



This document is scheduled to be published in the Federal Register on 03/04/2015 and available online at <http://federalregister.gov/a/2015-04349>, and on FDsys.gov

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 516, 538 and 552

[GSAR Case 2013-G504; Docket 2014-0020; Sequence 1]

RIN 3090-AJ51

**General Services Administration Acquisition Regulation
(GSAR); Transactional Data Reporting**

AGENCY: Office of Acquisition Policy, General Services Administration.

ACTION: Notice of a public meeting and request for comments on proposed rule.

SUMMARY: The General Services Administration (GSA) announces a public meeting and request for comment on its proposal to amend the General Services Administration Acquisition Regulation (GSAR) to include clauses that would require vendors to report transactional data from orders and prices paid by ordering activities. This includes orders placed against both Federal Supply Schedule (FSS) contract vehicles and GSA's non-FSS contract vehicles - Governmentwide Acquisition Contracts (GWACs) and Governmentwide Indefinite-Delivery, Indefinite-Quality (IDIQ) contracts. For FSS vehicles, the clause would be introduced in phases, beginning with a pilot for select products and commoditized services. The new clause will be paired with changes to the basis of award monitoring requirement of the existing price reductions clause,

resulting in a burden reduction for participating FSS contractors. This rulemaking does not apply to the Department of Veterans Affairs (VA) FSS contract holders.

GSA is interested in conducting a dialogue with industry and interested parties in Government about the proposed change. GSA is seeking feedback on potential impacts to agency customers and contractors alike. Feedback will be used to help inform the revisions to the proposed clauses, provisions, and prescriptions and other guidance to implement the proposed rule.

DATES: Interested parties may offer oral and/or written comments at a public meeting to be held on Friday, April 17, 2015, at 9:00 a.m. Eastern Standard Time. Parties are also encouraged to provide all written comments, including those to be delivered at the public meeting, directly to www.regulations.gov. As explained in this notice, other tools will also be used to elicit public input.

Interested parties should submit written comments to the Regulatory Secretariat on or before Monday, May 4, 2015 to be considered in the formulation of a final rule.

The public meeting will be conducted on Friday, April 17, 2015, at 9:00 a.m. Eastern Standard Time. Information for the public meeting may be found under the heading "Supplementary Information".

ADDRESSES: Submit comments identified by GSAR Case 2013-G504, Transactional Data Reporting, by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments by searching for "GSAR Case 2013-G504". Select the link "Comment Now" and follow the instructions provided at the "You are commenting on" screen. Please include your name, company name (if any), and "GSAR Case 2013-G504", on your attached document.

- Fax: 202-501-4067.

- Mail: U.S. General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, 2nd Floor, ATTN: Hada Flowers, Washington, DC 20405-0001.

Instructions: Please submit comments only and cite GSAR Case 2013-G504 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Dana Munson, General Services Acquisition Policy Division, GSA, 202-357-9652 or Mr. Matthew McFarland, General Services Acquisition Policy Division, GSA, 202-690-9232 or email gsar@gsa.gov, for

clarification of content, public meeting information and submission of comment. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite GSAR Case 2013-G504.

SUPPLEMENTARY INFORMATION:

I. PUBLIC MEETING

GSA is holding a public meeting on Friday, April 17, 2015. The meeting will start at 9:00 a.m. Eastern Standard Time. The meeting end time will depend on the final number of registered oral presentations. Attendees can attend the meeting in person at GSA Central Office or virtually through GSA's Internet meeting platform, Adobe Connect.

In-person Attendance: Interested parties may attend the public meeting to be held in the GSA Auditorium at GSA Headquarters, located at 1800 F St NW, Washington, DC 20405. The public is asked to pre-register by Wednesday April 1, 2015, due to security and seating limitations. To pre-register, use the following link:

https://meet.gsa.gov/e5rpxxbrh14/event/event_info.html.

Registration check-in will begin at 8:00 a.m. Eastern Standard Time Friday, April 17, 2015, and the meeting will start at 9:00 a.m. Eastern Standard Time. Attendees must be prepared to present a form of government issued photo

identification.

Virtual Attendance: Interested parties may also attend virtually through GSA's Internet meeting platform, hosted by Adobe Connect. Virtual attendees must register in advance at

https://meet.gsa.gov/e5rpxxbrh14/event/event_info.html.

Meeting Accommodations: The public meeting is physically accessible to people with disabilities. Request for sign language interpretation or other auxiliary aids should be directed to Ms. Munson at dana.munson@gsa.gov or 202-357-9652 by Wednesday, April 1, 2015.

The TTY number for further information is: 1-800-877-8339. When the operator answers the call, let them know the agency is the General Services Administration; the point-of-contact is Dana Munson at 202-357-9652 or Matthew McFarland 202-690-9232.

Oral Public Comments: Parties wishing to make formal oral presentations at the public meeting should indicate so during the registration process. Presentations must be provided to Ms. Dana Munson by electronic mail at gsar@gsa.gov no later than Wednesday, April 8, 2015. Time allocations for oral presentations will be limited to fifteen minutes. All formal oral public comments should also be followed-up in writing and submitted to

www.regulations.gov no later than Monday, May 4, 2015.

When submitting your comments, search for "GSAR Case 2013-G504" and reference "Public Meeting, Public Comments on Transactional Data Reporting." Note: Requests made after the deadline for formal oral presentations will be permitted as time permits and assigned based on the order the requests are received.

WRITTEN COMMENTS/STATEMENTS: In lieu of, or in addition to, participating in the public meeting, interested parties may submit written comments to www.regulations.gov by Monday, May 4, 2015. When submitting your comments, search for "GSAR Case 2013-G504" and reference "Public Comments on Transactional Data Reporting." Parties wishing to share written statements at the public meeting must submit such statements to Ms. Dana Munson at gsar@gsa.gov by **Wednesday, April 8, 2015.**

II. Overview

The Office of Federal Procurement Policy (OFPP) recently announced a new vision for Federal purchasing, one that fundamentally shifts from managing purchases and price individually across thousands of procurement units to managing entire categories of purchases across Government collaboratively (see [Transforming the Marketplace: Simplifying Federal Procurement to Improve Performance,](#)

Drive Innovation and Increase Savings, December 4, 2014,

available at

<http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/simplifying-federal-procurement-to-improve-performance-drive-innovation-increase-savings.pdf>).

Category management involves buying and managing commonly-purchased goods and services through categories like information technology (IT) hardware and IT software. Categories will be managed by experts with in-depth market expertise who understand buying trends, industry cost drivers, new innovations on the horizon and emerging companies. Category managers will also share information with agencies across government to support smarter buying decisions.

