

**Information Collection Request, OMB Control No. 3090-0293,
Reporting and Use of Information Concerning Integrity and Performance of Recipients of
Grants and Cooperative Agreements
SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION**

A. JUSTIFICATION

This is a request for a renewed information collection requirement. The term “recipient” in this Information Collection Request refers to the non-Federal entity receiving financial assistance directly from Federal awarding agencies to carry out a project or program. In some cases, when stated, it also includes a non-Federal entity that receives a sub-award directly from one of those recipients of Federal awards.

1. Explain the circumstances that make the collection of information necessary.

Background

GSA is requesting that the Office of Management and Budget (OMB) review and approve an extension of the currently approved information collection requirement regarding the Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements.

This information collection is necessary in order to comply with section 872 of the Duncan Hunter National Defense Authorization Act of 2009, Public Law 110-417, as amended by Public Law 111-212, hereafter referred to as “the Act.” The Act requires GSA to establish and maintain a database of information regarding the integrity and performance of certain entities awarded Federal grants and contracts and use of the information by Federal officials making awards. OMB proposed implementing guidance for grants and cooperative agreements on February 18, 2010 (75 FR 7316). That guidance is in the process of being finalized.

The proposed implementing guidance for grants also would apply to cooperative agreements, as a matter of Government-wide policy. The database will cover any person awarded a Federal agency contract or grant in excess of \$500,000, and any person awarded Federal agency contracts and grants valued at \$10,000,000 in aggregate, if any information described below exists with respect to such person. Information in the database is to be updated semiannually.

Databases

The databases to be used are the Federal Awardee Performance and Integrity Information System (FAPIS) module in CPARS located at www.cpars.gov and the System for Award Management (SAM) located at www.sam.gov. FAPIS is a web-enabled application that is used to collect contractor and recipient performance information and SAM is the Official U.S. government system that consolidated the capabilities of CCR/FedReg, ORCA, and EPLS.

SAM.gov:

Recipients will first answer a “has/has not” question as to whether they are the recipient of an award in excess of \$500,000, entered in SAM.gov while responding to Proceedings questions in accordance with FAR 52.209-7. If recipients have received an award in excess of \$500,000, they will then be required to enter the following data for the most recent five-year period:

- a) Each civil or criminal proceeding, or any administrative proceeding, in connection with the award or performance of a contract or grant with the Federal Government with respect to the person during the period to the extent that such proceeding results in the following dispositions:
 - 1) In a criminal proceeding, a conviction;
 - 2) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - 3) In an administrative proceeding, a finding of fault and liability that results in
 - a. The payment of a monetary fine or penalty of \$5,000 or more; or
 - b. The payment of a reimbursement, restitution, or damages in excess of \$100,000;
 - 4) To the maximum extent practicable and consistent with applicable laws and regulations, in a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the person if the proceeding could have led to any of the outcomes specified in 1) - 3) above.

FAPIS Module in CPARS:

Section 872's requires Federal officials to report to the FAPIS module of CPARS (www.cpars.gov) and for a Federal awarding official to consider information the FAPIS module of PPIRS (www.ppirs.gov) contains about an entity before awarding a grant to that entity. This database shall include information in the form of a brief description for the most recent five-year period regarding the following:

- a) Each Federal contract and grant awarded to the person that was terminated in such period due to default.
- b) Each Federal suspension and debarment of the person in that period.
- c) Each Federal administrative agreement entered into by the person and the Federal Government in that period to resolve a suspension or debarment proceeding.
- d) Each final finding by a Federal official in that period that the person has been determined not to be a responsible source under subparagraph (C) or (D) of section 4(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(7)).
- e) Such other information as shall be provided for purposes of this section in the Federal Acquisition Regulation.
- f) To the maximum extent practical, information similar to the information covered by a) through d) in connection with the award or performance of a contract or grant with a State government.

Policy Changes since Approval of Current ICR

On February 18, 2010 (75 FR 7316), the Office of Management and Budget (OMB) proposed a number of changes to title 2 of the Code of Federal Regulations (2 CFR), some which were to provide new guidance to agencies that was needed to implement section 872 for grants. As it relates to this

ICR, requirements for obtaining Dun and Bradstreet Data Universal Numbering System (DUNS) numbers and registering in the Entity Management area of the System for Award Management (SAM) were published in final form in the Federal Register on September 14, 2010.

2. Use of information.

The information collected in SAM from entities for the purposes of this ICR is not publicly displayed in SAM. It is sent to FAPIIS.gov for display as applicable. Maintaining an active registration (must be updated annually) in SAM demonstrates the registrant responded to the questions.

Appropriate Federal agency officials can input and update information in the database relating to actions such officials have taken with regard to recipients. The recipient will be notified in a timely manner when relevant information has been entered into the database and will have an opportunity to submit comments for inclusion in the database.

Before making an award to a recipient, the Federal agency official responsible for making the award shall review the FAPIIS module of PPIRS and shall consider all information in the database to determine whether that entity is qualified to receive that particular award. In making the determination, the awarding official must take into consideration any information about the entity that is in the FAPIIS module of PPIRS and SAM.gov. The information is available to the public through the FAPIIS.gov website, with the exception that past performance reviews are not available publically. Actions posted in FAPIIS on or after April 15, 2011 are available to the public, as required by section 3010 of Pub. L. No.111-212.

