

GSA ORDER

Subject: General Services Administration Acquisition Manual; GSAR Case 2013-G504, Transactional Data Reporting

1. Purpose. This order transmits a revision to the General Services Administration Acquisition Manual (GSAM).

2. Background. The General Services Administration (GSA) is amending the GSAM to revise Parts 501, 507, 515, 516, 538, and 552. These amendments include the establishment of two contract clauses that require vendors to report transactional data from orders placed against Federal Supply Schedule (FSS) contracts, Governmentwide Acquisition Contracts (GWACs), and Governmentwide Indefinite-Delivery, Indefinite-Quantity (IDIQ) contracts, as well as the creation or revision of related procedures. This case includes amendments to the General Services Administration Acquisition Regulation (GSAR) and non-regulatory changes to the GSAM.

A proposed rule was published in the Federal Register on March 4, 2015 (80 FR 11619). GSA received 26 comment letters on the proposed rule, including comments from industry associations, contractors, individuals, Government stakeholders, and other groups. GSA reviewed and considered all comments received for the proposed rule and subsequently published a final rule in the Federal Register on June 23, 2016 (81 FR 41104).

3. Effective date. June 23, 2016.

4. Explanation of changes. The GSAM is amended as follows:

Part 501 - General Services Administration Acquisition Regulation System

- GSAR Section 501.106, OMB Approval under the Paperwork Reduction Act: Updates OMB Information Collection control numbers related to this case.
- GSAM Subpart 501.6, Career Development, Contracting Authority, and Responsibilities: Inserts a definition for Category Manager and relevant guidance outlining their role in using transactional data to evaluate procurement behavior and craft smarter buying strategies.

Part 507 - Acquisition Planning

- GSAM Subpart 507.1, Acquisition Plans: Provides procedures when an acquisition contemplates the need to collect additional data elements for specific contract vehicles including clauses 552.216-75 and 552.238-74 Alternate I.

Part 515 - Contracting by Negotiation

- GSAR Subpart 515.4, Contract Pricing: Amends the prescription for the Commercial Sales Practices (CSP) disclosures so that it is only applicable when the solicitation contains the basic sales reporting clause, 552.238-74 (i.e. the FSS contract should either include the CSP or transactional data reporting requirements - not both).

Part 516 - Types of Contracts

- GSAR Section 516.506: Prescribes new clause 552.216-75, Transactional Data Reporting.

Part 538 - Federal Supply Schedule Contracting

- GSAR Subsection 538.270-1: New subsection for the existing pricing guidance. Specifies the existing pricing guidance should continue to be followed for Schedules that do not have transactional pricing data.
- GSAM Subsection 538.270-2: New subsection to provide pricing guidance to contracting officers where transactional pricing data is available to mirror price evaluation methodologies provided for in FAR subpart 15.4.
- GSAR Section 538.271: Parts of paragraphs (a) and (c) moved to 538.270-1, as they are only applicable when the CSP Format is used.
- GSAR Section 538.272: Updated to apply only when using the basic version of clause 552.238-74 (i.e. the FSS contract should only negotiate a basis of award for purposes of clause 552.238-74 if transactional data reporting is not required).
- GSAR Section 538.273: Prescribes new clauses 552.238-74 Alternate I and 552.238-75 Alternate II.

Part 552, Solicitation Provisions and Contract Clauses

- GSAR 552.212-71: Corrects error to changes clause 552.243-72 to 552.238-81 that was inadvertently missed in GSAR case 2012-G501 (see 79 FR 14182).
- GSAR 552.216-75: New Transactional Data Reporting clause for non-FSS contracts.
- GSAR 552.238-74: Creates an Alternate I that requires Transactional Data Reporting for FSS contracts.
- GSAR 552.238-75: Creates an Alternate II that does not include the basis of award tracking customer provision.
- GSAR 552.238-81: Creates an Alternate I that does not require CSP disclosures.

5. Cancellations and Rescissions: None



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Attachment: TAB AA GSAM/GSAR Text, Line-in/Line-out

**GSAR Case 2013-G504: Transactional Data Reporting
TAB AA – GSAM/GSAR Text, Line-In/Line-Out**

GSAM Baseline: Change 66 Effective 09/25/2015

- Additions to baseline made by proposed rule are indicated by **[bold text in brackets]**
- Deletions to baseline made by proposed rule are indicated by ~~strikethroughs~~
- Additions to baseline made by final rule are indicated by **[bold and underlined text in brackets]**
- Deletions to baseline made by final rule are indicated by ~~strikethroughs and underlined~~
- Five asterisks (*****) indicate there are no revisions between the preceding and following sections
- Three asterisks (***) indicate there are no revisions between the material shown within a subsection

Part 501- General Services Administration Acquisition Regulation System

Subpart 501.1- Purpose, Authority, Issuance

501.106 OMB Approval under the Paperwork Reduction Act.

GSAR Reference	OMB Control No.
***	***
[515.408	3090-0235]
***	***
[552.216-75	3090-0306]
***	***
552.238-74	3090-0121 [3090-0306]
***	***

**Subpart 501.6-Career Development, Contracting Authority, and
Responsibilities**

501.601 General.

(a) Definitions.

