



July 29, 2019

Jeffrey Koses
Senior Procurement Executive
General Services Administration
1800 F St. NW
Washington, DC 20405-0001

Subject: Information Collection 3090-0306 Transactional Data Reporting

Dear Mr. Koses,

The Coalition for Government Procurement appreciates the opportunity to submit the following comments regarding the General Services Administration's (GSA) review of the information collection requirements for Transactional Data Reporting (TDR).

The Coalition for Government Procurement (The Coalition) is a non-profit association of firms selling commercial services, products, and solutions to the Federal Government. Our members collectively account for tens of billions of dollars of the sales generated through the GSA Multiple Award Schedules (MAS) program, VA Federal Supply Schedules (FSS), the Government-wide Acquisition Contracts (GWAC), and agency-specific multiple award contracts (MAC). Coalition members include small, medium, and large businesses that account for more than \$145 billion in Federal Government contracts. The Coalition is proud to have worked with Government officials for 40 years towards the mutual goal of common-sense acquisition.

As requested in the information collection notice, the Coalition's comments focus on:

1. Whether TDR is necessary and has practical utility; and
2. If GSA's estimates of the collection burden are accurate and based on valid assumptions and methodology.

The Coalition is 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.¹

However, some Schedule contractors have voluntarily elected to collect TDR as part of GSA's pilot. For some in industry, TDR is a less burdensome option compared to the existing compliance mechanism under the Schedules program – the Price Reductions Clause (PRC) and Commercial Sales Practices (CSP). GSA should ensure that contractors who have switched to TDR are not

¹ GSA's Schedule Sales Query Plus identified \$22.7 billion of Schedule spending as services in Fiscal Year 2018

forced back into a regime of PRC and CSP compliance. These contractors who have switched to TDR have made investments in this new reporting structure, and GSA should not force these contractors to make a costly switch to the PRC and CSP.

The Coalition recommends 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. However, in the longer term, we recommend that GSA reduce the information collection burdens of the TDR, PRC and the CSP by allowing the market to drive lower pricing through competition. We also understand that GSA values having the data on prices paid. Rather than relying on TDR, we recommend a technological solution, such as e-invoicing, rather than a regulatory solution like TDR.

I. Background

In June 2016, GSA finalized the TDR rule and began a pilot to collect the transactional data on eight of its Schedules. Under the TDR pilot, contractors are required to report eleven data elements on their task and delivery orders to GSA. Contractors can be required to report additional data elements if approved by the GSA Senior Procurement Executive. For contractors that participate in the TDR pilot, GSA removes burdens associated with the PRC and CSP.

As GSA notes in their information collection notice, transactional data is generated with purchases and provides line-item information, such as descriptions, quantities, and prices paid for products and services. According to GSA, typically the buyer and seller possess the data from transactions, but in the Government context, data is housed in contract writing systems and financial systems which are not shared across agencies.

II. TDR has Limited Utility

TDR, as it is currently structured, provides limited utility to the Government. GSA should consider analyzing the benefits of TDR, in addition to the burdens that have already been identified, to analyze the impact of the program.

A. TDR is not Appropriate for all Industries

Coalition members are concerned that GSA is adopting a one size fits all approach with TDR. Although, TDR may work for contractors in certain industries that primarily sell commercial products to the Government, it faces significant challenges with services contractors. The pricing for services is specific to the order, so analyzing that pricing is difficult without also having the statement of work. As another example of TDR's product-focused nature, three of the eleven data points (manufacturer, manufacturer part number, and UPC) that GSA collects under TDR are only applicable to products.

Additionally, according to data from Federal Procurement Data System, more than 68 percent of all services spending on the Schedules is through firm fixed price orders. The utility of any data collected on these task orders without the accompanying statement of work is highly questionable.

Aside from services, TDR does not work for all product orders. For example, configured products, such as furniture and certain IT hardware, are priced based on the unique design needs of the purchaser. Data collected on these purchases is incomplete without understanding the specific configurations of the products being purchased, which limits the utility of any price comparisons made without that information.

