

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
OMB CONTROL NO.9000-0198
Certain Federal Acquisition Regulation Part 9 Requirements**

FAR sections affected: 52.209-1, 52.209-2, 52.209-5, 52.209-6, 52.209-7, 52.209-9, 52.209-10, 52.209-11, 52.209-12, 52.209-13, 52.212-3(h), 52.212-3(n), and 52.212-3(q)

A. Justification.

1. Administrative requirements.

The Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) are combining OMB Control Nos. for the Federal Acquisition Regulation (FAR) by FAR part. This consolidation is expected to improve industry's ability to easily and efficiently identify burdens associated with a given FAR part. The review of the information collections by FAR part allows improved oversight to ensure there is no redundant or unaccounted for burden placed on industry. Lastly, combining information collections in a given FAR part is also expected to reduce the administrative burden associated with processing multiple information collections.

This justification supports the revision of the expiration date of OMB Control No. 9000-0198 and combines it with the previously approved information collections under OMB Control Nos. 9000-0083 and 9000-0193, with the new title "Certain Federal Acquisition Regulation Part 9 Requirements". Upon approval of this consolidated information collection, OMB Control Nos. 9000-0083 and 9000-0193 will be discontinued. The burden requirements previously approved under the discontinued numbers will be covered under OMB Control No. 9000-0198.

This clearance covers the information that offerors and contractors must submit to comply with the following FAR requirements:

a. FAR 52.209-1, Qualification Requirements. This clause requires offerors to provide with their proposal: their name, the manufacturer's name, source's name, item's name, service identification, and test number (if known) for a proposed product or service that has already been determined to meet the qualification standards. If an offeror, manufacturer, source, product or service has met the qualification requirement but is not yet on a qualified products list, qualified manufacturers

list, or qualified bidders list, this clause requires the offeror to submit evidence of qualification prior to award of a contract.

b. FAR 52.209-2, 52.209-10, and 52.212-3(n), Prohibition on Contracting with Inverted Domestic Corporations. FAR provision 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations-Representation, and its equivalent for commercial acquisitions at FAR 52.212-3(n), requires each offeror to represent whether it is, or is not, an inverted domestic corporation or a subsidiary of an inverted domestic corporation. FAR clause 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations, requires contractors to promptly notify the contracting officer in the event the contractor becomes an inverted domestic corporation or a subsidiary of an inverted domestic corporation during the period of performance of the contract.

c. FAR 52.209-5, 52.209-6, and 52.212-3(h), Debarment, Suspension, and other Responsibility Matters. FAR provision 52.209-5, Certification Regarding Responsibility Matters, and its equivalent for commercial acquisitions at FAR 52.212-3(h), require the disclosure of the following critical information by an offeror to be considered by the contracting officer in making a responsibility determination:

- Whether the offeror or any of its principals have been—
 - Debarred, suspended, proposed for debarment, declared ineligible for contract award;
 - Within a three-year period preceding their offer:
 - Convicted of or had a civil judgment rendered against them or indicted for commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract, violation of Federal or State antitrust statutes relating to the submission of offers, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;
 - Notified of any delinquent Federal taxes in an amount that exceeds \$10,000 for which the liability remains unsatisfied;
 - Had one or more contracts terminated for default by any Federal agency; or

- Are presently indicted for, or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses identified above.

If the offeror has responded affirmatively to the certifications in the FAR provisions at 52.209-5 or 52.212-3(h), the offeror shall provide additional information if requested by the contracting officer.

The offeror shall also provide immediate written notice to the contracting officer if, at any time prior to contract award, the offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

Paragraph (c) of the FAR clause at 52.209-6, Protecting the Government's Interest When Subcontracting with Contractor's Debarred, Suspended, or Proposed for Debarment, requires the contractor to require each proposed subcontractor whose subcontract will exceed \$35,000, other than a subcontractor providing a commercially available off-the-shelf (COTS) item, to disclose to the contractor in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Government.