GSA is creating a Common Acquisition Platform (CAP), an online marketplace to identify best-in-class contracts issued by GSA or other agencies, best practices, and other information agencies need to reduce the proliferation of duplicative contract vehicles and deliver the best value possible to federal customers and the American people. A critical component of the CAP, and smarter buying in general, is the availability of the prices previously paid by other government buyers for a similar product or service under similar terms and conditions. Government buyers will

be able to use that data, in combination with other relevant information – such as customer satisfaction with the performance of the contractor–furnished solution – to determine fair and reasonable pricing as part of a best value solution.

The current lack of transparency on prices paid by government customers has led to significant price variation, sometimes 300 percent or more, for identical purchases by federal agencies from the same commercial vendor as well as the unnecessary duplication of contract vehicles. A recent pilot where contractors were required to furnish prices paid on GSA's strategically sourced Office Supplies 2 (OS2) vehicle demonstrated the power of such a tool in producing market driven pricing throughout the life of the contract.

Accordingly, this proposed rule would create a transactional data reporting clause to improve GSA's ability to conduct meaningful price analysis and more efficiently and effectively validate fair and reasonable pricing on both its non-FSS and FSS vehicles. It would also allow GSA's customers to improve their ability to compare prices prior to placing orders under its vehicles. Under the transactional data reporting clause, contractors would report prices paid for products and services

delivered during the performance of the contract, including under orders and blanket purchase agreements (BPAs) through a user-friendly, online reporting system. The report would include transactional data elements such as unit measure, quantity of item sold, universal product code, if applicable, prices paid per unit, and total price.

The transactional data reporting clause would be applied immediately to GSA's government-wide non-FSS vehicles, where transactional data is not already collected through other methods. For FSS vehicles, the clause would be introduced in phases, beginning with a pilot for select products and commoditized services. Under the pilot, FSS customers would take advantage of prices paid information and the more rigorous order level competition it generates to establish pricing. To ensure these prices remain competitive with commercial pricing, GSA would evaluate prices paid under the pilot to commercial benchmarks and other available data on commercial pricing, as well as prices previously paid prior to the pilot where such data is available. Vendors would not be subject to the "tracking customer" provisions of the price reductions clause that require them to monitor their pricing, and provide the government with the same price reductions that they give to the class of the contractor's commercial

customers upon which the original contract was awarded. However, GSA would maintain the right throughout the life of the FSS contract to ask a vendor for updates to the disclosures on its commercial sales format – which is used to negotiate pricing on FSS vehicles – where commercial benchmarks or other available data on commercial pricing is insufficient to establish price reasonableness. Price and quality metrics would be established, and commercial benchmarks identified, prior to the launch of the pilot so that GSA could perform these analyses and measure the results and impact of the pilot. GSA would also seek vendor feedback to compare experience with the transactional data clause to the tracking requirements of the price reductions clause. GSA would use all relevant information and analysis to determine, in consultation with OMB, whether use of the clause is beneficial. If the results of the pilot confirm that using transactional data is an effective pricing model, its use would be broadened using the authorities provided by this rule. If the results of the pilot reveal that using transactional data is not an effective pricing model, contracts would be modified to revert back to using the tracking customer provisions of the price reductions clause. Additional details regarding the scope of the pilot will be announced

through an open dialog on GSA's Interact platform at interact.gsa.gov. This public input will be considered prior to the launch of the pilot.

GSA recognizes that use of prices paid information must be done within the context of seeking to obtain the best value for the taxpayer. GSA believes the clause will be especially impactful when combined with the insight and expertise of category managers to provide agency buyers across government with market intelligence, expertise, and deep-dive analysis to improve supply chain management, pricing variances, innovation, redundancies, and unnecessary duplication of effort. Tools and training deployed in connection with the implementation of this rule would emphasize the importance of considering total cost (not just unit price) in the context of each procurement, taking into account desired terms and conditions, performance levels, past customer satisfaction, and other relevant information.

III. Background

In Fiscal Year 2014, government agencies ordered nearly \$39 billion in goods and services through GSA's FSS contracts GWACs, and Governmentwide IDIQs. While GSA has a number of policies in place to help its buyers and agency users to secure best value for the taxpayer, two

limitations in current pricing practices make achievement of this goal unnecessarily challenging: (1) lack of visibility into prices paid by other customers; and (2) insufficient attention on "horizontal pricing" under the FSS program - i.e., the ability to compare one vendor's pricing to that of other vendors.

Lack of transparency in prices previously paid

The Federal Acquisition Regulation (FAR) has long emphasized the need for contracting officers to conduct price analysis as part of their responsibility to establish that offered prices are fair and reasonable. Price analysis requires contracting officers to obtain and analyze data on the prices at which the same or similar items have been sold. At GSA, like most agencies, collection of this information has rested largely on the shoulders of each contracting officer. Until recently, little effort was made to share prices previously paid by agencies throughout the government. Over the years, this lack of transparency contributed to large price disparities, where one agency may pay a significant amount more for the exact same product or commoditized service as another agency under the same or substantially similar terms and conditions, sometimes even from the same vendor. GSA has already seen examples where price variability has

decreased through the collection of transactional data such as with its Office Supplies 2 (OS2) government-wide strategic sourcing vehicle, and others, saving taxpayers approximately \$370 million.

GSA proposes to address this weakness through the use of a transactional data reporting clause. Under the clause contractors would be required to report historical information encompassing the products and services delivered during the performance of the contract, including under orders and BPAs. Contractors would be required to electronically report contract sales monthly through a user-friendly online reporting system. The report would include transactional data elements such as unit measures, quantity of item sold, universal product code, if applicable, price paid per unit, and total price.

GSA believes there are multiple benefits to use of the transactional data reporting clause, including better pricing, administrative savings, increased opportunities for small business participation, and standardization of practice.

- Better pricing: The availability of prices paid information will lead to better prices for the taxpayer by improving the agency's ability to conduct price analysis. It will also improve the quality of both contract and order

level competition because vendors will know that their customers have greater market intelligence on what other agencies have paid in similar situations. For example, GSA initiated a dynamic pricing model, where prices are adjusted based on transactional data, on its Office Supplies 2 vehicle between November 2012 and January 2013. Prior to the implementation of dynamic pricing, the average OS2 savings were 13.5 percent. However, since fully implementing dynamic pricing in June 2013, savings rates have averaged approximately 18 percent, or roughly 4.5 percent higher than pre-dynamic pricing.

