



September 19, 2016

Roger Waldron
President
The Coalition for Government Procurement
1990 M Street NW, Suite 450
Washington, DC 20036

Subject: Responses to Transactional Data Reporting Pilot Questions

Dear Mr. Waldron,

Thank you for your letter dated August 10, 2016, which contained 65 questions from the Coalition's members regarding the Transactional Data Reporting (TDR) pilot. These questions were organized into five subject areas: Use of the Data, Pricing, Pilot Administration and Operations, Public Disclosure of Information, and Evaluating the Pilot.

The TDR rule is a key component of our efforts to transform the Multiple Award Schedules (MAS) program, and a major step forward to ensure MAS remains the vehicle of choice for our stakeholder communities. Along with the recent Order Level Materials proposed rule, it addresses long-term needs of both our federal and industry partners. The rule removes burdensome tracking and contractor reporting requirements, simplifies offer and modification submittal, and removes barriers for small businesses seeking to enter into the federal government. TDR equips category managers with meaningful data to manage categories of spend, establish demand management strategies, and helps government contracting professionals become better buyers. TDR will also provide unprecedented transparency into the federal marketplace.

Your members' questions help illustrate the fact that TDR is a highly significant change to our long-standing MAS operations. We appreciate being given the opportunity to provide the attached answers, as this allows us to reduce uncertainty, dispel myths, and provide accurate information about TDR and MAS operations.

GSA will post the answers to these questions, along with answers to questions received during our recent industry-focused webinars and other feedback loops, on the [MAS Interact page](#) and [Vendor Support Center](#) to provide a permanent resource for all interested parties.

We agree with your suggestions emphasizing industry communication around this change.

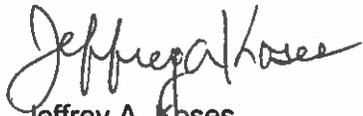
GSA will continue to host industry webinars in advance of each pilot Schedule mass modification and refresh in order to promote understanding of all changes, answer additional questions, and help alleviate concerns. In addition, GSA executives will be attending multiple industry-sponsored events in the coming months to discuss the Transactional Data Rule. We will also consider hosting our own industry day in the future as TDR implementation progresses.

And finally, we understand the requests to delay implementation of TDR. At the same time, some contractors will see immediate benefits from accepting the TDR modification. Others may need more time to to accept it. The TDR implementation plan recognizes these realities and anticipates that contractors will accept the modification over time.

GSA values the opportunity to engage the vendor community as it implements TDR on a pilot basis for GSA Schedule contracts. This continued dialog strengthens our partnership in implementing Transactional Data Reporting and our shared desire to serve the American taxpayer.

If there any questions about GSA's responses to the Coalition members' questions, please contact tdrteam@gsa.gov.

Sincerely,



Jeffrey A. Koses
Senior Procurement Executive
Office of Acquisition Policy



Thomas A. Sharpe, Jr.
Commissioner
Federal Acquisition Service

Transactional Data Reporting Pilot

GSA Responses to Coalition Member Questions

This document contains GSA's responses to questions from the Coalition for Government Procurement's members regarding the Transactional Data Reporting (TDR) pilot. GSA values the opportunity to engage the vendor community as it implements TDR on a pilot basis for GSA Schedule contracts.

Through TDR, GSA aims to:

- Support category management & promote smarter buying
- Save money and pass on savings to the taxpayer
- Reduce contractor and contracting officer burden
- Increase transparency into federal acquisition
- Be a proactive federal partner to give our customers the information they need
- Lower barriers for businesses entering the market, which is especially important for our small business partners

Below are the 65 questions from Coalition members and GSA's responses:

Use of the Data

1. Will GSA continue to provide updates and information early in the process regarding the actual sorting, analysis, and use of the data? GSA's industry partners are seeking reasonable assurances regarding the sound, appropriate use of the data.

- A.** GSA recognizes that the Transactional Data Reporting (TDR) rule is an evolutionary shift for the MAS community, and therefore prioritizes stakeholder engagement and values our industry partners' input in the implementation process. As such, GSA will continue to communicate with our industry partners and stakeholders through Interact and Vendor Support Center (VSC) postings, direct communications to our suppliers, and ongoing training sessions and webinars.

2. How has GSA used similar information collected on GWACs? How have GSA's customer agencies used the data? To date, the feedback on usage of data via the GWAC is mixed, at best. What has GSA learned from the GWAC experience, and how has that learning informed this process?

- A.** Under GWACs, GSA provides the data to its customers for them to conduct more effective acquisitions. Customers can use the data to form Independent Government Cost Estimates, conduct market research, and evaluate bids. This results in smarter buying decisions and better use of taxpayer dollars.

Transactional data use has led to GWACs becoming preferred contract vehicles, resulting in reduced costs for managing multiple contract vehicles. The reduction in duplicative and inefficient contracts also removes barriers to entry into the federal marketplace, especially for small businesses. The Government Accountability Office (GAO) reports the costs of being on multiple contract vehicles ranged from \$10,000 to \$1,000,000 due to increased bid and proposal, and

administrative costs. Consequently, as category management streamlines procurement channels and vendors realize lower administrative costs, small businesses in particular will benefit from a leveling of the playing field.

3. It is our understanding that GSA contracts with a third party (contractor) to sort and analyze the data? Is GSA's third party contractor restricted from using the data for its own commercial interests independent of the TDR rule implementation? In the interests of transparency and confidence that the transactional data is not being used for separate commercial purposes, please publicly provide/post copies of the applicable contract clauses (and effective dates) addressing protection, use, and disclosure of the data, as well as the names of all vendors involved.

- A. GSA IT and the third party vendor have signed Non-Disclosure Agreements (NDAs) to protect vendor information. In addition, the data will be controlled by a Role-Based Authority within the Government network, and technology solutions have been tested and approved by the GSA Information Security Division.

In regards to the public disclosure of transactional data, GSA is in the process of reconciling the public comments we received on our Public Notice, published July 7, 2016. The comment period closed on August 29, 2016. GSA highly encouraged public comments on the notice and is actively evaluating all comments received at this time. At the conclusion of evaluation of all comments received, GSA will finalize its policy regarding release of transactional data. GSA's intention is to implement a policy that meets the requirements of applicable regulations and statutes.

4. In the interests of transparency, when will GSA post all training materials for contracting officers and contractors for public review?

- A. GSA is providing training via live webinars prior to each pilot Schedule refresh so vendors have the opportunity to learn more and ask questions in real time. These webinar recordings are available for on-demand viewing from the Vendor Support Center website (<http://vsc.gsa.gov>), as well as the PowerPoint presentation and Frequently Asked Questions (FAQs).

GSA encourages interested parties to subscribe to the MAS group on Interact, where GSA has been and will continue to post regular updates regarding TDR and other changes to Schedules, live webinar information, FAQs and fact sheets. We encourage all stakeholders, both internal and external, to email our team at tdrteam@gsa.gov with additional questions or feedback.

5. What are GSA's plans to release certain transactional data to the general public via a "public data extract?" Where and to whom will the transactional data be shared, and what is the process for safeguarding that data?

- A. On July 7, 2016, GSA issued a Public Notice in the Federal Register seeking comments regarding the public release of transactional data reported in accordance with the General Services Administration Acquisition Regulation (GSAR) TDR clauses. The comment period for the public notice closed on August 29, 2016 and GSA is actively evaluating all comments received at this time.

At the conclusion of evaluation of all comments received, GSA will finalize its policy regarding release of transactional data. GSA's intention is to implement a policy that meets the requirements of applicable regulations and statutes. GSA FAS will consider comments received in establishing its final position on which TDR data elements are releasable under the Freedom of Information Act (FOIA) and which elements will therefore be released to the general public via a public data extract.

Pricing

6. How will baseline Schedule pricing be negotiated? What pricing data does a prospective contractor offer if it does not have an existing schedule contract? What pricing does a contractor offer at renewal time? How will the process change for fair and reasonable pricing determination?

- A. If 1) the applicable clauses associated with TDR are incorporated into a contract through a modification or 2) an offeror is submitting an offer under a solicitation that has been refreshed to include the applicable TDR clauses, then COs will evaluate pricing pursuant to [GSAM 538.270-2](#).

538.270-2 Evaluation of offers with access to transactional data.

(a) Applicability. Utilize this evaluation methodology for negotiating MAS offers when the commercial sales practices format is not included in the solicitation (see [515.408](#)).

(b) Contracting Officers shall utilize the techniques in FAR 15.404 when evaluating pricing for MAS offers.

(c) Order of preference. When evaluating MAS offers and establishing negotiation objectives, Contracting Officers shall—

(1) Use the following data that is already readily available in accordance with FAR 15.404-1(b)(2)(ii):

(i) Prices paid information on contracts for the same or similar items.

(ii) Contract-level prices on other MAS contracts or other government-wide contracts for the same or similar items.