Paragraph (d) of the FAR clause at 52.209-6 requires a corporate officer or designee of the contractor to notify the contracting officer, in writing, before entering into a subcontract (for other than COTS items) with a party that is debarred, suspended, or proposed for debarment. The written notice must include: the name of the subcontractor; why the subcontractor is debarred, suspended, or ineligible; the compelling reason(s) for doing business with the subcontractor; and how the contractor will protect the Government's interests when dealing with such subcontractor. For any subcontract subject to Government consent, contracting officers shall not consent to such subcontracts unless the agency head or a designee state in writing the compelling reasons for approving such subcontract.

d. FAR 52.209-7 and 52.209-9, Information Regarding Responsibility Matters and Updates to that Publicly Available Information. FAR provision 52.209-7, Information Regarding Responsibility Matters, requires each offeror to represent whether it has current active Federal contracts and grants with a total value greater than \$10 million. The provision also requires

each offeror to post in the Federal Awardee Performance and Integrity Information System (FAPIIS), as required by maintaining an active registration in the System for Award Management (SAM), information on whether the offeror and/or any of its principals has, or has not, within the past five years, in connection with the award to or performance by the offeror of a federal contract or grant, been the subject of a proceeding, at the Federal or State level, that resulted in:

- (i) A criminal conviction in the case of a criminal proceeding;
- (ii) The finding of fault and liability in a civil proceeding resulting in the payment of \$5,000 or more in damages, restitution, reimbursement, fine or penalty;
- (iii) The finding of fault and liability in an administrative proceeding resulting in the payment of a monetary fine or penalty of \$5,000 or more, or the payment of a reimbursement, restitution, or damages in excess of \$100,000; or
- (iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgement of fault by the contractor if the proceeding could have led to any of the outcomes specified in (d)(i) through (iii) above.

Paragraph (a) of the FAR clause 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters, requires contractors to update the information in FAPIIS on a semiannual basis, throughout the life of the contract, by posting the information in SAM. Paragraph (c) of the FAR clause 52.209-9 informs contractors of their ability to provide feedback on information posted by the Government in FAPIIS and the procedure to follow in the event information exempt from public disclosure is slated to become publicly available information in FAPIIS.

e. FAR 52.209-11, 52.209-12, and 52.212-3(q), Prohibition on Contracting With Corporations with Delinquent Taxes or a Felony Conviction. FAR provision 52.209-11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law, and its equivalent for commercial acquisitions at FAR 52.212-3(q), require offerors to represent whether the offeror is a corporation that-

- Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- Was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

FAR provision 52.209-12, Certification Regarding Tax Matters, require offerors proposing a total contract price that will exceed \$5.5 million (including options) to certify that, to the best of the offeror's knowledge and belief, it -

- Has filed all Federal tax returns required during the three years preceding the certification;
- Has not been convicted of a criminal offense under the Internal Revenue Code of 1986; and
- Has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

f. FAR 52.209-13, Violations of Arms Control Treaties or Agreements with the United States. Unless the offeror is providing evidence of a waiver or determination in accordance with paragraph (b)(2) of the FAR provision at 52.209-13, Violation of Arms Control Treaties or Agreements - Certification, paragraph (b)(1) of the provision requires offerors to certify that-

- The offeror does not engage and has not engaged in any activity that contributed to or is a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act (22 U.S.C. 2593a); and
- No entity owned or controlled by the offeror is an entity organized under the laws of such country, that engages or has engaged in any activity that contributed to or is a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state.

2. Uses of information.

a. FAR 52.209-1, Qualification Requirements. Contracting officers use the collected information to ensure that an offeror, manufacturer, source, product or service covered by a qualification requirement meets the standards specified in the solicitation or contract.

b. FAR 52.209-2, 52.209-10, and 52.212-3(n), Prohibition on Contracting with Inverted Domestic Corporations. Contracting officers use the collected information in the source selection process, in evaluating an offeror's responsibility for contract award. When an offeror provides an affirmative response to the representation in FAR provisions 52.209-2 or 52.212-3(n), the contracting officer is prohibited from making an award to that offeror unless an exception at FAR 9.108-2(b) applies or the requirement is waived in accordance with the procedures at FAR 9.108-4. The information provided by contractors under FAR clause 52.209-10 is used to determine if the Government is prohibited from paying the contractor for activities performed after the date when it becomes an inverted domestic corporation or subsidiary.