- Administrative savings: GSA expects the added value of transactional data to GSA contract vehicles to ultimately reduce duplicative contract vehicles as both FSS and non-FSS contracts will demonstrably offer best value, reducing transactional costs to both agencies and contractors. GSA estimates that more than 600,000 open market actions overlap with existing GSA contract vehicles. With better pricing on GSA contracts, agencies will have less incentive to establish separate contracts. Additionally, GSA believes replacing the price reduction clause's tracking customer requirement with transactional data reporting could reduce the annual burden on contractors by more than 85 percent, or approximately \$51

million in administrative costs to contractors, when compared to the burden hours associated with the tracking customer requirement under the price reductions clause in its current configuration.

- Reduction of barriers to small business participation: The reduction in duplicative and inefficient procurement transactions removes barriers to entry into the Federal marketplace, particularly for small businesses. The GAO reports the costs of being on multiple contract vehicles ranged from \$10,000 to \$1,000,000 due to increased bid and proposal, and administrative costs (see GAO report # GAO-10-367, Contracting Strategies, Data and Oversight Problems Hamper Opportunities to Leverage Value of Interagency and Enterprisewide Contracts).

- Standardization: Significant GSA non-FSS contracts include a requirement for transactional data. Though the specifics vary, GSA's Alliant, Alliant Small Business, 8(a) Streamlined Technology Acquisition Resources for Services (STARS) II, and Veterans Technology Services (VETS) GWACs, Connections II, Custom SATCOM Solutions (CS2), Custom SATCOM Solutions - Small Business (CS2-SB), Office Supply Third Generation (OS3), and One Acquisition Solution for Integrated Services (OASIS) Governmentwide IDIQs, all have built-in vendor requirements for submission

of transactional data. Currently, these requirements are communicated in solicitations without the benefit of a dedicated GSAR clause. The creation of a uniform clause to be used across GSA's non-FSS programs would facilitate consistency and transparency by allowing the public to comment on the proposed new clause.

Use of Vertical Pricing and Movement Toward Both Vertical and Horizontal Pricing in the FSS Program

The FSS program is currently built around a vertical pricing model where pricing offered to the government from a potential vendor is compared to the pricing that the same vendor offers to its commercial customers. When vendors first submit an FSS offer, minimal consideration is given to the relative competitiveness of the vendor's prices to other vendors (i.e., horizontal pricing). Instead, the FSS program primarily collects aggregate sales information, including a broad disclosure of discounts vendors offer to commercial customers for similar products and services (see the "Commercial Sales" disclosure guidance at GSAR 515.408). The Government's negotiation objective is to achieve a company's best price - i.e., the price given to its most favored customer (see GSAR 538.270(a)) who buys in quantities and under conditions similar to those of the government. Contractors are then required, under the

"price reductions" clause (PRC), to monitor their pricing over the life of the contract and provide the government with the same price reductions that they give to the class of the contractor's commercial customers upon which the original contract award was predicated (see GSAR 552.238-75). In addition to the "tracking customer" requirement, the price reductions clause allows vendors to voluntarily reduce prices to the Government and for the Government to request a price reduction at any time during the contract period such as where market analysis indicates that lower prices are being offered or paid for the same items under similar conditions.

The required disclosure of commercial sales practices and the PRC were first introduced into the FSS program in the 1980s as a way to ensure fair and reasonable pricing through the life of a contract with the goal of achieving most favored customer pricing. For many years, the tracking customer feature of the PRC was a critical mechanism for enabling GSA and its customers to maintain good pricing from original equipment manufacturers who held the vast majority of FSS contracts. However, changes in the Federal market have lessened the impact of the tracking customer mechanism over time. Of particular note, an increasing percentage of FSS contractors are resellers with

little or no commercial sales. The GSA Inspector General (IG) recently reported that resellers represent more than one-third of FSS vendors (See Major Issues from Multiple Award Schedules Audits, Audit Memorandum Numbers A120050-3, available at <http://www.gsaig.gov> under Office of Inspector General (OIG) Reports and Audit Reports).

Moreover, due to the various exceptions included in the PRC the tracking customer feature ties pricing for reductions to sales of single items and plays little role in blanket purchase agreement and order purchases reflecting volume sales. Further, many products sold under the FSS program are commercial-off-the-shelf (COTS) products or other commercial items for which the government is not a market driver. The government, and other customers in the category to which the government is most typically aligned under the price reductions clause, tend to receive voluntary price reductions from the vendor as a result of general market forces (e.g., intense competition and small profit margins within the IT hardware arena that cause vendors to lower their prices for all customers voluntarily to maintain market share). In other words, prices are reduced under the voluntary provisions of the price reduction clause as a result of market rate pricing changes, not under the mandatory tracking customer

provisions. GSA recently analyzed modifications issued between October 1, 2013 and August 4, 2014 under nine of its FSS contracts, including Schedule 70 (Information Technology), Schedule 874 (Mission Oriented Business Integrated Solutions (MOBIS)), Schedule 66 (Scientific Equipment and Services), Schedule 84 (Total Solutions for Law Enforcement, Security, Facilities Management, Fire, Rescue, Clothing, Marine Craft and Emergency/Disaster Response), Schedule 899 (Environmental Services), Schedule 738 II (Language Services), 874 V (Logistics Worldwide), Schedule 871 (Professional Engineering Services), and Schedule 00CORP (The Consolidated Schedule). GSA found that only about 3 percent of the total price reductions received under the price reduction clause were tied to the "tracking customer" feature. The vast majority (approximately 78 percent) came as a result of commercial pricelist adjustments and market rate changes, with the balance for other reasons. This finding supports attempting a different means of making better pricing available.

Simultaneous with these trends, significant improvements in technology now make it possible to collect transactional data and display it in a way that government customers can see the prices paid by other FSS customers

along with other data to determine whether prices offered to them represent the best value to the taxpayer. As explained above, the required disclosure and sharing of prices paid information through the use of a transactional data reporting clause and portal under the OS2 pilot led to savings rates averaging approximately 18 percent, or about 4.5 percent higher than pre-dynamic pricing.

