



This document is scheduled to be published in the Federal Register on 09/30/2019 and available online at <https://federalregister.gov/d/2019-21254>, and on [govinfo.gov](https://www.govinfo.gov)

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0306; Docket No. 2019-0001; Sequence No. 4]

General Services Administration Acquisition Regulation;

Submission for OMB Review; Transactional Data 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 General Services Administration Acquisition Regulation (GSAR) clauses related to Transactional Data Reporting. GSA uses this information to establish price reasonableness on certain Government-wide contracts, inform category management activities, collect fees due from buying agencies, and administer the respective programs.

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 3090-0306, Transactional Data 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 3090-0306, Transactional Data Reporting." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 3090-0306, Transactional Data Reporting" on your attached document.

- *Mail*: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 3090-0306, Transactional Data Reporting.

Instructions: Please submit comments only and cite Information Collection 3090-0306, Transactional Data 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

Transactional data is generated when a transaction is made between a buyer and seller and shows details of transactions at the line-item level, such as descriptions, quantities, and the prices paid for the items purchased. The Government is increasingly using this data to gain insight into its purchasing patterns, allowing it to identify the most efficient solutions, channels, and sources to meet its mission critical needs. This data is particularly critical to the Government's use of category management, the business practice of buying common goods and services as an enterprise to eliminate redundancies, increase efficiency, and deliver more value and savings from acquisition programs. Moreover, individual buyers benefit from this data when conducting market research, price analysis, and negotiations.

Transactional data is typically possessed by the buyer and seller in a transaction. On the Government (buyer) side, this data is often found in contract writing systems and financial systems. However, these systems are not shared across agencies; in fact, some agencies use multiple versions of these systems. Hence, no mechanism currently exists to compile and analyze transactional data from a wide-range of purchases made across the Government.

GSA sought to improve the Government's access to this data through the Transactional Data Reporting (TDR) final rule, published on June 23, 2016.¹ The rule amended the General Services Administration Acquisition Regulation (GSAR) by establishing two contract clauses requiring contractors to report transactional data from orders placed against GSA's Government-wide contract vehicles:

- Alternate I of GSAR clause 552.238-80 Industrial Funding Fee and Sales Reporting has been introduced to the Federal Supply Schedule (FSS) program on a pilot basis, along with corresponding reductions to existing pricing disclosure requirements.
- GSAR clause 552.216-75 Transactional Data Reporting is applicable to GSA's Government-wide Acquisition Contract (GWAC) and other Government-wide indefinite-delivery indefinite-quantity (IDIQ) contract vehicles established after June 23, 2016.² As of May 2019, Alliant 2 (unrestricted) is the only vehicle in this class that has been required to, and is using, the TDR clause.

This information collection primarily applies to GSA's

¹ See GSAR Case 2013-G504; Docket 2014-0020; Sequence 1 [81 FR 41104 (June 23, 2016)].

² The rule does not apply to FSS contracts administered by the Department of Veterans Affairs.

FSS contracts, commonly known as GSA Schedules or Multiple Award Schedules (MAS). These Government-wide contracts provide federal agencies with a simplified process for acquiring commercial supplies and services. The GSA 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 its contract holders. 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."³ 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.⁴ FSS contractors then report GSA Schedule sales data and remit

³ 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."

⁴ The IFF for Schedule 599, Special Item Number 599-2 is \$1.50 per transaction.

the IFF collected from ordering activities to GSA once a quarter.

There were a total of 16,215 FSS contracts in fiscal year 2018. This information collection pertains to the 2,063 contracts that participated in the TDR pilot. The remaining 14,152 contracts are subject to legacy sales reporting requirements and pricing disclosure requirements associated with Commercial Sales Practices (CSP) and GSAR clause 552.238-81 Price Reductions, otherwise known as the Price Reductions Clause (PRC); those requirements are accounted for under separate information collection identified by OMB control number 3090-0235.⁵

GSA believes TDR offers a meaningful burden reduction for FSS contractors. GSA estimates the combined burden of this information collection is 50 percent less per contract than the legacy sales reporting requirements and CSP and PRC disclosures associated with OMB control number 3090-0235. GSA estimates if all FSS contractors participated in TDR, they would realize an estimated annual burden reduction of \$64.6 million.⁶ On the other hand, GSA

⁵ The PRC was formerly found at GSAR 552.238-75 but was amended to GSAR 552.238-81 per GSAR case 2016-G502, effective May 23, 2019. See 84 FR 17030 from April 23, 2019.

