



GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0235; Docket No. 2019-0001; Sequence No. 1]

**General Services Administration Acquisition Regulation;
Submission for OMB Review; Federal Supply Schedule Pricing
Disclosures and Sales Reporting**

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division is submitting a request to the Office of Management and Budget (OMB) to review and approve an extension of a previously approved information collection requirement regarding Commercial Sales Practices disclosures and the General Services Administration Acquisition Regulation (GSAR) clause regarding price reductions. The information collected is used to establish and maintain Federal Supply Schedule (FSS) pricing and price-related terms and conditions. The extension has been renamed "Federal Supply Schedule Pricing Disclosures and Sales Reporting" because it now includes a burden estimate associated with the basic version of the GSAR clause regarding industrial funding fee and sales reporting. GSA uses this information to collect the

Industrial Funding Fee and administer the FSS program. This burden was included under a separate approved information collection identified by OMB control number 3090-0121.

DATES: Submit comments on or before: **[Insert date 30 days after date of publication in the *Federal Register*].**

ADDRESSES: Submit comments identified by Information Collection 3090-0235, Federal Supply Schedule Pricing Disclosures and Sales Reporting, by any of the following methods:

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

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 3090-0235, Federal Supply Schedule Pricing Disclosures and Sales Reporting." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 3090-0235, Federal Supply Schedule Pricing Disclosures and Sales Reporting" on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 3090-0235, Federal Supply Schedule Pricing Disclosures.

Instructions: Please submit comments only and cite Information Collection 3090-0235, Federal Supply Schedule Pricing Disclosures and Sales Reporting, in all correspondence related to this collection. 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: Mr. Matthew McFarland, Office of Acquisition Policy, 301-758-5880 or matthew.mcfarland@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

GSA's Federal Supply Schedules, commonly known as GSA Schedules or Multiple Award Schedules (MAS), are Government-wide contracts providing federal agencies with a simplified process for acquiring commercial supplies and services. The FSS program is the Government's preeminent commercial contracting vehicle, accounting for about 10 percent of all federal contract dollars with approximately \$33 billion of purchases made through the program in fiscal year 2018.

GSA establishes the pricing and terms of each GSA Schedule contract with commercial contractors. Federal agencies then follow GSA's competitive procedures when

placing orders against these contracts and thereby satisfy statutory competition requirements to provide "the lowest overall cost alternative to meet the needs of the Federal Government."¹ In turn, those agencies must pay an Industrial Funding Fee (IFF) that covers GSA's costs of operating the FSS program. The fee is currently set at 0.75 percent and is included in the prices ordering activities pay contractors when purchasing from an FSS contract.² FSS contractors then report GSA Schedule sales data and remit the IFF collected from ordering activities to GSA once a quarter.

There were a total of 16,215 GSA FSS contracts in fiscal year 2018. This information collection pertains to the pricing disclosures and sales reporting requirements for 14,152 of these contracts. The remaining 2,063 contracts participated in the Transactional Data Reporting (TDR) pilot and were subject to a separate information collection identified by OMB control number 3090-0306.

GSA believes TDR offers a meaningful burden reduction for FSS contractors. GSA estimates the combined burden of this information collection is 49 percent more per contract

¹ 41 U.S.C. 152(3)(B) requires FSS ordering procedures to "result in the lowest overall cost alternative to meet the needs of the Federal Government."

² The IFF for Schedule 599, Special Item Number 599-2 is \$1.50 per transaction.

than the TDR burden. If all FSS contractors participated in TDR, rather than being subject to the sales reporting and pricing disclosure requirements of this information collection, they would realize an estimated annual burden reduction of \$30.8 million.³ On the other hand, contractors will absorb costs when reverting back to the requirements of this information collection, including costs associated with establishing a basis of award customer and monitoring system for PRC compliance, if GSA ends the TDR pilot without an alternative means of collecting the IFF, monitoring program sales and establishing and monitoring contract pricing.

The Paperwork Reduction Act generally requires information collections to be renewed every three years.⁴ Both this information collection (OMB control number 3090-0235) and the Transactional Data Reporting information collection (OMB control number 3090-0306) were last

³ The estimated burden for this information collection, which applied to the 14,152 contracts not participating in the TDR pilot, is estimated to be \$94.2 million. This equates to a per-contract burden of \$6,662/year. The estimated burden for the TDR information collection is \$9.2 million/year for the 2,063 contracts participating in the FSS pilot; this equates to a per-contract the burden of \$4,483/year. The estimated \$30.8 million/year burden reduction is calculated by taking the updated 3090-0235 burden estimate (\$94.2 million/year) and subtracting the product of the number of contracts included in 3090-0235 multiplied by the average per-contract burden of TDR (14,152 contracts x \$4,483), which equals \$63.4 million/year (\$94.2M - \$63.4M = \$30.8M). More information about the TDR burden can be found under Information Collection 3090-0306 at <http://www.reginfo.gov/public> by searching "ICR" for "3090-0306".

⁴ 44 U.S.C. 3507(g)

approved in 2016, so GSA is now obtaining extensions to both information collections. Additionally, GSA is consolidating a separate information collection for IFF and sales reporting (OMB control number 3090-0121) with this information collection because the burdens are interdependent.

This request for comments only pertains to the information collection requirements associated with the basic version of GSAR clause 552.238-80 and CSP and PRC disclosure requirements. GSA has also published a separate notice requesting comments on the Transactional Data Reporting information collection (OMB control number 3090-0306) elsewhere in this issue of the Federal Register.

