

**Federal Acquisition Regulation (FAR)
Federal Acquisition Regulation Part 46 Requirements
OMB Control No. 9000-0077
Justification - Part A Supporting Statement**

FAR sections affected: 52.246-2 thru 52.426-8, 52.246-12, 52.246-15, and 52.246-26

Overview of Information Collection:

- This justification supports clearance of an extension of the collection and consolidating it with OMB control number 9000-0187.

- There are no program changes. The FAR requirements remain the same. The Department of Defense (DoD), General Services Administration, and National Aeronautics and Space Administration 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. 9000-0077 and combines it with the previously approved information collections under OMB Control No. 9000-0187, with the new title "Federal Acquisition Regulation Part 46 Requirements". Upon approval of this consolidated information collection, OMB Control No. 9000-0187 will be discontinued. The burden requirements previously approved under the discontinued number will be covered under OMB Control No. 9000-0077. This extension includes adjustments to the burden due to use of the latest Federal Procurement Data System (FPDS) data available, and the calendar year 2022 OPM GS wage rates for the rest of the United States as explained in item 15.

1. Need & Method for the Information Collection. This clearance covers the information that contractors may be required to submit to comply with the following FAR clauses:

- FAR Inspection Clauses

- o 52.246-2, Inspection of Supplies-Fixed-Price
- o 52.246-3, Inspection of Supplies-Cost-Reimbursement

- o 52.246-4, Inspection of Services–Fixed-Price
- o 52.246-5, Inspection of Services–Cost-Reimbursement
- o 52.246-6, Inspection–Time-and-Material and Labor-Hour
- o 52.246-7, Inspection of Research and Development–Fixed-Price
- o 52.246-8, Inspection of Research and Development–Cost-Reimbursement
- o 52.246-12, Inspection of Construction

These FAR clauses require the contractor to provide and maintain an inspection system that is acceptable to the Government, and to keep complete records of all inspection work performed and make it available to the Government. These clauses give the Government the right to inspect and test all work.

Records required under these clauses are kept as a part of a contractor's normal business operations. To ensure they provide a quality product or service, every business must have standards and methods for reviewing or inspecting the quality of their product or service. These standards will differ by industry and the complexity of the product or service provided.

The Government relies on a contractor's existing quality assurance system for contracts for commercial products. The Government relies on the contractor to accomplish all inspection and testing needed to ensure that acquired commercial services conform to contract requirements before they are tendered to the Government. See FAR 12.208 and 46.202-1. Likewise, when the contract amount is expected to be less than the simplified acquisition threshold (SAT), these clauses do not apply.

The FAR "inspection clauses" are used for quality assurance depending on the type of contract, or the product or service being provided. These clauses do not require the transmittal or sending of documentation to the Government, but they have record keeping requirements. The Government may review these records to confirm the contract quality requirements are being met. This review is risk-based and may or may not include the review of all quality assurance records. Generally, the records are more likely to be reviewed when the contractor is not meeting quality standards or as part of Government Contract quality assurance surveillance for complex requirements. Subject matter experts estimate these records are requested from 10% or fewer of contractors.

● FAR 52.246-15, Certificate of Conformance. This clause requires the contractor to complete and sign a certificate of conformance (CoC). This clause is used in solicitations and contracts for supplies or services at the discretion of the contracting officer when it is in the Government's interest, small losses would be incurred in the event of a defect; or because of the contractor's reputation or past performance, or when it is likely that the supplies or services furnished will be acceptable and any defective work would be replaced, corrected, or repaired without contest.

● FAR 52.246-26, Reporting Nonconforming Items. This clause requires contractors to provide written notification to the contracting officer within 60 days of becoming aware or having reason to suspect, such as through inspection, testing, record review, or notification from another source (e.g., seller, customer, third party) that any end item, component, subassembly, part, or material contained in supplies purchased by the contractor for delivery to, or for, the Government is counterfeit or suspect counterfeit. This clause requires certain contractors to submit a report to the Government-Industry Data Exchange Program (GIDEP) system at www.gidep.org within 60 days of becoming aware or having reason to suspect, such as through inspection, testing, record review, or notification from another source (e.g., seller, customer, third party) that an item purchased by the contractor for delivery to, or for, the Government is a counterfeit or suspect counterfeit item; or a common item that has a major or critical nonconformance.

0. Use of the Information.

● FAR 52.246-2 thru 52.426-8, 52.246-12, and 52.246-15

The information is used to assure that supplies and services provided under Government contracts conform to contract requirements.

● FAR 52.246-26

This information will be used by the Government to address and detect nonconforming and counterfeit items. Perhaps more important, this information will be available to businesses for searching prior to placing orders, thus enabling the avoidance of purchasing counterfeit items in the first place.