3. Use of information technology. We use improved information technology to the maximum extent practicable. Where recipients are capable of electronic interchange, recipients may submit this information collection requirement electronically.

4. Efforts to identify duplication. Recipients will be submitting their information into the SAM.gov database and Federal officials will enter their information into the FAPIIS module in CPARS. Information required by NDAA will not be required to be entered into any other database.

5. If the collection of information impacts small businesses or other small entities, describe methods used to minimize burden. Subsection (b) of section 872 requires that FAPIIS contain information about each non-Federal entity (1) that receives a Federal award of more than \$500,000; and (2) about which there is proceedings information that must be reported as described in section 872. Therefore, the final guidance following this preamble states that Federal awarding agencies must include the award terms and conditions requiring the recipient to maintain its information in SAM.gov for each Federal award of total value greater than \$500,000.

Subsection (f) of section 872 requires that a non-Federal entity receiving Federal awards with a total value more than \$10,000,000 must update semiannually the SAM information about the criminal, civil, and administrative proceedings that section 872 delineates.

Only the information required by NDAA will be collected.

6. Consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently. Information being collected is in compliance with NDAA. Information

will be collected as described in A1 in this Supporting Statement. Failure to collect this information would not be in compliance with NDAA.

7. **Special circumstances for collection.** Collection is consistent with the guidelines in 5 CFR 1320.6.
8. **Consultations outside the Agency.** The *Federal Register* Notice soliciting public comment was published in the *Federal Register* at 79 FR 38028 on July 3, 2014. The public had 60 days to comment on the Information Collection. No comments were received. The second notice was published in the *Federal Register* on January 5, 2015.
9. **Explain any decision to provide payments or gifts to respondents, other than remuneration of contractors or grantees.** Not applicable.
10. **Describe assurance of confidentiality provided to respondents.** The information is disclosed only to the extent consistent with prudent business practices and current regulations.
11. **Provide additional justification for any questions of a sensitive nature.** No questions of a sensitive nature are requested.
12. **Provide an estimate in hours of the burden of the collection of information.**
As of November 10, 2014, FAPIIS contains records against 2,228 total contracts; there are not yet grants records in FAPIIS.

Given that the amount of current Federal contracts and grants is basic knowledge for any recipient of such awards, the estimated number of hours for this initial response is 0.1 hours. Using the FY 2009 data from USASpending.gov, we estimate that there will be approximately 11,500 recipients with an award of \$500,000 or more each year and will answer the “has/has not” question.

We estimate that 1,600 recipients will answer the first question affirmatively and then will have to enter data into the SAM.gov database. We have used a burden estimate of 0.5 hours to enter the recipient’s data into the database each time. Data is required to be entered into the database semiannually; therefore, there will be a total burden estimate of 1 hour for each recipient. This time estimate does not include the time necessary to maintain the recipient’s information internally. Most large organizations and some small organizations will most likely have established systems to track compliance.

Initial response:

Total annual responses	11,500
Preparation time per response (per hour)	<u>.1</u>
Total response burden hours	1,150

Additional response:

Number of respondents	1,600
Responses per respondent	<u>2</u>
Total annual responses	3,200
Preparation time per response (per hour)	<u>.5</u>
Total response burden hours	1,600

Total # of responses	13,100
Total burden hours	2,750
Average wage + overhead per hour	<u>51.97</u>
Cost to the public for information collection	\$142,917.50

Note: The hourly rate of \$51.97 duplicates the rate used in FAR Case 2008-027, OMB Control No. 9000-0174.

- 13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the burden hours in 12. above).** At this time, all or most recipients have entered relevant organization data in SAM.gov in accordance with other information collection and systems requirements. Therefore, the estimate includes an average of 100 hours per year for recordkeeping for each of the 1,600 respondents to the request for additional information, for a total of 160,000 annual recordkeeping hours.

Recordkeeping hours	160,000
Average wage + overhead per hour	<u>51.97</u>
Cost to the public for recordkeeping hours	\$8,315,200.00
<u>Total burden hours (#'s 12 and 13 combined)</u>	<u>162,750</u>
<u>Average wage + overhead per hour</u>	<u>51.97</u>
<u>Total cost to the public</u>	<u>\$8,458,117.50</u>

- 14. Provide estimate of annualized cost to the Federal Government.** It is estimated that for each of the 1,600 responses, the Federal Government will be reviewing and analyzing the information for approximately .5 hrs. Information is to be updated into the database semiannually; therefore, the Federal Government will be reviewing and analyzing information approximately 1 hr for each of the 1,600 responses.

Number of respondents	1,600
Responses per respondent	<u>x 2</u>
Total annual responses	3,200
Government review and analysis per response (per hour)	<u>.5</u>
Total Government review hours	1,600
Average wages/hr (GS 12/1)	<u>x 35.88</u>
Average wages/yr	\$57,480
Benefits + overhead	<u>x 100%</u>
Total Government Cost	\$114,960

- 15. Explain the reasons for any program changes or adjustments.** No significant program changes.
- 16. Outline plans for published results of the information collection.** Results of this information collection will not be tabulated or published.
- 17. Approval not to display the expiration date.** Not applicable.
- 18. Explanation of exception to the certification statement.** Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

Statistical methods are not used in this information collection.