(iii) Commercial data sources that consolidate and normalize prices offered by commercial vendors to the general public to compare prices for the same or similar items.

(2) If the Contracting Officer cannot determine the prices offered to be fair and reasonable based on the data described in [538.270-2\(c\)\(1\)](#), perform market research to compare prices for the same or similar items in accordance with FAR 15.404-1(b)(2)(vi).

(3) If the Contracting Officer cannot determine the prices offered to be fair and reasonable based on the data described in [538.270-2\(c\)\(1\)](#) or (2), perform an analysis of data other than certified cost or pricing data (as defined at FAR 2.101) provided by the offeror in accordance with FAR 15.404-1(b)(2)(vii).

Baseline Schedule pricing associated with the implementation of FPT will be done utilizing the data provided by the FPT tool. FPT will flag any prices that exceed the established ranges. COs will then review the flagged prices and perform further analysis to determine whether additional negotiation efforts are warranted. However, FPT is a separate initiative and rebaselining MAS

contracts is not required to implement TDR.

Pricing will not be renegotiated for existing contractors accepting the TDR mass modification. GSA will continue to evaluate pricing upon receipt of modification requests to add new items or SINs to a contract, requests for economic price adjustments, and when exercising an option. For current contracts, acceptance of the TDR modification does not require submission of any additional data.

The current option evaluation process will not change. Current contractors will be notified of the Government's intent to exercise the upcoming option. Vendors will be provided an opportunity to update pricing and add/delete products as needed. COs will evaluate the pricing and addition mods pursuant to GSAM 538-270-2 and FAR 15.404. . If TDR data is available for the products or services being evaluated to utilize as part of the "readily available data," then that data will be evaluated as one part of the overall evaluation. Option decision will not be made solely on TDR data but rather on all data available to the CO covering pricing, performance, responsibility and compliance with contract requirements.

The process will not change for determining pricing fair and reasonable. Through data available as a result of TDR, the CO will simply have more data to utilize in making their fair and reasonable determinations.

7. What will the pricing template for a new offer look like? Are there samples available for public review, and if not, when will they be made available? What information will a new offeror have to submit to support proposed prices? Will the offeror have to certify the data as current, accurate, and complete and be subject to audit?

- A. The price proposal templates have been updated to remove references to Most Favored Customer (MFC) and/or Basis of Award Customer (BOA) and the CSP form will be removed from the solicitations as they are refreshed to incorporate TDR. The price proposal templates are integrated into the eOffer/eMod system and are specific to each solicitation. As a result, samples are not available. However, new offerors can access the solicitation on the [FedBizOpps](#) website and review the solicitation documents, including the price proposal template, prior to submitting an offer.

New offerors will still be required to submit technical and pricing information as required by the individual solicitations. Pursuant to Clause SCP-FSS-001-N(c), offers must be current, concise, and complete, and demonstrate a thorough understanding of solicitation requirements. TDR does not change the Government's right to conduct an audit.

8. How often will GSA review schedule holders' existing pricing (every five years at renewal, or options years, or other)? If not every five years at renewal, or at the options years, then how often? Has GSA sought any feedback from the public regarding the timing and frequency of pricing reviews? If not, when will GSA do so?

- A. GSA will continue its standard practice of requiring its Schedule contracting officers to evaluate pricing submitted with modification requests to add products or services, for Economic Price Adjustments, and to exercise an option. Additionally, with the ongoing

implementation of the Formatted Product Tool and future availability of transactional data, GSA will periodically review pricing to monitor prices outside of the competitive ranges. The ranges will also be adjusted as need be as we collect more data over time. GSA also intends to evaluate pricing on a quarterly basis to ensure pricing remains within acceptable ranges.

9. How will GSA distinguish between Schedule pricing and BPA pricing? How will GSA ensure that BPA pricing does not impact Schedule pricing, or will GSA be considering key terms that drive price in making fair and reasonable price determinations at the contract level? Please share specifics.

- A. GSA recognizes that circumstances at the order-level (including orders placed under BPAs), such as materially different terms, volume, and market and economic factors, may result in a Schedule vendor providing a discount from its Schedule contract pricing. As such, GSA understands a distinction must be made between Schedule contract-level prices and prices paid at the order-level. To aid its Schedule COs, FAS has created internal policy that differentiates between the two, and is thoroughly training its acquisition workforce on the distinctions.

For example, automated horizontal price comparisons will be possible for any products that have available Manufacturer Part Number (MPN) or Universal Product Code Type A (UPC-A) data. The availability of MPN and UPC-A data will facilitate the performance of an in-depth horizontal price analysis, during which proposed prices are compared to current market prices for identical items (to include other FSS prices). FPT will flag any prices that exceed the established ranges, or “outlier pricing,” which may include artificially low prices, such as loss leaders. COs will then review the flagged prices and perform further analysis to determine whether additional negotiation efforts are warranted.

10. How will GSA distinguish between varying requirements and terms and conditions that impact pricing among a single Schedule holder’s contract vehicles (BPAs, etc.) and among multiple Schedule holders?

- A. GSA’s use of transactional data is part of a broader shift to horizontal pricing techniques, where the relative competitiveness of a vendor’s prices to other vendors is evaluated. GSA recognizes the complexities of employing horizontal price analysis, whether it is through TDR or other initiatives. For example, FPT identifies contract-level pricing outside a range determined to be acceptable for identical items; vendors whose prices exceed the acceptable range are then notified of their comparative pricing. It is important to reiterate that a range is identified because GSA appreciates the varying circumstances that can contribute to price variation.

When using horizontal pricing techniques, the Schedule contracting officer’s final determination will take into account non-price elements, such as materially different terms, quantities, and market and economic factors. Under TDR, Schedule contracting officers will evaluate Schedule contract pricing in accordance with [GSAM 538.270-2](#), which instructs Schedule contracting officers to make fair and reasonable determinations. Also, GSA is deploying data visualization tools that provide context for the transactional data for a particular good or service.

11. What is the impact on, and process for both pre-award price audits, as well as post award price audits?

- A. Through implementation of the TDR rule, GSA is piloting the elimination of the CSP and PRC basis of award disclosure requirement in favor of pricing policies that first rely on readily available information. Evaluation of new offers under MAS solicitations and contracts that include the applicable TDR clauses will be evaluated in accordance with GSAM 538.270-2, including offers subject to pre-award audits. For MAS contracts for which a bilateral modification to include the applicable TDR clauses is effective, GSA reserves the right to examine transactions related to the CSP and PRC requirements that were in effect prior to the effective date of the TDR modification for the period of time specified in GSAR clause 552.215-71, including examination for records for the purposes of post-award audit.

Below are three illustrative scenarios that provide a further explanation of the applicability of the TDR rule: 1) Evaluation of new MAS offers under TDR; 2) GSA's ability to examine records prior to the effective date of the TDR modification; and 3) Options to extend the term of the contract under TDR.

Evaluation of new MAS offers under TDR

Under MAS solicitations and contracts that include the applicable TDR provisions and clauses, new offers will be evaluated in accordance of GSAM 538.270-2, Evaluation of offers with access to transactional data. GSAM 538.270-2 outlines an order of preference in evaluating MAS offers and establishing negotiations objectives in accordance with FAR 15.404. This order of preference is based upon the premise of GSA first relying on readily available information to determine the offered MAS pricing is fair and reasonable and that a MAS contract award is in the best interest of the Government. These policies apply to evaluation of all MAS offers that include TDR provisions and clauses, including offerors that have been selected for pre-award audit.