Sales Reporting

General Services Administration Acquisition Regulation (GSAR) clause 552.238-80 Industrial Funding Fee and Sales Reporting is included in every GSA Schedule contract. The basic version of the clause requires contractors to report their FSS contract sales to GSA within 30 days after the end of the quarter. GSA then calculates the IFF due based on the total amount of sales reported and the contractor

must also remit that amount within 30 days after the end of the quarter.⁵

FSS Pricing Disclosures

The basic version of GSAR clause 552.238-80 Industrial Funding Fee and Sales Reporting also dictates the pricing procedures GSA will use to establish contract pricing. These pricing procedures require GSA to determine price reasonableness on its FSS contracts by comparing a contractor's prices and price-related terms and conditions with those offered to their other customers. Through analysis and negotiations, GSA establishes a favorable pricing relationship in comparison to one of the contractor's customers (or category of customers) and then maintains that pricing relationship for the life of the contract. In order to carry out this practice, GSA collects pricing information through CSP disclosures and enforces the pricing relationship through the PRC.

Commercial Sales Practices (CSP): In accordance with GSAR 515.408(a)(2), offerors must submit information in the Commercial Sales Practices Format provided in the solicitation, following the instructions at GSAR Figure 515.4-2, or submit information in their own format. In

⁵ Alternate I of the clause applies to FSS contracts participating in the TDR pilot and falls under the information collection identified by OMB control number 3090-0306.

addition to when an offer is submitted, CSP disclosures are also required prior to executing bilateral modifications for exercising a contract option period, adding items to the contract, or increasing pricing under the Economic Price Adjustment clause (GSAR 552.216-70).

Price Reductions Clause (PRC): GSAR 538.273 (b) (2) prescribes the PRC for use in all FSS solicitations and contracts. The clause is intended to ensure the Government maintains its price/discount (and/or term and condition) advantage in relation to the contractor's customer (or category of customer) upon which the FSS contract is based. The basis of award customer (or category of customer) is identified at the conclusion of negotiations and noted in the contract. Thereafter, the PRC requires FSS contractors to inform the contracting officer of price reductions within 15 calendar days. Per GSAR 552.238-81(c) (1) a price reduction shall apply to purchases under the contract if, after the date negotiations conclude, the Contractor-

- Revises the commercial catalog, pricelist, schedule or other document upon which contract award was predicated to reduce prices;
- Grants more favorable discounts or terms and conditions than those contained in the commercial catalog, pricelist, schedule or other documents upon which contract award was predicated; or
- Grants special discounts to the customer (or category of customers) that formed the basis

of award, and the change disturbs the price/discount relationship of the Government to the customer (or category of customers) that was the basis of award.

FSS ordering procedures are required by law to "result in the lowest overall cost alternative to meet the needs of the Federal Government."⁶ CSP disclosures and the PRC provide GSA a mechanism for meeting this objective by giving it insight into a contractor's pricing practices, which is proprietary information that can only be obtained directly from the contractor.

Information Collection Changes and Updates

The burden estimates from the previous approval have been adjusted to include updates to sales reporting estimates previously included under OMB control number 3090-0121; reflect actual participation in the TDR pilot; revised labor rates used to calculate cost estimates; and increases to the heavier lift burdens for PRC compliance systems, CSP pre-award disclosures and CSP option disclosures. The number of respondents and applicable actions has also been updated.

Industrial Funding Fee and Sales Reporting: The basic version of the Industrial Funding Fee and Sales Reporting clause has traditionally been associated with OMB control

⁶ 41 U.S.C. 152(3) (B)

number 3090-0121, which was last extended in June 2017. GSA determined this information collection should be consolidated with the FSS Pricing Disclosures information collection (OMB control number 3090-0235) because they apply to the same population within the GSA Schedules program.

The estimation methodology for the sales reporting calculations is the same as what was used for the 2017 renewal of OMB control number 3090-0121 except the sales categories were revised to align with those used for the Transactional Data Reporting information collection (OMB control number 3090-0306).

Adjustments for the Transactional Data Reporting Pilot: GSA Schedule contracts included in the TDR pilot are no longer subject to this information collection; the separate reporting requirements for those contracts are covered by OMB control number 3090-0306.

The TDR pilot had yet to launch when these burden estimates were previously calculated in 2016, so GSA based its estimates for the number of contracts that would participate on the total number of contracts under the Schedules and Special Item Numbers eligible for the pilot:

- The ratio of GSA Schedule contracts that would continue under this information collection was

estimated to be 56.8 percent, which was based on the percentage of the program's sales in fiscal year 2015 for contracts that would not be eligible to participate in the TDR pilot.

- The ratio of GSA Schedule contracts slated to be included in the TDR pilot was estimated to account for the remaining 43.2 percent.

Consequently, the 2016 burden estimates for the CSP and PRC renewal and the 2017 IFF and sales reporting renewal relied upon these TDR pilot participation projections. However, pilot participation became optional in 2017 and the number of contracts that eventually joined the pilot was lower than anticipated in 2016. Of the 16,215 contracts that were active in FY 2018,

- 14,152 contracts, or 87.28 percent of the total, are subject to this information collection.
- 2,063 contracts, or 12.72 percent of the total, participated in the TDR pilot.

Consequently, the revised participation figures resulted in significantly higher burden estimates for this information collection and lower burden estimates for the Transactional Data Reporting information collection (OMB control number 3090-0306).