B. Will the Government Use the Data?

One of the concerns raised by the GSA Office of Inspector General in their 2018 audit of the TDR pilot plan and metrics was that data collected through the TDR pilot was restricted to a GSA data analytics team and select category managers.² At the time of the audit, ordering agency contracting officers did not have access to the data. Once the data is available to ordering agencies, however, there is still a question of whether the data will be used by the contracting officers.

As GSA pointed out in the information collection notice, agencies already have access to their own transactional data and statements of work. Because of the limited utility of transactional data without a statement of work, it remains to be seen if agencies will prefer to use their own data or the GSA data. To demonstrate this point, Coalition members who participate in the GSA GWACs, which also collect transactional data, question if the data from those contracts has been used by agency contracting officers. GSA should provide an analysis of the benefits for TDR and seek additional information from agencies on the utility of the data that is being collected.

III. TDR is Burdensome and GSA's Estimate is Based on Questionable Assumptions

The burdens posed by TDR on Schedule contractors are costly, and GSA's estimate of the burden contains several questionable assumptions that operate to lower the burden. The Coalition has provided an updated burden estimate with valid assumptions.

A. GSA's Estimate of the TDR Burden

As part of the information collection notice, GSA prepared a burden estimate for the TDR. The summary of the estimate is included in the table below. According to the analysis, the estimated annual burden for TDR is 158,736 hours or \$9.6 million. GSA's burden estimate was divided into two categories: initial setup and monthly reporting. GSA also divided contractors into five categories based on the annual sales volume, assuming that the burden of TDR increases with the amount of data that a company must report. GSA also created two categories of contractors, those with manual systems and those with automated systems, and adjusted the TDR burden based on the type of system used.

² GSA Office of Inspector General "Audit of Transactional Data Reporting Pilot Evaluation Plan and Metrics." Report Number A140143/Q/T/P18004

	Initial Set-up	Monthly Reporting					Totals
		Category 1	Category 2	Category 3	Category 4	Category 5	
Manual Burden	8 hours	0.25 hours	2 hours	4 hours	16 hours	48 hours	
Number of vendors	280	355	197	557	204	54	
Yearly Burden	2,240	1,065	4,728	26,736	39,168	31,104	105,041
Rate	\$77.55	\$55.19	\$55.19	\$55.19	\$55.19	\$55.19	
Total Cost	\$173,712	\$58,777	\$260,938	\$1,475,560	\$2,161,682	\$1,716,630	\$5,847,299
Automated Burden	240 hours	2 hours	2 hours	2 hours	2 hours	2 hours	
Number of vendors	149	0	0	62	205	482	
Yearly Burden	35,760	0	0	1,488	4,920	11,568	53,736
Rate	\$77.55	\$55.19	\$55.19	\$55.19	\$55.19	\$55.19	
Total Cost	\$2,773,188	\$0	\$0	\$82,123	\$271,535	\$638,438	\$3,765,283
						158,777 hours	\$9,612,583 ³

There are three assumptions in this burden analysis that the Coalition views as invalid:

- That the monthly reporting burden for TDR is largely alleviated through automated systems;
- That contractor employees responsible for establishing the TDR systems are paid at a fully burdened labor rate of \$77.55/hour; and
- That the number of companies accepting TDR will remain constant year to year.

1. The Monthly Reporting Burden is not Alleviated through Automation

When calculating the TDR burden, GSA assumed that the burden for monthly TDR reporting is 48 hours for a large contractor, but that the burden falls to 2 hours if the contractor uses an automated reporting system. While using an automated system will reduce the burden of reporting, contractors are still concerned with the accuracy of the data submission and will often commit resources to checking the data before submission. Additionally, since the data is tied to the contractor's industrial funding fee remittance, some Coalition members reported that a member of the company's finance team must review the data before submission, which increases the burden of TDR.

In 2015 in response to GSA's proposed TDR rule, the Coalition conducted a survey of its members to estimate the burden of TDR. Almost all the survey respondents fell into GSA's category 5 of contractors (at least \$1 million in annual Schedule sales). In calculating the burden, the Coalition will only apply its survey results to that category of contractor. According to the respondents on the survey, the average monthly reporting burden, even with using an automated system, is 68 hours.