GSA's Ability to Examine Records Prior to Accepting the TDR Modification

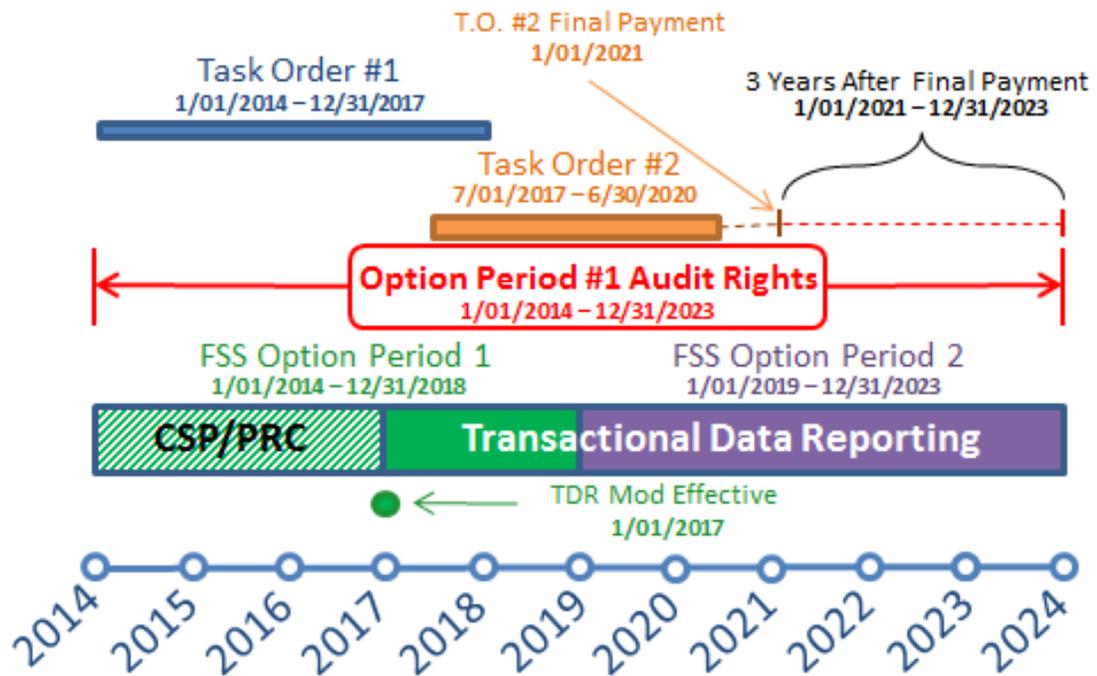
When a bilateral modification to include the applicable TDR clauses into a MAS contract such as 552.238-74 Alternate I, 552.238-75 Alternate I, and 552.238-81 Alternate II is effective, the vendor will no longer provide or maintain CSPs, or monitor the basis of award requirement of the PRC, for that contract. However, the elimination of the CSP and PRC basis of award disclosure requirements do not apply retroactively. Accordingly, GSA reserves the right to examine transactions related to the CSP and PRC requirements that were in effect prior to the effective date of the TDR modification for the period of time specified in GSAR clause 552.215-71, including examination of records for the purposes of post-award audit. Additionally, the Government does not relinquish the rights provided by GSAR clause 552.215-72.

GSAR clause 552.215-71 Examination of Records by GSA (Multiple Award Schedule) governs GSA's ability to examine records related to MAS contract transactions. The Examination of Records clause provides GSA access to, and the right to, examine any books, documents, papers and records of the contractor involving transactions related to this contract for overbillings, billing errors, compliance with the Price Reduction Clause and compliance with the Industrial Funding Fee and Sales Reporting clause of this contract. The clause specifies that the authority shall expire

3 years after final payment and that the basic contract and each option shall be treated as separate contracts for purposes of the clause.

For example, a contractor is in the third year of the first option period (Year 8) of their Schedule contract and the first option period ends on December 31, 2018. GSA and the contractor bilaterally agree to the TDR modification and it is effective on January 1, 2017. Under GSAR clause 552.215-71, GSA has the right to examine records related to MAS orders awarded during the first option period for 3 years following the last payment made for orders awarded during the first option period. This includes examining records related to completeness and accuracy of CSPs disclosures made prior to January 1, 2017 and compliance with reporting and providing basis of award price reductions prior to January 1, 2017.

In this example, two orders were awarded during the first option period. The expiration of GSA's right to examine records related to these orders expires 3 years after the final payment is made on Task Order #2; final payment is received on 1/01/2021, so GSA's right to examine first option period records expires on 12/31/2023. This means GSA can examine records related to CSP compliance for Task Order #1 up until 12/31/2023.



Evaluation of Exercising the Options to Extend MAS Contracts under TDR

Once a bilateral modification is effective to include all applicable TDR clauses under a MAS contract, GSAM 538.270-2 applies to the evaluation of new MAS offers, including post-award offers for new contract items. When exercising an option to extend the term of a MAS contract, the GSA Contracting Officer must determine in accordance with clause I-FSS-163: 1) Exercising that option is advantageous to the Government considering price and other factors; 2) Performance has been acceptable under the contract; and 3) Subcontracting goals have been reviewed and approved.

For contracts that include the applicable TDR clauses, GSA will apply the policies in GSAM 538.270-2, include those selected for pre award audit, after determining that exercising the option is advantageous for the Government.

For example, a MAS contractor is in year nine of their Schedule contract and the second option period ends on January 15, 2018. GSA and the MAS contractor bilaterally agree to the TDR modification and it is effective on November 15, 2016. On April 15, 2017, the vendor is notified have been selected for a pre-award audit prior to the GSA Contracting Officer exercising the option to extend. GSA will conduct the option evaluation in accordance with GSAM 538.270-2. However, GSA may request the MAS contractor provide other than certified cost or pricing data (as defined at FAR 2.101), in accordance with FAR 15.404-1(b)(2)(vii), if GSA determines readily available data, in accordance with FAR 15.404-1(b)(2)(ii), and market research to compare prices for the same or similar items, in accordance with FAR 15.404-1(b)(2)(vi), is insufficient for the GSA Contracting Officer to determine exercising the option is advantageous to the Government.

12. How will GSA distinguish between transactional data, which represents prices actually paid for an actual, firm requirement, and schedule contract pricing, which represents a contractor's price offer for a contract with only a \$2,500.00 guaranteed minimum over 20 years?

- A. GSA recognizes that circumstances at the order-level, such as materially different terms, quantities, and market and economic factors, may result in a Schedule vendor providing a discount from its Schedule contract pricing. As such, GSA understands a distinction must be made between Schedule contract-level prices and prices paid at the order-level. To aid its Schedule COs, FAS has created internal policy that differentiates between the two, and is thoroughly training its acquisition workforce on the distinctions.

Per [GSAM 538.270-2](#), Schedule COs will look at prices paid for the same or similar items when processing modifications to add items, increase prices, and exercise options. As always, contractors are able to ask their CO about the basis of his/her negotiation objectives at these times.

13. How does the Formatted Product Tool (FPT) impact transactional reporting, and what is the timing of the FPT Tool relative to transactional reporting? If contractors are required to load their pricing using the FPT tool immediately, will not the downward pressure on pricing that will also result from transactional reporting impact contractors immediately, regardless of whether they have opted into transactional reporting? If so, how will GSA address this distortion?

- A. FPT's goal is to standardize part numbers to better compare identical products on Schedule, and increase these products' visibility on *GSA Advantage!*. FPT also removes the cumbersome SIP and CORS processes, and gives vendors key insights as to where they stand in the competitive marketplace by automatically flagging outlier pricing.

Automated horizontal price comparison will be possible for any proposed products that have available Manufacturer Part Number (MPN) or Universal Product Code Type A (UPC-A) data. The availability of MPN and UPC-A data will facilitate the performance of an in-depth horizontal price analysis, during which proposed prices are compared to current market prices for identical items (to include other FSS prices). FPT will flag any prices that exceed the established ranges, or

“outlier pricing”. COs will then review the flagged prices and perform further analysis to determine whether additional negotiation efforts are warranted. However, this is not required for re-baseline submissions at this time.

In addition, product standardization will enable acquisition professionals to better analyze transactional-level data to make the best buying decision possible on behalf of the American taxpayer. Both [FPT](#) and [TDR](#) are being implemented in a phased, rollout.

14. How does the TDR rule impact GSA’s and customer agency’s approach to "Best Value" under the Schedules program, which was a key factor making GSA Schedule purchasing attractive to customers in the past?

A. TDR does not change GSA’s or its customers' preference for “best value” procurements. The Federal Acquisition Regulation (FAR) has a stated vision “to deliver on a timely basis the best value product or service to the customer, while maintaining the public’s trust and fulfilling public policy objectives” (FAR 1.102). The Government’s preference will continue to be “best value,” or defined in the FAR, “the expected outcome of an acquisition that, in the Government’s estimation, provides the greatest overall benefit in response to the requirement” (FAR 2.101). Transactional data is viewed in the context of each procurement, taking into account desired terms and conditions, performance levels, past customer satisfaction, and other relevant information. Using and understanding the data will help inform requirements definition and reduce excess consumption.

15. How will proposals for a new schedule contracts be evaluated after the implementation of the final rule? Will evaluation only be based upon the price proposal of the items listed? What, if any, additional information will be considered?

A. Offers for Schedule contracts will be evaluated per [GSAM 538.270-2](#):

538.270-2 Evaluation of offers with access to transactional data.

(a) Applicability. Utilize this evaluation methodology for negotiating MAS offers when the commercial sales practices format is not included in the solicitation (see [515.408](#)).

(b) Contracting Officers shall utilize the techniques in FAR 15.404 when evaluating pricing for MAS offers.

(c) Order of preference. When evaluating MAS offers and establishing negotiation objectives, Contracting Officers shall—

(1) Use the following data that is already readily available in accordance with FAR 15.404-1(b)(2)(ii):

(i) Prices paid information on contracts for the same or similar items.

(ii) Contract-level prices on other MAS contracts or other government-wide contracts for the same or similar items.

(iii) Commercial data sources that consolidate and normalize prices offered by commercial vendors to the general public to compare prices for the same or similar items.

(2) If the Contracting Officer cannot determine the prices offered to be fair and reasonable based on the data described in [538.270-2\(c\)\(1\)](#), perform market research to compare prices for the same or similar items in accordance with FAR 15.404-1(b)(2)(vi).