GSA believes the collection and use of transactional data may be a more efficient and effective way for driving price reductions on FSS buys than through use of the tracking customer mechanism. In addition to avoiding the challenges associated with the tracking customer mechanism described above, the transactional data reporting clause would allow for greater reliance on horizontal pricing in the FSS program so that GSA and its customers can easily evaluate the relative competitiveness of prices between FSS vendors. Moreover, the transactional data reporting clause, if used as an alternative to tracking customer mechanism, could significantly reduce contractor burden. The Chief Acquisition Officers Council recently conducted an Open Dialogue through an online platform on improving how to do business with the Federal Government. Contractors pointed to the price reductions clause as one of the most complicated and burdensome requirements in

Federal contracting, and GSA's own estimates suggest FSS contractors spend over 860,000 hours a year (at a cost of approximately \$58.5 million) on compliance with this clause. Several conversations in this dialogue identified the need to reform FSS pricing policies, particularly requesting the removal of GSAR clause 552.238-75, Price Reductions requirements. Over the years, GSA has made adjustments to address burdens and improve the use of these tools. In particular, on March 4, 1996 (GSAR Change 70), GSA modified the sales disclosure form to require only summary information and recognize that the terms and conditions of commercial sales vary and there may be legitimate reasons why the best price is not achieved. Despite these significant adjustments to the FSS pricing model, contractors continue to struggle to comply with the sales practice disclosure requirements and the price reduction clause. In two separate reports, the GSA IG found that over two-thirds of vendors reviewed in fiscal year (FY) 2011 and 84 percent in FY 2012 provided commercial sales practice disclosures that are not current, accurate, and/or complete and nearly half of the vendors in FY 2012 had inadequate sales monitoring systems and billing systems to ensure proper administration of the price reduction and billing provisions. See Major Issues from

Multiple Award Schedules Audits, Audit Memorandum Numbers A120050-3 and A120050-4, available at <http://www.gsaig.gov> under OIG Reports and Audit Reports.

As stated above, GSA believes that the transactional data reporting clause could reduce the annual burden on contractors by more than 85 percent, or approximately \$51 million in administrative costs to contractors, when compared to the burden hours associated with monitoring pricing under the price reductions clause in its current configuration. GSA further believes that use of the transactional data reporting clause as an alternative to the price reduction clause addresses recommendations made by independent reviewers of the FSS program over the past several years. In particular, the Multiple Award Schedule (MAS) Blue Ribbon Advisory Panel, which included representatives from the largest buying agencies, the Department of the Defense, Department of Homeland Security, Department of the Interior, Department of the Treasury, and U.S. Department of Education and industry, recommended in 2010 that "the GSA Administrator remove the Price Reduction Clause from the MAS program supply contracts for products in phases as the GSA Administrator implements recommendations for competition and price transparency at the Schedule contract level and the order level." The same

year, the Government Accountability Office (GAO) issued a report recommending that GSA collect "prices paid" data on FSS orders and make this information available to FSS contract negotiators and customer agencies. See Data and Oversight Problems Hamper Opportunities to Leverage Value of Interagency and Enterprisewide Contracts, GAO-10-367 (April 2010), available at <http://www.gao.gov/products/GAO-10-367>.

Transitioning to Transactional Data Reporting

GSA recognizes that use of prices paid information must be done within the context of seeking to obtain the best value for the taxpayer and envisions that this information would be used as one information point in conjunction with other considerations, such as total cost, desired performance levels, delivery schedule, unique terms and conditions, time considerations, and customer satisfaction. Training to support the implementation of this rule would emphasize that prices paid information must be considered within the context of each individual procurement. More importantly, related efforts, such as the development of category hallways—an online marketplace tool—and the appointment of category managers with in-depth market expertise, will help agencies gain market intelligence to make smarter and well-informed buying

decisions.

GSA further recognizes that its government-wide non-FSS and FSS contract vehicles require separate implementation strategies taking into account differences in the pricing models currently used by these vehicles.

Government-wide Non-FSS contract vehicles. To implement the transactional data reporting requirement, this proposed rule would add a new GSAR clause for non-FSS contract vehicles, 552.216-75 Sales Reporting and Fee Remittance, which would require the submission of transactional data from vendors on orders and prices paid by ordering activities. Government-wide non-FSS contract vehicles account for approximately \$3.9 billion in federal contract spending each year. As explained above, a significant number of GSA's non-FSS contract vehicles, including all GWAC vehicles, already include a requirement for transactional data. This proposed rule would standardize this practice for non-FSS contract vehicles and allow GSA to collect data on fixed-price, time-and-material, labor-hour, and cost-reimbursement contracts, consistent with requirements currently in GWAC vehicles.

FSS contract vehicles. GSA proposes a phased-in implementation of the transactional data reporting clause to the FSS program, beginning with a pilot chosen from FSS

product offerings and commoditized services where obtaining such data has the greatest potential impact to reduce price variability and help agencies secure better value for the taxpayer through category management. Application of the transactional data reporting clause, including the proposed pilot, would be limited to FSS contracts managed by GSA's Federal Acquisition Service. This rule would not apply to FSS contracts managed by the Department of Veterans Affairs pursuant to a delegation provided by GSA.

Details regarding the pilot will be provided by separate notice, including through social media tools already in place such as GSA Interact (<https://interact.gsa.gov>), as well as updates to GSA's website where current information is displayed and access and links to other sites are provided. Respondents will be invited to provide feedback through these mechanisms as well as at the public meeting announced in this notice. Respondents are also invited to provide written feedback in response to this notice regarding the preliminary pilot design features described below:

- Scope. The pilot would focus on commercial-off-the-shelf and related commercial products and commoditized services that experience high volume of repetitive purchasing under identical or substantially similar terms

and conditions.

- Participation: Vendor participation in the pilot would be mandatory. Covered vendors would not be subject to the tracking customer requirements of the price reduction clause.

However, vendors would still be subject to the commercial sales disclosure requirements, including the requirement to disclose commercial sales practices when requesting a contract modification for additional items or additional Special Item Numbers. In addition, GSA would maintain the right throughout the life of the FSS contract to ask a vendor for updates to the disclosures made on its commercial sales format (which is used to negotiate pricing on FSS vehicles) if and as necessary to ensure that prices remain fair and reasonable in light of changing market conditions. The government could request price reductions and vendors could voluntarily provide price reductions. GSA would modify select existing contracts and conduct solicitation refreshes under the FSS program to implement the new transactional data reporting requirements.

- Evaluation: Similar to best practices used in strategic sourcing efforts, GSA would establish clearly defined metrics prior to the launch of the pilot, such as savings rates, customer satisfaction, small business

utilization, and benchmark results against available commercial data sources within categories of spend to evaluate the impact of the transactional data reporting clause. Pilot results would be evaluated before applying the transactional data reporting clause to additional FSS contracts and making usage mandatory more broadly. Pilot results would also be used to evaluate the comparative efficiency and effectiveness of the tracking customer requirement. If GSA determines using transactional data is not an effective pricing model within the FSS program, contracts would be modified to revert back to using the provisions described in the basic GSAR clause 552.238-75, Price Reductions.

Software, Tools, and Training

GSA intends to update its systems in order to collect and analyze transactional data. Data submission will be enabled through multiple electronic interfaces (e.g., secure data entry, electronic file submission, or an application programming interface (API)). The goal is to make the reporting process as streamlined, secure and efficient as possible for contractors, requiring them to submit only the transactional data GSA cannot access via other means (e.g., GSA contract management systems or Federal reporting systems such as the System for Award

Management (SAM) or the Federal Procurement Data System (FPDS)).

