

## SUPPORTING STATEMENT A

### OMB Control Number 0750-0002 – Defense Federal Acquisition Regulation Supplement (DFARS) Part 204, Covered Defense Telecommunications Equipment or Services

#### Summary of Changes from Previously Approved Collection

- Burden has decreased due to the use of current data and removal of one provision and its burden from the inventory.

#### 1. Need for the Information Collection

This justification supports an extension of information collections under Office of Management and Budget (OMB) Control Number 0750-0002. These information collection requirements are necessary to implement section 1656 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 (Pub. L. 115-91). Section 1656 prohibits DoD from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service to carry out the DoD nuclear deterrence or homeland defense missions that uses covered defense telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as a part of any system. The information collection requirements to implement section 1656 are as follows:

- The provision at DFARS 252.204-7017, Prohibition on Acquisition of Covered Telecommunications Equipment or Services—Representation, requires that if an offeror provides an affirmative representation under the provision at 252.204-7016, Covered Defense Telecommunications Equipment or Services—Representation, the offeror is required to represent whether it will or will not provide under the contract covered defense telecommunications equipment or services. If the offeror responds affirmatively, the offeror is required to further disclose information about the covered defense telecommunications equipment or services.
- The clause at DFARS 252.204-7018, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services, requires contractors and subcontractors to report through <https://dibnet.dod.mil>, any discovery of covered telecommunications equipment or services during the course of contract performance.

It should be noted that this information collection no longer includes requirements related to the provision at DFARS 252.204-7016, Covered Defense Telecommunications Equipment or Services—Representation, because this collection of information is now covered in the information collection approved under OMB Control Number 9000-0189 covering representations in the System for Award Management (SAM) at <https://www.sam.gov/>.

#### 2. Use of the Information

The information obtained through DFARS 252.204-7017 and 252.204-7018 is used to (1) ensure contracting officers do not violate the prohibition under section 1656; (2) determine whether an offer presents a risk to national security; (3) determine whether a waiver would be needed in order to award to an otherwise successful offeror; and (4) ensure DoD is made aware

during contract performance of any equipment, systems, or services to carry out the DoD nuclear deterrence or homeland defense missions that could jeopardize national security.

### 3. Use of Information Technology

Information technology is used 98% of the time to collect the information under DFARS 252.204-7018. Contractors provide the reports under DFARS clause 252.204-7018 to DIBNET at <https://dibnet.dod.mil>. The representation and disclosure under 252.204-7017 are submitted as part of an offeror's response to a DoD solicitation in the format specified in the solicitation.

### 4. Non-duplication

As a matter of policy, DoD reviews the Federal Acquisition Regulation (FAR) to determine if adequate language already exists. DoD requires DoD-unique provisions to address the requirements of section 1656 of the NDAA for FY 2018. A similar Governmentwide prohibition under section 889 of the NDAA for FY 2019 is implemented in FAR subpart 4.21. However, the DoD prohibition under section 1656 differs from the Governmentwide prohibition under 889(a) (1)(A) in that it: applies to equipment, systems, or services to carry out the DoD nuclear deterrence or homeland defense missions; includes different definitions of "covered telecommunications equipment or services" and "covered foreign country"; does not include exceptions from the prohibition; and provides independent waiver authority to the Secretary of Defense. As such, the DFARS requires additional representations and disclosures from offerors and contractors to ensure compliance with the statutory prohibition.

### 5. Burden on Small Business

DFARS 252.204-7017, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services—Representation, requires that if an offeror provides an affirmative representation under the DFARS provision 252.204-7016, then that offeror will be required to represent on every solicitation whether it is including covered defense telecommunications equipment or services as a part of its offer in response to the solicitation. If the offeror responds affirmatively, the offeror is required to further disclose information about the covered defense telecommunications equipment or services. According to data in the Federal Procurement Data System (FPDS) for fiscal years (FYs) 2020 through 2022, on average DoD makes awards each year to approximately 34,460 unique entities, of which 23,680 are unique small entities. DoD estimates that approximately 2,368 (10 percent) of the unique small entities that receive DoD awards each year may be required to submit the additional offer-by-offer representation. DoD further estimates that of the estimated 2,368 unique small entities that may be required to represent on an offer-by-offer basis, it is estimated that 10 percent (237 unique small entities) may also be required to provide the additional disclosure within the representation.

