

**SUPPORTING STATEMENT  
FOR INFORMATION COLLECTION SUBMISSION  
9000-0083, QUALIFICATION REQUIREMENTS**

**A. Justification.**

1. **Administrative requirements.** This is a request for extension of the information collection requirement currently approved under OMB Control Number 9000-0083, Qualification Requirements, (Federal Acquisition Regulation (FAR)) Subpart 9.2, 52.209-1. This request for extension reflects a change in the response burden hours estimated in the current approval based on a revision of the average number of responses annually.

In a wide variety of service and supply areas, Government contract requirements may include qualification requirements for testing or other quality assurance demonstration that must be completed before award of a contract. This information collection is necessary to provide the contracting officer with relevant information when an offeror, manufacturer, source, product or service covered by a qualification requirement has met the standards specified.

**Qualification Requirements (52.209-1).**

- Agency heads are authorized to establish qualification requirements in accordance with the policy at FAR 9.202.
- If a qualification requirement applies to an acquisition, the contracting officer need consider only those offers identified as meeting the requirement or included on the applicable Qualified Products List (QPL), Qualified Manufacturers List (QML), or Qualified Bidders List, unless an offeror can satisfactorily demonstrate to the contracting officer that it or its product or its subcontractor or its product can meet the standards established for qualification before the specified date of award. (FAR 9.206-1)
- FAR 9.206-2 prescribes inclusion of the clause at 52.209-1, Qualification Requirements, in solicitations and contracts when the acquisition is subject to a qualification requirement.
- The clause at 52.209-1:
  - o Defines "Qualification requirement" as used in the

clause;

- o Provides notification to offerors that-
  - One or more qualification requirements apply to the supplies or services covered by the contract;
  - The offerors proposed product, manufacturer, or source must have demonstrated that it meets the standards prescribed for qualification before award of the contract;
  - Offerors should contact the agency activity designated in the clause to obtain all requirements that they or their products or services, or their subcontractors or their products or services, must satisfy to become qualified and to arrange for an opportunity to demonstrate their abilities to meet the standards specified for qualification;
  - If, after award, the contracting officer discovers that an applicable qualification requirement was not in fact met at the time of award, the contracting officer may either terminate the contract for default or allow performance to continue if adequate consideration is offered and the action is determined to be otherwise in the Government's interests;
  - Award of the contract shall not be delayed to permit an offeror to submit evidence of qualification; and
  - Any change in location or ownership of the plant where a previously qualified product or service was manufactured or performed, or change in location or ownership of a previously qualified manufacture or source requires reevaluation of the qualification, which must be accomplished before the date of contract award.
- Paragraph (c) of the clause at 52.209-1 includes a request for the following information if an offeror, manufacturer, source, product or service covered by a qualification requirement has already met the standards specified:

- o Offeror's Name;

- o Manufacturer's Name;
- o Source's Name;
- o Item Name;
- o Service Identification; and
- o Test Number (to the extent known)

2. **Uses of information.** The contracting officer uses the information provided by offerors as a means of determining eligibility for award whenever the clause at 52.209-1 is included in a solicitation. Alternatively, items not listed may still be considered for award upon submission of evidence of qualification prior to contract award.

3. **Consideration of information technology.** We use improved information technology to the maximum extent practicable. Where both the Government agency and contractors are capable of electronic interchange, the contractor may submit this information collection requirement electronically.

4. **Efforts to identify duplication.** This requirement is being issued under the FAR which has been developed to standardize Federal procurement practices and eliminate unnecessary duplication. In fact, the information collection associated with the clause at FAR 52.209-1 was designed to eliminate the need for the public to provide duplicative and more burdensome information when an offeror, manufacturer, source, product or service covered by a qualification requirement has already met the standards specified by an agency in a solicitation.

5. **If the collection of information impacts small businesses or other entities, 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 consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently.** 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.

**Special circumstances for collection.** Collection is consistent with guidelines in 5 CFR 1320.6.

8. **Efforts to consult with persons outside the agency.** A notice was published in the *Federal Register* at 77 FR 51784, on August 27, 2012. One comment was received.