["Category Manager" means the individual(s) and/or agency(ies) responsible for areas of Governmentwide spend as described in OMB Memorandum Transforming the Marketplace: Simplifying Federal Procurement to Improve Performance, Drive Innovation, and Increase Savings dated December 4, 2014 which can be found at <https://www.whitehouse.gov/sites/default/files/omb/procurement/memo/simplifying-federal-procurement-to-improve-performance-drive-innovation-increase-savings.pdf>.]

[501.670 Category Managers.

(a) Category managers are responsible for identifying inefficient purchasing behavior and crafting smarter buying strategies within specific areas of spend as described in Government-wide Category Management, Guidance Document issued by the Office of Management Budget, available at https://hallways.cap.gsa.gov/information/Gov-wide_CM_Guidance_V1.pdf .

(b) Transactional data. Category managers should use transactional data collected via clauses 552.216-75 and 552.238-74 Alternate I in conjunction with commercial market benchmarks to identify potential areas for improvement in contracting methods, pricing, and terms or conditions.]

Part 507-Acquisition Planning

Subpart 507.1-Acquisition Plans

507.105 Contents of acquisition plans.

(c) Approval Thresholds.

(1) The following are the dollar value thresholds and the level of the approving official for approving acquisition plans or waiving written plans. For purposes of leasing, the Simplified Leasing Acquisition Threshold (SLAT) is defined in Part 570. The HCA may authorize higher level approving officials for the thresholds set out below.

Threshold	Approving Official
Below the SAT (SLAT for leases)	Contracting Officer
SAT (SLAT for leases) to, and including, \$5.5 million	One Level above the Contracting Officer
Over \$5.5 million to, and including, \$20 million	Contracting Director
Over \$20 million to, and including, \$50 million	Regional Commissioner or Deputy Regional Commissioner
Over \$50 million	HCA

Note: Thresholds shall include all options.

(2) If the acquisition meets one of the following criteria and is greater than the SAT, the planner must obtain HCA approval of the plan:

(i)a) Complex, critical to agency strategic objectives and mission, highly visible or politically sensitive.

(ii)b) An acquisition with which GSA has little or no experience that may result in a need for greater oversight or risk management.

(iii)e) Actions using significantly changed methods (e.g., methods of procurement such as lease versus purchase, or methods of performance such as contractor versus Government personnel).

(iv)d) New construction or repair, lease prospectus and alteration prospectus budget line items.

(v)e) Any acquisition that requires contract bundling (FAR 7.107).

[(3) Acquisitions requiring additional transactional data reporting elements to those listed in subparagraph (b)(2) of clauses 552.216-75 and 552.238-74 Alternate I -

(i) Must be coordinated with the applicable category manager, and obtain approval by the HCA and Senior Procurement Executive; and

(ii) All of the following information must be included in the rationale for adding transactional data reporting elements:

(A) List of the data element(s) to be collected.

(B) Describe how the information will be used.

(C) Describe the method of submission (e.g. which information technology system will be used, what format(s) are acceptable).

(D) Address any potential duplication (i.e. does the contractor submit this data in any other method already?).

(E) Describe efforts to minimize burden on small business.

(F) Describe consequence to Federal program if the element(s) are not collected.

(G) Describe alternatives to obtaining the information other than collecting it from the contractor through this clause.

(H) Identify whether or not this data will be made publically available and the rationale for this decision, and how the information will be published, if applicable.

(I) Estimated annual burden to the public in terms of hours. The estimate should indicate the number of contractors expected to report the data, frequency of reporting, annual hour burden, and an explanation of how the burden was estimated.

(J) Estimated annual cost to the public in terms of dollars. The estimate should be broken out by initial setup costs and the cost to maintain the reporting requirement.

(K) Estimated total annual cost to the government.

(iii) The approval requirements in this subparagraph do not apply to additional data elements added to a task/delivery order or blanket purchase agreement. However, coordination with the applicable category manager is required.

Part 515- Contracting by Negotiation

Subpart 515.4- Contract Pricing

515.408 Solicitation provisions and contract clauses.

MAS Requests for Information Other Than Cost or Pricing Data

(a) ~~You should use~~ Alternate IV of the FAR provision at 52.215-20, Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data, for MAS ~~contracts~~**[solicitations]** to provide the format for submission of information other than cost or pricing data for MAS ~~contracts~~**[solicitations]**. To provide uniformity in requests under the MAS program, ~~you should~~ insert the following in paragraph (b) of the provision:

(1) An offer prepared and submitted in accordance with the clause at 552.212-70, Preparation of Offer (Multiple Award Schedule).

(2) Commercial sales practices. **[When the solicitation contains the basic clause 552.238-74 Industrial Funding Fee and Sales Reporting, t]**The Offeror shall submit information in the format provided in this solicitation in accordance with the instructions at Figure 515.4-2 of the GSA Acquisition Regulation (48 CFR 515.4-2), or submit information in the Offeror's own format.

(3) Any additional supporting information requested by the Contracting Officer. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether the price(s) offered is fair and reasonable.

(4) By submission of an offer in response to this solicitation, the Offeror grants the Contracting Officer or an authorized representative the right to examine, at any time before initial award, books, records, documents, papers, and other directly pertinent records to verify the pricing, sales and other data related to the supplies or services proposed in order to determine the reasonableness of price(s). Access does not extend to Offeror's cost or profit information or other data relevant solely to the Offeror's determination of the prices to be offered in the catalog or marketplace.