³ Differences between the Coalition's and GSA's estimates can be attributed to rounding

2. Contractor Labor Rate

For activities related to the initial set-up for TDR reporting, GSA assumed that contractors' employees have a fully burden labor rate of \$77.55/hour. Feedback from Coalition members, however, indicates that the internal labor costs for contractors' employees average between \$105/hour and \$175/hour. For the Coalition's burden estimate, the labor rate for activities related to the initial TDR set-up was adjusted to \$140/hour, which is the average between these two rates.

3. The Number of Contractors Accepting TDR Will Change

When calculating the burden for the initial set-up of TDR, GSA reviewed the number of contractors that accepted TDR in 2018 and used that as the base population for the burden estimate. However, GSA is currently working to consolidate the Schedules into a single solicitation. Under the new consolidated Schedule, GSA will not expand the TDR pilot beyond the existing Special Item Numbers (SIN) where it already applies. Once consolidation is complete, however, companies could more easily add new SINs to their contract and some companies that were not previously eligible to participate in the TDR pilot may opt to join TDR.

Currently, about 12.71 percent of eligible contractors (i.e. contractors that hold a Schedule contract eligible for the TDR pilot) participate in TDR. If GSA applied this proportion to the rest of the program, there would be almost 400 more participants in TDR. Because of Schedules consolidation, GSA should account for this potential increase in new TDR participants.

The initial set-up cost should also be adjusted to reflect the feedback from the Coalition's survey, which indicated the burden is 1,192 hours per contractor.

The Coalition has prepared a table with updated estimates for the burden of the TDR. Changes from GSA's estimates are noted in italics. Differences between the estimates that are not italicized are the results of rounding.

	Initial Set-up	Monthly Reporting					Totals
		Category 1	Category 2	Category 3	Category 4	Category 5	
Manual Burden	8 hours	0.25 hours	2 hours	4 hours	16 hours	68 hours	
Number of vendors	531	355	197	557	204	54	
Yearly Burden	4,248	1,065	4,728	26,736	39,168	44,064	120,009
Rate	\$140	\$55.19	\$55.19	\$55.19	\$55.19	\$55.19	
Total Cost	\$594,720	\$58,777	\$260,938	\$1,475,560	\$2,161,682	\$2,431,892	\$6,983,570
Automated Burden	1,192 hours	2 hours	2 hours	2 hours	2 hours	68 hours	
Number of vendors	298	0	0	62	205	482	
Yearly Burden	355,216	0	0	1,488	4,920	393,312	754,936
Rate	\$140	\$55.19	\$55.19	\$55.19	\$55.19	\$55.19	
Total Cost	\$49,730,340	\$0	\$0	\$82,123	\$271,535	\$21,706,889	\$71,790,787
						874,945 hours	\$78,774,356

The Coalition's estimate of the burden for TDR is \$78.7 million per year. While this estimate is significantly larger than GSA's estimate, it is worth noting that this estimate averages to about \$40,000 per GSA Schedule contractor per year (based on 2,063 contractors participating in the pilot in 2018).

B. Additional Qualitative Burdens of TDR

Beyond the quantitative burdens discussed in the previous section, there are additional qualitative burdens related to TDR for GSA's consideration.

1. Agencies Need Guidance to Effectively Use Transactional Data

Coalition members remain concerned that providing transactional data to ordering agencies without appropriate guidance could lead to unintended consequences. As an example, in today's dynamic marketplace prices can change daily, and agencies using the data may make erroneous comparisons because of outdated information. These misunderstandings could slow negotiations and increase the administrative costs for contracts.

Notably, FAR 15.404-1(b)(ii) makes clear, price analysis using historical pricing data is a multi-faceted task where variations in facts and circumstances underlying the data directly impact its relevancy and utility in making price comparisons. According to the FAR, the prior price paid must be a valid basis for comparison. If there is a significant time lapse between when the data was collected and when an agency contracting officer is reviewing the data, it may not be a valid basis for comparison. GSA should develop additional guidance for agencies and limit the availability of outdated transactional data.

