

**Federal Acquisition Regulation (FAR)
Prohibition on Contracting for Certain Telecommunications and
Video Surveillance Services or Equipment
OMB Control No. 9000-0199
Justification - Part A Supporting Statement**

FAR sections affected: 52.204-26; 52.204-24; and 52.204-25

Overview of Information Collection:

There are no program changes. The FAR requirements remain the same. The Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) are combining OMB Control Nos. by FAR part. This consolidation is expected to improve industry's ability to easily and efficiently identify burdens associated with a given FAR part. This 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 extension of OMB Control No. 9000-0199 and combines it with the previously approved information collections under OMB Control No. 9000-0201, with the title "Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment". Upon approval of this consolidated information collection, OMB Control No. 9000-0201 will be discontinued. The burden requirements previously approved under the discontinued number will be covered under OMB Control No. 9000-0199 as explained in item 15. This extension includes adjustments to the burden due to use of the latest System for Award Management (SAM) and Federal Procurement Data System (FPDS) data available, and the calendar year 2023 OPM GS wage rates for the rest of the United States as explained in item 15.

1. Need & Method for the Information Collection. Listed in the order in which offerors and contractors provide the information, this clearance covers the information that offerors and contractors must submit to comply with the following FAR requirements meant to implement subparagraphs (a)(1)(A) and (a)(1)(B) of Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232):

- **FAR 52.204-26, Covered Telecommunications Equipment or Services–Representation.** This provision requires offerors to:

- Review the list of excluded parties in SAM for entities excluded from receiving Federal awards for “covered telecommunications equipment or services”.
- Represent whether it does or does not **provide** covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.
- Represents 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.

- **FAR 52.204-24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment.** This provision requires offerors to respond only if the offeror represented that it “does **provide** or **use** covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument” in paragraphs (c)(1) or (c)(2) of the FAR provision at 52.204-26, or in paragraphs (v)(2)(i) or (ii) of the FAR provision at 52.212-3.

If the offeror is required to respond to this provision, offerors are required to:

- Review the list of excluded parties in SAM for entities excluded from receiving Federal awards for “covered telecommunications equipment or services,”
- Represent whether it “will” or “will not” **provide** the covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from the solicitation.
 - If the offeror responded that it “will” in the representation in paragraph (d)(1) of this provision, the offeror must provide the following additional disclosure information found at 52.204-24(e)(1) as part of its offer:
 - For covered equipment–
 - The entity that produced the covered telecommunications equipment (including entity name, unique entity identifier, Commercial and Government Entity (CAGE)

- code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);
 - A description of all covered telecommunications equipment offered (including brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and
 - An explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of the provision at 52.204-24.
- For covered services—
 - If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or
 - If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and an explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of the provision at 52.204-24.
- Represent whether it “does” or “does not” **use** covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services.
 - If the offeror has responded “does” in the representation in paragraph (d)(2) of this provision, the offeror must provide the following additional disclosure information found at 52.204-24(e)(2):
 - For covered equipment—
 - The entity that produced the covered telecommunications equipment (including entity name, unique entity identifier,

- CAGE code, and whether the entity was the OEM or a distributor, if known);
 - A description of all covered telecommunications equipment offered (including brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and
 - An explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of the provision at 52.204-24.
 - For covered services—
 - If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or
 - If not associated with maintenance, the PSC of the service being provided; and an explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of the provision at 52.204-24.
- ***FAR 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.*** In the event a contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or a contractor is notified of such by a subcontractor at any tier or by any other source, this clause requires contractors to:
 - Report the information in paragraph 52.204-25(d)(2) to the contracting officer, unless the contract has established other procedures for reporting the information; in the case of DoD, the contractor shall report to the website at <https://dibnet.dod.mil>.

- For indefinite delivery contracts, the contractor shall report to the contracting officer for the indefinite delivery contract and the contracting officer(s) for any affected order or, in the case of DoD, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.
- Report the following within one business day from the date of such identification or notification:
 - The contract number;
 - The order number(s), if applicable;
 - Supplier name;
 - Supplier unique entity identifier (if known);
 - Supplier CAGE code (if known);
 - Brand;
 - Model number (original equipment manufacturer number, manufacturer part number, or wholesaler number);
 - Item description;
 - And any readily available information about mitigation actions undertaken or recommended.
- Report the following within 10 business days of submitting the information in paragraph(d)(2)(i) of this clause:
 - Any further available information about mitigation actions undertaken or recommended.
 - Describe efforts undertaken to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

2. Use of the Information.

FAR 52.204-26, Covered Telecommunications Equipment or Services—Representation.

FAR 52.204-24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment.