One respondent submitted public comments on the extension of the previously approved information collection. The analysis of the public comments is summarized as follows:

**Comment:** The respondent commented that the extension of the information collection would violate the fundamental purposes of the Paperwork Reduction Act because of the burden it puts on the entity submitting the information and the agency collecting the information.

**Response:** In accordance with the Paperwork Reduction Act (PRA), agencies can request an OMB approval of an existing information collection. The PRA requires that agencies use the Federal Register notice and comment process, to extend the OMB's approval, at least every three years. This extension, to a previously approved information collection, pertains to FAR subpart 9.2 and the associated clause at FAR 52.209-1. This information collection, which implements the statutory requirements of 10 U.S.C. 2319 and 41 U.S.C. 3311, which allows an agency to establish a qualification requirement for testing or other quality assurance demonstration that must be completed by an offeror before award of a contract. Under the qualification requirements, an end item, or a component thereof, may be required to be prequalified. The clause at FAR 52.209-1, Qualification Requirements, requires offerors who have met the qualification requirements to identify the offeror's name, the manufacturer's name, source's name, the item name, service identification, and test number (to the extent known). This eliminates the need for an offeror to provide new information when the offeror, manufacturer, source, product or service covered by qualification requirement has already met the standards specified by an agency in a solicitation. The contracting officer uses the information to determine eligibility for award when the clause at 52.209-1 is included in the solicitation.

**Comment:** The respondent commented that the agency did not accurately estimate the public burden challenging that the agency's methodology for calculating it is insufficient and inadequate and does not reflect the total burden. The respondent stated that "the Agencies estimate that only 2,207 respondents will be subject to this requirement annually ... we respectfully submit that this is greatly understated." The

respondent also took issue with the "number of responses annually per respondent. The Agencies have reduced the prior estimate by 95% without any explanation. The current estimate of five responses per year is entirely unrealistic." Further, the respondent found the estimate of 15 minutes per response to be "unrealistic" indicating that "a reasonable estimate would be in the range of at least two to three hours per response". For this reason, the respondent provided that the agency should reassess the estimated total burden hours and revise the estimate upwards to be more accurate. The same respondent provided that the burden of compliance with the information collection requirement greatly exceeds the agency's estimate and outweighs any potential utility of the extension.

**Response:** Serious consideration is given, during the open comment period, to all comments received and adjustments are made to the paperwork burden estimate based on reasonable considerations provided by the public. This is evidenced, as the respondent notes, in FAR Case 2007-006 where an adjustment was made from the total preparation hours from three to 60. This change was made considering particularly the hours that would be required for review within the company, prior to release to the Government.

The burden is prepared taking into consideration the necessary criteria in OMB guidance for estimating the paperwork burden put on the entity submitting the information. For example, consideration is given to an entity reviewing instructions; using technology to collect, process, and disclose information; adjusting existing practices to comply with requirements; searching data sources; completing and reviewing the response; and transmitting or disclosing information. The estimated burden hours for a collection are based on an average between the hours that a simple disclosure by a very small business might require and the much higher numbers that might be required for a very complex disclosure by a major corporation. Also, the estimated burden hours should only include projected hours for those actions which a company would not undertake in the normal course of business.

Following careful consideration of both the estimated number of respondents and the time needed to respond to the information required by the clause at FAR 52.209-1, it is determined that an upward adjustment is required.

In response to the respondent's concern that "the Agencies' estimate that only 2,207 respondents will be subject to this requirement annually" was "greatly understated", it should be noted that the clause at FAR 52.209-1, Qualification Requirements, is used in relatively limited circumstances. The

clause is prescribed for solicitations and contracts only when the acquisition is subject to a qualification requirement, which should be rare because of the statutory requirement favoring the acquisition of commercial items. Further, offerors are only required to provide information in paragraph (c) of the clause in cases where the offeror, manufacturer, source, product or service covered by a qualification requirement has already met the standards specified in the solicitation. Given these limiting circumstances and absent receipt of additional data to support the respondent's comments, the estimated number of respondents is revised from the previous 2,207 to 5 percent or 9,693 of the 193,859 unique vendors awarded contracts during Fiscal Year 2011. It is estimated that 5 percent of the 193,859 vendors would have received awards for solicitations in which the clause at FAR 52.209-1 was used and contained one or more qualification requirements.