Revised Labor Rates: The previous burden estimates used a fully burdened labor rate of \$68/hour. This included a \$50/hour base rate, which was based on professional judgment, and 36 percent for fringe benefits, which was rounded down from the 36.25 percent fringe benefit factor included in OMB Circular A-76.⁷

The revised burden estimates attempt to align with the Department of Defense's Regulatory Cost Analysis Tool (RCAT), which was developed to prepare economic analyses in compliance with Executive Order 13771 and uses various Government labor category rates as the basis for cost estimates. GSA determined—

- The GS-14, Step 5 labor rate from the RCAT (\$77.55/hour) was the most appropriate for the tasks performed by contractors to comply with CSP and PRC disclosure requirements and perform the initial setup for sales reporting systems.
- The GS-12, Step 5 labor rate from the RCAT (\$55.19/hour) was the most appropriate for the tasks

⁷ 36.25% overhead rate was used in reference to Office of Management and Budget (OMB) Circular No. A-76. Circular A-76 requires agencies to use standard cost factors to estimate certain costs of Government performance. These cost factors ensure that specific government costs are calculated in a standard and consistent manner to reasonably reflect the cost of performing commercial activities with government personnel.

performed by contractors for quarterly sales reporting.

Increased Heavier Lift Burdens

GSA increased some of its heavier lift burden estimates in response to public comments received in 2019. Previously, the heavier lift calculations for PRC compliance systems and CSP pre-award and options disclosures were generally 15-86 percent higher than the lighter lift estimates for those functions. However, GSA now believes the disparity between a lighter lift and a heavier lift is greater than previously estimated and projects the heavier lift burden for those activities is 5 times greater than the lighter lift estimates. This change increases the annual information collection burden estimate by approximately \$33 million.

B. Annual Reporting Burden

This information collection applies to GSA FSS contracts that include the basic version of GSAR clause 552.238-80 Industrial Funding Fee and Sales Reporting. In FY 2018, 13,828 contractors held a total of 16,215 GSA FSS contracts; 12,151 of these contractors held a total of 14,152 contracts containing the basic version of clause

552.238-80.⁸ These contracts accounted for approximately 77.8 percent of GSA FSS sales in fiscal year 2018. The 2,063 GSA FSS contracts subject to Alternate I of GSAR clause 552.238-80—those participating in the TDR pilot—are covered by a separate information collection identified under OMB control number 3090-0306.

Cost Burden Calculation

Sales Reporting: The two primary activities associated with sales reporting are initial setup and quarterly reporting. GSA calculated the cost burden for each as follows:

- **Initial Setup:** The duties required for these activities will generally be completed by a senior-level subject matter expert. For the purposes of establishing an hourly rate, GSA equates these duties to those of a GS-14, Step 5 employee, whose hourly rate in 2019 for the "Rest of U.S." locality is \$56.92 an hour.⁹ When factoring a 36.25 percent overhead rate for fringe benefits, the fully burdened rate is \$77.55 an hour.¹⁰

⁸ Some contractors hold multiple contracts and may have contracts participating in the TDR pilot and other contracts that are subject to CSP and PRC disclosure requirements.

⁹ General Schedule (GS) labor rates may be viewed on the Office of Personnel Management (OPM) under Pay & Leave: Salaries and Wages, SALARY TABLE 2019-RUS at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/19Tables/html/RUS_h.aspx

¹⁰ 36.25% overhead rate was used in reference to Office of Management and Budget (OMB) Circular No. A-76. Circular A-76 requires agencies to use standard cost factors to estimate certain costs of Government performance. These cost factors ensure that specific government costs

- **Quarterly Reporting:** The duties required for these activities will generally be completed by mid-level personnel. For the purposes of establishing an hourly rate, GSA equates these duties to those of a GS-12, Step 5 employee, whose hourly rate in 2019 for the "Rest of U.S." locality is \$40.51 an hour. When factoring a 36.25 percent overhead rate for fringe benefits, the fully burdened rate is \$55.19 an hour.

Pricing Disclosures: The duties required for these activities will generally be completed by a senior-level subject matter expert. For the purposes of establishing an hourly rate, GSA equates these duties to those of a GS-14, Step 5 employee, whose hourly rate in 2019 for the "Rest of U.S." locality is \$56.92 an hour. When factoring a 36.25 percent rate for fringe benefits, the fully burdened rate is \$77.55 an hour.

Heavier Lifts and Lighter Lifts

Due to the diversity among the FSS contractor population, the burden associated with many of the CSP and PRC components of this information collection cannot be equally attributed to all FSS contracts. In these areas, GSA is categorizing contracts into those with a "heavier lift" or

are calculated in a standard and consistent manner to reasonably reflect the cost of performing commercial activities with government personnel.

"lighter lift."

FSS contracts are held by a diverse set of companies, which vary in terms of business size, offerings, and FSS sales volume. For example, in FY 2018:

- 30.7 percent, or 4,975 contracts had \$0 in reported FSS sales.
- 6.8 percent, or 1,100 contracts, accounted for about 80 percent of all FSS sales.
- The top 20 percent of FSS contracts (in terms of FY 2018 sales) accounted for 94.6 percent of FSS sales.
- Only 19.7 percent of FSS contracts had more than \$1 million in FSS sales.
- 68.7 percent of FSS contracts were held by small businesses and had less than \$1 million in FSS sales.
- Small businesses held 81 percent of the FSS contracts but accounted for 37 percent of FSS sales.

