



May 11, 2015

General Services Administration  
Regulatory Secretariat Division (MVCB)  
ATTN: Hada Flowers  
1800 F Street, NW, 2nd Floor  
Washington, DC 20405-0001

Subject: GSAR Case 2013-G504 – Transactional Data Reporting

Dear Ms. Flowers:

The Project On Government Oversight (POGO) provides the following opposition to GSAR Case 2013-G504, “Transactional Data Reporting” (80 Fed. Reg. 11619, March 4, 2015; 80 Fed. Reg. 259940). Our opposition is based on the fact removing the price reduction clause, which requires contractors to automatically provide the government with discounts offered to the contractor’s “most favored customer” will result in lost savings. Currently, the price reduction clause forces contractors to lower their prices to ensure that the government is getting the best possible prices available. The proposed rule will remove pricing safeguards and only require that contractors disclose government prices paid to other government agencies, which will ignore any savings found in the commercial market.

The proposed rule, issued by the General Services Administration (GSA), would amend the GSA Acquisition Regulation (GSAR) to insert in contracts a clause requiring contractors to report transactional data from orders and prices paid by ordering agencies, which is shortsighted. Transactional data would be reported for Federal Supply Schedule (FSS) contract vehicles and GSA’s non-FSS contract vehicles—Government-wide Acquisition Contracts (GWACs) and Government-wide Indefinite Delivery, Indefinite Quality (IDIQ) contracts. The new contract clause reporting requirements would eliminate the need for certain aspects of the price reductions clause, but GSA would also retain the right to request updated commercial sales data where government commercial benchmarks are insufficient to establish price reasonableness. GSA has done its best to put a positive spin on its proposed rule, but this proposal is out of step with best buying practices.

According to GSA, “[t]he current lack of transparency on prices paid by government customers has led to significant price variation, sometimes 300 percent or more, for identical purchases by federal agencies from the same commercial vendor as well as the unnecessary duplication of contract vehicles.”

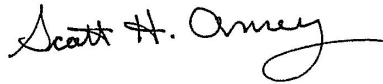
Although POGO fully understands GSA’s attempt to share transactional data to rein in price variations, removing commercial market pricing safeguards will prevent the government from getting the best possible deal. That result undermines the basic premise of the schedules and

commercial buying of goods or services that are offered in the phone book and at the local mall where competition already rules the day. Unfortunately, the government is buying as commercial a lot of goods and services that are not offered or actually sold anywhere but to the government, and the proposed rule will only expand that practice and result in lost savings.

Additionally, the proposed rule would place a burden on vendors to report prices paid by the government and require the government to evaluate those prices according to commercial benchmarks. In an era when the federal government is trying to ease burdens on agencies and speed up the contracting process, the proposed rule seems to do the opposite. In fact, asking federal agencies to evaluate government prices and guess at commercial prices defeats the purposes of the Schedules altogether.

Thank you for your consideration of this comment. If you have any questions, please feel free to contact me at (202) 347-1122.

Sincerely,

A handwritten signature in black ink that reads "Scott H. Amey". The signature is written in a cursive style with a long, sweeping tail on the letter "y".

Scott H. Amey  
General Counsel