GSA also plans to implement an API for buyers to benefit from using transactional data. Through the API, GSA will make this information accessible online for all Government buyers. This data will help buyers better understand the universe of GSA purchases; helping them to drive down prices, reduce price variability, and make smarter purchases.

Prior to implementation of transactional data reporting requirements, GSA's Vendor Support Center (<https://vsc.gsa.gov>) will provide instructions and offer training to vendors on how to report transactional data for FSS and non-FSS orders.

Additionally, GSA will update its relevant courseware on the Federal Acquisition Institute (FAI) and Defense Acquisition University (DAU) portals to educate both customers and GSA contracting officers on how to use the data. The Federal Acquisition Service (FAS) has an internal training course aimed at GSA contracting officers awarding and administering FSS contracts - this course will be updated to educate contracting officers on how to conduct analysis on transactional data, as well as how to use these analyses to achieve better pricing on the

contracts. Similarly, the external-facing courseware on how to use the FSS program and other non-FSS GWACs and MACs will be updated to educate customers on the new requirements and how they can use the data collected (to be shared by GSA) to buy smarter. The external courseware will also highlight the additional value the collected data offers to GSA's FSS and non-FSS contracting programs.

IV. Executive Orders 12866 and 13356

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Regulatory Flexibility Act

GSA expects this proposed rule to have a significant economic impact on a substantial number of small entities

within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the proposed rule involves providing transactional data on FSS and non-FSS orders and transactional data that may ultimately affect the end pricing of products offered through GSA. However, the cost to comply with the additional reporting requirement may be offset by the benefits provided by the transactional data, such as greater insight and visibility into customer buying habits and knowledge of market competition.

An additional benefit to FSS contractors is that the addition of the transactional data reporting clause would be coupled with an alternate version of GSAR clause 552.238-75 Price Reductions that does not require customer tracking where the vendor monitors and provides price reductions to the Government when the customer or category of customer upon which the contract was predicated receives a discount. GSAR clause 552.238-75, Price Reductions has long been the mechanism through which GSA ensures prices on contract remained fair and reasonable. However, with transactional data, contracting officers will have a new, potentially more effective and less burdensome mechanism through which to ensure contract pricing is competitive and fair and reasonable, although vertical pricing analysis techniques can still be used.

Providing the required transactional data will impose significant economic impact on all contractors, both small and other than small, doing business on GSA-managed contracts. Therefore, an Initial Regulatory Flexibility Analysis (IRFA) has been prepared consistent with 5 U.S.C. 603, and is summarized as follows:

The General Services Administration (GSA) is proposing to amend General Services Administration Acquisition Regulation (GSAR) to add an alternate to clause 552.238-74 Industrial Funding Fee (IFF) and Sales Reporting, and new clause 552.216-75 Sales Reporting and Fee Remittance to require transactional data reporting in FSS and non-FSS contract vehicles. The clause will require GSA contractors to provide transactional data, which is equivalent to information found on an itemized invoice, to GSA. This will further the objective to improve category management and negotiate better pricing on all GSA acquisition vehicles. Collecting transactional data on orders and prices paid will allow customers to analyze spending patterns and develop new acquisition strategies to fully leverage the Government's spend.

GSA is undertaking a major modernization initiative aimed at enabling customers to drive better value and achieve taxpayer savings by setting the stage for pricing reform. A major characteristic of modernization is collecting and using transactional data for units under most GSA acquisition vehicles to serve as a basis for price analysis and category management.

This rule will apply to all contractors who hold non-FSS contract vehicles as well as to all FSS contract holders, contingent on beneficial results being demonstrated through a pilot conducted on a subset of FSS contracts for products and commoditized services. As of Fiscal Year 2013, there are 15,738 vendors holding 18,598 FSS and non-FSS contract vehicles. Of the 15,738 vendors, 12,590 are small entities to which the rule will apply. Only those contracts with sales would have data to report. Department of Veteran Affairs FSS holders are not affected.

During the development of the rule, GSA considered using one of its many internal applications that support pre-award and post-award actions for GSA contracts to pull the transactional data necessary for more robust price analysis. These internal applications facilitate

data exchanges between GSA and its vendors to provide business intelligence, create procurement sources, facilitate acquisitions, execute deliveries, and provide customer care. GSA uses this information to update systems architecture, to develop new applications for contract administration, and to enhance business intelligence for suppliers and ordering activities. Unfortunately, most of these systems do not collect transactional data at a level that would be of benefit for spend analysis and/or do not possess the most accurate and timely information regarding purchasing activity. Approximately 13 percent of GSA-controlled sales, which includes purchases made by GSA's Assisted Acquisition Services activity on behalf of customer agencies, can capture transactional data; for the remaining majority of purchases (87 percent), the customer and supplier are the only sources of detailed transaction-level data.

Another option for transactional data sourcing would be to enhance or combine existing GSA systems to collect the data. GSA would incur significant IT development costs for the effort. Were GSA to invest the time and resources into an enterprise-wide system that could handle procurement functions and spend analysis, then customers and suppliers would need to commit to use electronic commercial tools such as eBuy and Advantage!®. Without the 100 percent commitment of individual customers, the data will be incomplete - possibly to a large extent - and may significantly skew any subsequent analysis on cost savings and/or purchasing decisions.

GSA's SmartPay program (the program that manages the governmentwide purchase card) is another source where transactional data could be collected, and has been on a limited basis following commercial standards for the past several years on sub-sets of several FSS contracts. However, with less than 1 percent of procurements being made through the purchase card, this method would not provide a complete set of data to achieve the full benefits of capturing transactional data.

Finally, FPDS could be upgraded to collect transactional data. However, this would require Federal Acquisition Regulation revisions, tens of millions of dollars in system changes, and years to implement. Additionally, ordering activities do not normally collect transactional data, so agency financial procedures and systems would have to be overhauled in order to accommodate transactional data collection.

The Regulatory Secretariat has submitted a copy of the Initial Regulatory Flexibility Analysis (IRFA) to the Chief

Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. GSA invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

GSA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, et seq. (GSAR Case 2013-G504), in correspondence.

VI. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies. The proposed rule contains information collection requirements. Accordingly, the Regulatory Secretariat will be submitting a request for approval of a new information collection requirement concerning this rule to the Office of Management and Budget under 44 U.S.C. 3501, et seq.

GSA estimates the proposed rule will result in a net burden reduction of approximately 757,000 hours per year based on the difference in current reporting requirement (i.e. GSAR clause 552.238-75) and the proposed reporting requirements (i.e. clause 552.238-74 Industrial Funding Fee

and Sales Reporting (Federal Supply Schedule) Alternate I and clause 552.216-75 Sales Reporting and Fee Remittance). The analysis of this calculation as well as the assumptions made to support this analysis is presented below.