In general, a contractor's sales volume will have the greatest effect on the associated burden of these requirements, although the number and type of offerings, and business structure, can also be significant factors. As previously shown, a relatively small number of FSS contracts account for the vast majority of FSS sales and therefore likely bear a heavier burden for these requirements. Conversely, the majority of FSS contracts,

which are typically held by small businesses with lower sales volume, absorb less of the burden for these requirements.

To account for the differences among FSS contracts, GSA is utilizing the Pareto principle, or "80/20 rule," which states 80 percent of effects comes from 20 percent of the population. Accordingly, GSA is categorizing FSS contracts by those with a heavier lift (20 percent) and those with a lighter lift (80 percent). Contracts with heavier lifts are those with the characteristics leading to increased burden - more sales volume, higher number of contract items, more complex offerings, more transactions, more complex transactions, and/or intricate business structures.

Sales Reporting

The basic version of the Industrial Funding Fee and Sales Reporting clause requires contractors to report their total sales by Special Item Number once a quarter in the 72A Reporting System.¹¹ Contractors must file these reports within 30 days after the end of each of the following quarters:

- January 1 to March 31
- April 1 to June 30
- July 1 to September 30

¹¹ <https://72a.gsa.gov>

- October 1 to December 31

After contractors report their sales, the 72A Reporting System calculates the IFF due for the quarter. The system then prompts users to "Pay Now" or "Pay Later." Contractors can remit IFF payments via credit card, online check, or paper check. Regardless of whether a contractor remits the IFF at the time sales are reported or at a later date, the IFF due must be remitted within the same 30 day deadline following the end of the reporting quarters.

Categorization of Vendors by Quarterly Sales Revenue:

Sales reporting imposes a progressive burden—one that increases with a contractor's sales volume. Quarterly reporting times will increase with a contractor's applicable sales volume, as contractors with lower to no reportable sales will spend little time on quarterly reporting, while those with more reportable sales will face a higher reporting burden.

GSA separated contracts into categories based on reported annual sales volume in order to account for the differences in reporting burden. These categories are:

- Category 1: No sales activity
- Category 2: Sales between \$0 and \$25,000
- Category 3: Sales between \$25,000 and \$250,000
- Category 4: Sales between \$250,000 and \$1 million

- Category 5: Sales over \$1 million

The distribution of contracts by sales category is as follows:

Contracts by Sales Category		
	FSS Contracts (Count)	FSS Contracts (Percentage)
Category 1	4,657	33%
Category 2	1,188	8%
Category 3	3,469	25%
Category 4	2,168	15%
Category 5	2,670	19%
Total	14,152	100%

Automated vs. Manual Reporting Systems: Vendors subject to these clauses must create systems or processes to produce and report accurate data. Generally, contractors will use automated or manual systems to identify the quarter's reportable sales. An automated system is one that relies on information technology, such as an accounting system or data management software, to identify and compile reportable data. These systems can tremendously streamline the reporting process but require upfront configuration to perform the tasks, such as coding the sales types to be retrieved. Conversely, a manual system is one that incorporates little to no automation and instead relies on personnel to manually identify and compile the reportable

data. An example of a manual system would be an accountant reviewing invoices to identify the reportable data and then transferring the findings to a spreadsheet. In contrast to automation, a manual system requires relatively little setup time but the reporting effort will generally increase with the contractor's sales volume.

The likelihood of a contractor adopting an automated system increases with their applicable sales volume. Vendors with little to no reportable data are unlikely to expend the effort needed to establish an automated reporting system since it will be relatively easy to identify and report a limited amount of data. However, as a contractor's applicable sales increase, they will be increasingly likely to establish an automated system to reduce the quarterly reporting burden. Consequently, contractors with higher reportable sales will likely bear a higher setup burden to create an automated system, or absorb a high quarterly reporting burden if they choose to rely on manual reporting methods.

The following chart depicts the likelihood of the population of contracts operating under manual and automated reporting systems:

Contracts by Reporting System Type (Manual vs. Automated)

	Manual System (Percentage)	Automated System (Percentage)	Manual System - Vendor Count	Automated System - Vendor Count
Category 1	100%	0%	4,657	0
Category 2	100%	0%	1,188	0
Category 3	90%	10%	3,122	347
Category 4	50%	50%	1,084	1,084
Category 5	10%	90%	267	2,403
Total Count of Contracts by System Type			10,318	3,834
Percentage of Contracts by System Type			73%	27%

Initial Setup: Vendors with active FSS contracts already have procedures in place to meet these longstanding reporting requirements. However, new FSS contractors will absorb a one-time setup burden to establish reporting systems. The estimated setup time varies between automated and manual reporting systems. Vendors implementing a manual system must acclimate themselves with the new reporting requirements and train their staff accordingly, while those with automated systems must perform these tasks in addition to configuring information technology resources.

GSA estimates the average one-time setup burden is 8 hours for contractors with a manual system and 40 hours for those with an automated system. GSA also attributes the same system type probabilities (manual system 73 percent, automated system 27 percent) to the population of new

contractors. These estimates apply to the 1,220 contractors awarded FSS contracts in fiscal year 2018.

