

SUPPORTING STATEMENT - PART A

Supporting Statement for Department of Veterans Affairs Acquisition Regulation (VAAR) 809.507-1 and VAAR Provision 852.209-70 OMB Control No. 2900-0418

Summary of Changes from Previously Approved Collection

- There are no revisions to the previously approved information collection (IC) instrument; however, the uploaded document file name was updated to identify the approved OMB Control No. 2900-0418.
- The supporting statement format was updated to more current form and format, but the information provided is similar but updated for clarity and usage of standard terminology.
- As reflected in Section 15, there is no burden hour change. The burden cost of this information collection is changed only to revise wage rates to more current and appropriate levels. This results in net change of \$4,393 in increased burden cost.
- As reflected in Section 8A, Public Notice, VA received one comment on the 60-day Federal Register Notice (FRN), however, it was not related to the Paperwork Reduction Act (PRA) or this information collection requirement. Therefore, no changes to this collection of information were made as a result of the comment.

1. Need for the Information Collection

The Department of Veterans Affairs (VA), Office of Acquisition and Logistics (OAL), Office of Procurement Policy, Systems and Oversight, Procurement Policy and Warrant Management Service is requesting the Office of Management and Budget (OMB) grant an extension on a previously approved information collection request, OMB control number 2900-0418, concerning Organizational Conflicts of Interest. Performance of the VA mission requires the use of contractors. VAAR provision 852.209-70, Organizational Conflicts of Interest, establishes VA unique requirements to implement section 8141 of the 1989 Department of Defense Appropriation Act, Pub. L. 100-463, 102 Stat. 2270-47 (1988). VAAR section 809.507-1, Solicitation provisions, prescribes VAAR provision 852.209-70, Organizational Conflicts of Interest, and applies to contracts (and solicitations to select such contracts) with either profit or nonprofit organizations, and is included in any solicitation for services addressed in Federal Acquisition Regulation (FAR) 9.502, to include in those types of acquisitions where organizational conflicts of interest are more likely to occur such as in contracts involving management support services; consultant or other professional services; contractor performance of or assistance in technical evaluations; or systems engineering and technical direction work performed by a contractor that does not have overall contractual responsibility for development or production.

Offerors must advise, as part of the firm's offer, whether award of the contract to the firm might involve organizational conflicts of interest or potential conflicts of interest, and, if so, to disclose all relevant facts regarding the conflicts or potential conflicts.

The Agency is requesting a 3-year extension to collect this information from public or private businesses.

Authorities: 40 U.S.C. 121(c); 44 U.S.C. 3507, Paperwork Reduction Act of 1995; and section 8141 of the 1989 Department of Defense Appropriation Act, Pub. L. 100-463, 102 Stat. 2270-47 (1988); and 48 CFR 1.301-1.304.

2. Use of the Information

The Offeror (or respondents) on applicable VA acquisitions shall provide a statement with its offer which describes, in a concise manner, all relevant facts concerning any past, present, or currently planned interest (financial, contractual, organizational, or otherwise) or actual or potential organizational conflicts of interest relating to the services to be provided under this solicitation. There is no required format, and each submission is unique to the individual offeror (contractor) and the situation. Offerors may provide such statements electronically via documents submitted in proposals via email or uploaded to Government portals, or in printed form, as determined and set forth in each solicitation. Offerors complete the information collection by providing statements setting forth the facts of the actual or potential organizational conflict of interest.

The Offeror shall also provide statements with its offer containing the same information for any consultants and subcontractors identified in its proposal that will provide services under the solicitation. The Offeror may also provide relevant facts that show how its organizational and/or management system or other actions would avoid or mitigate any actual or potential organizational conflicts of interest.

Offerors are made aware of the required collection of information via the provision that is set forth in each applicable solicitation as reflected in the information collection instrument filed with this supporting statement and information collection request. Information submitted pursuant to provision 852.209-70, Organizational Conflicts of Interest, is submitted to the cognizant contracting officer identified in each solicitation. The contracting officer evaluates the information and files it in the contract file. The information is not returned to the respondent.

Based on this information and any other information solicited or obtained by the contracting officer, the contracting officer may determine that an organizational conflict of interest exists which would warrant disqualifying the contractor for award of the contract unless the organizational conflict of interest can be mitigated to the contracting officer's satisfaction by negotiating terms and conditions of the contract to that effect. If the conflict of interest cannot be mitigated and if the contracting officer finds that it is in the best

interest of the United States to award the contract, the contracting officer shall request a waiver in accordance with FAR 9.503.