2. TDR Could Create Supply Chain Risks for the Government

TDR, as structured, encourages agencies to solely look at price while excluding other best-value criteria such as the quality of the product or service. Since TDR does not collect an accompanying statement of work, ordering agencies may not be able to use the data to make decisions based on the quality of the product or service. Ultimately, contracting officers will make the best decisions possible with the information they have available, and TDR does not provide meaningful data related to the quality of the item. This system drives the Government towards decisions made on the lowest price, regardless of the other criteria that impact a buying decision.

GSA should consider the costs of moving towards this lowest price, regardless model. Particularly for IT products, this system would drive away contractors and encourage purchases of products, which may be cheaper but could also pose cyber risks. Depending on the purchase, the Government may have a good reason to select the higher priced option. Unfortunately, that information will not be available through TDR, and contracting officers might make decisions based on the limited information that is available.

3. Horizontal Comparisons Should be Standardized

When TDR is made available to agency contracting officers, an additional burden will be the wide variations in practices for horizontal price comparisons across, and even within, agencies. This lack of consistency will increase contract administration costs for industry. One area of inconsistency is a basic part of price comparisons: what items should be compared. Some agencies will review similar items and look for the lowest price without regard for the differences between items. While other agencies will only compare identical items and consider the differences in terms and conditions of the purchases. Different products and services will have different prices in the market; the Government should recognize these market forces, provide appropriate guidance for contracting officers, and avoid driving towards the lowest price, regardless.

Additionally, GSA should acknowledge that while negotiating Schedule contracts the terms and conditions of the order will dictate the price. It is unreasonable for GSA to request a price that was offered to an agency that made a volume commitment or established a blanket purchase agreement with the contractor, if GSA is not offering those same terms to the contractor. A Schedule contract offers a \$2,500 guaranteed minimum and the opportunity to compete. The prices offered by contractors will reflect those terms.

Agencies should also receive guidance on addressing grey market items. Coalition members report that horizontal price comparisons are vulnerable to low priced outliers skewing the analysis. Some of these outliers are grey market and counterfeit items, which pose a significant risk to the Government. GSA should proactively remove grey market and counterfeit products from the Schedule and withhold these prices from the transactional data provided to agency contracting officers, since these prices are not valid comparisons.

IV. Recommendations

The Coalition recommends that GSA make the following changes.

1. Allow all Schedule contractors the opportunity to choose either TDR or PRC and CSP. Ultimately, TDR may be less costly than the PRC and CSP, and the option to participate should be open to all Schedule contractors regardless of their industry.
2. Invest in an automated system to collect the Government's data, such as an e-invoice system or an initiative to standardize Government contract writing systems. While GSA has identified TDR as an alternative for the burdensome PRC and CSP, TDR should not be viewed as their replacement, because the problem that GSA has identified (a lack of data on Schedule contracts) is most appropriately addressed through a technological solution, not a regulatory solution like TDR.
3. Existing systems such as Advantage and e-Buy, which according to GSA's e-tools reports account for almost half of all Schedule spending combined, should be updated to effectively collect the transactional data. Orders through these systems should be exempt from data reporting requirements.
4. When GSA makes TDR data available to customer agencies, it should develop guidance for agencies on horizontal price analysis.
 - a. Outdated prices should not be provided to contracting officers or used in price comparisons.

- b. Price comparisons should be limited to *identical* items.
- c. Prices for grey market or counterfeit items should not be provided to contracting officers or used in price comparisons.
- d. Agencies should account for the quality and other key features (like security) of the product and service, and decisions should not rely exclusively on the price of the good or service.

Thank you for considering the Coalition's comments in response to the request for comments on the information collection for the Transactional Data Reporting. If there are any questions, please contact me at RWaldron@thecgp.org or (202) 331-0975.

Sincerely,

A handwritten signature in black ink, appearing to read 'Roger Waldron', with a long horizontal flourish extending to the right.

Roger Waldron
President