c. FAR 52.209-5, 52.209-6, and 52.212-3(h), Debarment, Suspension, and other Responsibility Matters. Contracting officers use the collected information to determine an offeror's responsibility for contract award. When an offeror provides an affirmative response to the certification in FAR provisions 52.209-5 or 52.212-3(h), the contracting officer is required to request additional information from the offeror and notify, prior to proceeding with award, the agency official responsible for initiating debarment or suspension action. Prime contractors use the collected information under paragraph (c) of the FAR clause at 52.209-6 to determine a subcontractor's responsibility.

d. FAR 52.209-7 and 52.209-9, Information Regarding Responsibility Matters and Updates to that Publicly Available Information. Contracting officers use the collected information to determine an offeror's responsibility for contract award. When an offeror provides an affirmative response to the certification in FAR provision 52.209-7, the contracting officer is required to request additional information from the offeror and notify, prior to proceeding with award, the agency official responsible for initiating debarment or suspension action. Contracting officers use the collected information under FAR clause 52.209-9 in determining contractor's responsibility when they are an offeror for subsequent procurements.

e. FAR 52.209-11, 52.209-12, and 52.212-3(q), Prohibition on Contracting With Corporations with Delinquent Taxes or a Felony

Conviction. Contracting officers use the collected information to determine an offeror's responsibility for contract award. When an offeror provides an affirmative response to the representation in FAR provision 52.209-11 or 52.212-3(q), the contracting officer is required to request additional information from the offeror and notify the agency official responsible for initiating debarment or suspension action. When FAR provision 52.209-12 is applicable, the contracting officer uses the collected information to determine if able to make an award using appropriated funds if the offeror made an affirmative certification under the provision.

f. FAR 52.209-13, Violations of Arms Control Treaties or Agreements with the United States. Contracting officers use the collected information to determine whether the offeror is eligible for award.

3. Consideration of information technology. Federal agencies 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.

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, describe methods used to minimize burden. The burden applied to small businesses is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

6. Describe consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently.

a. FAR 52.209-1, Qualification Requirements. Because qualification requirements apply only to certain acquisitions for supplies and services, collection of information on a basis other than solicitation-by-solicitation is not practical. This collection of information is needed to comply with 10 U.S.C. 2319 and 41 U.S.C. 3311, which permits agency heads to establish qualification requirements for testing or other quality assurance demonstrations that must be completed by an offeror before award of a contract.

b. FAR 52.209-2, 52.209-10, and 52.212-3(n), Prohibition on Contracting with Inverted Domestic Corporations. While the information under FAR provision 52.209-2 or 52.212-3(n) is requested on a solicitation-by-solicitation basis, offerors may provide the information as infrequently as once if the information is provided through SAM. The information under FAR clause at 52.209-10 is only required in the event the prime contractor becomes either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation during contract performance. This collection of information is needed to comply with section 745 of Division D of the Consolidated Appropriations Act, 2008 (Pub. L. 110-161) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions) which prohibit, on a Governmentwide basis, the use of appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a subsidiary of such a corporation.

c. FAR 52.209-5, 52.209-6, and 52.212-3(h), Debarment, Suspension, and other Responsibility Matters. While the information under FAR provision 52.209-5 or 52.212-3(h) is requested on a solicitation-by-solicitation basis, offerors may provide the information as infrequently as once if the information is provided through SAM. The information collected under paragraph (c) of the FAR clause at 52.209-6 is provided on a solicitation-by-solicitation basis; collection on a less frequent basis is not practical as subcontractors are not required to register in SAM. The information collected under paragraph (d) of the FAR clause at 52.209-6 is only required in the event the prime contractor chooses to enter into a subcontract with a subcontractor that is debarred, suspended, or proposed for debarment.

d. FAR 52.209-7 and 52.209-9, Information Regarding Responsibility Matters and Updates to that Publicly Available Information. The representation made under the FAR provision at 52.209-7 is not included in SAM; the information must be provided on a solicitation-by-solicitation basis. The information required by contractors under FAR clause 52.209-9 must be provided in FAPIIS on a semiannual basis, as opposed to individual contracts.

e. FAR 52.209-11, 52.209-12, and 52.212-3(q), Prohibition on Contracting With Corporations with Delinquent Taxes or a Felony Conviction. While the information under FAR provision 52.209-11 or 52.212-3(q) is requested on a solicitation-by-solicitation basis, offerors may provide the information as infrequently as

once if the information is provided through SAM. The certification made under FAR provision 52.209-12 is not included in SAM; the information must be provided on a solicitation-by-solicitation basis. This collection of information is needed to comply with the Consolidated and Further Appropriations Act, 2015 (Pub. L. 113-235) and similar provisions in subsequent appropriations acts (and as extended in continuing resolutions).

f. FAR 52.209-13, Violations of Arms Control Treaties or Agreements with the United States. The certification made under the FAR provision at 52.209-13 is not included in SAM; the information must be provided on a solicitation-by-solicitation basis. This collection of information is needed to comply with section 1290 of the National Defense Authorization Act for Fiscal Year (FY) 2017.