DFARS clause 252.204-7018, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services, requires contractors and subcontractors to report through <https://dibnet.dod.mil>, any discovery of covered defense telecommunications equipment or services that are being used as a substantial or essential component of any system, or as

critical technology as part of any system, during the course of contract performance. At this time, there is no way for DoD to estimate how many contractors (small or otherwise) may make such discovery and be required to submit a report; however, DoD expects this number to be relatively low. DoD estimates that approximately 1,184 entities (5 percent of the 23,680 unique small entities that receive DoD awards annually) may be required to submit a report to DIBNET.

#### 6. Less Frequent Collection

Only offerors who represent that they do provide covered defense telecommunications equipment or services in the annual SAM representation at DFARS 252.204-7016 will be required to provide the offer-by-offer representation in the provision at DFARS 252.204-7017. Less frequent collection of the information would impair DoD's ability to ensure compliance with the statutory requirements.

#### 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. Public Notice

i. A 60-day notice for the collection was published in the *Federal Register* on May 19, 2023 at 88 FR 32206. No comments were received during the 60-day comment period.

ii. A 30-day notice for the collection was published in the *Federal Register* on August 30, 2023 at 88 FR 59879.

##### b. Consultation

Subject matter experts within DoD were consulted regarding this information collection.

#### 9. Gifts or Payment

DoD will not provide payment or gift to respondents under this information collection requirement, other than remuneration to contractors under their contracts.

#### 10. Confidentiality

This information is disclosed only to the extent consistent with statutory requirements, current regulations, and prudent business practices. No assurance of confidentiality is provided to respondents. A Privacy Act Statement is not required for this collection because DoD is not requesting individuals to furnish personal information for a system of records. 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

a. 252.204-7017, Prohibition on Acquisition of Covered Defense Telecommunications Equipment or Services—Representation. This provision requires that if an offeror provides an affirmative representation under the provision at 252.204-7016, Covered Defense Telecommunications Equipment or Services—Representation, then that offeror will be required to represent in paragraph (d) of the provision whether it will or will not provide under a specific contract any covered defense telecommunications equipment or services. If the offeror responds affirmatively, the offeror is required to further disclose information identified in paragraph (e) of the provision about the covered defense telecommunications equipment or services.

Data from FPDS for FY 2020 through 2022 indicates that each year on average DoD awards contracts to 34,460 unique awardees. DoD does not currently have data to indicate how many offerors may be required to respond to the offer-by-offer representation at 252.204-7017. To be conservative DoD estimates that 10 percent of the DoD unique awardees (3,446 entities) will respond that they do provide covered defense telecommunications equipment or services as part of their offered products or services to the Government in the provision at 252.204-7016 and will, therefore, be required to complete the representation at 252.204-7017(d). Based on the FPDS data, DoD estimates that for the 3,446 offerors required to respond to 252.204-7018, each are estimated to have to complete 45 offer-by-offer representations per year in response to 15 solicitations for basic contracts and 30 solicitations for orders. It is estimated that it will take an offeror 5 minutes (0.08333 hour) to complete this representation for each solicitation. The following is a summary of the estimated public burden hours and labor cost associated with the offer-by-offer representation:

Estimation of Respondent Burden: 252.204-7017(d) Representation	
Number of respondents	3,446
Responses per respondent	45
Number of responses	155,070
Hours per response	0.08333
Estimated hours	12,922
Cost per hour (hourly wage) *	\$61.29
Cost per response	~\$5.11
Annual public burden (estimated hours * hourly wage)	\$791,988

\* The cost per hour is based on the Office of Personnel Management (OPM) General Schedule (GS) 12, Step 5, base hourly rate for calendar year (CY) 2023 plus rest of US locality pay (\$44.98) plus the 36.25% (\$16.31) civilian personnel full fringe benefit rate from OMB Memo M-08-13 (\$61.29).

DoD does not currently have data to indicate how many offerors may respond affirmatively to the representation in 252.204-7017(d) and will, therefore, be required to provide the additional disclosure on the covered telecommunications equipment or services to be included in the offer. To be conservative, DoD estimates that 10 percent (approximately 345) of 3,446 offerors may provide an affirmative response to the representation in 252.204-7017(d) and have to provide the additional information identified in paragraph (e) of the provision. It is estimated that such offerors may provide up to 45 responses per year and require 3 hours per response to respond. The following is a summary of the estimated public burden hours and labor cost associated with the disclosure:

Estimation of Respondent Burden: 252.204-7017(e) Disclosure	
Number of respondents	345
Responses per respondent	45
Number of responses	15,525
Hours per response	3
Estimated hours	46,575
Cost per hour (hourly wage) *	\$61.29
Cost per response	\$183.87
Annual public burden	\$2,854,582

\* The cost per hour is based on the Office of Personnel Management (OPM) General Schedule (GS) 12, Step 5, base hourly rate for calendar year (CY) 2023 plus rest of US locality pay (\$44.98) plus the 36.25% (\$16.31) civilian personnel full fringe benefit rate from OMB Memo M-08-13 (\$61.29).

c. 252.204-7018, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services. This clause requires contractors and subcontractors to report through <https://dibnet.dod.mil> any discovery of covered telecommunications equipment or services during the course of contract performance.

DoD does not currently have data to indicate how many contractors may have to report a discovery of covered telecommunications equipment or services in accordance with the clause at 252.204-7018. To be conservative, DoD estimates that 1 percent (345 prime contractors) of the 34,460 unique awardees may discover covered telecommunications equipment or services during the course of contract performance and, therefore, be required to report information to DIBNET. It is expected that each respondent may make up to 5 reports a year and each report may take up to 1.5 hours to complete. The following is a summary of the estimated public burden hours and labor cost associated with the reporting requirement:

Estimation of Respondent Burden: 252.204-7018	
Number of respondents	345
Responses per respondent	5
Number of responses	1,725

Hours per response	1.5
Estimated hours	2,587.5
Cost per hour (hourly wage) *	\$61.29
Cost per response	\$91.94
Annual public burden (estimated hours * hourly rate)	\$158,588

\* The cost per hour is based on the Office of Personnel Management (OPM) General Schedule (GS) 12, Step 5, base hourly rate for calendar year (CY) 2023 plus rest of US locality pay (\$44.98) plus the 36.25% (\$16.31) civilian personnel full fringe benefit rate from OMB Memo M-08-13 (\$61.29).

d. Total Respondent Burden Hours Costs.

Summary of Public Burden Estimate	Responses	Hours	Dollars
252.204-7017(d) Representation	155,070	12,922	\$791,989
252.204-7017(e) Disclosure	15,525	46,575	\$2,854,582
252.204-7018 Reporting	1,725	2,588	\$158,619
Total Public Burden *	172,320	62,085	\$3,805,190

\* Totals for responses, hours, and dollars are rounded

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 following is a summary of the estimated hours and cost associated with Government review of the representations, disclosures, and reports described in section 12 of this supporting statement:

Estimation of Government Burden				
	252.204-7017(d)	252.204-7017(e)	252.204-7018	Total
Number of responses	155,070	15,525	1,725	172,320
Hours per response	0.08333	3	3	---
Estimated hours	12,922	46,575	5,175	64,672
Cost per hour *	\$61.29	\$61.29	\$61.29	---
Annual Govt burden	\$791,989	\$2,854,582	\$317,176	\$3,963,747

\* The cost per hour is based on the Office of Personnel Management (OPM) General Schedule (GS) 12, Step 5, base hourly rate for calendar year (CY) 2023 plus rest of US locality pay

(\$44.98) plus the 36.25% (\$16.31) civilian personnel full fringe benefit rate from OMB Memo M-08-13 (\$61.29).

15. Reasons for Change in Burden

The burden has changed due to the use of current FPDS data on the average number of awarded contracts from FY 2020 through FY 2022. Although the labor rates have increased, the burden associated with DFARS provision 252.204-7016, Covered Defense Telecommunications Equipment or Services—Representation, was removed from this information collection as it is already being covered by the information collection approved under OMB Control Number 9000-0189. In addition, the number of awarded contracts in FPDS for FY 2020 through FY 2022 has decreased, which reduced the number of annual respondents and total hours estimated for the representation and disclosure under the DFARS provision at 252.204-7017, Prohibition on Acquisition of Covered Defense Telecommunications Equipment or Services—Representation, and the number of annual respondents and total hours estimated for the report under the DFARS clause at 252.204-7018, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services.

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Change in Burden	2020	2023	Difference
Number of respondents	211,529	3,446	-208,083
Total annual responses	432,939	172,320	-260,619
Total Hours	97,359	62,085	-35,274
Cost per hour	\$55.19	\$61.29	\$6
Total Cost	\$5,373,218	\$3,805,190	-\$1,568,028

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”

DoD is not requesting any exemptions to the provisions stated in 5 CFR 1320.9.