A. New Reporting Requirements

GSA estimates the public reporting burden for contractors to set-up transactional data reporting systems to average a one-time initial set-up burden of 6 hours. The estimated time includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. GSA also took into consideration training, compliance systems, negotiations, and audit preparation the new clause may require, when estimating the one-time initial set-up of 6 hours.

Thereafter, the monthly burden estimate to report data is approximately .52 of an hour or 31 minutes. This number takes into consideration the distribution of contract values (i.e. sales) and assumes monthly reporting burden rises with vendor sales based on the distribution of sales and obligations within FSS contracts and non-FSS contracts. There is a wide variation in contract sales, therefore

monthly reporting burden ranges between 2 minutes (for contractors with \$0 in sales) and 4 hours (for contractors with greater than \$50 million in sales). GSA estimates that only the top 0.6 percent of FSS contractors and top 4 percent of non-FSS contractors will be affected the most. The average GSA contractor will see little or no effect of the new reporting requirement.

A weighted average was used, based on distribution of sales, to calculate a reporting burden. To arrive at the weighted average, vendors were broken up into six categories, based on contract values. The characteristics of these categories of contracts in FY 2013 are as follows:

Category 1: Contract value is less than \$0. The estimated burden for this category per contractor is 0.03 hours (2 minutes) a month, or 0.36 hours (21.8 minutes) annually. This makes up 37 percent of FSS contractors and 8 percent of non-FSS vendors. The total annual burden for this category is estimated as 2,620 hours.

Category 2: Contract value is \$1 - \$500,000. The estimated burden for this category per contractor is 0.5 hours (30 minutes) a month, or 6 hours annually. This category makes up 41 percent of FSS contractors and 24 percent of non-FSS vendors. The total annual burden for

this category is estimated as 44,884 hours.

Category 3: Contract value is \$500,000 - \$5,000,000. The estimated burden for this category per contractor is 1 hour per month, or 12 hours annually. This category makes up 17 percent of FSS contractors and 43 percent of non-FSS vendors. The total annual burden for this category is estimated as 38,956 hours.

Category 4: Contract value is \$5,000,000 - \$20,000,000. The estimated burden for this category per contractor is 2 hours per month, or 24 hours annually. This category makes up 4 percent of FSS contractors and 17 percent of non-FSS vendors. The total annual burden for this category is estimated as 17,293 hours.

Category 5: Contract value is \$20,000,000 - \$50,000,000. The estimated burden for this category per contractor is 3 hours per month, or 36 hours annually. This category makes up 1 percent of FSS contractors and 5 percent of non-FSS vendors. The total annual burden for this category is estimated as 6,785 hours.

Category 6: Contract value is greater than \$50,000,000. The estimated burden for this category per contractor is 4 hours per month, or 48 hours annually. This category makes up 1 percent of FSS contractors and 4

percent of non-FSS vendors. The total annual burden for this category is estimated as 5,094 hours.

Taking the above into consideration, a weighted average was used to calculate an annual burden of 6.3 hours or 0.52 hours per month since reporting will be required monthly.

The cost of reporting was quantified by multiplying the level of effort in hours by an assumed fully loaded hourly rate for contractors (\$50 x 136 percent = \$68). The annual reporting burden is estimated as follows:

552.216-75 Sales Reporting and Fee Remittance (Transactional Data Reporting Requirement) and 552.238-74 Industrial Funding Fee and Sales Reporting (FEDERAL SUPPLY SCHEDULE) Alternate I

The total public annual burden hours for setup and reporting are **223,906.32** based on the following:

Non-FSS Contracts

(One-time initial setup)

Respondents:	477.
Responses Per Respondent:	<u>x 1.</u>
Total Responses:	477.
Hours Per Response:	<u>x 6.</u>
Total Burden Hours:	2,862.

Non-FSS Contracts

(Reporting)

Respondents:	477.
Responses Per Respondent:	<u>x 12.</u>
Total Responses:	5,724.
Hours Per Response:	<u>x 0.52.</u>
Total Burden Hours:	2,976.48.

The annual estimated total burden hours for non-FSS

contracts are **5,838.48** for year one and **2,976.48** for every year thereafter.

FSS Contracts

(One-time initial setup)
 Respondents: 17,816.
 Responses Per Respondent: X 1.
 Total Responses: 17,816.
 Hours Per Response: x 6.
 Total Burden Hours: **106,896.**

FSS Contracts

(Reporting)
 Respondents: 17,816.
 Responses Per Respondent: x 12.
 Total Responses: 213,792.
 Hours Per Response: x 0.52.
 Total Burden Hours: **111,171.84.**

The annual estimated total burden hours for FSS contracts are **218,067.84** for year one and **111,171.84** for every year thereafter.

The total annual estimated cost to the public for the Transactional Data Reporting GSAR clauses (552.216-75 and 552.238-74 Alternate I) and is estimated to be **\$15,225,629.76** based on the following:

Non-FSS

(One-time initial setup)
 Respondents: 477.
 Responses per respondent: x 1.
 Total annual responses: 477.
 Preparation hours per response: x 6.
 Total response burden hours: 2,862.
 Average hourly wages (\$50.00+36 percent overhead): x 68.
 Estimated cost to the public: **\$194,616.**

Non-FSS

(Reporting)
 Respondents: 477.
 Responses per respondent: x 12.
 Total annual responses: 5,724.

Preparation hours per response:	<u>x</u> .52.
Total response burden hours:	2,976.48
Average hourly wages (\$50.00+36 percent overhead):	<u>x</u>
<u>68.</u>	
Estimated cost to the public:	\$202,400.64.

Estimated cost to the public for Non-MAS contracts is:

\$397,016.64 for year one and **\$202,400.64** for every year

thereafter.

FSS Contracts

(One-time initial set up)

Respondents:	17,816.
Responses per respondent:	<u>x</u> 1.
Total annual responses:	17,816.
Preparation hours per response:	<u>x</u> 6.
Total response burden hours:	106,896.00
Average hourly wages (\$50.00+36 percent overhead):	<u>x</u>
<u>68.00.</u>	
Estimated cost to the public:	\$7,268,928.

FSS

(Reporting)

Respondents:	17,816.
Responses per respondent:	<u>x</u> 12.
Total annual responses:	213,792.
Preparation hours per response:	<u>x</u> .52.
Total response burden hours:	111,171.84.
Average hourly wages (\$50.00 + 36 percent overhead):	
<u>68.00.</u>	
Estimated cost to the public:	\$7,559,685.12.

The total estimated cost to the public for FSS contracts is

\$14,828,613.12 for year one and **\$7,559,687.12** for every year

thereafter.