7. Special circumstances for collection. Collection is consistent with guidelines in 5 CFR 1320.5(d)(2).

8. Efforts to consult with persons outside the agency.

A. A 60-day notice was published in the Federal Register at 86 FR 71500, on December 16, 2021. No comments were received.

B. A 30-day notice was published in the *Federal Register* at 87 FR 9357, on February 18, 2022.

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 for questions of a sensitive nature. No sensitive questions are involved.

12 & 13. Estimated total annual public hour and cost burden.
Summary of Annual Cost to the Public

Estimated respondents/yr.....	1,802,621
Total annual responses.....	1,953,229
Estimated annual burden hours.....	547,110
Estimated cost to the public.....	\$ 31,818,035

a. FAR 52.209-1, Qualification Requirements.

Currently, the Government does not collect data on the number of solicitations or contracts that are subject to qualified products lists (QPLs). Instead, Federal Procurement Data System (FPDS) data indicates that approximately 373,016 contracts were awarded in FY 2021 for noncommercial supplies (of which a percentage of these awards are for qualified products). Of those 373,016 contracts, FPDS data indicates that two contracts (based on the median number of new awards for noncommercial supplies in FY 2021) were awarded in response to each solicitation; therefore, the Government estimates that 186,508 solicitations ($373,016 / 2 = 186,508$) were issued for noncommercial supplies in FY 2021. The Government estimates that 1%, or 1,865, of those 186,508 solicitations were subject to QPLs.

The Government conservatively estimates that 5 offers are received in response to each of the 1,865 solicitations for QPL items; and each of the offerors responds to the clause (based on the purpose and use of a QPL); which results in approximately 9,325 responses ($1,865 \times 5 = 9,325$) to the clause each year. As the Government does not collect data on the individual vendors that respond to Government solicitations, the Government assumes that each response to the clause is from a unique entity (or 9,325 respondents) and that it takes each respondent approximately one hour to prepare a response to the clause.

The burden is calculated as follows:

Estimated respondents/yr.....	9,325
Responses per respondent.....	<u>x 1</u>
Total annual responses.....	9,325
Estimated hours/response.....	<u>x 1</u>
Estimated annual burden hours.....	9,325
Hourly rate**.....	<u>x \$57</u>
Estimated cost to the public.....	\$531,525

b. FAR 52.209-2, 52.209-10, and 52.212-3(n), Prohibition on Contracting with Inverted Domestic Corporations. For FAR provisions 52.209-2 and 52.212-3(n), the number of respondents is estimated based on SAM data – the number of active registrants in SAM as of January 12, 2021. This certification is included in the SAM annual representations and certifications. Therefore, submission is required only once per year, unless the offeror’s circumstances change (estimated at 0.1). It is estimated that it takes 1 minute to read and complete the certification at FAR 52.209-2 or 52.212-3(n).

For FAR clause 52.209-10, the number of respondents (i.e., contractors that become either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation during

contract performance and as such is required to notify the contracting officer) is estimated to be minimal since this may result in the Government being prohibited from paying the contractor. For those respondents, it is estimated that it takes 10 minutes to provide the notification required by paragraph (d) of the clause.

The burden is calculated as follows:

	FAR 52.209-2 / 52.212-3(n)	FAR 52.209-10	Total
Estimated respondents/yr	484,235	2	484,235 ¹
Responses per respondent	1.1	1	
Total annual responses	532,658.5	2	532,660.5
Estimated hours/response	0.01667	0.1667	
Estimated annual burden hours	8,879.4	0.3334	8,879.7
Hourly rate**	\$57	\$57	
Estimated cost to the public	\$506,125.80	\$19.00	\$506,144.80

c. FAR 52.209-5, 52.209-6, and 52.212-3(h), Debarment, Suspension, and other Responsibility Matters. For FAR provisions 52.209-5 and 52.212-3(h), the number of respondents is estimated based on SAM data – the number of active registrants in SAM as of January 12, 2021. Submission in SAM is required only once per year unless the offeror’s circumstances change (estimated at .01). It is estimated that it takes half an hour to read and complete the certification at FAR 52.209-5 or 52.212-3(h).

