



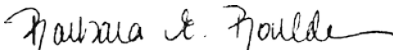
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**Office of Audits  
Office of Inspector General  
U.S. General Services Administration**

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July 26, 2019

TO: Matthew McFarland  
Senior Policy Advisor  
Office of Acquisition Policy

FROM:   
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SUBJECT: Comments on Federal Register Notices:  
Information Collection 3090-0306, Transactional Data Reporting  
Information Collection 3090-0235, Federal Supply Schedule Pricing  
Disclosures and Sales Reporting

We appreciate the opportunity to comment on the subject Federal Register Notices. We remain concerned with the continuation of Transactional Data Reporting (TDR), and that the published public burden estimates for maintaining Commercial Sales Practices (CSP) disclosures and the Price Reductions Clause (PRC) are substantially overstated and do not take into account the significant benefit those contractual requirements provide.

According to GSA, the original purpose for collecting the TDR data was to improve GSA's ability to conduct meaningful price analysis and more efficiently and effectively validate fair and reasonable pricing on both its non-FSS and FSS vehicles. It also allows GSA's customers to improve their ability to compare prices prior to placing orders under its vehicles. GSA offset this new burden of TDR by eliminating the requirements for CSP and the PRC, two key contract provisions that provide price protections for government agencies and taxpayers. We believe that this methodology severs the link to the commercial marketplace, thereby eliminating the basis of the Schedules Program and violating the Competition in Contracting Act.

To date, the GSA collection of TDR data has not met its goals or replaced the CSP and PRC as pricing tools. GSA has completed two-thirds of its 3-year TDR pilot and has acknowledged that, "data usability remains questionable, and no improved order-level buying strategies have resulted." Although GSA removed the CSP and PRC disclosures from TDR pilot contracts, it has yet to include TDR pricing data into its pricing analyses and decisions. These results call into question why the pilot should be continued at the conclusion of the 3-year timeframe, this December 31, 2019.

Ultimately, we are concerned that, if the TDR pilot continues or TDR is implemented across all schedules as currently stipulated, the Schedules Program will no longer serve its intended purpose – to “provide competitive, market-based pricing that leverages the buying power of the federal government” – to the detriment of government agencies and taxpayers.

In accordance with General Services Administration Acquisition Regulation 515.408, schedule vendors not participating in the TDR pilot are required to provide GSA contracting officials with CSP information that is current, accurate, and complete to obtain or extend a contract. This information, along with the PRC, is required in order for the contract to meet competition requirements set forth in the Competition in Contracting Act. Assessing the public burden of legal requirements meant to benefit the government without any consideration of the benefits received from those requirements is inappropriate and invalid.

In particular, the Federal Register Notice regarding the information collected to maintain the Federal Supply Schedule pricing disclosures and sales reporting accurately states that we regularly audit GSA schedule contracts to verify vendors’ compliance with contractual CSP and PRC requirements. However, GSA overstated vendors’ burden related to our audits and did not include any consideration of the benefits of those audits or the schedule terms and conditions that those audits seek to verify vendors complied with. GSA estimates vendors spend approximately 455 hours preparing for our audits. But, since our audits verify compliance with contract terms that GSA has already assigned a burden value, the estimated 455 hours designated for audit preparation overstates the overall burden.

Additionally, the estimated burdens of \$26.5 million associated with GSA Office of Inspector General audits and the CSP requirements are considerably less than the benefits of each. Specifically, since October 1, 2017, in the course of examining and verifying CSP information, we identified over \$550 million in potential savings associated with basing vendors’ schedule pricing on their respective commercial pricing for the upcoming 5-year option period. This is approximately \$110 million in annual savings, and over 4 times more than the estimated annual vendor burden for CSP disclosures and audits.

Also, while we do not have the data to calculate the exact benefit of vendors complying with the PRC, we can estimate the value of the PRC from audits where we found the vendor did not comply with the PRC. For example, since October 1, 2017, we found more than \$15 million in unreported price reductions. This includes a recently issued audit of a schedule contract that found \$11 million in unreported price reductions over a 5-year period. We identified these significant amounts by auditing just 70 or 0.5 percent of a universe of 14,152 contracts with CSP and PRC requirements. It is important to note that if CSP information and PRC requirements were not present, GSA would have likely missed the opportunity to realize any of the \$550 million identified through audits or receive the benefits of the PRC.

CSP and PRC burdens are also overstated because many vendors, especially services vendors, have little to no commercial sales and as a result, spend very little time disclosing CSP information or

monitoring the PRC. In particular, in Fiscal Year 2018, we audited 36 schedule contracts with CSP requirements and found 16 vendors, or 44 percent, did not have sufficient commercial sales to disclose and thus no PRC to actively monitor. Since all 16 vendors without commercial sales had greater than \$1 million in annual sales, they are included in GSA’s “Heavier Lift” category for its burden estimates despite having virtually no burden at all. This results in public burden estimates that may be overstated by as much as 44 percent, or \$38 million, associated with CSP disclosures and the PRC.

In the end, CSP requirements and PRC provisions are the cornerstone to the Schedules Program because they assist in ensuring that GSA meets its core requirement to provide contracts that result in the lowest overall cost alternative to meet the needs of the federal government. While we agree there are burdens associated with the CSP and PRC requirements, the public burden estimates GSA included in its Federal Register Notice are overstated and misleading as they do not include the significant benefit those requirements bring to federal agencies and taxpayers alike.

Please contact us if you have any questions.

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