There are 18,293 contracts containing the transactional data reporting requirement. Data submitted by respondents is submitted and stored electronically. Retrieval of cumulative data requires approximately 1 hour each month (1*12) for a total of 12 hours annually; and costs the Government \$9,015,522.12

annually.

Requests per year	18,293.
Reviewing Time (1*12)	x 12.
Total Review Time/year	<u>219,516.</u>
Average Cost/hr	x 41.07.
Total Government Cost	<u>\$ 9,015,522.12.</u>

The cost of \$41.07 per hour is based on GS-12, step 5 salary (Salary Table 2014-DCB Washington-Baltimore, DC-MD-VA-WV-PA, Effective January 2014).

Difference in Reporting Requirements

Acceptance of GSAR Alternate I, 552.238-74 Industrial Funding Fee and Sales Reporting (Federal Supply Schedule), also triggers the inclusion of Alternate II, 552.238-75 Price Reductions. Unlike the basic Price Reductions GSAR clause, Alternate II of 552.238-75 does not require the vendor to monitor and provide price reductions to the Government when the customer or category of customer upon which the contract was predicated receives a discount. In other words, there will be no reporting burden for GSAR Alternate II, 552.238-75 Price Reductions.

The current total estimated reporting burden hours for GSAR clause 552.238-75 Price Reductions is 868,150 with annual burden cost of approximately \$58.5 million (see OMB control number 3090-0235). The total annual estimated reporting burden hours for the new Transactional Data Reporting clause is 111,171.84 with annual burden cost of

\$7,559,685.12. Therefore, the net annual burden reduction is 756,978.16 hours with annual burden savings of approximately \$51 million.

B. Request for Comments Regarding Paperwork Burden:

Submit comments, including suggestions for reducing this burden, not later than **Monday, May 4, 2015** to:

General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Hada Flowers, 1800 F Street, NW, 2nd Floor, Washington, DC 20405-0001.

Public comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of the GSAR, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Requesters may obtain a copy of the supporting statement from the General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1800 F Street, NW, 2nd Floor, Washington, DC 20407. Please cite

OMB Control Number 3090-0306, Transactional Data Reporting:
GSAR Part Affected: 552.238-74, Industrial Funding Fee and
Sales in all correspondence.

List of Subjects in 48 CFR Parts 501, 516, 538 and 552

Government procurement.

DATED: February 25, 2015.

Jeffrey A. Koses,
Senior Procurement Executive,
Office of Acquisition Policy,
Office of Government-wide Policy,
General Services Administration.

Therefore, GSA proposes to amend 48 CFR parts 501, 516, 538, and 552 as set forth below:

1. The authority citation for 48 CFR parts 501, 516, 538, and 552 continues to read as follows:

Authority: 40 U.S.C 121(c).

PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION

REGULATION SYSTEM

501.106 [Amended]

2. Amend section 501.106 in the table, by adding in numerical sequence, GSAR Reference "552.216-75" and its corresponding OMB Control Number "3090-XXXX".

PART 516—TYPES OF CONTRACTS

3. Amend section 516.506 by adding paragraph (d) to read as follows:

516.506 Solicitation provisions and contract clauses.

* * * * *

(d) The contracting officer may insert clause 552.216-75 in solicitations and GSA-awarded IDIQ contracts. This clause should be included in all GSA-awarded Governmentwide acquisition contracts and multi-agency contracts.

PART 538—FEDERAL SUPPLY SCHEDULE CONTRACTING

4. Amend section 538.273 by revising paragraphs (b) (1) and (2) to read as follows:

538.273 Contract clauses.

* * * * *

(b) * * *

(1) 552.238-74, Industrial Funding Fee and Sales Reporting. Use Alternate I for Federal Supply Schedules with Transactional Data Reporting Requirements. Clause 552.238-75 Alternate II should also be used when vendors agree to include clause 552.238-74 Alternate I in the contract.

(2) 552.238-75, Price Reductions (May 2004).

(i) Except in cases where Alternate II is used, use Alternate I in solicitations and contracts for:

(A) Federal Supply Schedule 70;

(B) The Consolidated Schedule containing information technology Special Item Numbers;

(C) Federal Supply Schedule 84; and

(D) Federal Supply Schedules for recovery purchasing (see 538.7102).

(ii) Use Alternate II for Federal Supply Schedules with Transactional Data Reporting Requirements. This alternate clause is used when vendors agree to include clause 552.238-74 Alternate I;

(iii) Federal Supply Schedule 84; and

(iv) Federal Supply Schedules for recovery purchasing (see 538.7102).

* * * * *

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Amend section 552.212-71 by revising the introductory text to read as follows:

552.212-71 Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Items.

As prescribed in 512.301(a)(1), insert the following clause:

* * * * *

6. Add section 552.216-75 to read as follows:

552.216-75 Transactional Data Reporting.

As prescribed in 516.506(d), insert the following provision:

TRANSACTIONAL DATA REPORTING (**DATE**)

(a) Definitions:

(1) Contract sale is the price paid by the ordering activity for the product or service on the task or delivery order placed against this contract. Contract sales include contract items sold to authorized users unless the purchase was conducted pursuant to a separate contracting authority, such a separately awarded FAR part 12, FAR part 13, FAR part 14, or FAR part 15 procurement; or a non-FAR contract.

(2) Transactional data is historical information encompassing the products and services delivered during the performance of a contract.

(b) Reporting of Contract Sales. The Contractor shall report all contract sales under this contract as follows:

(1) The Contractor shall electronically report contract sales monthly, including "zero" sales, by utilizing the automated reporting system at an Internet website designated by the General Services Administration (GSA) or by uploading the data according to GSA instructions. Each report shall be submitted within 15 calendar days of the applicable monthly reporting period. The website address, as well as registration instructions and reporting procedures, will be provided at the time of award.

(2) The Contractor shall provide, at no cost to the Government, the following transactional data elements, as applicable—

- (i) Contract or BPA Number;
- (ii) Order Number/Procurement Instrument Identifier (PIID);
- (iii) Non Federal Entity, if applicable;
- (iv) Description of Deliverable;
- (v) Manufacturer Name;
- (vi) Manufacturer Part Number;
- (vii) Unit Measure (each, hour, case, lot);
- (viii) Quantity of Item Sold;
- (ix) Universal Product Code (UPC), if applicable;
- (x) Price Paid per Unit; and
- (xi) Total Price.

(3) GSA will post reporting instructions at <https://vsc.gsa.gov/>. GSA reserves the unilateral right to change reporting instructions, including data submission requirements, following 60 days advance notification to the Contractor.

(4) The Contractor shall report contract sales in U.S. dollars.

(5) The reported contract sales value shall include the Contractor Access Fee (CAF).