It is estimated that one percent of respondents (3,709) will be required to submit additional information at the request of

¹ The respondents to FAR 52.209-10 are also subject to FAR 52.209-2/52.212-3(n).

the contracting officer or notify the contracting officer of a change in the certification prior to contract award, with an estimate of 8 hours per response (ref FAR 52.209-5(b)).

The burden is calculated as follows:

	FAR 52.209-5(a)/ 52.212-3(h)	FAR 52.209-5(b)	Total
Estimated respondents/yr	484,235	4,842	484,235 ²
Responses per respondent	1.01	1	
Total annual responses	489,077	4,842	493,919
Estimated hours/response	0.5	8	
Estimated annual burden hours	244,538.7	38,736	283,274.70
Hourly rate**	\$57	\$57	
Estimated cost to the public	\$13,938,705.90	\$2,207,952	\$16,146,657.90

For FAR clause 52.209-6, subcontract award data in the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) for FY 2021 was used as a basis to estimate number of respondents. For FY 2021, there were 149,174 subcontract awards reported into FSRS³. With regards to paragraph (c) of FAR clause 52.209-6, prime contractors require each proposed subcontractor whose subcontract will exceed \$35,000, other than a subcontractor providing a COTS item, to disclose whether the subcontractor or its principals are debarred, suspended, or proposed for debarment by the Federal Government. This requirement flows down to all tiers if the prime contract is for the acquisition of other than commercial products and

² The respondents to FAR 52.209-5(b) are also subject to FAR 52.209-5(a)/52.212-3(h).

³ In accordance with FAR clause 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards, prime contractors report awards of first-tier subcontracts of \$30,000 or more into FSRS.

commercial services. If the prime contract is for the acquisition of commercial products and commercial services, the requirement does not flow down. It is estimated that this will result in 298,348 disclosures by subcontractors⁴. Since each subcontract requires 1 disclosure, by the proposed subcontractor, it is estimated to be 1 response per respondent. This response is estimated to average half an hour per response.

With regards to paragraph (d) of FAR clause 52.209-6, it is estimated that the number of prime contractors entering into a subcontract (for other than COTS items) with a party that is debarred, suspended, or proposed for debarment that must notify the contracting officer should be few, less than 1 respondent in a thousand ($0.001 * 298,348$). It is estimated that preparing that written notice will require an average of 8 hours per response.

The burden is calculated as follows:

	FAR 52.209-6(c)	FAR 52.209-6(d)	Total
Estimated respondents/yr	298,348	298	298,348 ⁵
Responses per respondent	1	1	
Total annual responses	298,348	298	298,646
Estimated hours/response	0.5	8	
Estimated annual burden hours	149,174	2,384	151,558
Hourly rate**	\$57	\$57	\$57
Estimated cost to the public	\$8,502,918	\$135,888	\$8,638,806

⁴ FSRS data is both an overestimate and an underestimate. The 149,174 is an overestimate because it contains subcontracts between \$30,000 to \$35,000 and subcontracts for COTS. The 149,174 is an underestimate because it does not reflect subcontracts at all tiers. To account for subcontracts at all tiers, the first-tier data is doubled to 298,348.

⁵ The respondents to FAR 52.209-6(d) are also subject to FAR 52.209-6(c).

d. FAR 52.209-7 and 52.209-9, Information Regarding Responsibility Matters and Updates to that Publicly Available Information.

Reporting Burden for FAR 52.209-7: The provision at FAR 52.209-7 requires that for each solicitation where the resultant contract value is expected to exceed \$600,000, the offeror responds in paragraph (b) as to whether it has active Federal contracts and grants that total greater than \$10 million. Only if the offeror responds affirmatively to paragraph (b) is there any further information collection requirement (i.e., paragraph (c)). Because a firm can quickly retrieve the total dollar amount of its current Federal contracts and grants, the estimated number of hours for response to the check block in paragraph (b) of the FAR provision at 52.209-7 is 0.1 hours. For those firms who need to enter information into FAPIIS in accordance with paragraph (c), it is estimated to take one hour for that additional collection.