Quarterly Reporting: Vendors are required to report sales within 30 calendar days after the end of each quarter. The average reporting times vary by system type (manual or automated) and sales volume. GSA estimates contractors using a manual system have average quarterly reporting times ranging from 15 minutes (0.25 hours) per quarter for contractors with \$0 sales to an average of 8 hours per quarter for contractors with quarterly sales over \$1 million. On the other hand, GSA projects contractors with automated systems will have reporting times of 2 hours per quarter, irrespective of quarterly sales volume, as a result of efficiencies achieved through automated processes. The following table shows GSA's projected quarterly reporting times per sales category and system type:

Quarterly Reporting Hours by System Type and Category		
	Manual Systems	Automated Systems
Category 1	0.25	2.00
Category 2	1.00	2.00
Category 3	2.00	2.00
Category 4	4.00	2.00
Category 5	8.00	2.00

Annualized Public Burden Estimates for Sales Reporting:

The burden estimates consist of quarterly reporting times for all 14,152 participating contracts and a one-time setup burden for the 1,220 new contracts:

Quarterly Reporting

Annual Burden (Hours): 90,945

Annual Burden (Cost): \$5,019,255

Initial Setup

Annual Burden (Hours): 20,336

Annual Burden (Cost): \$1,577,078

Price Reductions Clause

GSA attributes the PRC-related burden to training, compliance systems, and notifying GSA of price reductions within 15 calendar days after their occurrence.

Training: FSS contractors provide training to their employees to ensure compliance with FSS pricing disclosure requirements. GSA is basing these burden estimates on the number of contractors, not the number of contracts, because contractors with multiple contracts subject to this requirement will likely not have to provide separate training for each contract.

In FY 2018, there were 12,151 contractors subject to PRC notification requirements, 2,830 (20 percent) with a heavier lift and 9,721 (80 percent) with a lighter lift. Vendors within the heavier lift category may need to develop formal training programs and conduct training for

numerous divisions and offices, while contractors in the lighter lift category may have no need for training design and administration due to having as few as one person responsible for PRC compliance.

Training - Heavier Lift

Total Annual Responses: 2,430
Average Hours per Response: 40
Total Time Burden (Hours): 97,200
Total Cost Burden: \$7,537,860

Training - Lighter Lift

Total Annual Responses: 9,721
Average Hours per Response: 20
Total Time Burden (Hours): 194,420
Total Cost Burden: \$15,077,271

Compliance Systems: FSS contractors must develop systems to control discount relationships with other customers/categories of customer to ensure the basis of award pricing relationship is not disturbed. In public comments submitted on this information collection renewal in 2016, a respondent stated PRC monitoring burden should be 1,290 hours to establish a compliance system in the first year and 1,100 hours each year thereafter for monitoring activities. However, GSA believes the amount of investment into a compliance system is inversely related to the amount of time needed to carry out ongoing monitoring activities. Specifically, contractors making high upfront investments, such as programming a quotation tool to control discounts, will have a lower ongoing monitoring

reporting burden. On the other hand, contractors not making upfront investments to establish a compliance system will have a higher ongoing reporting burden.

GSA previously adopted an average burden of 1,290 hours but allocated it across the 20-year life of a contract for heavier lift contractors using automated systems to carry out monitoring activities, resulting in an annual burden of 65 hours. GSA estimated heavier lift contractors that spend less time implementing an automated system would incur a similar burden for monitoring activities, meaning GSA estimated the same 65 hour/year burden for those contractors. For lighter lift contractors, GSA attributed an average burden of 700 hours for the 20-year life of the contract, which equates to 35 hours a year.

However, GSA decided in 2019 to increase its heavier lift burden estimates after considering public comments. GSA now believes the disparity between a lighter lift and a heavier lift is greater than previously estimated and projects the heavier lift burden for those activities to be 5 times greater than the lighter lift estimates.

Compliance Systems - Heavier Lift
Total Annual Responses: 2,430
Average Hours per Response: 175
Total Time Burden (Hours): 425,250
Total Cost Burden: \$32,978,138

Compliance Systems - Lighter Lift
Total Annual Responses: 9,721
Average Hours per Response: 35
Total Time Burden (Hours): 340,235
Total Cost Burden: \$26,385,224

Price Reduction Notifications: 1,035 price reduction modifications were completed in FY 2018, with each modification requiring a notification from the contractor. In a survey conducted among GSA FSS contracting officers, respondents estimated it took an average of 4.25 hours to complete a price reduction modification. GSA believes FSS contractors bear a similar burden for this task and is therefore using the same burden estimate.

Price Reduction Notifications
Total Annual Responses: 1,035
Average Hours per Response: 4.25
Total Time Burden (Hours): 4,399
Total Cost Burden: \$341,123

Commercial Sales Practices Disclosures

The CSP burden results from disclosures required of any contractor submitting an offer for an FSS contract or modifying an FSS contract to increase prices, add items and Special Item Numbers, or exercise options.

The burden estimates for CSP disclosures are based upon the estimates provided by respondents to the GSA FSS contracting officer survey. The 77 survey respondents provided estimates regarding the amount of time it takes

FSS contracting officers to complete CSP-related tasks and GSA believes these responses can be used as a benchmark for contractor burden estimates.

In calculating these burden estimates, GSA acknowledges a contractor's tasks are more complex than simply comparing offered prices to discounts given to other categories of customers. In addition to collecting and analyzing data, GSA expects offerors to provide data that is current, accurate and complete. GSA recognizes this due diligence places an additional burden on offerors. Also, similar to the PRC, factors such as sales volume, the number of contract items, complexity of offerings, and business structures has a significant effect on the burden but can vary widely from contractor to contractor. Consequently, GSA is using the heavier lift and lighter lift methodology for the CSP burden estimates.