(3) If the Contracting Officer cannot determine the prices offered to be fair and reasonable based on the data described in [538.270-2\(c\)\(1\)](#) or [\(2\)](#), perform an analysis of data other than certified cost or pricing data (as defined at FAR 2.101) provided by the offeror in accordance with FAR 15.404-1(b)(2)(vii).

16. Will GSA develop standard formats that contracting officers will use to solicit additional data they believe is necessary to determine prices fair and reasonable? If so, when will GSA share those publicly for review and comment?

- A. GSA is not developing a standard format to solicit additional information to support fair and reasonable price determinations. Per GSAM 538.270-2(c)(3), the contracting officer will only “perform an analysis of data other than certified cost or pricing data (as defined at FAR 2.101) provided by the offeror in accordance with FAR 15.404-1(b)(2)(vii)” when fair and reasonable price determinations cannot be made based on data that is readily available and after performing market research. Since the analysis per GSAM 538.270-2(c)(3) will only be made on an as needed basis and be unique to that particular scenario, no standardized data templates have been developed.

17. How will a contracting officer evaluate price reasonableness when comparing information from manufacturers with very different methodologies of producing products across the quality spectrum (e.g., where product quality and features affect pricing)? How does transactional data reporting take into consideration quality/best value?

- A. GSA will not treat similar items from different manufacturers as identical items, as the items may vary because of different features, terms & conditions, quality, etc. However, transactional data will still be instrumental in making comparisons between similar items.

Particularly, transactional data will assist government buyers and FSS contracting officers in using the price analysis techniques found in FAR 15.404-1(b)(2)(ii), as transactional data is necessary to make a comparison of “proposed prices to historical prices paid...for the same or similar items.” Although paragraph (A) of this section notes the prior price is not a valid basis of comparison if “there has been a significant time lapse between the last acquisition and the present one, if the terms and conditions of the acquisition are significantly different, or if the reasonableness of the prior price is uncertain...,” it does allow for some variance in factors when making comparisons. Furthermore, paragraph (B) not only allows, but requires, a prior price to “be adjusted to account for materially differing terms and conditions, quantities and market and economic factors.” In other words, when there has been no significant time lapse, the terms and conditions of an acquisition are similar to previous purchases, and the reasonableness of the prior price is certain, transactional data is valid for comparisons of, if not identical, at least similar items and can be adjusted to account for materially different terms and conditions, quantities, and market and economic factors.

In that regard, quality and features are variables the Government will take into account when using transactional data for price analysis.

18. Please explain how GSA will evaluate and use transactional data in circumstances where the items are not identical?

- A. When the items are not identical, yet similar, transactional data will assist government buyers and FSS contracting officers in using the price analysis techniques found in FAR 15.404-1(b)(2)(ii), as transactional data is necessary to make a comparison of “proposed prices to historical prices paid...for the same or similar items.” Furthermore, paragraph (B) not only allows, but requires, a prior price to “be adjusted to account for materially differing terms and conditions, quantities and market and economic factors.”

Transactional data will also be instrumental for informing buying decisions and crafting overarching demand management strategies, regardless of whether the data is too dissimilar for price comparisons. For instance, the availability of transactional data will provide buyers visibility into the variables that drive costs, which is key to defining requirements and developing accurate cost estimates. Likewise, category managers will gain insight into the assorted options available for satisfying common requirements, and then use the lessons learned to form demand management strategies that promote the most efficient methods for meeting the Government’s needs.

- 19. Will GSA commit that contractors will not see an increase in demands to lower pricing regardless of terms? If so, please address how GSA will ensure sound, reasonable price negotiations that do not lead to “low price regardless,” and if not, please release GSA’s market analysis demonstrating that vendor participation in this market space will not be affected by such circumstances.**

- A. GSA’s objective is to establish fair and reasonable pricing at the contract-level; ordering agencies will award pricing at the order-level that is commensurate with volume and terms.

The Federal Acquisition Regulation (FAR) has a stated vision “to deliver on a timely basis the best value product or service to the customer, while maintaining the public’s trust and fulfilling public policy objectives” (FAR 1.102). The Government’s preference will continue to be “best value,” or defined in the FAR, “the expected outcome of an acquisition that, in the Government’s estimation, provides the greatest overall benefit in response to the requirement” (FAR 2.101). Transactional data will be viewed in the context of each procurement, taking into account desired terms and conditions, performance levels, past customer satisfaction, and other relevant information.

The updated GSAM guidance for FSS contracts in regards to TDR is contained at [GSAM 538.270-2](#). It instructs FSS contracting officers to make a fair and reasonable pricing determinations. Additionally, contracting officers placing orders against GSA’s Schedules and other multi-agency vehicles will continue to follow the procedures required by the FAR, including a preference for “best value” solutions (FAR 1.102). Lastly, GSA is deploying data visualization tools that provide context for the transactional data of a particular good or service.

Pilot Administration and Operations

- 20. Is it GSA’s intent to incorporate unilaterally the TDR clauses in FSS contracts subject to option exercise during the pendency of the pilot? Is so, please address how such an approach is consistent with FAR requirements for bilateral modifications of commercial item contracts.**

- A. No, GSA does not intend to unilaterally incorporate the TDR clauses into any existing FSS contracts. TDR clauses will be incorporated via bilateral modifications, and our goal is to continually engage with industry partners to increase understanding and mitigate concerns as we move through the modification process. However, GSA reserves the right not to exercise an option for a contract under the TDR pilot Schedules/SINs that has not accepted the bilateral TDR modification.

21. The record does not show that the proposed rule put contractors on notice regarding the use IFF calculations/reporting/systems being included as part of the TDR process. Prior to the final rule, contractors were unaware that GSA designed the FAS Sales Reporting System to automatically calculate IFF and CAF based on the data reported and pursue payment from contractors. Consequently, the GSA's decision to "tie in" IFF and CAF calculations to the TDR reporting system could require many companies to overhaul their IFF process. Therefore, our members request that GSA address the following concerns:

a. Would GSA consider removing "services" from the "Pilot" altogether until one year after the reporting has commenced? This removal would allow GSA to assess what was reported to date, as well as clear up any reporting issues. More importantly, it would allow companies providing services to revisit their IFF reporting requirements and make needed adjustments, or develop new processes, in order to comply.

- A. The proposed rule, published in the Federal Register on March 4, 2015, outlined two new reporting clauses, GSAR 552.216-75 Transactional Data Reporting and a new Alternate I of GSAR 552.238-74 Industrial Funding Fee and Sales Reporting. Both proposed clauses noted that fee remittance would be tied to reported transactional data. However, while the method for calculating applicable fees is changing, the remittance frequency will remain the same. For Schedules, which transactional data is to be reported monthly, vendors will still have the option of remitting the IFF quarterly.

GSA gave consideration as to whether Transactional Data Reporting should be considered for all FSS contracts or only those that include products or services that would allow straightforward comparisons, such as commodities with standard part numbers. However, GSA concluded this data will be valuable for all types of purchases. For example, the FAR allows comparisons of prices paid for similar items and data for dissimilar items is useful when conducting market research or performing the consumption analysis that underlies the formation of demand management strategies.

GSA will evaluate the pilot one year after it commences and analyze the impact of TDR on our stakeholder communities. At that time, it will determine the scope of the pilot going forward.

b. Please explain the need for a digital certificate requirement for entry and payment into the FAS Sales Reporting System? Due to the separation of roles within companies, this requirement could prove to be extremely difficult and burdensome. Why did GSA wait reveal the inclusion of IFF and CAF calculations in the TDR reporting system until late in this process?

- A. For the FAS Sales Reporting System, GSA is following NIST SP 800-63-2, Electronic Authentication Guidelines, Assurance Level 3 to protect the integrity of TDR and submission of IFF and CAF for the vendor community. The implementation of digital certificates for TDR follows the same

process currently in place for eOffer/eMod. To find out more information about digital certificates, please visit https://tdr.gsa.gov/portal/contractor_authentication.html. Contractors can also call their Industrial Operations Analyst (IOA) or the Vendor Support Center Help Desk at (877) 495-4849 for assistance.

As for details concerning the TDR reporting system, GSA chose to reveal certain details after publishing the final rule because the system was still early in its initial development phase when the proposed rule was published on March 4, 2015. However, as noted previously, GSA did give notice that fee remittance would be tied to TDR. Additionally, the proposed rule noted “GSA intends to update its systems in order to collect and analyze transactional data. Data submission will be enabled through multiple electronic interfaces (e.g., secure data entry, electronic file submission, or an application programming interface (API)). The goal is to make the reporting process as streamlined, secure and efficient as possible for contractors...” (80 FR 11624). GSA had not yet developed the fee remittance aspect of the new system when the proposed rule was published, but eventually chose to combine the reporting and remittance aspect for the benefit of vendors, as opposed to requiring them to report transactional data in one system and remit fees through another.

