

\* Assumes a reduction in respondents to the offer-by-offer rep of 20% as a result of adding the annual representation (102,378 x 80%).

\*\* Calculated by dividing total annual responses by number of respondents.

\*\*\* Assumes a reduction in responses to the offer-by-offer rep of 20% as a result of adding the annual representation (38,854,291 x 80%).

\*\*\*\* 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 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 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. The Department of Defense (DoD), the General Services Administration (GSA), and the National Aeronautics and Space Administration (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
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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, a phase-out plan to eliminate such covered telecommunications equipment or services from the offeror's systems, and any other information necessary for the agency to process the rule. There is no way to estimate the total number of waivers at this time. For the purposes of complying with the PRA analysis, DoD, GSA, and NASA estimate 20,000 waivers and 160 hours (4 weeks); however there is no data for the basis of these estimates. The 160 hours includes 1 hour of public burden in the event the executive agency requires additional information from the offeror for the compelling justification that is required to submit to the head of the executive agency. 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.

**Representation Burden for FAR 52.204-26:**

The representation at 52.204-26 must be completed by each offeror at least annually. This provision requires an offeror to represent whether it "does" or "does not" use covered

telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

DoD, GSA, and NASA assume that completing the representation will take 1 hour; and that all offerors in the System for Award Management (SAM) will fill out the representation to retain an active SAM registration.

Representation Responses*:	387,967
Average hours per response:	1
Public burden hours:	387,967
Hourly Rate**:	\$94.76
Estimated Annual Public Burden:	\$36,763,753

\* According to data from SAM, as of February 2020, there were 387,967 unique vendors registered in SAM.

\*\* 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.-

**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 for FAR 52.204-24 (resulting from adding FAR 52.204-26).**

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

Representation Responses*:	31,083,433
Average hours per response:	3
Government burden hours:	93,250,299
Hourly Rate**:	\$94.76
Estimated Annual Government Burden:	\$8,836,398,333

\* Assumes a reduction in responses to the offer-by-offer rep of 20% as a result of adding the annual representation (38,854,291 x 80%).

\*\* 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 FAR 52.204-25:**

The average time required by the Government to review reports from the clause at FAR 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

**Government burden for FAR 52.204-26:**

The average time required by the Government to review representations from the provision at FAR 52.204-26 is estimated at 1 hour per response:

Representation Responses*:	387,967
Average hours per response:	1
Government burden hours:	387,967
Hourly Rate**:	\$94.76
Estimated Annual Government Burden:	\$36,763,753

**15. Explain reasons for program changes or adjustment reported in Item 13 or 14.** The first notice for this information collection was published prior to the second interim rule that published on August 2 at 85 FR 53126. The information collection has been updated to reflect the second interim rule that added the representation in FAR 52.204-26.

**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.