Pre-award Disclosures: In fiscal year 2018, contractors submitted 2,503 offers for FSS contracts with CSP disclosure requirements. GSA recognizes the complexity of this task varies with the type and number of offerings, business structure, and expected revenue, so for this burden estimate, these offers are separated between offerors with heavier lifts (20 percent or 501 offers) and those with lighter lifts (80 percent or 2,002 offers).

GSA previously based its burden estimates for this function directly on the results from the FAS survey of its FSS contracting officers in 2016. However, after receiving public comments in 2016 stating the pre-award disclosure burden for contractors exceeds that for contracting officers, GSA doubled its contractor estimates, resulting in increases for heavier lift contractors from 41.48 hours/year to 82.96 hours/year and for lighter lift contractors from 32.41 hours/year to 64.82 hours/year.

In 2019, GSA once again chose to increase its heavier lift burden estimates after considering public comments. GSA now believes the disparity between a lighter lift and a heavier lift is greater than previously estimated and projects the heavier lift burden for those activities to be 5 times greater than the lighter lift estimates.

Pre-award Disclosures - Heavier Lift

Total Annual Responses: 501
Average Hours per Response: 324.10
Total Time Burden (Hours): 162,374
Total Cost Burden: \$12,592,111

Pre-award Disclosures - Lighter Lift

Total Annual Responses: 2,002
Average Hours per Response: 64.82
Total Time Burden (Hours): 129,770
Total Cost Burden: \$10,063,636

Price Increase Modifications: In FY 2018, 1,457 price increase modifications were processed, including 492 (20 percent) with a heavier lift and 1,967 (80 percent) with a

lighter lift. The time burden for these modifications varies mainly with the type and number of offerings. GSA is basing its burden estimates for this function directly on the results from the FAS survey of its FSS contracting officers.

Price Increases - Heavier Lift
Total Annual Responses: 492
Average Hours per Response: 10.45
Total Time Burden (Hours): 5,141
Total Cost Burden: \$398,716

Price Increases - Lighter Lift
Total Annual Responses: 1,967
Average Hours per Response: 9.71
Total Time Burden (Hours): 18,037
Total Cost Burden: \$1,398,800

Adding Items and Special Item Numbers (SINs): In FY 2018, 4,209 addition modifications were processed, including 1,275 (20 percent) with a heavier lift and 5,099 (80 percent) with a lighter lift. The time burden for these modifications varies with the type and number of offerings. GSA is basing its burden estimates for this function directly on the results from the FAS survey of its FSS contracting officers.

Addition Modifications - Heavier Lift
Total Annual Responses: 1,275
Average Hours per Response: 11.13
Total Time Burden (Hours): 14,191
Total Cost Burden: \$1,100,493

Addition Modifications - Lighter Lift
Total Annual Responses: 5,099
Average Hours per Response: 10.65

Total Time Burden (Hours): 54,304
Total Cost Burden: \$4,275,363

Exercising Options: In FY 2018, 2,468 option modifications were processed, including 494 (20 percent) with a heavier lift and 1,974 (80 percent) with a lighter lift. The time burden for these modifications varies with the type and number of offerings, business structure, and expected revenue.

GSA previously based its burden estimates for this function directly on the results from the FAS survey of its FSS contracting officers because while the associated tasks with processing an option CSP are similar to that of a pre-award CSP, the option CSP requires less time because of familiarity and precedents created during the preceding contract period.

However, GSA decided in 2019 to increase its heavier lift burden estimates after considering public comments. GSA now believes the disparity between a lighter lift and a heavier lift is greater than previously estimated and projects the heavier lift burden for those activities to be 5 times greater than the lighter lift estimates.

Option Modifications - Heavier Lift
Total Annual Responses: 494
Average Hours per Response: 111.60
Total Time Burden (Hours): 55,130
Total Cost Burden: \$1,000,605

Option Modifications - Lighter Lift
Total Annual Responses: 1,974
Average Hours per Response: 22.32
Total Time Burden (Hours): 44,060
Total Cost Burden: \$3,416,828

GSA Office of Inspector General Audits

The GSA Office of Inspector General (OIG) regularly audits GSA Schedule contracts for compliance with PRC and CSP requirements. The GSA OIG performed 48 contract audits in FY 2018.¹² Survey responses included with public comments submitted for the 2012 renewal of this information collection noted contractors estimated spending approximately 440-470 hours preparing for audits involving the PRC. This burden still applied in 2018, so GSA is taking the median point of that range (455) and multiplying it by 48 audits, to reach the sum of 21,840 hours expended preparing for audits.

GSA OIG Audits
Total Annual Responses: 48
Average Hours per Response: 455
Total Time Burden (Hours): 21,840
Total Cost Burden: \$1,226,316

Total Annual Burden

The total estimated burden imposed by Federal Supply Schedule pricing disclosures is as follows:

¹² The GSA OIG's audit findings are outlined in their Semiannual Reports to the Congress. The report covering October 1, 2017 to March 31, 2018 stated the OIG performed 21 contract audits and the report covering April 1, 2018 to September 30, 2018 stated the GSA OIG performed 27 contract audits.