22. There is uncertainty as it relates to the need to maintain or not maintain a CSP/PRC:

- a. Some members feel that they will have to continue to monitor the CSP and the PRC basis of award tracking because of uncertainty related to audit requirements and as to whether the pilot will be continued. Consequently, the proposed rule does not reduce compliance burdens; it increases them.**
 - b. Similarly, because the rule allows COs to request other types of financial data, there could be an added administrative burden for data maintenance and retrieval on an *ad hoc* basis.**
 - c. As one member stated, “Ultimately, cost associated with the burden of complying with the heavy monthly reporting requirement, along with the potential risk for ‘non-compliance,’ could exceed the benefit of the proposed PRC and CSP waivers where requirement ‘elements’ of both could still exist.”**
- A.** Once vendors accept the bilateral modification, they will no longer be required to provide or maintain CSPs, or monitor the basis of award, for contracts that include the Schedule TDR clause, 552.238-74 Alternate I. However, the elimination of the CSP and PRC basis of award disclosure requirements do not apply retroactively, meaning the Government reserves the right to monitor the vendor’s performance for the period when the CSP and PRC disclosure and tracking requirements were in effect.

For example, if TDR requirements go into effect on January 1, 2017 for a particular contract, that vendor will no longer be required to provide/maintain CSPs or track their basis of award for that contract. However, that vendor can still be found liable for failing to provide complete and accurate CSPs prior to January 1, 2017. Furthermore, the contractor can still be found liable for failing to report or provide price reductions on sales made prior to January 1, 2017.

In regards to providing other types of financial data on an *ad hoc* basis, Contracting Officers have always had the option to request additional data (generally referred to as other than cost or

pricing data) to utilize in determining pricing fair and reasonable pursuant to FAR 15.402(a)(2). Additionally, GSA has released guidance for its contracting officers that requires them to only request this data when fair and reasonable prices cannot be made based on readily available data or market research. This guidance can be reviewed in GSAM 538.270-2, which is accessible on Acquisition.gov at <https://www.acquisition.gov/sites/default/files/current/gsam/html/Part538.html#wp1862782>.

23. How should complex configured items be reported? Individual parts numbers are virtually meaningless, as it is the sum of the parts that really matters. How will this information be used by the government? TDR does not address complex products, services, or solutions.

- A. GSA understands there are myriad possibilities for complex, configured item orders. The reporting elements provide a way to address complex solutions in that it requires a description of the deliverable. If the deliverable is a configured item, the vendor can address it in the description field. As stated the TDR reporting clauses, “The Contractor must provide, at no additional cost to the Government, the following transactional data elements, as applicable:
- (i) Contract or Blanket Purchase Agreement (BPA) Number.
 - (ii) Delivery/Task Order Number/Procurement Instrument Identifier (PIID).
 - (iii) Non Federal Entity.
 - (iv) Description of Deliverable.
 - (v) Manufacturer Name.
 - (vi) Manufacturer Part Number.
 - (vii) Unit Measure (each, hour, case, lot).
 - (viii) Quantity of Item Sold.
 - (ix) Universal Product Code.
 - (x) Price Paid per Unit.
 - (xi) Total Price.”

However, not all data elements are applicable for all orders. For example, services would not require the Manufacturer Name field. Vendors can contact their IOA for additional assistance on reporting in determining the most effective way to report these type orders.

In terms of how this information will be used by the Government, transactional data will be instrumental for informing buying decisions and crafting overarching demand management strategies, regardless of whether the data is useful for evaluating contract-level pricing. For instance, the availability of transactional data will provide buyers visibility into the variables that drive costs, which is key to defining requirements and developing accurate cost estimates. Likewise, category managers will gain insight into the assorted options available for satisfying common requirements, and then use the lessons learned to form demand management strategies that promote the most efficient methods for meeting the Government’s needs.

24. Will GSA be able to accommodate alternative payment (e.g., paper check) of IFF on the new site replacing the 72A system? The FAS Sales Reporting system is not an ACH setup or a wire transfer. It actually is a web-based account debit system (online check). Many of our members representing larger firms expressed concerns that their accounting departments are responsible for cash management, and they would be unlikely

to approve the use of this process as a method of payment. Please explain GSA's analysis of private sector payment practices that underpins the development of the new site.

- A. Vendors participating in the TDR pilot must remit IFF payments electronically through www.pay.gov. GSA evaluated different payment alternatives and determined that electronic methods will streamline the IFF remittance process and reduce administrative costs.

25. If a fixed price for a project/solution is reported, please explain how that information is useful for evaluating contract-level pricing? Specifically, how will a fixed price service/solution order be reported, analyzed, and used by the government?

- A. GSA recognizes fixed price data will have limited value compared to data reported for other contract types, including for contract-level price comparisons, but there are still numerous benefits. The Government can use fixed price data to analyze its consumption patterns, evaluate and compare purchasing channels, and identify best-in-class solutions. Thereafter, the Government can leverage its buying power and demand management strategies to achieve taxpayer savings as it concentrates its purchases through fewer channels, while vendors realize lower administrative costs. Fixed price data will also be useful for market research; for example, the data will be especially useful when combined with information from the eBuy statement of work (SOW) library.

In regards to reporting, the way the sales are reported will be reflective of how the items are ordered. GSA understands a fixed price service/solution may not have distinguishable components for reporting purposes. If the order shows definitive items at definitive quantities and prices, those items should be reported separately. However, if the items are not priced separately, it is acceptable to report the solution as they were ordered, including the description of each line item in the Description of Deliverable field.

26. Industry is concerned that the amount of transactional data GSA receives will far exceed expectations. Even small orders of component-based solutions will add up to hundreds, if not thousands, of line items. How will GSA manage/utilize this information?

- A. GSA expects TDR could eventually produce millions of lines of data and is therefore deploying data analytics tools to assist contracting officers and category managers in viewing and interpreting the data. Transactional data reported in accordance with the new clauses will be shared with authorized users to craft smarter buying strategies. GSA is also developing data visualization tools to make the data more user friendly. Within GSA, FAS has established a data analytics team that will assist in the establishment and ongoing analysis of contract-level prices.

The initial focus of TDR implementation is collecting the data, but GSA is exploring how data will be released to the public. On July 7, 2016, GSA issued a Public Notice in the Federal Register seeking comments regarding the public release of transactional data reported in accordance with the General Services Administration Acquisition Regulation (GSAR) Transactional Data Reporting clauses. GSA FAS will consider comments received in establishing its final position on which Transactional Data Reporting (TDR) data elements are releasable under the Freedom of Information Act (FOIA) and which elements will therefore be released to the general public via a public data extract. The comment period for the public notice closed on August 29, 2016. GSA

highly encouraged public comments on the notice and is actively evaluating all comments received at this time. At the conclusion of evaluation of all comments received, GSA will finalize its policy regarding release of transactional data. GSA's intention is to implement a policy that meets the requirements of applicable regulations and statutes.

TDR data will be used to support category management and promote smarter buying. It will be used to save money and pass on savings to the taxpayer, reduce contractor and contracting officer burden, and increase transparency into federal acquisition. The ultimate goal is to be a proactive federal partner in giving our customers the information they need to make the best buying decisions possible, while simultaneously lowering the barriers for businesses entering the market.

27. The data GSA is requesting is different from what the Navy and other agencies are requesting. This redundant information gathering with different reporting requirements and formats is going to be very time consuming. How will GSA address this with customer agencies? Also, please explain how this situation is consistent with the Office of Federal Procurement Policy (“OFPP”) December 14, 2014 memorandum, *Transforming the Marketplace: Simplifying Federal Procurement to Improve Performance, Drive Innovation, and Increase Savings*, wherein OFPP Administrator Rung stated that, “greater attention must be paid to regulations related to procurements of commercial products and services, as the Government is typically not a market driver in these cases and the burden of Government-unique practices and reporting requirements can be particularly problematic, especially for small businesses.”

- A. GSA consulted with OFPP and other stakeholders during the formation of this rule. The decision to collect transactional data in favor of Commercial Sales Practices (CSP) disclosures and basis of award tracking in accordance with the Price Reductions clause was made to further align Federal Supply Schedule contracting with commercial practices. Unlike information compiled to populate CSPs, which is created specifically for GSA, the transactional data reported each month is readily available data used to generate invoices.

Regarding the ability of GSA and ordering agencies to use the data, new systems are being deployed to leverage the information. Transactional data reported in accordance with the new clauses will be shared with authorized users to craft smarter buying strategies. GSA is also developing data visualization tools to make the data more user friendly. Within GSA, FAS has established a data analytics team that will assist in the establishment and ongoing analysis of contract-level prices. In terms of oversight, FAS will use many of the same resources it currently deploys to ensure compliance with the existing GSAR clause 552.238-74, Industrial Funding Fee and Sales Reporting. [64]

GSA is pursuing this initiative because obtaining transactional data from its industry partners is the most feasible path the Government can take to implement smarter buying strategies and promote taxpayer value. GSA recognizes the burden that comes with this rule and will continually evaluate ways to minimize the data collection. However, this rule will not lead to higher costs and subsequently higher prices because the changes to the CSP and PRC requirements provide a net burden reduction. To the contrary, Transactional Data Reporting, as shown by GSA’s experience with collecting and using transactional data, will lead to lower prices.