⁶ The estimated burden for this information collection, which applied to the 14,152 contracts not participating in the TDR pilot, is estimated to be \$128 million. This equates to a per-contract burden of \$9,049/year. The estimated burden for the TDR information collection is

estimates ending the FSS pilot will cost participating contractors nearly \$22.6 million and GSA approximately \$3 million to transition to the legacy sales reporting and CSP and PRC disclosure requirements unless an alternate method is created to collect the IFF, monitor program sales and establish and monitor contract pricing.⁷

The Paperwork Reduction Act generally requires information collections to be renewed every three years.⁸ Both this information collection (OMB control number 3090-0306) and the information collection associated with legacy sales reporting and CSP and PRC disclosure requirements (OMB control number 3090-0235) were last approved in 2016,

\$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 \$64.6 million/year burden reduction is calculated by taking the updated 3090-0235 burden estimate (\$128 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 (\$128M - \$63.4M = \$64.6M). More information about the FSS Pricing Disclosures and Sales Reporting can be found under Information Collection 3090-0235 at <http://www.reginfo.gov/public> by searching "ICR" for "3090-0235".

⁷ Vendors transitioning back to the CSP/PRC framework would have to submit CSPs to establish basis of award pricing. As of December 2018, 2,158 contractors were participating in the TDR pilot. Using the framework for new offer CSPs in this information collection, 2,158 new offer CSPs would equate to a burden of \$19.5 million. This same framework would show increased costs of \$3 million for GSA to process 2,158 new offer CSPs. Additionally, these contractors would also need to establish sales tracking systems to comply with the sales reporting requirements of the basic version of GSAR clause 552.238-80. Using the sales reporting cost estimation framework for establishing new systems from OMB control number 3090-0235, this would cost these contractors \$3.1 million.

⁸ 44 U.S.C. 3507(g)

so GSA is now obtaining extensions to both information collections.⁹

This request for comments only pertains to the information collection requirements associated with TDR (OMB control number 3090-0306). GSA has also published a separate notice requesting comments on the information collection associated with legacy sales reporting and CSP and PRC disclosure requirements (OMB control number 3090-0235) elsewhere in this issue of the Federal Register.

Information Collection Changes and Updates

Adjustments for Actual Number of Contracts: 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 to require legacy sales reporting and CSP and PRC disclosures 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.

⁹ GSA is consolidating a separate information collection for IFF and sales reporting (OMB control number 3090-0121) with the pricing disclosures information collection (OMB control number 3090-0235) because the burdens are interdependent.

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

However, pilot participation became optional in 2017 and the number of contracts that eventually joined the pilot was far 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, were required to conduct legacy sales reporting and provide CSP and PRC disclosures.
- 2,063 contracts, or 12.72 percent of the total, participated in the TDR pilot.

Additionally, only one non-FSS contract vehicle, Alliant 2 (unrestricted), currently uses the non-FSS TDR clause. The last revision of these burden estimates relied upon the total number of non-FSS contracts (537) that would be eligible had they been awarded after the TDR rule was promulgated. As a result, the number of non-FSS contracts was lowered from 537 to the actual number of contracts using the applicable clause, 53.

Accordingly, the revised participation figures resulted in significantly lower burden estimates for this information collection. On the other hand, the FSS pilot participation revisions resulted in significantly higher

burden estimates for the information collection accounting for CSP and PRC disclosures and legacy sales reporting (OMB Control Number 3090-0235).

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. 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. As such, GSA determined—

- The GS-12, Step 5 labor rate from the RCAT (\$55.19/hour) was the most appropriate for the tasks performed by contractors to comply with monthly reporting requirements; and
- The GS-14, Step 5 labor rate from the RCAT (\$77.25/hour) was the most appropriate for the tasks performed by contractors to comply with the initial setup.