3. Use of Information Technology

VA uses information technology to the maximum extent practicable. Data submitted by offerors/contractors is typically requested to be submitted electronically – typically via email or uploaded into VA provided portal links when used to submit offers. This occurs in almost 100 percent of the time in almost all instances via stated requirements in each solicitation. However, if needed, offerors may need to submit hard copies but that is typically a decision they elect or governed by the size of submittals. Where offerors/contractors are capable of electronic interchange, the offerors/contractors may submit this information collection requirement electronically. Nothing in the VAAR precludes the use of electronic interchange. Electronic submission has rapidly become the standard in how VA transmits, and offerors/contractors submit information. VA complies with the policy in FAR 4.502(a) that mandates the Federal Government shall use electronic commerce whenever practicable or cost-effective. Contracting officers may supplement electronic transactions by using other media to meet the requirements of any contract action governed by the FAR (e.g., transmit hard copy of drawings).

4. Non-duplication

The information obtained through this collection is unique and is not already available for use or adaptation from another cleared source.

5. Burden on Small Businesses

This information collection does not impose a significant economic impact on a substantial number of small businesses or entities.

6. Less Frequent Collection

Generally, contractors will be required to provide the requisite information with proposal submission. In most cases contractors will have 30 days or more to prepare a proposal submission. With contracting officer approval, the contractor may submit a waiver within a specified time frame after proposal submission. The protection of contractor proprietary, trade secret, or other confidential information and the Government's right to use that data are covered by contract-specific clauses.

7. Paperwork Reduction Act Guidelines

This collection of information does not require collection to be conducted in a manner inconsistent with the guidelines delineated in 5 CFR 1320.5(d)(2). More specifically to two requirements – one, the nature and extent of confidentiality, the protection of contractor proprietary, trade secret, or other confidential information and the Government's right to use that data are covered by contract-specific clauses available to all offerors. Second,

regarding reducing burden on small entities to the extent practicable and appropriate, this information is required by the Government to protect transparency and fairness in government contract transactions by ensuring organizational conflicts of interest are identified. It applies equally to all business sizes. VA permits offerors to submit information in their own form and format and use electronic submission, thus reducing burden on small entities to the extent practicable. The capture and maintenance by an offeror/contractor of such information is a standard business practice they would routinely retain and gather and that is most suitable to their needs.

8. Consultation and Public Comments

Part A: PUBLIC NOTICE

A 60-Day Federal Register Notice (FRN) for the collection published on Monday, September 11, 2023. The 60-Day FRN citation is 88 FR 62429.

VA received one comment during the 60-day comment period. However, it was not related to the Paperwork Reduction Act (PRA) or this information collection requirement. The commenter referred to a complaint they had regarding an action for an individual State that does not pertain to the VAAR or the purpose of this information collection. Therefore, no changes to this collection of information were made as a result of the comment.

A 30-Day Federal Register Notice for the collection published on Tuesday, December 5, 2023. The 30-Day FRN citation is 88 FR 84403.

Part B: CONSULTATION

No additional consultation apart from soliciting public comments through the Federal Register was conducted for this submission.

9. Gifts or Payment

No payments or gifts are being offered to respondents as an incentive to participate in the collection.

10. Confidentiality

Data will be kept private to the extent allowed by law. Information provided to VA by a contractor is subject to being requested by third parties under the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552), but business proprietary information is generally exempt from public disclosure under the FOIA.

A Privacy Act Statement is not required for this collection because we are not requesting individuals to furnish personal information for a system of records.

A System of Record Notice (SORN) is not required for this collection because records are not retrievable by personally identifiable information (PII).

A Privacy Impact Assessment (PIA) is not required for this collection because PII is not being collected electronically.

Contract laws and regulations specify record retention requirements for contracts that such organizational conflicts of interest information collections would be submitted under. FAR 4.703, Policy, states the required records retention period based on different contract actions and circumstances, and is applicable for all awarded contracts that had VAAR provision 852.209-70 inserted. Certain records are required to be maintained for a longer period in accordance with the FAR.

11. Sensitive Questions

No questions considered sensitive are being asked in this collection, although they may pertain to matters considered business confidential and thus are appropriately protected by the Government.