(b) When the contract contains the basic clause 552.238-74 Industrial Funding Fee and Sales Reporting, insert]-Insert the following format for commercial sales practices in the exhibits or attachments section of the solicitation and resulting contract (see FAR 12.303).

COMMERCIAL SALES PRACTICES FORMAT

Name of Offeror SIN(s):

NOTE: Please refer to Clause 552.212-70, Preparation of Offer (Multiple Award Schedule), for additional information concerning your offer. Provide the following information for each SIN (or group of SINs or SubSIN for which information is the same).

(1) Provide the dollar value of sales to the general public at or based on an established catalog or market price during the previous 12-month period or the offerors last fiscal year: \$_. State beginning and ending of the 12 month period. Beginning ending . In the event that a dollar value is not an appropriate measure of the sales, provide and describe your own measure of the sales of the item(s).

(2) Show your total projected annual sales to the Government under this contract for the contract term, excluding options, for each SIN offered. If you currently hold a Federal Supply Schedule contract for the SIN the total projected annual sales should be based on your most recent 12 months of sales under that contract.

SIN \$

SIN \$

SIN \$

(3) Based on your written discounting policies (standard commercial sales practices in the event you do not have written discounting policies), are the discounts and any concessions which you offer the Government equal to or better than your best price (discount and concessions in any combination) offered to any customer acquiring the same items regardless of quantity or terms and conditions? YES NO (See definition of "concession" and "discount" in .)

(4)

(a) Based on your written discounting policies (standard commercial sales practices in the event you do not have written discounting policies), provide information as requested for each SIN (or group of SINs for which the information is the same) in accordance with the instructions at , which is provided in this solicitation for your convenience. The information should be provided in the chart below or in an equivalent format developed by the offeror. Rows should be added to accommodate as many customers as required.

Column 1 Customer	Column 2 Discount	Column 3 Quantity/Volume	Column 4 FOB Term	Column 5 Concessions

(b) Do any deviations from your written policies or standard commercial sales practices disclosed in the above chart ever result in better discounts (lower prices) or concessions than indicated? YES NO . If YES, explain deviations in accordance with the instructions at , which is provided in this solicitation for your convenience.

(5) If you are a dealer/reseller without significant sales to the general public, you should provide manufacturers' information required by paragraphs (1) through (4) above for each item/SIN offered, if the manufacturer's sales under any resulting contract are expected to exceed \$500,000. You must also obtain written authorization from the manufacturer(s) for

Government access, at any time before award or before agreeing to a modification, to the manufacturer's sales records for the purpose of verifying the information submitted by the manufacturer. The information is required in order to enable the Government to make a determination that the offered price is fair and reasonable. To expedite the review and processing of offers, you should advise the manufacturer(s) of this requirement. The contracting officer may require the information be submitted on electronic media with commercially available spreadsheet(s). The information may be provided by the manufacturer directly to the Government. If the manufacturer's item(s) is being offered by multiple dealers/resellers, only one copy of the requested information should be submitted to the Government. In addition, you must submit the following information along with a listing of contact information regarding each of the manufacturers whose products and/or services are included in the offer (include the manufacturer's name, address, the manufacturer's contact point, telephone number, and FAX number) for each model offered by SIN:

- (a) Manufacturer's Name.
- (b) Manufacturer's Part Number.
- (c) Dealer's/Reseller's Part Number.
- (d) Product Description.
- (e) Manufacturer's List Price.
- (f) Dealer's/Reseller's percentage discount from list price or net prices.

(End of Format)

(c) When the contract contains the basic clause 552.238-74 Industrial Funding Fee and Sales Reporting, include ~~include~~ the instructions for completing the commercial sales practices format in ~~in~~ solicitations issued under the MAS program.

If you responded "YES" to question (3), on the COMMERCIAL SALES PRACTICES FORMAT, complete the chart in question (4)(a) for the customer(s) who receive your best discount. If you responded "NO", complete the chart in question (4)(a) showing your written policies or standard sales practices for all customers or customer categories to whom you sell at a price (discounts and concessions in combination) that is equal to or better than the price(s) offered to the Government under this solicitation or with which the Offeror has a current agreement to sell at a discount which equals or exceeds the discount(s) offered under this solicitation. Such agreement shall be in effect on the date the offer is submitted or contain an effective date during the proposed multiple award schedule contract period. If your offer is lower than your price to other customers or customer categories, you will be aligned with the customer or category of customer that receives your best price for purposes of the Price Reductions clause at ~~552.238-74~~. The Government expects you to provide information required by the format in accordance with these instructions that is, to the best of your knowledge and belief, current, accurate, and complete as of 14 calendar days prior to its submission. You must also disclose any changes in your price list(s), discounts and/or discounting policies which occur after the offer is submitted, but before the close of negotiations. If your discount practices vary by model or product line, the discount information should be by model or product line as

appropriate. You may limit the number of models or product lines reported to those which exceed 75% of actual historical Government sales (commercial sales may be substituted if Government sales are unavailable) value of the special item number (SIN).

Column 1-Identify the applicable customer or category of customer.