B. Annual Reporting Burden

This information collection applies to GSA FSS contracts that include GSAR clauses 552.216-75 Transactional Data Reporting and 552.238-80 Industrial Funding Fee and Sales Reporting, Alternate I. In FY 2018, contractors held 53 Alliant 2 contracts subject to clause 552.216-75 and 2,063 GSA FSS contracts subject to Alternate I of GSAR clause 552.238-80.

Both clauses require contractors to report the data elements outlined in each clause, such as item descriptions and prices paid, to a GSA website. This data must be reported monthly within 30 calendar days after the end of each calendar month, meaning contractors will furnish 12 reports over the course of a year for each contract containing one of these clauses. Vendors also remit applicable fees, such as the IFF for Schedule contracts, when submitting these reports.

Cost Burden Calculation

The two primary activities associated with this information collection are the initial setup and monthly 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.¹⁰ When factoring a 36.25 percent overhead rate for fringe benefits, the fully burdened rate is \$77.55 an hour.¹¹

- 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.

Categorization of Vendors by Monthly Sales Revenue:

TDR imposes a progressive burden—one that increases with a contractor's sales volume. Monthly reporting times increase with a contractor's applicable sales volume, as contractors with lower to no reportable sales spend relatively little

¹⁰ 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

¹¹ 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.

time on monthly reporting, while those with more reportable sales will face a higher reporting burden.

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

- Category 1: No sales activity (annual of \$0)
- Category 2: Annual sales between \$0 and \$25,000
- Category 3: Annual sales between \$25,000 and \$250,000
- Category 4: Annual sales between \$250,000 and \$1 million
- Category 5: Annual sales over \$1 million

The distribution of contractors by sales category is as follows:

FSS and Non-FSS Vendors by Sales Category					
	FSS Vendors (Count)	FSS Vendors (Percentage)	Non-FSS Vendors (Count)	Non-FSS Vendors (Percentage)	Total Vendor Count by Category
Category 1	318	15%	37	70%	355
Category 2	197	10%	0	0%	197
Category 3	619	30%	0	0%	619
Category 4	407	20%	2	4%	409
Category 5	522	25%	14	26%	536
Total	2,063	100%	53	100%	2,116

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

transactional data to be reported each month. 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 data elements 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. In fiscal year 2018, 15 percent of FSS contracts in the TDR pilot had \$0 sales, while another 10 percent reported annual sales

between \$1 and \$25,000 per month. However, as a contractor's applicable average monthly sales increase, it will be increasingly likely to establish an automated system to reduce the monthly reporting burden.

Consequently, contractors with higher reportable sales will likely bear a higher setup burden to create an automated system, or absorb a high monthly reporting burden if they choose to rely on manual reporting methods.

The following chart depicts the likelihood of the current population adopting manual and automated reporting systems:

Vendors 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%	355	0
Category 2	100%	0%	197	0
Category 3	90%	10%	557	62
Category 4	50%	50%	205	205
Category 5	10%	90%	54	482
Total Count of Vendors by System Type			1,367	749
Percentage of Vendors by System Type			65%	35%

Initial Setup: Vendors complying with this rule 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 240 hours for those with an automated system.

Monthly Reporting: After initial setup, contractors subject to these clauses are required to report sales within 30 calendar days after the end of each calendar month. The average reporting times vary by system type (manual or automated) and by sales categories. GSA estimates contractors using a manual system will have average monthly reporting times ranging from 15 minutes (0.25 hours) for contractors with \$0 sales to an average of 48 hours for contractors with monthly sales over \$1 million. On the other hand, GSA projects contractors with automated systems will have reporting times of 2 hours per month, irrespective of monthly sales volume, as a result of efficiencies achieved through automated processes. The following table shows GSA's projected monthly reporting times per sales category and system type:

Monthly Reporting Hours by System Type and Category		
	Manual Systems	Automated Systems
Category 1	0.25	2.00
Category 2	2.00	2.00
Category 3	4.00	2.00

Category 4	16.00	2.00
Category 5	48.00	2.00

FSS Burden Estimates: A total of 376 FSS contracts joined the TDR pilot in FY 2018, including 139 newly awarded contracts and 237 existing contracts that voluntarily joined the pilot. The initial setup burden was split between manual and automated systems, the number of which was estimated based on the ratio for all pilot contracts (64% manual, 36% automated). The initial setup burden for those contracts is illustrated below:

Initial Setup
Annual Burden (Hours): 34,412
Annual Burden (Cost): \$2,668,613

Transactional data was reported for 2,063 FSS contracts in FY 2018. As previously noted, the reporting burden for contractors using manual systems increases with their reported sales, while the reporting burden for contractors using automated systems remains constant regardless of the reported sales volume. The reporting burden for those contracts is illustrated below:

Quarterly Reporting
Annual Burden (Hours): 119,207
Annual Burden (Cost): \$6,579,023

Non-FSS Burden Estimates: The only non-FSS contract vehicle currently using the clause is the Alliant 2

unrestricted contract. 53 Alliant 2 contracts were awarded in FY 2018, meaning each of the contract holders incurred initial setup costs. The initial setup burden was split between manual and automated systems, the number of which was estimated based on the ratio for the Alliant 2 contracts (74% manual, 26% automated). The initial setup burden for those contracts is illustrated below:

Initial Setup
Annual Burden (Hours): 3,672
Annual Burden (Cost): \$284,764

As previously noted, the reporting burden for contractors using manual systems increases with their reported sales while the reporting burden for contractors using automated systems remains constant regardless of the reported sales volume. The reporting burden for those contracts is as follows:

Quarterly Reporting
Annual Burden (Hours): 1,445
Annual Burden (Cost): \$79,772

Total Annual Burden

The total estimated burden imposed by TDR is as follows:

Estimated Annual Time Burden (Hours)
FSS Vendors: 153,619
Non-FSS Vendors: 5,117
Total Annual Time Burden: 158,736

Estimated Annual Cost Burden
FSS Vendors: \$9,247,636
Non-FSS Vendors: \$364,535
Total Annual Cost Burden: \$9,612,171

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 24512 on May 28, 2019. GSA sought comments regarding (1) whether this information collection is necessary and has practical utility, and (2) if GSA's estimate of the collection burden is accurate, and based on valid assumptions and methodology. In response, GSA received comment letters from immixGroup, Inc. (immixGroup), the GSA Office of Inspector General (GSA OIG, and the Coalition for Government Procurement (The Coalition).

immixGroup's letter, dated July 24, 2019, addressed this information collection. The GSA OIG's letter, dated July 26, 2019, expressly provided comments for this information collection and the FSS Pricing Disclosures and Sales Reporting information collection (OMB control number 3090-0235). The Coalition's letter, dated July 29, 2019, is limited to this information collection, although they provided a separate letter with comments on the FSS Pricing Disclosures and Sales Reporting information collection (OMB control number 3090-0235). GSA is providing responses to FSS Pricing Disclosures and Sales Reporting in documents

associated with the extension of that information collection (OMB control number 3090-0235).

The following are summaries of the respondents' comments related to this information collection, grouped by subject matter, and GSA's responses:

Burden Estimates

Comments: ImmixGroup and the Coalition commented on GSA's burden estimates. immixGroup stated the initial setup took about half the time estimated by GSA and noted it takes them four hours to complete monthly reporting requirements. The Coalition, on the other hand, stated three of GSA's reporting burden assumptions are invalid—

- The monthly reporting burden for TDR is largely alleviated through automated systems: The Coalition stated they conducted a survey among their members in 2015 and the respondents, all of which would fall into GSA's Category 5 of contractors (Schedule sales over \$1 million), estimated the monthly reporting burden to be 68 hours, even when using automated systems.
- Contractor employees responsible for the initial setup are paid at a fully burdened labor rate of \$77.55/hour: The Coalition estimated this cost to be an average of \$140/hour.
- The number of companies accepting TDR will remain

constant year to year: The Coalition noted GSA is currently consolidating the Schedules into a single solicitation; if the current scope of the pilot remains unchanged, this would allow almost 400 more contractors to join the pilot.

GSA Response: GSA believes its burden estimates are valid and the comments underscore the fact that the burden varies widely by contractor, which is why GSA separated the reporting burden by sales volume and reporting system (automated vs. manual).