12. Respondent Burden and its Labor Costs

Part A: ESTIMATION OF RESPONDENT BURDEN

1) Collection Instrument(s)

VAAR 809.507-1 and VAAR Provision 852.209-70

- a) Number of Respondents: 102
- b) Number of Responses Per Respondent: 1 per each solicitation
- c) Number of Total Annual Responses: 102
- d) Response Time: 60 minutes (1 hour)
- e) Respondent Burden Hours (102×60) ÷ 60 equals: 102 hours

2) Total Submission Burden (Summation or average based on collection)

- a) Total Number of Respondents: 102
- b) Total Number of Annual Responses: 102
- c) Total Respondent Burden Hours: 102 hours

Part B: LABOR COST OF RESPONDENT BURDEN

1) Collection Instrument(s)

VAAR 809.507-1 and VAAR Provision 852.209-70

- a) Number of Total Annual Responses: 102
- b) Response Time: 1 hour
- c) Respondent Hourly Wage: \$108.76
- d) Labor Burden per Response: \$108.76
- e) Total Labor Burden : \$11,094

2) Overall Labor Burden

- a) Total Number of Annual Responses: 102
- b) Total Labor Burden (*P: add all “e’s” in this section*): \$11,094

The Respondent hourly wage was determined by using the Bureau of Labor Statistics (BLS) website at <https://www.bls.gov/home.htm> and the particular index at https://www.bls.gov/oes/current/oes_stru.htm#11-0000. The Bureau of Labor Statistics (BLS) gathers information on full-time wage and salary workers. According to the latest (May 2022) available BLS data, the mean hourly wage is \$79.83 on BLS wage code – “11-3031 Financial Managers” plus 36.25% per OMB Memo M-08-13 dated March 11, 2008.

13. Respondent Costs Other Than Burden Hour Costs

There are no annualized costs to respondents other than the labor burden costs addressed in Section 12 of this document to complete this collection.

14. Cost to the Federal Government

Part A: LABOR COST TO THE FEDERAL GOVERNMENT

1) Collection Instrument(s)

VAAR 809.507-1 and VAAR Provision 852.209-70

- a) Number of Total Annual Responses: 102
- b) Processing Time per Response: 1 hour
- c) Hourly Wage of Worker(s) Processing Responses: \$52.61
- d) Cost to Process Each Response: \$52.61
- e) Total Cost to Process Responses: \$5,366

2) Overall Labor Burden to the Federal Government

- a) Total Number of Annual Responses: 102
- b) Total Labor Burden: \$5,366

Estimated annualized cost to the Government: \$5,366 (102 hours at \$ 52.61 per hour). It is estimated that the review and statement will be prepared by a Journeyman Contract Specialist equivalent to a GS-12. Based on a GS-12, step 5 salary, for FY23 – see Salary Table 2023-GS (https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/GS_h.pdf) plus 36.25% per OMB Memo M-08-13 dated March 11, 2008, the hourly rate is ($\$38.61 \times 136.25\% = \52.61).

Part B: OPERATIONAL AND MAINTENANCE COSTS

1) Cost Categories

- a) Equipment: \$0
- b) Printing: \$0
- c) Postage: \$0

- d) Software Purchases: \$0
- e) Licensing Costs: \$0
- f) Other: \$0

2) Total Operational and Maintenance Cost: \$0

Part C: TOTAL COST TO THE FEDERAL GOVERNMENT

- 1) Total Labor Cost to the Federal Government: \$5,366
- 2) Total Operational and Maintenance Costs: \$0
- 3) Total Cost to the Federal Government: \$5366

15. Reasons for Change in Burden

There is no burden hour change. The burden cost estimate has increased since the previous approval due to revised wage rates to more current and appropriate levels. But estimates on respondents and burden hours related to the burden cost calculation remain unchanged. This results in net change of \$4,393 in increased burden cost.

Summary of the cost differences between this SS and last SS

SS Block #	Cost This SS	Cost Last SS	Increase (Decrease)	Reason
12c	\$11,094	\$7,200	\$3,894	Increase in BLS rate.
14	\$5,366	\$4,867	\$499	Increased in GS rate.

Net Changes \$4,393 increased in burden cost.

16. Publication of Results

The results will not be published. Approval is requested by December 31, 2023 to allow for continued use of the VA provision.

17. Non-Display of OMB Expiration Date

We are not seeking approval to omit the display of the expiration date of the OMB approval on the collection instrument.

18. Exceptions to "Certification for Paperwork Reduction Submissions"

We are not requesting any exemptions to the provisions stated in 5 CFR 1320.9.