0. 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 contractors may submit this information collection requirement electronically.

For FAR clause 52.246-15, DoD contractors indicate shipments with CoC by selecting a radio button through the Procurement Integrated Enterprise Environment.

GIDEP uses standardized electronic forms to report into the system.

0. Non-duplication. These requirements are issued under the FAR, which has been developed to standardize Federal procurement practices and eliminate unnecessary duplication.

0. Burden on Small Business. The burden applied to small businesses is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

0. Less Frequent Collection. Collection of information on a basis other than contract-by-contract is not practical.

For GIDEP – The collected information is required within 60 days of becoming aware through inspection or testing that an item is counterfeit, suspect counterfeit, or a common item that has a major or critical nonconformance. If the information were collected less frequently, it would allow the proliferation of such parts in the supply chain and could result in hazardous or unsafe conditions for individuals using, maintaining, or depending upon the supplies or services; or prevent performance of a vital agency mission.

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 87 FR 40842, on July 8, 2022. No comments were received.

B. A 30-day notice was published in the *Federal Register* at 87 FR 56424, on September 14, 2022.

- 0. Gifts or Payment. This collection does not provide any payment or gift to respondents, other than remuneration of contractors.
- 0. Privacy & Confidentiality. This information is disclosed only to the extent consistent with prudent business practices, current regulations, and statutory requirements.
- 0. Sensitive Questions. No sensitive questions are involved.
- 0. Burden Estimate.

Estimated total annual public hour and cost burden.

SUMMARY Public Cost	Estimated respondents/yr	Response s/ respondent	Total annual responses	Estimated hrs/response	Estimated total burden hrs	Hourly rate	Estimated annual cost to the public
FAR 52.246-2	433	1.00	433	1.00	433	\$40	\$17,320.00
FAR 52.246-3	35	1.00	35	1.00	35	\$40	\$1,400.00
FAR 52.246-4	1,349	1.00	1,349	1.00	1,349	\$40	\$53,960.00
FAR 52.246-5	355	1.00	355	1.00	355	\$40	\$14,200.00
FAR 52.246-6	139	1.00	139	1.00	139	\$40	\$5,560.00
FAR 52.246-7	112	1.00	112	1.00	112	\$40	\$4,480.00
FAR 52.246-8	109	1.00	109	1.00	109	\$40	\$4,360.00
FAR 52.246-12	440	1.00	440	1.00	440	\$40	\$17,600.00
FAR 52.246-15	1,442 ¹	1.00	1,442	0.50	721	\$40	\$28,840.00
FAR 52.246-26	4,887	1.00	4,887	6.00	29,322	\$83	\$2,433,726.00
Total	7,859		9,301		33,015		\$2,581,446.00

- FAR Inspection Clauses (52.246-2 thru 52.426-8, and 52.246-12).

There is no centralized database that maintains statistics on the number of contractors that provide and maintain an inspection system acceptable to the Government.

The following estimates are based on averages of historical award data available in FPDS for fiscal years 2019 through 2021. The estimates exclude contracts valued at or below the SAT

¹ This is a subset of the respondents for the inspection clauses and not counted separately when calculating the total estimated number of respondents per year.

(\$250,000) and contracts for the acquisition of commercial products and commercial services.

Quality assurance subject matter experts have confirmed observations that contractors do not routinely submit records under the inspection clauses. This information is collected infrequently on an as needed basis. Records referred to under the inspection clauses are part of a contractor's normal business operations and standard industry practice. It is projected that only a small number of contractors, approximately 10%, will be asked to provide records to the Government. Additionally, for all the inspection clauses, it is estimated it takes approximately one hour for each contractor to retrieve, prepare, and submit the necessary information regardless of the contract type.

(a) FAR 52.246-2: On average per year, the Government awards 14,602 fixed-price supply contracts to 4,329 unique awardees. Approximately 433 (10% of 4,329) of these entities will need to submit these records in a given year.

(b) FAR 52.246-3: On average per year, the Government awards 723 cost-reimbursement supply contracts to 353 unique awardees. Approximately 35 (10% of 353) of these entities will need to submit these records in a given year.

(c) FAR 52.246-4: On average per year, the Government awards 22,848 fixed-price service contracts to 13,486 unique awardees. Approximately 1,349 (10% of 13,486) of these entities will need to submit these records in a given year.

(d) FAR 52.246-5: On average per year, the Government awards 7,950 cost-reimbursement service contracts to 3,554 unique awardees. Approximately 355 (10% of 3,554) of these entities will need to submit these records in a given year.

(e) FAR 52.246-6: On average per year, the Government awards 1,934 time-and-material or labor-hour contracts to 1,394 unique awardees. Approximately 139 (10% of 1,394) of these entities will need to submit these records in a given year.