Estimated Annual Time Burden (Hours)

Sales Reporting: 111,281
Price Reductions Clause: 1,061,504
CSP Disclosures: 483,008
GSA OIG Audits: 21,840
Total Annual Time Burden: 1,247,865

Estimated Annual Cost Burden

Sales Reporting: \$6,596,333
Price Reductions Clause: \$82,319,616
CSP Disclosures: \$37,457,248
GSA OIG Audits: \$1,693,692
Total Annual Cost Burden: \$128,066,888

C. Public Comments

An initial notice of request for comments regarding the extension of this information collection was published in the Federal Register at 84 FR 24517 on May 28, 2019. GSA sought comments regarding (1) whether FSS pricing disclosures are necessary and have practical utility, and (2) if GSA's estimates of the collection burden are accurate, and based on valid assumptions and methodology. GSA received comment letters covering a variety of topics from two respondents, the GSA Office of Inspector General (GSA OIG) and the Coalition for Government Procurement (The Coalition).

The GSA OIG's letter, dated July 26, 2019, provided comments for this information collection and the Transactional Data Reporting information collection (OMB control number 3090-0306). The Coalition's letter, dated

July 29, 2019, is limited to this information collection, although they provided a separate letter with comments on the Transactional Data Reporting information collection. GSA is providing responses to the Transactional Data Reporting comments in the documents associated with the extension of OMB control number 3090-0306.

Both respondent's comments, as they relate to this information collection, concentrated on CSP and PRC disclosures. The following are summaries of those comments, grouped by subject matter, and GSA's responses:

Reporting Burden

Comments: Both respondents provided comments about GSA's burden calculations. The GSA OIG stated the burden is overstated, noting 16 of the 36 FSS contractors they audited in FY 2018 had insufficient commercial sales to disclose and therefore did not have to monitor PRC compliance. The GSA OIG explained these contractors had sales over \$1 million and therefore would fall into the "heavy lift" category of GSA's burden methodology, despite having no compliance burden.

Conversely, the Coalition stated the burden estimates are too low and estimate the annual FSS pricing disclosures burden to be \$1.1 billion. They stated:

- GSA's estimate of CSP-related activities being twice as burdensome for a contractor as the Government is true for a single contractor employee, but seven to ten contractor employees often participate in CSP preparation. Therefore, the CSP burden estimates should be increased by a factor of seven.
- The estimated contractor labor rate of \$77.55/hour for PRC compliance activities does not account for the rates of professionals such as lawyers, accountants, and consultants, and contractors also frequently rely on outside resources for these activities. As such, the actual rates fall between \$105/hour and \$471/hour for an average of \$288/hour.
- GSA's PRC compliance system burden estimate, which is adopted from an earlier Coalition study but allocated across 20 years, is an annual cost and should not be divided across 20 years.

Additionally, the GSA OIG stated the estimated 455-hour audit preparation burden should not be included in the burden estimates because those activities are included in the CSP and PRC disclosure activities for which GSA has already provided a burden estimate.

Finally, the Coalition noted three calculation discrepancies:

- The compliance systems (lighter lift) burden was noted as 35 hours but later included a burden of 30 hours per contractor.
- The stated labor rate was \$77.25/hour but \$77.55/hour was used in calculations.
- There is an arithmetical error in the pre-award disclosures (heavier lift) calculation.

GSA Response: The diverging opinions around the FSS pricing disclosure burden underscore GSA's decision to use a "heavier lift" and "lighter lift" methodology for many of the components of this information collection. While numerous contractors incur a significant burden for these activities, many others incur little to no burden, and these examples residing at either end of the burden spectrum should not be treated as indicative of all affected contractors.

GSA notes a contractor's sales volume is not the sole determiner of whether they are classified as heavier lift in the burden estimation methodology. As noted in the Federal Register notice, contracts with heavier lifts are those with the characteristics leading to increased burden—more sales volume, higher number of contract items, more complex offerings, more transactions, more complex transactions, and/or intricate business structures. In

other words, no single factor, such as sales volume, results in a contractor having a heavier lift. Instead, GSA's intention was to show that 20 percent of contractors have a relatively heavier lift than the other 80 percent of contractors. As such, the 16 contractors highlighted by the GSA OIG would belong in the lighter lift category and provide an example of why a lighter lift contractor would have a relatively low burden.

Regarding the Coalition's burden estimates, GSA increased some of its heavier lift burden estimates in response to their comments. Previously, the heavier lift calculations for PRC compliance systems and CSP pre-award and options disclosures were generally 15-86 percent higher than the lighter lift estimates for those functions. However, GSA believes the disparity between a lighter lift and a heavier lift is greater than previously estimated and now estimates the heavier lift burden for those activities is 5 times greater than the lighter lift estimates. This change increases the annual information collection burden estimate by approximately \$33 million.

Yet, GSA is not aligning the remaining burden estimates with the Coalition's because GSA does not believe those estimates are representative of most contractors. As illustrated in the first Federal Register notice, FSS

contracts are held by a diverse set of companies, which vary in terms of business size, offerings, and FSS sales volume. For example, in FY 2018:

- 30.7 percent, or 4,975 contracts had \$0 in reported FSS sales.
- 6.8 percent, or 1,100 contracts, accounted for about 80 percent of all FSS sales.
- The top 20 percent of FSS contracts (in terms of FY 2018 sales) accounted for 94.6 percent of FSS sales.
- Only 19.7 percent of FSS contracts had more than \$1 million in FSS sales.
- 68.7 percent of FSS contracts were held by small businesses and had less than \$1 million in FSS sales.
- Small businesses held 81 percent of the FSS contracts but accounted for 37 percent of FSS sales.

GSA also believes the labor rates provided by the Coalition are significantly higher than those typically paid by contractors to fulfill these functions. GSA believes these functions are typically performed by contract administrators with occasional assistance from higher-paid professionals, such as attorneys and consultants. The most comparable labor category to a contract administrator that was analyzed by the Bureau of Labor Statistics (BLS) is a compliance officer (13-1041).