Going forward, GSA's Senior Procurement Executive will regularly evaluate progress against these metrics in consultation with the Administrator for Federal Procurement Policy and other interested stakeholders to determine whether to expand, limit, or discontinue the program.

28. How would GSA handle redundant/duplicate data? If a packaged office (furniture) holder and the manufacturer report the transaction data for the products in question, we, in essence, have two sets of different information for the same order. Over time this duplication will create serious discrepancies that will need to be resolved.

- A. There will not be duplicate reporting for the same order, as the reporting will only be required for the contractor that receives the order and remits the Industrial Funding Fee. This is consistent with current 72A reporting practices.

29. How will the IOA's be brought into the mix to insure their processes are consistent with any waivers the transactional data requirement offers?

- A. The IOA community has been a major stakeholder in the TDR process and is working with their counterparts in policy to ensure their processes are consistent with the TDR rule. Moreover, IOAs contributed to the implementation of internal GSA guidance, participated in the development and deployment of vendor training webinars, and led the updating of training resources on the VSC website, in addition to many other significant activities regarding TDR.

30. Has the IG signed-off on this pilot, and if not, will it have to be delayed until that sign-off is obtained?

- A. GSA is actively engaging the GSA Office of Inspector General (OIG) on all aspects of TDR implementation. The GSA OIG fulfill two important roles with regard the FSS program: 1) Provide Contract Audit Support; 2) Independent Management Oversight. In regards to the contract audit assistance the GSA OIG provides to the FSS program, FAS and OIG are engaged in active discussion of the impact of the TDR pilot to ongoing contract audits. In regards to their independent management oversight role, GSA and the GSA OIG meet regularly to discuss the TDR implementation. The GSA OIG in this role evaluates GSA management controls and therefore would not concur with the GSA TDR pilot implementation plan.

31. How will inadvertent errors or omissions be handled?

- A. The FAS Sales Reporting site allows vendors more leeway to fix errors/omissions than the current 72A Reporting System. While sales adjustments submitted through the 72A system must be approved by the assigned Industrial Operations Analyst (IOA), vendors will be able to submit data corrections through the new site on their own, although IOAs will be notified of corrections over a certain dollar threshold.

32. How does this rule and related pricing approach impact the EPA clause; does this new rule, for all intents and purposes eliminate the EPA clause? Will price increases continue to be granted? What is necessary to obtain a price increase with TDR in place?

- A. The TDR rule required GSA to deviate from the existing EPA clauses in order to remove language applicable to CSPs and the Price Reductions Clause basis of award tracking

requirement. These changes are available for review in the Significant Changes document on [Interact](#); clause 552.216-70 Economic Price Adjustment FSS Multiple Award Contract Deviation II (JUL 2016) and I-FSS -969 Economic Price Adjustment FSS Multiple Award Schedule ALT II (JUL 2016) have been updated to align with the rule. The changes to the EPA clause were not addressed through the rulemaking process because the GSAR prescription for the EPA clause was removed as part of a previous rewrite of GSAR Part 516 and was instead retained through an internal policy letter.

GSA will continue to grant price increases in accordance with the applicable versions of the EPA clause, but vendors must submit documentation to support the reasonableness of the request, as required by non-TDR versions of the EPA clause. However, the TDR versions of the EPA clause no longer require vendors to submit CSP disclosures or copies of the commercial catalog/pricelist showing the price increase and the effective date for commercial customers.

33. What amendments will be required to modify existing Schedule contracts particularly related to contract pricing? As contract pricing is impacted over time from downward price pressure, how will the contract reflect the contractor's new pricing? For example, in lieu of discounts off a list price, now pricing will be based on transactional data comparisons. How will that pricing be reflected in the contract? Against what price structure or methodology will contractors be audited, particularly for contractors with in excess of 500K items on their contracts?

- A. As always, the goal of Schedule pricing is "fair and reasonable". FAR 8.404(d) Pricing, states that "Supplies offered on the schedule are listed at fixed prices. Services offered on the schedule are priced either at hourly rates, or at a fixed price for performance of a specific task (e.g., installation, maintenance, and repair)." The Schedule contracting officer may utilize a variety of methods as outlined in FAR 15.4 and GSAM 538.270-2 to make fair and reasonable price determinations. If the vendor has accepted the FPT mass modification as well as the TDR mass modification, the CO has additional data available to utilize in their analysis. In all cases, however, analysis will not be limited just to transactional data comparisons. Rather, all techniques provided by FAR and GSAM will be utilized.

With respect to how contractors will be audited, particularly for contractors with in excess of 500,000 items, the audit methodology is determined by the Office of Inspector General based upon what information is considered necessary to meet the audit objectives.

34. Does GSA have a view regarding the use of third party providers (e.g. SenSoft) to create reporting processes/data to meet GSA's transactional data requirements? The third party provider would be using the Schedule contractor's data to report.

- A. GSA does not have a view on the use a third party providers to assist in data reporting as long as those providers are authorized by the Schedule contractor and possess the necessary credentials within the GSA tools (eOffer/eMod) to access the FAS Sales Reporting system. The third party must:

- Be a recognized POC on the Contract they intend to report in FAS Sales Reporting.
- Have a valid digital certificate.
- The name on the digital certificate should match exactly with the name on the contract.

More information about how GSA authenticates a contractor can be found at this site:
https://tdr-test.gsa.gov/portal/contractor_authentication.html

35. With regard to BPA's, where the customer agency established BPA labor categories, how does a company handle reporting TDR if the BPA instructs the company to bill the BPA labor categories on its invoices?

- A. Only GSA Schedule line items should be awarded on a BPA. Customer-defined labor categories would require the Schedule contractor to "map" its' GSA labor categories to the customer defined labor categories, but reporting of sales would be aligned with the GSA labor categories. Regardless, labor categories would only be reported on a time-and-materials/labor hours order.

36. There is no meaningful data that can be reported on FFP orders other than milestone payments. Under these circumstances, how will the rule apply to T&M contracts?

- A. Contractors should report FFP orders as single line item representing the lump sum total for the order. For services time-and-materials (T&M) or labor hour orders, reporting should be done by labor categories and rates.

37. How will bottom line discounts be handled under TDR? Will a price reduction at the contract level impact pricing for existing BPAs and orders?

- A. There is nothing that requires a discount at the order level to affect the contract level pricing. In regards to whether or not a price reduction at the contract level will impact pricing for existing BPAs and orders, it depends on the BPA contracting officer's evaluation. While contract-level price reductions will not have an immediate impact on pricing on existing orders, they may impact any options on those orders if the BPA CO cannot determine the BPA pricing to be fair and reasonable based upon data available at the time of option exercise.

38. When will GSA provide advance notice of the templates/formats for reporting? This information is mandatory for companies who have to make changes to their accounting systems.

- A. The CSV template is located on the FAS Sales Reporting Homepage (<https://tdr.gsa.gov>) and can be accessed at any time. The site also includes several resources for vendors, such as training and helpful documentation.

39. How is GSA going to perform a price analysis of services when every company has unique labor categories and descriptions for their service base? Moreover, each service requirement includes unique features, like geographic location, quality/service levels, level of effort, and expertise/labor mix. Please address.

- A. As with products, COs have a variety of tools to utilize which help them compare labor categories based on similar years of experience, qualifications, duties, education required and many other factors for each position being evaluated. GSA understands the importance of taking these factors into consideration and ensuring they are a part of the price analysis. For example, GSA's Professional Services Schedule has been performing price analyses of complex services for years.

Additionally, GSA has developed a Contract Awarded Labor Category Tool (CALC). CALC (<http://calc.gsa.gov>) is a market research tool that searches a database of awarded Schedule contract prices for 48,000 labor categories from more than 5,000 Schedule contracts under the

Professional Services Schedule. Rather than sifting through contract files or searching GSA Advantage!® for comparable pricing, Government contracting professionals can now use CALC to return a multitude of comparable contract prices within a matter of seconds. Additionally, these search results can be filtered by relevant criteria such as years of experience and education level. Over time, greater enhancements are anticipated, such as adding geographic filters.

40. If a vendor currently does not use UPC, how will that affect the reporting requirement? In addition, regarding the Manufacturer Part Number, is this simply the manufacturer's own configured item/model number as stated in a price list?

- A. GSA understands that some vendors do not use UPCs. If a vendor does not have a UPC for an item, then N/A will be reported in that field. The Manufacturer Part Number is the manufacturer's own configured item/model number shown on their pricelist.

41. If an OEM opts in, but not all their Level of Service partners opt in, will the OEM still have to complete CSPs to support their partners?