The respondent also commented on the estimated number of responses annually, stating that "the Agencies have reduced the prior estimate by 95% without any explanation. The current estimate of five responses per year is entirely unrealistic." The estimated number of responses annually contained in the currently approved information collection is changed from 100, which was based on an estimated number of qualification requirements contained in each solicitation, to an estimated average of 5 responses per respondent. The estimated number of responses annually refers to the average number of offers received per solicitation issued, despite the number of qualification requirements contained in a solicitation.

Lastly, based on the previous explanation of the limited circumstances for the applicability of this collection requirement and the respondent's comments, the estimated responses time is revised from 15 minutes to one hour. The estimate is an average time for an offeror to complete six brief responses based on readily available qualification documentation regarding one to four qualified products per solicitation.

**9. Explanation of any decision to provide any payment or gift to respondents, other than reenumeration of contractors or guarantees.** There will be no payment or gift to respondents, other than remuneration of contractors.

**10. Describe assurance of confidentiality provided to respondents.** This information is disclosed only to the extent consistent with prudent business practices, law and regulation.

**11. Additional justification for questions of a sensitive nature.** No sensitive questions are involved.

12 & 13. **Estimated total annual public hour and cost burden.**

There is no Governmentwide data collection process or system, e.g., Federal Procurement Data System (FPDS) which identifies the number of solicitations issued that include qualification requirements. However, 193,859 unique vendors were awarded contracts during Fiscal Year 2011. It is estimated that 5 percent of the 193,859 vendors would have received awards for solicitations in which the clause at FAR 52.209-1 was used and contained one or more qualification requirements. In addition to the number of respondents, a change is being made regarding the estimated number of responses annually from 100 (in the currently approved burden) to an estimated average of 5 responses annually (i.e., the number of proposals submitted per respondent). The estimate of 100 responses per respondent was based on an estimated number of qualification requirements contained in each solicitation rather than an estimate of the number of proposals received per solicitation issued. For purposes of this clearance, time required to read and prepare information is estimated at one hour per submission (this is the average time estimated to provide information on one to four qualified products).

Estimated respondents/yr.....	9,693
Responses annually.....	<u>x 5</u>
Total annual responses.....	48,465
Estimated hrs/response.....	<u>x 1.0</u>
Estimated total burden/hrs.....	48,465
Average wage* (\$30.81 + 36.45% OH).....	<u>x \$42</u>
Estimated cost to public.....	\$2,035,530

\* Rate based on the equivalent to a GS-12, Step 3 or \$30.81/hour (from the OPM 2012 GS Salary Table), plus overhead at 36.45 percent (the OMB-mandated burden rate for A-76 public-private competitions), and rounded it to the nearest whole dollar, or \$42/hour.

14. **Estimated cost to the Government.** Time required for Governmentwide review is estimated at 0.5 hours per response.

Annual Reporting Burden and Cost

Total annual responses.....	48,465
Review time per response.....	x <u>.5</u>
Total burden hours.....	24,232
Average wages and overhead** (\$22.57/hr + 36.45% OH) . .	<u>x \$31</u>
Total Government cost .....	\$ 751,192

\*\* Rate based on \$22.57 an hour from the OPM 2012 Salary Table for a GS-09, step 5 plus 36.45 percent burden rounded to the nearest dollar, or \$31 an hour.

**15. Explain reasons for program changes or adjustments reported in Item 13 or 14.** This submission requests an extension of OMB approval of an information collection requirement in the FAR. The adjustment to the estimated number of respondents, responses and burden hours are explained in item 13. An adjustment is also being made to the average wages and overhead calculation for public and Government costs based on Office of Personnel Management 2012 salary information.

**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.