Contracting officers use the information collected under these provisions to identify if an offeror **provides** or **uses** any covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument. In the event that offerors are required to disclose further information, the contracting officer uses the collected

information to ensure compliance with the FAR as implemented by statute.

FAR 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

Contracting officers use the information collected under this clause to ensure compliance and consult with legal counsel and the program office on next steps regarding the prohibited equipment or services.

3. Use of Information Technology. Federal agencies use information technology to the maximum extent practicable. Where both the Government agency and contractors are capable of electronic interchange, the offerors and contractors may submit this information collection requirement electronically. The usage of information technology will be nearly 100 percent.

FAR 52.204-26 and 52.204-24. In order to reduce the information collection burden imposed on the public, offerors represent annually using SAM.

FAR 52.204-25. In the case of DoD, contractors shall report using the website at <https://dibnet.dod.mil>.

4. Non-duplication. There is no duplication of information under this collection. These requirements are issued under the FAR, which has been developed to standardize Federal procurement practices and eliminate unnecessary duplication.
5. Burden on Small Business. The burden applied to small businesses is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.
6. Less Frequent Collection.

Section 889 (a)(1)(A) and (a)(1)(B) were implemented as national security measures 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.

FAR 52.204-26 and 52.204-24 are collected in SAM annually and cannot be any less frequent.

FAR 52.204-25 is collected at the contract level, collection of information on a basis other than contract-by-contract is not practical.

7. Paperwork Reduction Act Guidelines. Collection is consistent with guidelines in 5 CFR 1320.5(d)(2).
8. Consultation and Public Comments.
 - A. A 60-day notice was published in the *Federal Register* at 88 FR 42367, on June 30, 2023. No comments were received.
 - B. A 30-day notice was published in the *Federal Register* at 87 FR 60943, on September 6, 2023. No public comments were received.
9. Gifts or Payment. This collection does not provide any payment or gift to respondents, other than remuneration of contractors.
10. Privacy & Confidentiality. This information is disclosed only to the extent consistent with prudent business practices, current regulations, and statutory requirements.
11. Sensitive Questions. No sensitive questions are involved.
12. Burden Estimate.

Estimated total annual public hour and cost burden.

FAR 52.204-26, Covered Telecommunications Equipment or Services-Representation:

In order to maintain an active registration in SAM, all entities will be required to complete the FAR 52.204-26 representation in SAM. Therefore, it is assumed that all offerors in SAM will fill out the representation to retain an active SAM registration.

According to data from SAM, as of April 2023, there were 438,033 unique vendors registered in SAM.

It is assumed that it will take 1 hour for reviewing instructions, searching existing data sources, and completing the representation.

Estimated number of respondents/yr.....	438,033
Responses per respondent.....	x 1
Total annual responses.....	438,033
Estimated hrs/response.....	x 1
Estimated annual burden hours.....	438,033
Hourly rate*.....	x \$79
Estimated annual cost to the public..	\$34,604,607

A historical average of the number of unique entities awarded contracts for Fiscal years 2020 through 2022 data (121,867 unique entities) from FPDS was used to estimate the burden for FAR 52.204-24 and FAR 52.204-25 as described below:

FAR 52.204-24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment:

It is estimated that the number of entities required to represent will be 1 percent of the number of unique entities awarded contracts (1% of 121,867 or 1,219). It is estimated that up to 25 percent of these unique entities (25% of 1,219 or 305) will be responsible for submitting more detailed disclosures regarding the use of 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.

A. No Additional Detail Required

Estimated number of respondents/yr.....1,219
Responses per respondent..... x 380
Total annual responses.....463,220
Estimated hrs/response..... x 3
Estimated annual burden hours.....1,389,660
Hourly rate*..... x \$79
Estimated annual cost to the public..\$109,783,140

B. Additional Detail Required

Estimated number of respondents/yr.....305
Responses per respondent..... x 3
Total annual responses.....915
Estimated hrs/response..... x 3
Estimated annual burden hours.....2,745
Hourly rate*.....x \$79
Estimated annual cost to the public..\$216,855

Total Cost

Total annual responses.....464,135
Estimated hrs/response..... x 3
Estimated annual burden hours.....1,392,405
Hourly rate*.....x \$79
Estimated total annual cost to the public..\$109,999,995

FAR 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment:

It is estimated that 0.5% of the average number of unique entities awarded contracts (0.5% of 121,867 or 609) will submit approximately 5 written reports annually pursuant to FAR 52.204-25.