To estimate the number of respondents for both paragraphs (b) and (c) of FAR 52.209-7, award data from FPDS was used. In FY 2021, there were 21,470 contracts, awarded to 12,475 unique vendors, that would have been subject to FAR 52.209-7, i.e., contracts over \$600,000.

The Government estimates that there was an average of 3 responses per solicitation, resulting in 64,410 offers (21,470 x 3, rounded to the nearest hundred). Of the 64,410 offers, the Government estimates approximately 5 offers per respondent (64,410 offers/12,475 unique vendors, rounded to the nearest whole number). Based on the analysis, the 12,475 unique vendors were used as the basis for the number of initial respondents for this information collection (i.e., paragraph (b)). The Government further estimates that one third of the unique vendors (4,158) will be required to provide additional information under the provision (i.e., paragraph (c)).

The burden is calculated as follows:

	FAR 52.209-7(b)	FAR 52.209-7(c)	Total
Estimated respondents/yr	12,475	4,158	12,475 ⁶
Responses per	5	1	

⁶ Since the respondents to FAR 52.209-7(c) are already accounted for under FAR 52.209-7(b), the total is the number of respondents for FAR 52.209-7(b) instead of a sum of the two sets of respondents.

respondent			
Total annual responses	62,375	4,158	66,533
Estimated hours/response	0.1	1	
Estimated annual burden hours	6,238	4,158	10,396
Hourly rate**	\$57	\$57	
Estimated cost to the public	\$355,538	\$237,006	\$592,544

Reporting Burden for FAR 52.209-9: The clause at FAR 52.209-9 applies to those same solicitations that include the provision at FAR 52.209-7, and to contracts in which the offeror has indicated in paragraph (b) of the FAR provision at 52.209-7 that it has current active Federal contracts and grants with a total value greater than \$10 million. Of the unique vendors that were awarded contracts pursuant to FAR 52.209-9, and were required to enter information in FAPIIS, those contractors will have to update the FAPIIS-related data in SAM every 6 months. Because the FAPIIS information in SAM is maintained on individual vendors, contractors awarded more than one contract will still only have to update the data two times per year regardless of the number of contracts awarded them. An average burden estimate of 1 hour is used to make the semi-annual updates.

To estimate the number of respondents for FAR 52.209-9, award data from FPDS was used. In FY 2021, there were 21,470 contracts awarded that would have been subject to FAR 52.209-7, i.e., contracts over \$600,000, awarded to 12,475 unique vendors. The Government estimates that approximately one third (4,158) of the unique vendors submitting offers may answer the first question affirmatively (from the provision at FAR 52.209-7), and then will have to enter data into FAPIIS for FAR 52.209-9.

The burden is calculated as follows:

Estimated respondents/yr.....	4,158
Responses per respondent.....	<u>X 2</u>
Total annual responses.....	8,316
Estimated hours/response.....	<u>X 1</u>
Estimated annual burden hours.....	8,316

Hourly rate**x \$57
 Estimated cost to the public..... \$ 474,012

Recordkeeping Burden for FAR 52.209-7 and 52.209-9: The number of recordkeepers is based on the number of respondents submitting data into FAPIIS, whether they receive an award (i.e., those having to provide information for FAR provision 52.209-7(c)). For recordkeeping, the Government has used an average burden estimate of 100 hours annually per respondent to include the time necessary per respondent to maintain the company's information internally. Most large businesses and some small businesses have established systems to track compliance.

The recordkeeping burden is calculated as follows:

Recordkeepers/yr..... 4,158
 Records per recordkeeper.....x 1
 Total annual records..... 4,158
 Review hours/response.....x 100
 Annual recordkeeping burden hours..... 415,800
 Hourly rate**x \$57
 Annual recordkeeping burden cost to the public..... \$23,700,600

e. FAR 52.209-11, 52.209-12, and 52.212-3(q), Prohibition on Contracting With Corporations with Delinquent Taxes or a Felony Conviction. For FAR provisions 52.209-11 and 52.212-3(q), the number of respondents is estimated based on SAM data – the number of active registrants in SAM as of January 12, 2021. This representation is included in SAM. Therefore, submission is required only once per year, unless the offeror's circumstances change (estimated at .01). It is estimated that it takes 6 minutes to read and complete the representation at FAR 52.209-11 or 52.212-3(q).