(f) FAR 52.246-7: On average per year, the Government awards 1,596 fixed-price research and development contracts to 1,122 unique awardees. Approximately 112 (10% of 1,122) of these entities will need to submit these records in a given year.

(g) FAR 52.246-8: On average per year, the Government awards 3,411 cost-reimbursement research and development contracts to 1,089 unique awardees. Approximately 109 (10% of 1,089) of these entities will need to submit these records in a given year.

(h) FAR 52.246-12: On average per year, the Government awards 6,960 fixed-price construction contracts to 4,400 unique awardees. Approximately 440 (10% of 4,400) of these entities will need to submit these records in a given year.

Inspection Clauses	Estimated respondents/yr	Responses / respondent	Total annual responses	Estimated hrs/response	Estimated total burden hrs	Hourly rate*	Estimated annual cost to the public
FAR 52.246-2	433	1.00	433	1.00	433	\$40	\$17,320.00
FAR 52.246-3	35	1.00	35	1.00	35	\$40	\$1,400.00
FAR 52.246-4	1,349	1.00	1,349	1.00	1,349	\$40	\$53,960.00
FAR 52.246-5	355	1.00	355	1.00	355	\$40	\$14,200.00
FAR 52.246-6	139	1.00	139	1.00	139	\$40	\$5,560.00
FAR 52.246-7	112	1.00	112	1.00	112	\$40	\$4,480.00
FAR 52.246-8	109	1.00	109	1.00	109	\$40	\$4,360.00
FAR 52.246-12	440	1.00	440	1.00	440	\$40	\$17,600.00

● FAR 52.246-15, Certificate of Conformance.

There is no centralized database that maintains statistics on the number of contractors that provide CoCs to the Government for supplies or services as allowed in certain instances instead of source inspection. The estimate excludes contracts valued at or below the SAT (\$250,000) and contracts for the acquisition of commercial products and commercial services.

The following estimate is based on averages of historical award data available in FPDS for fiscal years 2019 through 2021. On average per year, the Government awards 48,057 new contracts to 6,769 unique awardees which could be subject to FAR clause 52.246-15.

Based on subject matter experts, the CoC is less often authorized in the contract and by the Contract Administration Office, in lieu of source inspection. To account for the few

that are requested, it is estimated that 1,442 (3% of 48,057) new contracts might require a CoC and it takes approximately 30 minutes for each respondent to prepare and submit the CoC.

Estimated number of respondents/yr.....	1,442
Responses per respondent.....	<u>x 1</u>
Total annual responses.....	1,442
Estimated hrs/response.....	<u>x 0.5</u>
Estimated annual burden hours.....	721
Hourly rate*.....	<u>x \$40</u>
Estimated annual cost to the public.....	\$28,840

● FAR 52.246-26, Reporting Nonconforming Items.

This clause is prescribed in three circumstances:

(1) Items that are subject to higher-level quality standards in accordance with the FAR clause at 52.246-11, Higher-Level Contract Quality Requirement. FAR clause 52.246-11 does not require any collection of information.

Data was only available for DoD usage of this clause. The clause was used in contracts with 3,619 unique awardees. It is estimated that civilian contracts would account for an equal number of unique awardees (3,619). However, since there is a lot of overlap between this category and the category of DoD contracts and subcontracts for electronic parts, it is estimated that only 25 percent of DoD contracts using this clause do not involve electronic parts ($3,619 \times .25 = 905$). Therefore, total unique prime contractors in this category equals 4,524 ($3,619 + 905$). Because for other than DoD contracts involving electronic parts the clause only flows down if the subcontract involves higher level quality requirements or critical items, the calculations of unique subcontractors are based on an estimated average of two unique subcontractors per prime contract. Many subcontractors also have prime contracts, or subcontracts under other prime contracts. The total number of subcontractors equals 9,048 ($2 \times 4,524$ (unique contractors)).

(2) Items that the contracting officer, in consultation with the requiring activity, determines to be critical items for which use of the clause is appropriate.

The number of unique awardees of critical items in which the contract does not include the FAR clause at 52.246-11 is estimated as 10 percent of the unique awardees with contracts that do include FAR clause 52.246-11, or 452 (4,524 x .1). Likewise, unique subcontractors for critical items that do not require higher level quality standards equals 905 (9,048 x .1).

(3) Electronic parts or end items, components, parts, or materials containing electronic parts, if this is an acquisition by, or for, the DoD, as provided in paragraph (c)(4) of section 818 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81).