BLS's most recently published hourly rate for this type of professional was \$34.86/hour¹³; when factoring a 36.25 percent overhead rate for fringe benefits, the fully burdened rate is \$47.50 an hour.¹⁴ However, GSA chose to use the higher \$77.55/hour rate to account for the occasional involvement of higher-paid professionals.

With respect to the Coalition's assertion that their compliance estimate should be attributed to a single year, GSA will continue to allocate the burden over a 20-year period because contractors will not establish a new compliance system each year. GSA maintains many of the contractors with complex PRC monitoring requirements use automated compliance systems to relieve the ongoing compliance burden. These automated systems, which typically use price discount controls to assure PRC compliance, require high upfront effort but significantly decrease the ongoing burden for PRC compliance. On the other hand, contractors that forego automated systems in favor of manual, ad hoc monitoring activities will have higher

¹³ See the Bureau of Labor Statistics Occupational Employment and Wages for Compliance Officers, available at <https://www.bls.gov/oes/current/oes131041.htm>

¹⁴ 36.25% overhead rate was used in reference to Office of Management and Budget (OMB) Circular No. A-76. Circular A-76 requires agencies to use standard cost factors to estimate certain costs of Government performance. These cost factors ensure that specific government costs are calculated in a standard and consistent manner to reasonably reflect the cost of performing commercial activities with government personnel.

ongoing monitoring burdens. GSA believes the high investment costs and low ongoing monitoring burden for contractors using automated systems is comparable over a 20-year period to the minimal investment effort and higher ongoing compliance burden for contractors using manual processes.

Regarding the GSA OIG audit burden, GSA will continue to capture this burden separately from other CSP and PRC-related burdens because that burden would not exist if those contractors were not subject to CSP and PRC disclosure requirements. As such, it should be accounted for when considering the burden absorbed by contractors complying with the CSP and PRC.

Finally, GSA corrected the errors identified by the Coalition; the compliance systems (lighter lift) burden is 35 hours, the correct labor rate is \$77.55, and the arithmetical error in the pre-award disclosures (heavier lift) calculation was corrected. Additionally, the underlying calculations for the burden estimates included decimals that were not displayed in the Federal Register notice; as a result, some of the figures in the underlying calculations now use whole numbers to avoid rounding errors.

Utility of CSP and PRC Disclosures

Comments: Both respondents commented on the utility of CSP and PRC disclosures. The GSA OIG stated the benefits of these disclosures far exceed the estimated burdens but the Coalition posited these disclosures have no practical utility and are no longer necessary.

The GSA OIG stated the burdens of the CSP requirements and GSA OIG audits are considerably less than the estimated burdens, noting that since October 1, 2017 they had identified over \$550 million in potential cost savings for upcoming contract periods based on commercial pricing information. Additionally, they stated they had identified over \$15 million in unreported price reductions over the same time period despite auditing just 70 contracts.

Conversely, the Coalition recommends GSA eliminate the PRC and reform the CSP. They stated the PRC is a "restraint of trade" and it "increases prices and operational costs while hindering innovation and competition in the commercial market." Moreover, they argue the PRC inhibits contractors' ability to compete in the private sector because it limits their ability to offer discounts to commercial customers without affecting their FSS pricing relationship. Regarding the CSP, the Coalition states it contains several undefined terms, raising GSA OIG audit and

False Claims Act action risks if those terms are misunderstood. All told, the Coalition notes many contractors choose not to hold GSA Schedule contracts because of the CSP and PRC.

GSA Response: In respect to the GSA OIG's comment, GSA is solicited comments as part of its request to the Office of Information and Regulatory Affairs (OIRA). These comments supporting the value of CSP and PRC disclosures will be included in materials GSA is providing OIRA to justify the continuation of CSP and PRC disclosures.

Regarding the Coalition's comments, GSA understands contractors have regularly singled out these pricing tools as among the most complicated and burdensome requirements in federal contracting. As such, GSA will continue to investigate methods for reducing the information collection burden on its industry partners and increasing its reliance on internal Government systems for transactional data. Ultimately, GSA's reliance on contractor-reported data is a necessary bridge for ensuring the Government's continual access to the information it needs to make the best possible buying decisions for the taxpayer while it works towards developing internal capabilities.

Incomplete Analysis

Comments: Lastly, both respondents stated GSA's analysis was incomplete. The GSA OIG said GSA's burden estimates "do not include the significant benefit those requirements bring to federal agencies and taxpayers alike." The Coalition argued GSA's analysis "did not include an analysis of either the benefits of or the alternatives to these requirements..."

GSA Response: The Federal Register notice is only one facet of the process for requesting an extension of an existing information collection. Agencies requesting such extensions must also prepare a "supporting statement" that provides information including why the agency thinks the information collection is necessary, how the information is used, and consequences for the Government if the information is not collected or is collected less frequently.

Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control No. 3090-0235, Federal Supply Schedule Pricing Disclosures and Sales Reporting, in all correspondence. The supporting statement will also be

posted on the Office of Information and Regulatory Affairs' website (<https://www.reginfo.gov>) if the information collection is approved.

Finally, additional public comments are particularly invited on: Whether this collection of information is necessary and whether it 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.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control No. 3090-0235, Federal Supply Schedule Pricing Disclosures and Sales Reporting, in all correspondence.

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