Estimated number of respondents/yr.....609
 Responses per respondent..... x 5
 Total annual responses.....3,045
 Estimated hrs/response..... x 3
 Estimated annual burden hours.....9,135
 Hourly rate*..... x \$79
 Estimated annual cost to the public...\$721,665

* Fully burdened rate includes a 36.25 percent fringe factor (pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition), and a 12 percent overhead rate (from A-76 revised supplemental handbook). Based on the Office of Personnel Management (OPM) 2023 General Schedule (GS) 13/step 5 salary for the rest of the United States (\$53.49 per hour) plus the fringe factor and the overhead rate, rounded to the nearest whole dollar (\$79).

Total Public Burden:

Summary of Annual Cost to the Public	Estimated respondents/yr	Responses/ respondent	Total annual responses	Estimated hrs/response	Estimated total burden hrs	Hourly rate	Estimated annual cost to the public
Reporting Burden							
FAR 52.204-26	438,033	1	438,033	1	438,033	\$79	\$34,604,607
FAR 52.204-24	464,135	1	464,135	3	1,392,405	\$79	\$109,999,995
FAR 52.204-25	609	5	3,045	3	9,135	\$79	\$721,665
Total annual cost to the public	902,777		905,213		1,839,573		\$145,326,267

13. Estimated nonrecurring costs. Not applicable.

14. Estimated cost to the Government.

FAR 52.204-26, Covered Telecommunications Equipment or Services—Representation: The average time required by the Government to

review 438,033 representations from the provision at 52.204-26 is estimated at 1 hour per response:

Estimated responses/yr.....438,033
 Reviewing time (hr)/response.....x 1
 Review time /yr.....438,033
 Hourly rate**.....x \$67
 Estimated annual cost to the Government.\$29,348,211

FAR 52.204-24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment:

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:

Estimated responses/yr.....464,135
 Reviewing time (hr)/response..... x 3
 Review time /yr.....1,392,405
 Hourly rate**..... x \$67
 Estimated annual cost to the Government.\$93,291,135

FAR 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment:

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:

Estimated responses/yr.....3,045
 Reviewing time (hr)/response.....x 3
 Review time /yr.....9,135
 Hourly rate**.....x \$67
 Estimated annual cost to the Government.\$612,045

**Fully burdened rate includes a 36.25 percent fringe factor (pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition), and a 12 percent overhead rate (from A-76 revised supplemental handbook). Based on the Office of Personnel Management (OPM) 2023 General Schedule (GS) 12/step 5 salary for the rest of the United States (\$44.98 per hour) plus the fringe factor and the overhead rate, rounded to the nearest whole dollar (\$67).

Total Government Burden:

Summary of Annual Cost to	Total	Review time	Review time	Hourly	Estimated
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the Gov	annual responses	per response (hours)	per year (hours)	rate	Government Cost
FAR 52.204-26	438,033	1	438,033	\$67	\$29,348,211
FAR 52.204-24	464,135	3	1,392,405	\$67	\$93,291,135
FAR 52.204-25	3,045	3	9,135	\$67	\$612,045
Total annual cost to the Government	905,213		1,839,573		\$123,251,391

15. Reasons for changes. There are no program changes. The FAR requirements remain the same. This extension of OMB Control No. 9000-0199 is combined with the previously approved information collections under OMB Control No. 9000-0201. Upon approval of this consolidated information collection, OMB Control No. 9000-0201 will be discontinued because the burden has been accounted for in this extension. This extension includes adjustments to the public and Government burden estimates based on the following:

- The law is working as intended and the supply chain is coming into compliance.
- The estimate uses the latest available data from SAM.
- The estimated number of respondents and responses per year is based on the historical average of FPDS data for the three most recent fiscal years (2020 through 2022).
- The estimated cost per hour is based on use of the calendar year 2023 OPM GS wage rate for the rest of the United States.
- The burden that was previously calculated for the Government Waiver process at FAR 52.204-25 is no longer included in OMB Control No. 9000-0199 because the waiver period was not extended beyond August 13, 2021 for the prohibition at FAR 4.2102(a)(1), or beyond August 13, 2022 for the prohibition at FAR 4.2102(a)(2).

	2020 Estimate	2023 Estimate	Change in Burden
Total annual responses	32,377,465	905,213	-31,472,252
Total burden hours	93,945,656	1,839,573	-92,106,083
Total annual cost to public	8,897,289,101	\$145,326,267	-\$8,751,962,834

16. Publicizing Results. Results will not be tabulated or published.

17. OMB Not to Display Approval. Approval to *not* display the expiration date for OMB approval of the information collection is not sought.
18. Exceptions to "Certification for Paperwork Reduction Submissions." There is no exception to the certification statement.
19. Surveys, Censuses, and Other Collections that Employ Statistical Methods. Statistical methods are not used in this information collection. A Part B supporting statement is not needed, or required, and therefore was not completed.