A "customer" is any entity, except the Federal Government, which acquires supplies or services from the Offeror. The term customer includes, but is not limited to original equipment manufacturers, value added resellers, state and local Governments, distributors, educational institutions (an elementary, junior high, or degree granting school which maintains a regular faculty and established curriculum and an organized body of students), dealers, national accounts, and end users. In any instance where the Offeror is asked to disclose information for a customer, the Offeror may disclose information by category of customer if the Offeror's discount policies or practices are the same for all customers in the category. (Use a separate line for each customer or category of customer.)

Column 2-Identify the discount.

The term "discount" is as defined in solicitation clause 52.218-7, Preparation of Offer (Multiple Award Schedule). Indicate the best discount (based on your written discounting policies or standard commercial discounting practices if you do not have written discounting policies) at which you sell to the customer or category of customer identified in column 1, without regard to quantity; terms and conditions of the agreements under which the discounts are given; and whether the agreements are written or oral. Net prices or discounts off of other price lists should be expressed as percentage discounts from the price list which is the basis of your offer. If the discount disclosed is a combination of various discounts (prompt payment, quantity, etc.), the percentage should be broken out for each type of discount. If the price lists which are the basis of the discounts given to the customers identified in the chart are different than the price list submitted upon which your offer is based, identify the type or title and date of each price list.

The contracting officer may require submission of these price lists. To expedite evaluation, offerors may provide these price lists at the time of submission.

Column 3-Identify the quantity or volume of sales.

Insert the minimum quantity or sales volume which the identified customer or category of customer must either purchase/order, per order or within a specified period, to earn the discount. When purchases/orders must be placed within a specified period to earn a discount indicate the time period.

Column 4-Indicate the FOB delivery term for each identified customer.

See FAR 47.3 for an explanation of FOB delivery terms.

Column 5-Indicate concessions regardless of quantity granted to the identified customer or category of customer.

Concessions are defined in solicitation clause 52.212-70, Preparation of Offers (Multiple Award Schedule). If the space provided is inadequate, the disclosure should be made on a separate sheet by reference.

If you respond "YES" to question 4(b) in the Commercial Sales Practices Format, provide an explanation of the circumstances under which you deviate from your written policies or

standard commercial sales practices disclosed in the chart on the Commercial Sales Practices Format and explain how often they occur. Your explanation should include a discussion of situations that lead to deviations from standard practice, an explanation of how often they occur, and the controls you employ to assure the integrity of your pricing. Examples of typical deviations may include, but are not limited to, one time goodwill discounts to charity organizations or to compensate an otherwise disgruntled customer; a limited sale of obsolete or damaged goods; the sale of sample goods to a new customer; or the sales of prototype goods for testing purposes.

If deviations from your written policies or standard commercial sales practices disclosed in the chart on the Commercial Sales Practices Format are so significant and/or frequent that the Contracting Officer cannot establish whether the price(s) offered is fair and reasonable, then you may be asked to provide additional information. The Contracting Officer may ask for information to demonstrate that you have made substantial sales of the item(s) in the commercial market consistent with the information reflected on the chart on the Commercial Sales Practices Format, a description of the conditions surrounding those sales deviations, or other information that may be necessary in order for the Contracting Officer to determine whether your offered price(s) is fair and reasonable. In cases where additional information is requested, the Contracting Officer will target the request in order to limit the submission of data to that needed to establish the reasonableness of the offered price.

(End of Figure)

(d) **When the contract contains the basic clause 552.238-74 Industrial Funding Fee and Sales Reporting, insert]—insert** the clause at ~~201.52~~, Price Adjustment-Failure to Provide Accurate Information, in solicitations and contracts under the MAS program.

(e) ~~You should u~~[U]se Alternate IV of FAR 52.215-21, Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data-Modifications, to provide for submission of information other than cost or pricing data for MAS contracts. To provide for uniformity in requests under the MAS program, ~~you should~~ insert the following in paragraph (b) of the clause:

(1) Information required by the clause at 552.2[~~38-81~~]43-72, Modifications (Multiple Award Schedule).

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Part 516- Types of Contracts

Subpart 516.5- Indefinite-Delivery Contracts

516.506 Solicitation provisions and contract clauses.

(a) In solicitations and contracts for Special Order Program items, when the contract authorizes FAS and other activities to issue delivery or task orders, insert the clause at 552.216-72, Placement of Orders. If only FAS will issue delivery or task orders, insert the clause with its Alternate I.

(b) In solicitations and contracts for GSA awarded IDIQ contracts, insert clause 552.216-74, Task-Order and Delivery-Order Ombudsman.

(c) If the clause at 552.216-72 is prescribed, insert the provision at 552.216-73, Ordering Information, in solicitations for Special Order Program items and in other FAS Program solicitations.

[(d) The Contracting Officer may insert clause 552.216-75 in solicitations and GSA-awarded IDIQ contracts, not including Federal Supply Schedule (FSS) contracts. This clause should be included in all GSA-awarded Governmentwide acquisition contracts and multi-agency contracts. See 538.273 for clauses applicable to FSS contracts.]

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Part 538- Federal Supply Schedule Contracting

Subpart 538.2- Establishing and Administering Federal Supply Schedules

538.270 Evaluation of multiple award schedule (MAS) offers.

[538.270-1 Evaluation of offers without access to transactional data]

(a) **[Applicability. Utilize this evaluation methodology for negotiating MAS offers when the commercial sales practices format is included in the solicitation (see 515.408).**

(b) **When offerors have commercial catalogs, negotiate concessions from established catalogs, including price and non-price terms and conditions.**

(c) The Government will seek to obtain the offeror's best price (the best price given to the most favored customer). However, the Government recognizes that the terms and conditions of commercial sales vary and there may be legitimate reasons why the best price is not achieved.

