



July 24, 2019

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

Re: Information Collection 3090-0306, Transactional Data Reporting

These comments are submitted by immixGroup, Inc. (“immixGroup”), an information technology (IT) reseller located in McLean, Virginia. Since its founding in 1997, immixGroup has grown into a recognized leader in the public sector IT marketplace. immixGroup represents more than 250 leading technology manufacturers and works with more than 600 value-added resellers, solution providers, service providers, and other public sector channel partners to bring the latest software and hardware solutions to the federal government.

We are a top ten IT70 GSA Schedule contractor with sales in Fiscal Year 2018 of over \$340 million. We consistently have received awards and recognition for accomplishments in the technology industry, including, most recently, being named a Washington Technology Top 100 and Training Top 125.¹ On March 31, 2015, immixGroup was acquired by Arrow Electronics Inc., a Fortune 100 company and is a wholly owned subsidiary of Arrow Enterprise Computing Solutions, Inc.

immixGroup thanks the U.S. General Services Administration (“GSA”) for the opportunity to provide information and comment on Transactional Data Reporting (“TDR”), and we urge GSA to continue to thoughtfully evaluate rules and regulations governing GSA Schedule contracts. The importance of GSA Schedule contracts in the government-wide contract portfolio cannot be understated. No other contract type maintains catalogs with complete product descriptions, terms, conditions and pricing—fully visible to the public.

In recent years, however, the rules and processes governing IT70 GSA Schedule contracts have become increasingly complex, difficult and extraordinarily burdensome to manage. Further, inconsistency in the application of rules and processes across different IT Centers and contracting officers has led to compliance chaos.

Summary of immixGroup’s Comments to GSA’s 2015 Proposed Rule

Back in 2015, when GSA introduced the proposed Transactional Data Reporting Rule (“TDR”), we were encouraged by many of GSA’s rationales and realizations used to support the proposed

¹ “Awards and Recognition.” immixGroup. <http://www.immixgroup.com/company/awards-and-recognition/>

rule. Specifically, we applauded GSA for officially recognizing that the Price Reductions Clause (“PRC”) is complicated, burdensome and ineffective and, also, for admitting that order-level competition drives and keeps government prices low, just like it does commercially.

We praised GSA for also eliminating Commercial Sales Practices (“CSPs”), perhaps the most time consuming, onerous and risk intensive task of all Schedule requirements, as part of the TDR Pilot Program (the “Pilot”). As we have stated before, like the PRC, CSPs are another artificial and arcane tool that does not serve either government or industry well in establishing catalog pricing and is not necessary for GSA to deliver its mission of the “lowest overall cost alternative.” The real savings, as GSA has acknowledged, comes from order level competition. In fact, in our most recent experience with CSPs, we noticed that Contracting Officers (“COs”) tend to rely most on formal competitive pricing analysis using GSA’s “4P” tool, and not on a contractor’s pricing disclosures.

Similarly, in our most recent experience with the PRC, we have seen COs change a Basis of Award (“BOA”) customer in the middle of a contract period and even change a BOA customer or class of customers on a Mod by Mod basis, making compliance impossible, obviating any benefit to the government and highlighting GSA’s realization that the clause is ineffective, complex and unduly burdensome.²

We appreciated that GSA rightly decided not to impose (then, back in 2015) new burdens such as TDR over existing ones such as CSPs, neither of which exist in the commercial world.

Comments on Current Information Request on TDR

As promised in our 2015 comments, with the elimination of both the BOA tracking customer of the PRC and CSPs in favor of TDR, and despite our concerns about how the data would be used and the potential administrative burdens, immixGroup was an early adopter of TDR.

Based on our experience with the Pilot, we offer some observations. As a threshold matter, in response to this information collection on TDR, we question GSA’s figures regarding the number of contracts that participated in the Pilot, because not all Special Item Numbers (SINs) and Schedules were eligible for TDR.

GSA states that in FY 2018 there were 16,215 active contracts. Out of this number, 14,152 contracts or 87.28% were required to conduct legacy sales reporting and provide CSP and PRC disclosures; and that 2,063 contracts or 12.72% participated in the TDR Pilot.³ However, only certain Special Item Numbers (SINs) and Schedules were permitted for the Pilot. Thus, we suspect, many Schedule contracts were simply not eligible to participate in the Pilot.⁴ The real measure of participation should be based on the number/percentage of contracts that were eligible for the Pilot. Further, we suspect that of the 2,063 contracts that participate in the Pilot,

² GSAR 552.238-81 (Price Reductions) clearly states that a BOA customer must be agreed upon between a Contracting Officer and an Offeror “before award of a contract.”

³ 84 Fed. Reg. 24514

⁴ In fact, only 8 Schedules in whole or part (58 I, 72, 03FAC, 51V, 75, 73, 70 and 00 CORP) out of twenty-four were eligible for the Pilot.

most represent GSA's larger contractors and, at least with respect to the IT70 Schedule, those with the largest sales volumes. In short, we believe the Pilot was and is more popular than the above figures might otherwise indicate.