GSA's estimates for the automated and manual categories are intended to be an average within that category. For example, immixGroup holds 2 of the 12 pilot contracts with FY 2018 sales exceeding \$100 million, while the other 510 contracts under Category 5 each had less than \$100 million in sales, including 172 contracts with sales between \$1 million and \$2 million. GSA believes a contractor with sales similar to those of immixGroup would have a reporting burden toward the higher end of the population of Category 5 contractors. Likewise, GSA believes some contractors will have a higher reporting burden than that shared by immixGroup, such as those reported by the Coalition's members in 2015, but GSA also estimates most Category 5 contractors using automated

systems will have a lower burden. Consequently, GSA believes its estimate is representative of the average Category 5 reporting burden.

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 accounting staff with occasional assistance from higher-paid professionals, such as attorneys and consultants. The most comparable labor category for the accounting staff analyzed by the Bureau of Labor Statistics (BLS) are accountants and auditors (13-2011). BLS's most recently published mean hourly rate for this category was \$37.89/hour¹²; when factoring a 36.25 percent overhead rate for fringe benefits, the fully burdened rate is \$51.63 an hour.¹³ However, GSA chose to use the higher \$77.55/hour rate to account for the occasional involvement of higher-paid professionals.

Finally, GSA acknowledges pilot participation may

¹² See the Bureau of Labor Statistics Occupational Employment and Wages for Compliance Officers, available at <https://www.bls.gov/oes/current/oes132011.htm>

¹³ 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.

increase by the number of contractors estimated by the Coalition, but also notes that it is difficult to forecast future pilot participation because it is uncertain how many of those contractors would join the pilot if given the opportunity. On the other hand, a historical average would be skewed because most pilot contractors joined within the pilot's first year. As a result, the number of contractors that joined the pilot in the last fiscal year (FY 2018) is the most representative figure to use for the current burden estimate.

TDR Pilot Continuation

Comments: The GSA OIG questioned why GSA is continuing the TDR pilot beyond FY 2019, stating GSA has yet to include transactional data in its pricing analyses and decisions and TDR has yet to have an impact on order-level outcomes. Conversely, the Coalition and immixGroup stated TDR is less burdensome than CSP and PRC disclosures and reverting back to CSP and PRC disclosures if the TDR pilot is discontinued would be extremely burdensome.

GSA Response: GSA's premise has been TDR can meet or exceed the CSP and PRC's value while supporting better buying outcomes and reducing contractor reporting burden. Two-thirds of the way through the pilot, TDR has proven to be a less burdensome alternative, has had no adverse impact

on contract-level pricing, and is starting to be used by contracting officers and category managers to improve buying outcomes. Accordingly, GSA has decided to continue the pilot through FY 2020 while it focuses on consolidating all 24 Schedules into one single Schedule. This decision removes uncertainty for contract partners and allows them to plan accordingly.

TDR Alternatives

Comments: immixGroup stated neither TDR or the Price Reductions clause (PRC) and Commercial Sales Practices (CSP) have much utility when technology enables the acquisition workforce to comparison shop and review pricing data, but applauds GSA for moving to TDR in lieu of the more burdensome legacy PRC and CSP requirements.

The Coalition recommends GSA reduce its reliance on TDR, the PRC and CSP and instead rely on market competition to reduce prices. The Coalition also recommends GSA seek technological solutions, such investing in automated systems and upgrading its existing ordering tools, rather than relying on a regulatory solution such as TDR.

Finally, the GSA OIG stated the CSP and PRC are needed for GSA to meet its statutory pricing obligations. They argued TDR "severs the link to the commercial marketplace" and is ineffective because it has not met its stated

objectives or effectively replaced the CSP and PRC as pricing tools.

GSA Responses: GSA believes TDR, in conjunction with other horizontal pricing techniques, will be a superior method of ensuring FSS ordering procedures "result in the lowest overall cost alternative to meet the needs of the Federal Government," as required by 41 U.S.C. 152(3)(B). To date, the TDR pilot has lowered industry burden while maintaining the Schedule pricing position. Additionally, contracting officers and category managers are beginning to use the data and GSA is continuously improving TDR data analytics.