[(d)]b) Establish negotiation objectives based on a review of relevant data and determine price reasonableness.

[(e)]e) When establishing negotiation objectives and determining price reasonableness, compare the terms and conditions of the MAS solicitation with the terms and conditions of agreements with the offeror's commercial customers. When determining the Government's price negotiation objectives, consider the following factors:

- (1) Aggregate volume of anticipated purchases.
- (2) The purchase of a minimum quantity or a pattern of historic purchases.
- (3) Prices taking into consideration any combination of discounts and concessions offered to commercial customers.
- (4) Length of the contract period.

(5) Warranties, training, and/or maintenance included in the purchase price or provided at additional cost to the product prices.

(6) Ordering and delivery practices.

(7) Any other relevant information, including differences between the MAS solicitation and commercial terms and conditions that may warrant differentials between the offer and the discounts offered to the most favored commercial customer(s). For example, an offeror may incur more expense selling to the Government than to the customer who receives the offeror's best price, or the customer (e.g., dealer, distributor, original equipment manufacturer, other reseller) who receives the best price may perform certain value-added functions for the offeror that the Government does not perform. In such cases, some reduction in the discount given to the Government may be appropriate. If the best price is not offered to the Government, you should ask the offeror to identify and explain the reason for any differences. Do not require offerors to provide detailed cost breakdowns.

[(f)]d) You may award a contract containing pricing which is less favorable than the best price the offeror extends to any commercial customer for similar purchases if you make a determination that both of the following conditions exist:

(1) The prices offered to the Government are fair and reasonable, even though comparable discounts were not negotiated.

(2) Award is otherwise in the best interest of the Government.

[(g)] State clearly in the award document the price/discount relationship between the Government and the identified commercial customer (or category of customers) upon which the award is based.]

[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).]

538.271 MAS contract awards.

(a) MAS awards will be for commercial items as defined in FAR 2.101. ~~Negotiate contracts as a discount from established catalog prices.~~

(b) Before awarding any MAS contract, determine that the offered prices are fair and reasonable (see FAR Subpart 15.4 and 538.270). Document the negotiation and your determination using FAR 15.406-3 as guidance.

~~(c) State clearly in the award document the price/discount relationship between the Government and the identified commercial customer (or category of customers) on which the award is predicated.~~

538.272 MAS price reductions.

(a) **[Applicability. This section applies when the contract contains the basic clause 552.238-74 Industrial Funding Fee and Sales Reporting.**

(b) **The Basic clause and alternate I of] Section 552.238-75, Price Reductions,** requires the contractor to maintain during the contract period the negotiated price/discount relationship (and/or term and condition relationship) between the eligible ordering activities and the offeror's customer or category of customers on which the contract award was predicated (see 538.271(c)). If a change occurs in the contractor's commercial pricing or discount arrangement applicable to the identified commercial customer (or category of customers) that results in a less advantageous relationship between the eligible ordering activities and this customer or category of customers, the change constitutes a "price reduction."

~~[(c)](b) Make sure~~**[Ensure]** that the contractor understands the requirements of section 552.238-75 and agrees to report ~~to you~~ all price reductions **[to the Contracting Officer]** as provided for in the clause.

538.273 Contract clauses.

(a) Multiple award schedules. Insert in solicitations and contracts:

(1) 552.238-70, Identification of Electronic Office Equipment Providing Accessibility for the Handicapped, if you include electronic office equipment items.

(2) 552.238-71, Submission and Distribution of Authorized FSS Schedule Pricelists.

(i) Use Alternate I, in solicitations and contracts for-

(A) Federal Supply Schedule 70;

(B) The Consolidated Schedule contracts containing information technology Special Item Numbers;

(C) Federal Supply Schedule 84; and

(D) Federal Supply Schedules for recovery purchasing (see 538.7102), use Alternate

I.

(ii) If GSA is not prepared to accept electronic submissions for a particular schedule delete-

(A) The paragraph identifier "(i)" in (b)(1) and the word "and" at the end of paragraph (b)(1)(i); and

(B) Paragraphs (b)(1)(ii) and (b)(3).

(3) 552.238-72, Identification of Products that have Environmental Attributes.

(4) 552.238-73, Cancellation.

(b) Multiple and single award schedules. Insert in solicitations and contracts:

(1) 552.238-74, Industrial Funding Fee and Sales Reporting. **[Use Alternate I for Federal Supply Schedules with Transactional Data Reporting requirements. Clause 552.238-75 Alternate II should also be used when vendors agree to include clause 552.238-74 Alternate I in the contract.]**

(2) 552.238-75, Price Reductions.

[(i) Except in cases where Alternate II is used, use Alternate I in solicitations and contracts for-]

~~Use Alternate I in solicitations and contracts for-~~

[(A)i] Federal Supply Schedule 70;

[(B)ii] The Consolidated Schedule containing information technology Special Item Numbers;

[(C)iii] Federal Supply Schedule 84; and

[(D)iv] Federal Supply Schedules for recovery purchasing (see 538.7102).