- A. If the Level of Service partners hold GSA Schedule contracts in their own right on TDR pilot Schedules/SINs, they will be required to provide CSPs and continue with Price Reduction tracking until they accept the bilateral TDR modification for their contract.

42. Under a Contractor Teaming Arrangement, who reports the transactions?

- A. Each Schedule contractor is responsible for reporting sales and remitting IFF for items purchased from their contract. These reporting/IFF remittance responsibilities are the same as for CTAs involving non-TDR Schedule contractors.

43. If a contractor opts IN to the TDR clauses, can the contracting officer still reach back and ask or require CSPs from suppliers (manufacturers or distributors), even if the CSP is no longer required by the contractor? Or, are CSPs completely off the table for any companies supplying the contractor?

- A. GSA, and the Department of Veterans Affairs under the Schedules it administers, can only request CSP disclosures when the applicable provisions and clauses are contained in the contract. Accordingly, GSA cannot request CSPs for contracts participating in the Transactional Data Reporting pilot, as the rule removes the CSP requirement.

44. Are vendors at risk of being handicapped in the federal marketplace if they choose not to opt into the pilot?

- A. Vendors that choose to not to participate in the TDR pilot may face a higher reporting burden, as the TDR rule eliminates the CSP disclosure and the Price Reductions clause basis of award customer tracking requirements. Additionally, GSA reserves the right not to exercise options for contracts under the TDR pilot Schedules/SINs that have not accepted the bilateral TDR modification.

45. Please confirm the nature of the transactional data being sought. Does GSA seek data from federal sales only (contract sales) and not all sales to all customers of stock numbers on contract?

- A. Contractors participating in the Transactional Data Reporting pilot are required to report transactional data from orders against the applicable GSA contract vehicle. This data will also determine the amount of fees (i.e. IFF or CAF, depending on the contract vehicle) to be remitted

to GSA. Sales outside of these vehicles - often referred to as “non-contract” or “open market” sales - are not to be reported. Additionally, the definition of “transactional data” is contained in the clause: “Transactional data” encompasses the historical details of the products or services delivered by the Contractor during the performance of task or delivery orders issued against this contract.

46. Will the information collected pursuant to the rule be connected to the Formatted Product tool? If so, how?

- A. Transactional data concerns order-level activity, while the Formatted Product Tool (FPT) standardizes part numbers and flags non-competitive, outlier pricing at the contract-level. In general, standardized part numbers make transactional data more useful for horizontal price analysis. As such, TDR and FPT data are complementary, but are being collected in two separate systems.

47. When GSA says “renewal,” does that mean options or when you are up for your option year audit?

- A. “Renewal” indicates exercising an option.

48. Because GSA does not commit to a buying anything from vendors, is it correct that vendors could offer GSA suggested retail price (SRP) pricing? If not, how does GSA justify seeking a lower contract price where the commitment is \$2,500.00 over 20 years?

- A. Vendors have the discretion to choose what price they offer for products and services, and the TDR rule does not change the Schedule contracting officer’s responsibility to determine whether the offered prices are fair and reasonable in accordance with FAR subpart 15.4. Many circumstances may justify a lower contract price, such as the relative competitiveness of the SRP to other Schedule contract prices or the prices paid for the same or similar items. Please refer to [GSAM 538.270-2](#) to see what the Schedule contracting officer will evaluate in order to make fair and reasonable pricing determinations under the TDR pilot.

49. How should the pricing of “bundled” products be reported, and how would this pricing be used to negotiate contract prices, as it would only be relevant to subsequent transactions for the identical bundle?

- A. GSA understands there are myriad possibilities for complex item orders. The reporting elements provide a way to address complex solutions in that it requires a description of the deliverable. If the deliverable is a combination of products, the vendor can address it in Description of Deliverable field.

With regard to negotiating pricing, the contracting officer will be utilizing all data available to them, not just transactional data, in determining fair and reasonable pricing. In the case of bundled items, the CO would look at the component pricing awarded on the contract when evaluating individual component items. If an identical bundle was purchased by multiple agencies, then the CO could compare the bundled pricing, among other factors, when evaluating pricing and making fair and reasonable pricing determinations.

50. How will FFP and cost type orders be reported, and how will the data be used?

- A. The pricing reported through the FAS Sale Reporting Portal should be the actual order price for any contract items by the eligible user regardless of type of order. The way items are reported will

depend on how they are priced on the order or invoice. If components - e.g. labor categories, items, etc. - are listed separately with distinct quantities and prices, then those items should be reported separately. On the other hand, if the components of the solution are not listed on the order or invoice separately, then the reporting should reflect what is on the order.

GSA recognizes that cost type orders may result in amended reporting after final rates are established. In addition, only certain GWACs and Multiple Award IDIQs provide for cost orders; the Schedules program does not.

Finally, the data may be used in a number of ways. Even when the data cannot be used for comparisons of identical or similar items, it will still be instrumental for informing buying decisions and crafting overarching demand management strategies. For instance, the availability of transactional data will provide buyers visibility into the variables that drive costs, which is key to defining requirements and developing accurate cost estimates. Likewise, category managers will gain insight into the assorted options available for satisfying common requirements, and then use the lessons learned to form demand management strategies that promote the most efficient methods for meeting the Government's needs.

51. Contractors used the CSP to communicate to the contracting officer regarding unique pricing practices that might impact the pricing proposal to the government. How will a contractor communicate such information to the contracting officer under the TDR pilot?

- A. Contractors should continue to communicate unique terms and conditions that differentiate their product or service from other competitors during the negotiation process. GSA understands that there are many unique pricing practices used by industry, and encourages communication regarding these elements.

52. Please address potential issues associated with the False Claim Act as it relates to the TDR.

- A. False Claims arise when a person "knowingly" deceives the Government. As such, GSA does not anticipate increased False Claims actions because there is no expectation of an increase in vendors "knowingly" deceiving the Government. Moreover, the new Transactional Data Reporting site will allow vendors more leeway to fix errors than the current 72A Reporting System. While sales adjustments submitted through the 72A system must be approved by the assigned Industrial Operations Analyst (IOA), vendors will be able to submit data corrections through the new site on their own, although IOAs will be notified of corrections over a certain dollar threshold.

Transactional Data Reporting will also provide greater ease of compliance with the removal of CSP disclosures and the PRC tracking customer provision. Reporting transactional data is based upon data used to generate a standard invoice. On the other hand, navigating the PRC and CSP requirements is complex because they require industry partners to track their GSA pricing relative to all of their commercial customers, and monitor and control all of their commercial sale transactions.

53. Is it possible that the rule may spark litigation to challenge whether its terms are, to the maximum extent practicable, commercial, as required by the Federal Acquisition Streamlining Act (FASA)? Please address the commerciality of requiring suppliers to report transactional data and provide GSA's market research in this regard.

- A. GSA's intention is to further align itself with commercial buying practices. Horizontal price analysis is a common technique used by commercial firms and individual citizens, and one that GSA plans to further leverage through the use of transactional data. To the contrary, the removal of CSP disclosures and the PRC tracking customer provision, which both predate FASA, are an attempt, in conjunction with horizontal pricing techniques, to harmonize GSA policies with the FAR and commercial buying practices.

54. To clarify, at this time, is GSA only seeking/reviewing horizontal price comparisons for exact manufacturer part numbers, not similar items? How will similar items be evaluated for price comparison purposes?

- A. GSA is seeking transactional data for horizontal price comparisons for identical or similar items. However, GSA will not treat similar items as identical items, as those items may vary because of different features, terms & conditions, quality, etc. However, transactional data will still be instrumental in making comparisons between similar items.

Particularly, transactional data will assist government buyers and FSS contracting officers in using the price analysis techniques found in FAR 15.404-1(b)(2)(ii), as transactional data is necessary to make a comparison of "proposed prices to historical prices paid...for the same or similar items." Although paragraph (A) of this section notes the prior price is not a valid basis of comparison if "there has been a significant time lapse between the last acquisition and the present one, if the terms and conditions of the acquisition are significantly different, or if the reasonableness of the prior price is uncertain..." it does allow for some variance in factors when making comparisons. Furthermore, paragraph (B) not only allows, but requires, a prior price to "be adjusted to account for materially differing terms and conditions, quantities and market and economic factors." In other words, when there has been no significant time lapse, the terms and conditions of an acquisition are similar to previous purchases, and the reasonableness of the prior price is certain, transactional data is valid for comparisons of, if not identical, at least similar items and can be adjusted to account for materially different terms and conditions, quantities, and market and economic factors.

Public Disclosure of Information

55. FOIA data extract – Most task orders under GSA Schedules are based upon competition, with many factors considered during the pricing (extent of competition, risk, geographic area of work performed, quantity, etc.). This type of pricing is considered proprietary information. If this information is now required to be reported, in light of the protections provided under the Freedom of Information Act (FOIA) and associated case law, it is imperative that companies understand what information will be released. Public disclosure of information could have a serious impact on the GSA Schedules programs, as companies may choose to take customer requirements to different, other government-wide IDIQ platforms, rather than

risking having their competitive pricing information shared with the general public. Please explain how these matters are addressed under the rule.