(6) The Contractor shall maintain a consistent accounting method of contract sales reporting, based on the Contractor's established commercial accounting practice.

(7) The acceptable points at which contract sales may be reported include—

(i) Issuance of an invoice; or

(ii) Receipt of payment.

(8) The Contractor shall continue to furnish reports, including "zero" sales, through physical completion of the last outstanding task or delivery order of the contract.

(9) Orders that contain classified information are exempt from this reporting requirement (See FAR 4.606(c)).

(c) Contractor Access Fee (CAF). (1) The CAF represents a percentage of the total quarterly sales reported. This percentage is set at the discretion of GSA. GSA has the unilateral right to change the percentage at any time, but not more than once per year. GSA provides reasonable notice prior to the effective date of the change. The CAF reimburses GSA for operating costs. Offerors must include the CAF in their prices. The fee is included in the awarded price(s) and reflected in the total amount charged to ordering activities.

(2) Within 60 days of award, a GSA representative will provide the Contractor with specific written procedural instructions on remitting the CAF. GSA reserves the unilateral right to change such instructions following notification to the Contractor.

(3) The Contractor shall remit the CAF at the rate set by GSA within 15 calendar days after the end of the calendar month. Final payment shall be remitted within 30 days after physical completion of the last outstanding task order or delivery order of the contract.

(4) The Contractor shall remit the CAF to GSA in U.S. dollars.

(5) Failure to remit the full amount of the CAF within 15 calendar days after the end of the applicable reporting period constitutes a contract debt to the United States Government under the terms of FAR Subpart 32.6. The Government may exercise all rights under the Debt Collection Improvement Act of 1996, including withholding or setting off payments and interest on the debt (see FAR clause 52.232-17, Interest). Should the Contractor fail to submit the required sales reports, falsify them, or fail to timely pay the CAF, this is sufficient cause for the Government to terminate the contract for cause.

(End of Clause)

7. Amend section 552.238-74 by revising the date of the clause; and adding Alternate I to read as follows:

552.238-74 Industrial Funding Fee and Sales Reporting.

* * * * *

INDUSTRIAL FUNDING FEE AND SALES REPORTING (**DATE**)

* * * * *

Alternate I (**DATE**): As prescribed in 538.273(b)(1), substitute the following paragraphs (a), (b), and (c) for paragraphs (a), (b), and (c) of the basic clause:

(a) Definitions.

(1) Contract sale is the price paid by the ordering activity for the product or service on the task or delivery order placed against this contract. Contract sales include contract items sold to authorized users unless the purchase was conducted pursuant to a separate contracting authority, such as a Governmentwide Acquisition Contract (GWAC); a separately awarded FAR part 12, FAR part 13, FAR part 14, or FAR part 15 procurement; or a non-FAR contract. Sales made to state and local governments under Cooperative Purchasing authority shall be counted as reportable sales.

(2) Transactional data is historical information encompassing the products and services delivered during the performance of a contract.

(b) Reporting of Contract Sales. The Contractor shall report all contract sales under this contract as follows:

(1) The Contractor shall electronically report contract sales monthly, including "zero" sales, by utilizing the automated reporting system at an Internet website designated by the General Services Administration (GSA) or by uploading the data according to GSA instructions. Each report shall be submitted within 15 calendar days of the applicable monthly reporting period. The website address, as well as registration instructions and reporting procedures, will be provided at the time of award.

(2) The Contractor shall provide, at no cost to the Government, the following transactional data elements, as applicable—

- (i) Contract or BPA Number;
- (ii) Order Number/Procurement Instrument Identifier (PIID);
- (iii) Non Federal Entity, if applicable;
- (iv) Description of Deliverable;
- (v) Manufacturer Name;
- (vi) Manufacturer Part Number;
- (vii) Unit Measure (each, hour, case, lot);
- (viii) Quantity of Item Sold;
- (ix) Universal Product Code (UPC), if applicable;
- (x) Price Paid per Unit; and
- (xi) Total Price.

(3) GSA will post reporting instructions at vsc.gsa.gov. GSA reserves the unilateral right to change reporting instructions, including data submission requirements, following 60 days advance notification to the Contractor.

(4) The Contractor shall report contract sales in U.S. dollars.

(5) The reported contract sales value shall include the Industrial Funding Fee (IFF).

(6) The Contractor shall maintain a consistent accounting method of contract sales reporting, based on the Contractor's established commercial accounting practice.

(7) The acceptable points at which contract sales may be reported include—

(i) Issuance of an invoice; or

(ii) Receipt of payment.

(8) The Contractor shall continue to furnish reports, including "zero" sales, through physical completion of the last outstanding task or delivery order of the contract.

(9) Orders that contain classified information are exempt from this reporting requirement (See FAR 4.606(c))

(c) Industrial Funding Fee. The Contractor shall remit the IFF at the rate set by GSA's FAS.

(1) The Contractor shall remit the IFF to FAS in U.S. dollars within 30 calendar days after the end of the reporting quarter; final payment shall be remitted within 30 days after physical completion of the last outstanding task order or delivery order of the contract.

(2) The IFF remittance website address, as well as registration procedures and remittance instructions, will be provided at the time of award or acceptance of this clause. FAS reserves the unilateral right to change such instructions from time to time, following notification to the Contractor.

(3) The IFF represents a percentage of the total quarterly sales reported. This percentage is set at the discretion of GSA's FAS. GSA's FAS has the unilateral right to change the percentage at any time, but not more than once per year. FAS will provide reasonable notice prior to the effective date of the change. The IFF reimburses FAS for the costs of operating the Federal Supply Schedules Program. FAS recoups its operating costs from ordering activities as set forth in 40 U.S.C. 321: Acquisition Services Fund. Net operating revenues generated by the IFF are also applied to fund initiatives benefitting other authorized FAS programs, in accordance with 40 U.S.C. 321. Offerors must include the IFF in their prices. The fee is included in the awarded price(s) and reflected in the total amount charged to ordering activities. FAS will post notice of the current IFF at <https://72a.gsa.gov/> or successor website as appropriate.

8. Amend section 552.238-75 by revising the date of the clause; and adding Alternate II to read as follows:

552.238-75 Price Reductions.

* * * * *

PRICE REDUCTIONS (**DATE**)

* * * * *

Alternate II (DATE). As prescribed in 538.273(b)(2)(ii), substitute the following paragraph (a) for paragraphs (a), (b), (c), (d), (f) and (g) of the basic clause, and paragraph (e) of the basic clause will become paragraph (b) in Alternate II.

The Government may request from the contractor a price reduction at any time during the contract period.

[Billing Code: 6820-61]

[FR Doc. 2015-04349 Filed 03/03/2015 at 8:45 am;
Publication Date: 03/04/2015]