[(ii) Use Alternate II for Federal Supply Schedules with Transactional Data Reporting requirements. This alternate clause is used when vendors agree to include clause 552.238-74 Alternate I in the contract.]

(3) 552.238-81, Modifications (Federal Supply Schedule).

[(i) Use Alternate I for Federal Supply Schedules that only accept electronic modifications.

[(ii) Use Alternate II for Federal Supply Schedules with Transactional Data Reporting requirements. This alternate clause is used when vendors agree to include clause 552.238-74 Alternate I in the contract.]

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Part 552- Solicitation Provisions and Contract Clauses

552.212-71 Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Items.

As prescribed in 512.301(a)(1), insert the following clause:

CONTRACT TERMS AND CONDITIONS APPLICABLE TO GSA ACQUISITION OF COMMERCIAL ITEMS (OCT 2014)

(a) The Contractor agrees to comply with any clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial items or components. The clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The clauses in paragraph (b) of this section are incorporated by reference:

[The Contracting Officer should check the clauses that apply or delete the clauses that do not apply from the list. The Contracting Officer may add the date of the clause if desired for clarity.]

(b) Clauses.

<u>552.203-71</u>	Restriction on Advertising
<u>552.211-73</u>	Marking
<u>552.215-70</u>	Examination of Records by GSA
<u>552.215-71</u>	Examination of Records by GSA (Multiple Award Schedule)
<u>552.215-72</u>	Price Adjustment-Failure to Provide Accurate Information
<u>552.219-70</u>	Allocation of Orders-Partially Set-Aside Items
<u>552.228-70</u>	Workers' Compensation Laws
<u>552.229-70</u>	Federal, State, and Local Taxes
<u>552.232-8</u>	Discounts for Prompt Payment
<u>552.232-23</u>	Assignment of Claims
<u>552.232-71</u>	Adjusting Payments
<u>552.232-72</u>	Final Payment
<u>552.232-73</u>	Availability of Funds
<u>552.232-78</u>	Payment Information
<u>552.237-71</u>	Qualifications of Employees
<u>552.238-71</u>	Submission and Distribution of Authorized FSS Schedule Price List
<u>552.238-74</u>	Industrial Funding Fee and Sales Reporting
<u>552.238-75</u>	Price Reductions
<u>552.242-70</u>	Status Report of Orders and Shipments
<u>552.2[38- 81]43-72</u>	Modifications (Multiple Award Schedule)
<u>552.246-73</u>	Warranty-Multiple Award Schedule
<u>552.246-76</u>	Warranty of Pesticides

(End of clause)

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[552.216-75 Transactional Data Reporting (DATE)

As prescribed in 516.506(d), insert the following provision:

(a) Definitions.

(1) "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.

(b) *Reporting of Transactional Data.* The Contractor must report all transactional data under this contract as follows:

(1) The Contractor must electronically report transactional data by utilizing the automated reporting system at an Internet website designated by the General Services Administration (GSA) or by uploading the data according to GSA instructions. GSA will post registration instructions and reporting procedures on the Vendor Support Center website, <https://vsc.gsa.gov>. The reporting system website address, as well as registration instructions and reporting procedures, will be provided at the time of award or inclusion of this clause in the contract.

(2) 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.

[*Note to paragraph (b) (2):* The Contracting Officer may add data elements to the standard elements listed above in this fill-in with the approvals listed in GSAM 507.105(c)(3).]

(3) The Contractor must report transactional data within 30 calendar days from the last calendar day of the month. If there was no contract activity during the month, the Contractor must submit a confirmation of no reportable transactional data within 30 calendar days of the last calendar day of the month.

(4) The Contractor must report the price paid per unit, total price, or any other data elements with an associated monetary value listed in (b)(2) above, in U.S. dollars.

(5) The Contractor must maintain a consistent accounting method of transactional data reporting, based on the Contractor's established commercial accounting practice.

(6) Reporting Points.

(i) The acceptable points at which transactional data may be reported include—

(A) Issuance of an invoice; or

(B) Receipt of payment.

(ii) The Contractor must determine whether to report transactional data on the basis of invoices issued or payments received.

(7) The Contractor must continue to furnish reports, including confirmation of no transactional data, through physical completion of the last outstanding task or delivery order issued against the contract.

(8) Unless otherwise expressly stated by the ordering activity, orders that contain classified information or other information that would compromise national security are exempt from this reporting requirement.

(9) This clause does not exempt the Contractor from fulfilling existing reporting requirements contained elsewhere in the contract.

(10) GSA reserves the unilateral right to change reporting instructions following 60 calendar days' advance notification to the Contractor.

(c) Contract Access Fee (CAF).

(1) GSA's operating costs are reimbursed through a CAF charged on orders placed against this contract. The CAF is paid by the ordering activity but remitted to GSA by the Contractor. GSA has the unilateral right to change the fee structure at any time, but not more than once per year; GSA will provide reasonable notice prior to the effective date of any change.

(2) Within 60 calendar days of award or inclusion of this clause in the contract, a GSA representative will provide the Contractor with specific written procedural instructions on remitting the CAF, including the deadline by which the Contractor must remit the CAF. The deadline specified in the written procedural instructions will be no less than 30 calendar days after the last calendar day of the month. GSA reserves the unilateral right to change remittance instructions following 60 calendar days' advance notification to the Contractor.