The DoD Federal Acquisition Regulation Supplement (DFARS) clause 252.246-7008, Sources of Electronic Parts, applies to all DoD acquisitions, when procuring electronic parts or end items, components, parts, or assemblies containing electronic parts. This is the same population covered by FAR clause 52.246-26, except that the FAR clause does not apply to acquisitions of commercial products and commercial services at the prime contract level and does not flow down to subcontracts for commercial products and commercial services. Using the burden as estimated for the DFARS clause under OMB Control No. 0704-0441 with an adjustment (multiplied by .5) for inapplicability to commercial acquisitions, and a reduced ratio of subcontracts to prime contracts from 3.3 to 3 for excluding commercial subcontracts (16,972 x .5 = 8,486 prime contractors x 3 = 25,458 subcontractors).

Adding together total primes and subcontractors in all three categories results in an estimated total of 48,873 contractors and subcontractors with a potential obligation to report nonconforming parts to GIDEP. It is estimated that approximately 10 percent of the participating contractors will submit a report in a particular year, i.e., 4,887 reports (48,873 x .1).

	52.246-11	Critical	DoD-	Total
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			Electronic-not commercial	contractors and subcontractors with clause
Prime-DoD (not electronic)	905		8,486	
Prime-civilian	3,619			
Total primes	4,524	452	8,486	
Subcontracts	9,048	905	25,458	
Total	13,572	1,357	33,944	48,873
% Report per year				10%
Reports to GIDEP per year				4,887

The six hours per response consists of time to complete the GIDEP Alert/Safe Alert form (approx. 3 hour), review the form (approx. 2.75 hours) and approve and submit the form to GIDEP (approx. .25 hours).

It is estimated that the form will be completed by a high-level engineer and will be reviewed by a high-level administrative/attorney. Although predominantly at the senior level, this rate is a composite rate, with a mix of journeyman, senior, and executive/attorney rates.

GIDEP Reporting Burden

Estimated number of respondents/yr.....	4,887
Responses per respondent.....	<u>x 1</u>
Total annual responses.....	4,887
Estimated hrs/response.....	<u>x 6</u>
Estimated annual burden hours.....	29,322
Hourly rate**.....	<u>x \$83</u>
Estimated annual cost to the public.....	\$2,433,726

* Based on the Office of Personnel Management (OPM) 2022 General Schedule (GS) 9/step 5 salary for the rest of the United States (\$29.72 per hour) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar (\$40). The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition.

** Based on the OPM 2022 GS 14/step 5 salary for the rest of the United States (\$60.56 per hour) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar (\$83). The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition.

0. Estimated nonrecurring costs. Not applicable.

14. Estimated cost to the Government. The time estimates are based on receiving, reviewing, and analyzing the information submitted by the contractor.

- FAR Inspection Clauses (52.246-2 thru 52.426-8, and 52.246-12).
- FAR 52.246-15, Certificate of Conformance.
- FAR 52.246-26, Reporting Nonconforming Items.

SUMMARY GOV COST	Total annual responses	Review Time per response (hours)	Review time per year (hours)	Hourly rate***	Estimated annual cost to the Government
FAR 52.246-2	433	1.00	433	\$59	\$25,547.00
FAR 52.246-3	35	1.00	35	\$59	\$2,065.00
FAR 52.246-4	1,349	1.00	1,349	\$59	\$79,591.00
FAR 52.246-5	355	1.00	355	\$59	\$20,945.00
FAR 52.246-6	139	1.00	139	\$59	\$8,201.00
FAR 52.246-7	112	1.00	112	\$59	\$6,608.00
FAR 52.246-8	109	1.00	109	\$59	\$6,431.00
FAR 52.246-12	440	1.00	440	\$59	\$25,960.00
FAR 52.246-15	1,442	0.25	361	\$59	\$21,269.50
FAR 52.246-26	4,887	1.00	4,887	\$59	\$288,333.00
					\$484,950.50

*** Based on the OPM 2022 GS 12/step 5 salary for the rest of the United States (\$43.10 per hour) plus a 36.25 percent fringe factor, rounded to the nearest whole dollar (\$59). The fringe factor used is pursuant to the rate provided in OMB memorandum M-08-13 for use in public-private competition.

0. Reasons for changes. There are no program changes. The FAR requirements remain the same. Adjustments are made to the public and Government burden estimates based on the following:

- The estimated number of respondents and responses per year are based on the latest data available as described in Item 12.
 - The estimated cost to the public and to the Government was updated based on use of calendar year 2022 OPM GS wage rates for the rest of the United States.
0. Publicizing Results. Results will not be tabulated or published.
0. OMB Not to Display Approval. Approval to not display the expiration date for OMB approval of the information collection is not sought.
0. Exceptions to "Certification for Paperwork Reduction Submissions." There is no exception to the certification statement.
0. 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.