The burden is calculated as follows:

Estimated respondents/yr.....484,235
 Responses per respondent.....x 1.01
 Total annual responses..... 489,077
 Estimated hours/response.....x 0.1
 Estimated annual burden hours.....48,907.7
 Hourly rate**x \$57
 Estimated cost to the public.....\$2,787,738.9

For FAR provision 52.209-12, the number of respondents is based on FPDS data for FY 2021 – the number of contract awards valued at greater than \$5.5 million from the Department of Commerce, the Department of Justice, and NASA. In general, we estimate receipt of 3 offers per solicitation. It is estimated that it takes 6 minutes to read and complete the FAR 52.209-12 certifications.

The burden is calculated as follows:

Estimated respondents/yr.....	296
Responses per respondent.....	<u>x 3</u>
Total annual responses.....	888
Estimated hours/response.....	<u>x 0.1</u>
Estimated annual burden hours.....	89
Hourly rate**.....	<u>x \$57</u>
Estimated cost to the public.....	\$ 5,062

f. FAR 52.209-13, Violations of Arms Control Treaties or Agreements with the United States. According to FPDS data for FY 2021, there were 13,466 new awards⁷ to 7,279 unique awardees. Some offerors, however, may not receive an award in a given year, so the number of awardees was multiplied by a factor of 1.1, to estimate the number of entities submitting the annual certification into SAM (7,279 x 1.1 = 8,007). The first response of each offeror will be the most time consuming, because of the need to review the State Department compliance report. Time required to complete and review the certification the first time in a year is estimated at 40 minutes for small entities and 6.6 hours per year for other than small entities. These weighted averages are based on the following assumptions: To complete the certification, offerors' need to review the compliance report of the Department of State will vary on a case-by-case basis. For small entities, it is estimated that 90 percent of the entities will not need to review the compliance report beyond checking the list of foreign countries in the table of contents. Five percent of the entities may also need to review the findings related to one or more listed countries, another 3 percent may also need to review the supporting background and analysis for the findings, and only 2 percent will need to send an inquiry to the Department of State. Regarding other than small businesses, which are more likely to also have subsidiaries, it is estimated that 80 percent will just review the table of contents, 10 percent may review some of the findings, 9 percent will review the supporting

⁷ This accounts for awards exceeding the simplified acquisition threshold (\$250,000) for other than commercial products and commercial services.

rationale, and only 1 percent will email the Department of State with an inquiry. Because a certification is required, we estimated senior level review would be required for the initial certification.

Most of the time related to the certification is due to the need to become familiar with the Department of State Compliance Report and determine that the offeror has not engaged in any prohibited activities. Once that research has been done, the time required to complete additional certifications will be significantly less.

The burden for the first certification from each unique entity in a given year is calculated as follows:

Estimated respondents/yr.....	8,007
Responses per respondent.....	<u>x 1</u>
Total annual responses.....	8,007
Estimated hours/response.....	<u>x 2.72</u>
Estimated annual burden hours.....	21,779
Hourly rate***.....	<u>x \$81</u>
Estimated cost to the public.....	\$ 1,764,102

The burden for additional certifications in a given year is calculated as follows:

Estimated respondents/yr.....	8,007
Responses per respondent.....	<u>x 5.73</u>
Additional offers received/per year.....	45,857
Estimated hours/response.....	<u>x 0.1</u>
Estimated annual burden hours.....	4,586
Hourly rate***.....	<u>x \$81</u>
Estimated cost to the public.....	\$ 371,442

(Offers subsequent to the initial offer = 13,466 awards x 4 responses per award = 53,864 offers per year less 8,007 initial offers = 45,857)

14. Estimated cost to the Government.

Summary of Annual Cost to the Government

Total annual responses.....	1,653,995
Review time per year (hours).....	300,595
Estimated annual cost to the Government.....	\$ 17,126,610

a. FAR 52.209-1, Qualification Requirements.