(3) The Contractor must remit the CAF to GSA in U.S. dollars.

(4) The Contractor's failure to remit the full amount of the CAF within the specified deadline constitutes a contract debt to the United States Government under the terms of FAR Subpart 32.6. The Government may exercise all rights under the Debt Collection Improvement Act of 1996, including withholding or offsetting payments and interest on the debt (see FAR clause 52.232-17, Interest). If the Contractor fails to submit the required sales reports, falsifies them, or fails to timely pay the CAF, these reasons constitute sufficient cause for the Government to terminate the contract for cause.

(End of Clause)]

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552.238-74 Industrial Funding Fee and Sales Reporting.

As prescribed in 538.273(b)(1), insert the following clause:

INDUSTRIAL FUNDING FEE AND SALES REPORTING (MAY 2014)

*** * ***

[Alternate I (Date): As prescribed in 538.273(b)(1), substitute the following paragraphs (a), (b), (c), and (d) for paragraphs (a), (b), (c), and (d) of the basic clause:

(a) Definitions.

(1) "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.

(b) Reporting of Transactional Data. The Contractor must report all transactional data under this contract as follows:

(1) The Contractor must electronically report transactional data by utilizing the automated reporting system at an Internet website designated by the General Services Administration (GSA) or by uploading the data according to GSA instructions. GSA will post registration instructions and reporting procedures on the Vendor Support Center website, <https://vsc.gsa.gov>. The reporting system website address, as well as registration instructions and reporting procedures, will be provided at the time of award or inclusion of this clause in the contract.

(2) 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.

[Note to paragraph (b)(2): The Contracting Officer may add data elements to the standard elements listed above in this fill-in with the approvals listed in GSAM 507.105(c)(3).]

(3) The contractor must report transactional data within 30 calendar days from the last calendar day of the month. If there was no contract activity during the month, the Contractor must submit a confirmation of no reportable transactional data within 30 calendar days of the last calendar day of the month.

(4) The Contractor must report the price paid per unit, total price, or any other data elements with an associated monetary value listed in (b)(2) above, in U.S. dollars.

(5) The reported price paid per unit and total price must include the Industrial Funding Fee (IFF).

(6) The Contractor must maintain a consistent accounting method of

transactional data reporting, based on the Contractor's established commercial accounting practice.

(7) Reporting Points.

(i) The acceptable points at which transactional data may be reported include—

(A) Issuance of an invoice; or

(B) Receipt of payment.

(ii) The Contractor must determine whether to report transactional data on the basis of invoices issued or payments received.

(8) The Contractor must continue to furnish reports, including confirmation of no transactional data, through physical completion of the last outstanding task or delivery order of the contract.

(9) Unless otherwise expressly stated by the ordering activity, orders that contain classified information or other information that would compromise national security are exempt from this reporting requirement.

(10) This clause does not exempt the Contractor from fulfilling existing reporting requirements contained elsewhere in the contract.

(11) GSA reserves the unilateral right to change reporting instructions following 60 calendar days' advance notification to the Contractor.

(c) Industrial Funding Fee (IFF).

(1) This contract includes an IFF charged on orders placed against this contract. The IFF is paid by the authorized ordering activity but remitted to GSA by the Contractor. The IFF reimburses GSA for the costs of operating the Federal Supply Schedule program, as set forth in 40 U.S.C. 321: Acquisition Services Fund. Net operating revenues generated by the IFF are also applied to fund initiatives benefitting other authorized GSA programs, in accordance with 40 U.S.C. 321.

(2) GSA has the unilateral right to change the fee amount at any time, but not more than once per year; GSA will provide reasonable notice prior to the effective date of any change. GSA will post notice of the current IFF on the Vendor Support Center website at <https://vsc.gsa.gov>.

(3) Offerors must include the IFF in their prices. The fee is included in the awarded price(s) and reflected in the total amount charged to ordering activities. The fee will not be included in the price of non-contract items purchased pursuant to a separate contracting authority, such as a Governmentwide Acquisition Contract (GWAC); a separately awarded Federal Acquisition Regulation (FAR) Part 12, FAR Part 13, FAR Part 14, or FAR Part 15 procurement; or a non-FAR contract.

(4) The Contractor must remit the IFF to GSA in U.S. dollars within 30 calendar days after the last calendar day of the reporting quarter; final payment must be remitted within 30 calendar days after physical completion of the last outstanding task order or delivery order issued against the contract.

(5) GSA reserves the unilateral right to change remittance instructions following 60 calendar days' advance notification to the Contractor.

(d) The Contractor's failure to remit the full amount of the IFF within 30 calendar days after the end of the applicable reporting period constitutes a contract debt to the United States Government under the terms of FAR Subpart 32.6. The Government may exercise all rights under the Debt Collection Improvement Act of 1996, including

withholding or offsetting payments and interest on the debt (see FAR clause 52.232-17, Interest). If the Contractor fails to submit the required transactional data reports, falsifies them, or fails to timely pay the IFF, these reasons constitute sufficient cause for the Government to terminate the contract for cause.

(End of Clause)

552.238-75 Price Reductions.

*** * * * ***

[Alternate II (Date). As prescribed in 538.273(b)(2)(ii), substitute the following paragraph (a) and (b) for paragraphs (a), (b), (c), (d), (e), (f) and (g) of the basic clause:

(a) The Government may request from the Contractor, and the Contractor may provide to the Government, a temporary or permanent price reduction at any time during the contract period.