- A. On July 7, 2016, GSA issued a Public Notice in the Federal Register seeking comments regarding the public release of transactional data reported in accordance with the General Services Administration Acquisition Regulation (GSAR) Transactional Data Reporting clauses. GSA FAS will consider comments received in establishing its final position on which Transactional Data Reporting (TDR) data elements are releasable under the Freedom of Information Act (FOIA) and which elements will therefore be released to the general public via a public data extract. The comment period for the public notice closed on August 29, 2016. GSA highly encouraged public comments on the notice and is actively evaluating all comments received at this time. At the conclusion of evaluation of all comments received, GSA will finalize its policy regarding release of transactional data. GSA's intention is to implement a policy that meets the requirements of applicable regulations and statutes.

56. Please address whether it is GSA's position that the recent public notice exercise regarding the intent to release TDR information via a public website meets the reverse-FOIA procedural requirements.

- A. On July 7, 2016, GSA issued a Public Notice in the Federal Register seeking comments regarding the public release of transactional data reported in accordance with the General Services Administration Acquisition Regulation (GSAR) Transactional Data Reporting clauses. GSA FAS will consider comments received in establishing its final position on which Transactional Data Reporting (TDR) data elements are releasable under the Freedom of Information Act (FOIA) and which elements will therefore be released to the general public via a public data extract. The comment period for the public notice closed on August 29, 2016. GSA highly encouraged public comments on the notice and is actively evaluating all comments received at this time. At the conclusion of evaluation of all comments received, GSA will finalize its policy regarding release of transactional data. GSA's intention is to implement a policy that meets the requirements of applicable regulations and statutes.

57. How will the security of the transactional data be protected? More details beyond GSA's standard IT security policies would be helpful. What are the restrictions of use/disclosure on GSA's current contractor, XSB?

- A. GSA recognizes that there are orders that are considered sensitive, not classified. The line items required by the GSAR change are invoiced items and not classified; therefore, reporting requirements for sensitive orders are identical to reporting requirements for non-sensitive orders. To submit documentation that contains sensitive information, vendors must use the supporting documentation feature in the FAS Sales Reporting module. That data will be automatically encrypted and only the program office would be authorized to unlock. These terms will be identified in the contract.

In addition, GSA IT and the third party vendor have signed Non-Disclosure Agreements (NDAs) to protect information.

58. What internal processes/protections are in place to assure any publication of FOIA-protected information is consistent with FOIA and provides opportunity for redaction and reverse-FOIA?

- A. On July 7, 2016, GSA issued a Public Notice in the Federal Register seeking comments regarding the public release of transactional data reported in accordance with the General Services Administration Acquisition Regulation (GSAR) Transactional Data Reporting clauses. GSA FAS will consider comments received in establishing its final position on which Transactional Data Reporting (TDR) data elements are releasable under the Freedom of Information Act (FOIA) and which elements will therefore be released to the general public via a public data extract. The comment period for the public notice closed on August 29, 2016. GSA highly encouraged public comments on the notice and is actively evaluating all comments received at this time. At the conclusion of evaluation of all comments received, GSA will finalize its policy regarding release of transactional data. GSA's intention is to implement a policy that meets the requirements of applicable regulations and statutes.

59. On July 7th, GSA published a notice in the Federal Register entitled, "Notice FAS-2016-01; Seeking Input on the Public Release of Data Collected Through Transactional Data Reporting," outlining the various TDR data elements that could be exempt under FOIA. Comments are to be submitted for GSA's review by August 29, 2016. On July 26th, however, GSA announced through GSA Interact that the TDR pilot would begin rolling out starting in August 2016. GSA later clarified in its training webinars for industry that the first MAS modification for the TDR pilot was expected to be released on August 26, 2016. Please address how GSA expects industry to agree to participate in the TDR pilot given that the pilot will begin a full three days in advance of the deadline for comments regarding what information can and cannot be released publicly through the pilot?

- A. GSA FAS will consider comments received in establishing its final position on which Transactional Data Reporting (TDR) data elements are releasable under the Freedom of Information Act (FOIA) and which elements will therefore be released to the general public via a public data extract. The comment period for the public notice closed on August 29, 2016. GSA highly encouraged public comments on the notice and is actively evaluating all comments received at this time. At the conclusion of evaluation of all comments received, GSA will finalize its policy regarding release of transactional data. GSA's intention is to implement a policy that meets the requirements of applicable regulations and statutes.

In regarding to timing, there is a significant gap between the timeline of pilot implementation and when contractors would actually begin reporting transactional data. This allows for collection and thorough review of public comments to "Notice FAS-2016-01; Seeking Input on the Public Release of Data Collected Through Transactional Data Reporting". The reporting requirements will become effective on the first day of the business quarter following acceptance of the modification, i.e., April 1, July 1, October 1, or January 1. See the below chart for guidance:

Mod Accepted between	Reporting Requirements Effective	1st Report due in new system	1st IFF remittance due in new system
7-1-16 through 9-30-16	10-1-16	11-30-16	1-30-17
10-1-16 through 12-31-2016	1-1-17	3-2-17	4-30-17
1-1-17 through 3-31-17	4-1-17	5-30-17	7-30-17
4-1-17 through 6-30-17	7-1-17	8-30-17	10-30-17

Evaluating the Pilot

60. Have evaluation metrics for the pilot been developed and finalized? Do they include direct and indirect costs, including, but not limited to, administrative costs and the costs of delay, to the government and vendors? On what analysis was the development of these metrics based?

- A. The pilot will be evaluated against a series of metrics that will include, but not be limited to, competitive pricing, increased sales volume, and small business participation, as well as macro use of transactional data by category managers and teams to create smarter buying strategies such as consumption policies. GSA’s Senior Procurement Executive will regularly evaluate progress against these metrics in consultation with the Administrator for Federal Procurement Policy and other interested stakeholders to determine whether to expand, limit, or discontinue the program. No expansion of the pilot or action to make Transactional Data Reporting a permanent fixture on the Schedules will occur prior to the careful evaluation of at least one year of experience with the pilot.

61. In the interests of transparency and accountability, when will GSA publicly share the evaluation metrics for the pilot before its launch? If the metrics are not being shared publicly, please address the rationale for not doing so?

- A. The pilot will be evaluated against a series of metrics that will include, but not be limited to, competitive pricing, increased sales volume, and small business participation, as well as macro use of transactional data by category managers and teams to create smarter buying strategies such as consumption policies. These metrics were included in the [final rule Federal Register Notice](#) published on June 23, 2016 (see pp. 10-11 or “Start Printed Page 41105).

62. What factors will GSA use to determine if the pilot is successful and will be expanded?

- A. The pilot will be evaluated against a series of metrics that will include, but not be limited to, competitive pricing, increased sales volume, and small business participation, as well as macro use of transactional data by category managers and teams to create smarter buying strategies

such as consumption policies. GSA's Senior Procurement Executive will regularly evaluate progress against these metrics in consultation with the Administrator for Federal Procurement Policy and other interested stakeholders to determine whether to expand, limit, or discontinue the program. No expansion of the pilot or action to make Transactional Data Reporting a permanent fixture on the Schedules will occur prior to the careful evaluation of at least one year of experience with the pilot.

63. What happens if transactional data reporting is not continued after the pilot? Does that put the vendor in jeopardy if the PRC and CSP disclosures are reinstated for the prior 12 months of commercial sales? Will accommodation, such as a grace period during which such information not be required, be instituted?

- A. GSA will continue to communicate with all stakeholders regarding pilot updates and guidance, to include whether or not the pilot will be expanded beyond its current scope. If, at the conclusion of the pilot, it was determined not to continue transactional data reporting and reinstitute the PRC and CSP disclosures, the revision back would be implemented on a go-forward basis only. No PRC and CSP disclosures would be retroactively required. However, the agency is continually improving its tools and procedures and may opt to retain facets of this rule, or rely on new tools, if either proves to be more effective than the current pricing disclosure practices. Impacts on industry partners will be given significant consideration as these decisions are made.

64. Does GSA plan to assess whether the pilot has increased or decreased burden to contractors in determining if the pilot has been successful?

- A. GSA will evaluate the pilot based on the metrics delineated in the [rule](#), but will continue to be mindful of the burden placed on its stakeholders.

65. Does GSA plan to assess the ability of the schedules program to support complex solutions and services when determining whether to expand the pilot?

- A. GSA will listen to feedback from its stakeholders as the pilot progresses and plans to comprehensively evaluate the results of the pilot. While the ability to support complex solutions and services is not a formal evaluation metric, this, and other factors, will be taken into consideration before any decisions for continuing, expanding, or discontinuing the pilot are made.