Pilot Participation

Comments: immixGroup and the Coalition commented on pilot participation. immixGroup stated the pilot is more popular than the participation figures indicate because only certain Special Item Numbers are eligible for the pilot. Additionally, the Coalition recommended "that GSA provide TDR as an option for all Schedule holders, in place of PRC compliance and submission of the CSP, so that each contractor has the opportunity to make a business decision about the least burdensome, least costly, and most efficient compliance mechanism under the Schedules program."

GSA Response: GSA has decided to extend the TDR pilot through FY 2020 while maintaining the current scope. This will enable GSA to focus on consolidating all 24 Schedules into one single Schedule and enable contractors and the GSA acquisition workforce to spend their resources understanding and participating in the consolidated Schedule. Additionally, maintaining the pilot's current scope will allow GSA to understand the implications of the new consolidated Schedule environment on TDR.

The Government Already Possesses the Data

Comments: immixGroup noted GSA acknowledges the data it collects through TDR also exists in Government contract writing and financial systems and therefore asked, "if agencies are unwilling to share their transactional data with GSA, how is it that we, as contractors, should feel comfortable doing so?"

The Coalition stated they are "...concerned that the Government already possesses the data that it is requesting through TDR. Furthermore, TDR, which focuses on transactions for commercial products, has limited utility for services and solutions which comprise almost 70 percent of spending under the Schedules program."

GSA Response: Agencies are not unwilling to share transactional data with GSA. Instead, a lack of system

interoperability prevents GSA from harvesting the transactional data residing on the multitude of contract writing and financial systems used across the Government. GSA explored several alternatives for obtaining transactional data prior to publishing the final rule in 2016—internal applications; GSA ordering platforms such as eBuy and GSA Advantage!®; the SmartPay credit card purchase program; upgrades to the Federal Procurement Data System; and the Government electronic invoicing initiative. GSA concluded in 2016 these options would not provide the breadth of data needed to support the Government's objectives or would be unable to do so in the foreseeable future, and this remains the case in 2019.

In regards to using data from services and solutions, GSA acknowledges transactional data is most useful for price analysis when comparing like items, but this does not mean the data is not useful for services and solutions. Government buyers and FSS contracting officers will still use the data for price analysis and market research, and category managers will use the data for consumption analysis to form demand management strategies, regardless of whether the data can be used for perfect comparisons. An example is the ability to compare labor rates across contract vehicles, which is beginning to reduce contract

duplication.

Data Usage

Comments: The Coalition and immixGroup expressed concern that transactional data will lead ordering contracting officers to always expect the lowest price paid by the Government, regardless of the terms, quantities purchased, or other circumstances that affect the prices offered on those orders. The Coalition also stated a lowest price expectation may cause the Government to favor cheaper products IT products that are more susceptible to cyber risks.

With respect to order-level price negotiations, the Coalition recommended the Government standardize the way it conducts horizontal price comparisons because they are concerned there will be "wide variations in practices for horizontal price comparisons across, and even within, agencies. This lack of consistency will increase contract administration costs for industry." Regarding contract-level price negotiations, the Coalition stated, "GSA should acknowledge that while negotiating Schedule contracts the terms and conditions of the order will dictate the price."

Finally, the Coalition stated GSA should provide agencies guidance on gray market and counterfeit items, which could be low-price outliers and skew price

comparisons.

GSA Response: Contracting officers will continue to conduct acquisitions in accordance with the Federal Acquisition Regulation, which states a preference for "best value" solutions.¹⁴ Moreover, GSA instructs its contracting officers to take into account whether the data is current, the terms and conditions of the acquisition related to the prices paid, quantities purchased, and other material factors affecting the prices paid, such as blanket purchase agreements, temporary price reductions/promotional prices, and differing labor qualifications.

Regarding gray market and counterfeit items, transactional data prevents, rather than promotes, procurement of these items, as the data helps GSA identify and subsequently remove these items from the Schedules marketplace.

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.

¹⁴ Federal Acquisition Regulation section 1.102 (48 CFR 1.102).

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 Information Collection 3090-0306, Transactional Data Reporting, in all correspondence.

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Billing Code: 6820-61

[FR Doc. 2019-21254 Filed: 9/27/2019 8:45 am; Publication Date: 9/30/2019]