(b) The Contractor may offer the Contracting Officer a voluntary price reduction at any time during the contract period.]

(End of Clause)

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552.238-81 Modification (Federal Supply Schedule).

As prescribed in 538.273(b), insert the following clause:

MODIFICATIONS (FEDERAL SUPPLY SCHEDULE) (APR 2014)

(a) General. The Contractor may request a contract modification by submitting a request to the Contracting Officer for approval, except as noted in paragraph (d) of this clause. At a minimum, every request shall describe the proposed change(s) and provide the rationale for the requested change(s).

(b) Types of Modifications.

(1) Additional items/additional SINS. When requesting additions, the following information must be submitted:

(i) Information requested in paragraphs (1) and (2) of the Commercial Sales Practice Format to add SINS.

(ii) Discount information for the new items(s) or new SIN(s). Specifically, submit the information requested in paragraphs 3 through 5 of the Commercial Sales Practice Format. If this information is the same as the initial award, a statement to that effect may be submitted instead.

(iii) Information about the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(iv) Delivery time(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(v) Production point(s) for the new item(s) or the item(s) under the new SIN(s) must be

submitted if required by FAR 52.215-6, Place of Performance.

(vi) Hazardous Material information (if applicable) must be submitted as required by FAR 52.223-3 (Alternate I), Hazardous Material Identification and Material Safety Data.

(vii) Any information requested by FAR 52.212-3(f), Offeror Representations and Certifications-Commercial Items, that may be necessary to assure compliance with FAR 52.225-1, Buy American Act-Balance of Payments Programs-Supplies.

(2) Deletions. The Contractors shall provide an explanation for the deletion. The Government reserves the right to reject any subsequent offer of the same item or a substantially equal item at a higher price during the same contract period, if the contracting officer finds the higher price to be unreasonable when compared with the deleted item.

(3) Price Reduction. The Contractor shall indicate whether the price reduction falls under the item (i), (ii), or (iii) of paragraph (c)(1) of the Price Reductions clause at 52.238-75. If the Price reduction falls under item (i), the Contractor shall submit a copy of the dated commercial price list. If the price reduction falls under item (ii) or (iii), the Contractor shall submit a copy of the applicable price list(s), bulletins or letters or customer agreements which outline the effective date, duration, terms and conditions of the price reduction.

(c) Effective dates. The effective date of any modification is the date specified in the modification, except as otherwise provided in the Price Reductions clause at 52.238-75.

(d) Electronic File Updates. The Contractor shall update electronic file submissions to reflect all modifications. For additional items or SINs, the Contractor shall obtain the Contracting Officer's approval before transmitting changes. Contract modifications will not be made effective until the Government receives the electronic file updates. The Contractor may transmit price reductions, item deletions, and corrections without prior approval. However, the Contractor shall notify the Contracting Officer as set forth in the Price Reductions clause at 52.238-75.

(e) Amendments to Paper Federal Supply Schedule Price Lists.

(1) The Contractor must provide supplements to its paper price lists, reflecting the most current changes. The Contractor may either:

(i) Distribute a supplemental paper Federal Supply Schedule Price List within 15 workdays after the effective date of each modification.

(ii) Distribute quarterly cumulative supplements. The period covered by a cumulative supplement is at the discretion of the Contractor, but may not exceed three calendar months from the effective date of the earliest modification. For example, if the first modification occurs in February, the quarterly supplement must cover February-April, and every three month period after. The Contractor must distribute each quarterly cumulative supplement within 15 workdays from the last day of the calendar quarter.

(2) At a minimum, the Contractor shall distribute each supplement to those ordering activities that previously received the basic document. In addition, the Contractor shall submit two copies of each supplement to the Contracting Officer and one copy to the FSS Schedule Information Center.

Alternate I (Apr 2014). As prescribed in 538.273(b)(3) [(i)] add the following paragraph (f) to the basic clause:

(f) Electronic submission of modification requests is mandatory via eMod (<http://eOffer.gsa.gov>), unless otherwise stated in the electronic submission standards and

requirements at the Vendor Support Center website (<http://vsc.gsa.gov>). If the electronic submissions standards and requirements information is updated at the Vendor Support Center website, Contractors will be notified prior to the effective date of the change.

(End of clause)

[Alternate II (Date). As prescribed in 538.273(b)(3)(ii), substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b) Types of Modifications.

(1) Additional items/additional SINs. When requesting additions, the Contractor must submit the following information:

(i) Information about the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the instructions in the solicitation.

(ii) Delivery time(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(iii) Production point(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted if required by FAR 52.215-6, Place of Performance.

(iv) Hazardous Material information (if applicable) must be submitted as required by FAR 52.223-3 (Alternate I), Hazardous Material Identification and Material Safety Data.

(v) Any information requested by FAR 52.212-3(f), Offeror Representations and Certifications-Commercial Items, that may be necessary to assure compliance with FAR 52.225-1, Buy American Act-Balance of Payments Programs-Supplies.

(2) Deletions. The Contractor must provide an explanation for the deletion. The Government reserves the right to reject any subsequent offer of the same item or a substantially equal item at a higher price during the same contract period, if the Contracting Officer determines that the higher price is unreasonable compared to the price of the deleted item.]