Estimated annual responses..... 9,325
 Review time per response (hours).....x 0.5
 Review time per year (hours)..... 4,663
 Hourly rate**..... x \$57
 Estimated annual cost to the Government..... \$ 265,763

b. FAR 52.209-2, 52.209-10, and 52.212-3(n), Prohibition on Contracting with Inverted Domestic Corporations. The time estimates are based on receiving, reviewing, and analyzing the information submitted by the offeror and contractor.

	FAR 52.209-2 / 52.212-3(n)	FAR 52.209-10	Total
Estimated annual responses	532,660.5	2	532,660.5
Review time per response (hours)	0.02	24	
Review time per year (hours)	10,653	48	10,701
Hourly rate	\$57**	\$95****	
Estimated annual cost to the Government	\$607,221	\$4,560	\$611,781

c. FAR 52.209-5, 52.209-6, and 52.212-3(h), Debarment, Suspension, and other Responsibility Matters. The time estimates are based on receiving, reviewing, and analyzing the information submitted by the offeror and contractor. Note that no burden is estimated for the Government in terms of paragraph (c) of FAR clause 52.209-6 because the Government is not reviewing the disclosures made by prospective subcontractors to the prime contractor.

	FAR 52.209-	FAR 52.209-	FAR	Total
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	5(a)/ 52.212-3(h)	5(b)	52.209- 6(d)	
Estimated annual responses	489,077	4,842	298	489,077
Review time per response (hours)	0.02	4	16	
Review time per year (hours)	9,781.5	19,368	4,768	33,917.5
Hourly rate**	\$57	\$57	\$57	\$57
Total estimated annual cost	\$557,545.50	\$1,103,976	\$271,776	\$1,933,297.50

d. FAR 52.209-7 and 52.209-9, Information Regarding Responsibility Matters and Updates to that Publicly Available Information. The time estimates are based on receiving, reviewing, and analyzing the information submitted by the offeror and contractor.

	FAR 52.209-7(b)	FAR 52.209-7(c)	FAR 52.209-9	Total
Estimated annual responses	62,375	4,158	8,316	74,849
Review time per response (hours)	0.02	1	.1	
Review time per year (hours)	1,248	4,158	832	6,237
Hourly rate**	\$57	\$57	\$57	
Total	\$71,108	\$237,006	\$47,401	\$355,515

estimated annual cost				
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e. FAR 52.209-11, 52.209-12, and 52.212-3(q), Prohibition on Contracting With Corporations with Delinquent Taxes or a Felony Conviction. The time estimates are based on receiving, reviewing, and analyzing the information submitted by the offeror.

Estimated annual responses.....489,077
Review time per response (hours)..... x 0.5⁸
Review time per year (hours).....244,538.5
Hourly rate**..... x \$57
Estimated annual cost to the Government.....\$13,938,694.5

f. FAR 52.209-13, Violations of Arms Control Treaties or Agreements with the United States.

Estimated annual responses..... 53,864
Review time per response (hours)..... x .01
Review time per year (hours)..... 539
Hourly rate*..... x \$40
Estimated annual cost to the Government.....\$ 21,546

* Based on the Office of Personnel Management (OPM) 2021 General Schedule (GS) 9/step 5 salary for the rest of the United States (\$29.02 per hour) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar (\$40). The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition.

** Based on the Office of Personnel Management (OPM) 2021 General Schedule (GS) 12/step 5 salary for the rest of the United States (\$42.08 per hour) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar (\$57). The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition.

*** Based on the Office of Personnel Management (OPM) 2021 General Schedule (GS) 14/step 5 salary for the rest of the United States (\$59.13 per hour) plus a 36.25 percent fringe factor,

⁸This considers the negligible amount of time to review negative representations, and the occasional more substantial amount of time required if a respondent indicates a problem regarding felony conviction or delinquent taxes.

rounded to the nearest whole dollar (\$81). The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition.

**** Based on the Office of Personnel Management (OPM) 2021 General Schedule (GS) 15/step 5 salary for the rest of the United States (\$69.55 per hour) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar (\$95). The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition.

15. Explain reasons for program changes or adjustments reported in Item A.13 or A.14.

There are no program changes. The FAR requirements remain the same. The increase in burden hours is an adjustment due to use of the most current SAM, FPDS, and FSRs data available. The estimated cost to the public and to the Government was updated based on use of the 2021 OPM GS wage rates for the rest of the United States.

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.