Administrative Burden Under TDR

The current Transactional Data Reporting clause requires contractors to report the various order level sales data elements enumerated in the clause such as contract number, manufacturer name, manufacturer part number, quantity, unit price and total price, for instance, within 30 calendar days from the last calendar day of the month.⁵

In 2015, when TDR was proposed, GSA estimated the requirement would impose upon contractors "a one-time initial set-up burden of 6 hours," and a subsequent burden of 31 minutes per month.⁶ We strongly disagreed based, in large part, on the time it takes us to report our Industrial Funding Fee ("IFF") each quarter and the magnitude of the number of orders we handle on a yearly basis.

We also commented that the burden would be directly related to the "user friendly" system being proposed. The proposed rule back in 2015 included no details about this system and it was unclear to us at that time whether such system will have the ability to import/upload data in a format in which we (or other contractors) currently keep it or whether we would need to change our systems or software in order to comply.

We further commented that in our experience, there is no such thing as "user friendly" when it comes to a government system being able to easily and cleanly accept data from our systems and in our standard formats without us having to take the time to manipulate it in some way.

However, having participated in the Pilot during the last two plus years, with, what we suspect, is one of the larger quarterly data sets, we can now say that we were pleasantly surprised with implementation of the TDR system, and can share several observations:

- First, due to our preexisting systems, initial setup took roughly half the time that GSA estimated since we had all the data that was going to be required for reporting. It was just a matter of updating an existing report we used for legacy 72A IFF reporting to include a few additional fields.
- From a monthly reporting standpoint, it takes us about four hours each month. The majority of that time is spent pulling the data out of our systems (which can take some time due to volume), some validation work, and then transferring the data into the reporting template. The actual upload into the TDR system is very quick.
- We have found the TDR system to be dynamic. The system immediately provides a "pass/fail" on whether the file uploaded was accepted. If fail, the system quickly

⁵ GSAR 552.216-75

⁶ 80 Fed. Reg. 11625

provides a report of the issues for correction purposes. At this time, we do not have any suggested improvements.

Ongoing Concerns with the TDR

1. Use of Sales Data

We continue to believe contractor-supplied transactional data will be misused or misunderstood by ordering activities. The likely result being a CO simply finding, pointing to, and demanding the lowest price for the particular part number desired, without regard to the transaction date, quantity, terms, value, or conditions. Similarly, while we have not encountered the issue yet, we remain concerned that transactional level pricing may be used by GSA COs to inform and negotiate contract level pricing.

2. Duplication of Efforts

We do acknowledge that transactional data helps the government buyers see across agency lines in cases where agencies are unwilling or unable to allow such transactional data to be pooled in a central repository.

However, in our experience, most government purchase orders we receive are generated from a system that appears to already have this transactional data. Specifically, the purchase orders contain the contract number, purchase order number, date of issue, item, description, unit of measure, quantity, unit price and extended price.

Thus, we continue to question why the responsibility for providing transactional data must fall upon the contracting community. If the government wants to see how well buyers are doing, doesn't it already have this data? Is it possible ordering activities really have no idea what they actually have paid for things? On the contrary, GSA admits the government already has this data in its contract writing and financial systems, but that these systems are not shared across agencies.⁷ And, if agencies are unwilling to share their transactional data with GSA, how is it that we, as contractors, should feel comfortable doing so?

3. Discontinuation of the Pilot

The real burden would come if GSA discontinued the Pilot and returned to the legacy requirements. We believe this would be nearly impossible and would likely require establishing entirely new Schedule contracts for current participants as well as developing and implementing new systems and mechanisms to be able to return to compliance with these requirements. We disagree with GSA's estimate that ending the Pilot will cost participating vendors \$15 million and GSA \$3 million.⁸ In fact, we believe these figures are too low.

⁷ 84 Fed. Reg. 24513

⁸ 84 Fed. Reg. 24513

4. Utility

As we have stated in prior comments, we agree with GSA that prices are reduced as a result of market forces and the “intense competition” that forces contractors to voluntarily lower their prices and not as a result of the “mandatory tracking customer provisions” or commercial sales practice disclosures. Indeed, we have been saying this for years. We are not surprised that GSA found “that only 3 percent of the total price reductions received under the price reduction clause were tied to the ‘tracking customer’ feature.” Instead, the “vast majority” were the result of the market forces and competition.⁹

To be sure, GSA’s ordering procedures require competition at the task/delivery order level.¹⁰ Again, although slightly different depending on the amount of the potential order, ordering activities are required (for purchases greater than \$150,000) to develop a Request for Quotation (RFQ), provide to as many contractors as possible and receive three or more quotes (or document why less than three received), or buyers can post the RFQ on e-Buy for wider distribution.¹¹

It is this order level competition, orchestrated by actual buyers with real, funded requirements that will continue to ensure the government receives the “lowest overall cost alternative,” not artificial mechanisms like the PRC, CSPs or TDR.

Ideally, GSA would rely on real-time competition as the rules require, rather than the TDR.

Conclusion

We do not believe any of the three mechanisms (PRC, CSPs, and TDR) have much practical utility in an “information age,” where pricing data and comparison shopping is readily available to the acquisition workforce. However, immixGroup applauds GSA for moving to TDR and eliminating the requirement for CSP’s and the BOA tracking customer under the PRC. We find TDR in its current form to be far less burdensome in terms of both financial cost and time than either the legacy PRC and CSP requirements and certainly less burdensome when taken together.

Respectfully submitted,



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⁹ 80 Fed. Reg. 11623

¹⁰ See FAR 8.4

¹¹ See, FAR 8.405-2(c)