

FOR FURTHER INFORMATION CONTACT:
Kathleen Scheuerle, Mass Media
Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MM Docket No. 91-240, adopted March 30, 1995, and released April 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, D.C. 20037, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by removing Channel 241A and adding Channel 242C2 at Peshtigo.

Federal Communications Commission.

John A. Karousos,

*Chief, Allocations Branch, Policy and Rules
Division, Mass Media Bureau.*

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BILLING CODE 6712-01-F

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 538 and 552

[APD 2800.12A CHGE 61]

General Services Administration Acquisition Regulation; Implementation of Industrial Funding for Federal Supply Schedules

AGENCY: Office of Acquisition Policy,
GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to modify the prescription for the Contractor's Report of Orders Received clause to reflect the new title of the clause and to add a prescription for the new Industrial

Funding Fee clause; to reflect the new title of the clause in section 552.238-72 and to modify the clause to delete references to "orders" and substitute "sales," and to extend the time for submitting reports from 15 days following the reporting period to 30 days; and to provide the text of the new Industrial Funding Fee clause. GSA's Federal Supply Service will include the new Industrial Funding Fee clause in Federal Supply Schedule solicitations and contracts. The clause provides instructions for remittance of an industrial funding fee based on quarterly sales reported by contractors under Federal Supply Schedule contracts. The amount of the fee is determined by the Commissioner, Federal Supply Service. It has been determined that the initial fee will be 1 percent.

Fees will be included in the prices charged to ordering activities and contract award prices will reflect the total amounts charged. Federal Supply Schedule contractors will remit fees to the General Services Administration based on quarterly contract sales. GSA will recoup its costs from the ordering activities through the contractor's quarterly remittance.

The General Services Administration will use the industrial funding fee to fund the cost of providing supplies and services through the Federal Supply Schedule Program. As solicitations are issued with the new clause, the program will convert from an operation funded through congressional appropriations to a reimbursable activity. GSA's fiscal year 1995 budget reflects a \$7.8 million reduction in operating expenses for the schedules program. The remaining appropriated monies for the program will be eliminated over the next two fiscal years.

DATES: Effective Date: April 18, 1995.

Compliance Date: Solicitations issued and contracts awarded after April 18, 1995, shall comply with this change. Existing Federal Supply Schedule contracts shall be modified over the next 2 years in accordance with the time schedule established by the Commissioner of the Federal Supply Service or a designee.

FOR FURTHER INFORMATION CONTACT:
Les Davison, Office of GSA Acquisition
Policy, (202) 501-1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

A notice of proposed rulemaking was published in the **Federal Register** on December 27, 1994. Comments received from other Federal agencies and from vendors were considered in formulating

this final rule. The notice and significant issues and concerns raised during the comment period are summarized below.

The notice of December 27, 1994, proposed implementation of industrial funding of the Federal Supply Schedule Program by adjusting schedule prices upward by 1 percent. Under this concept, published schedule prices would include the 1 percent adjustment. Agencies would order from the contractor at the adjusted price; the contractor would invoice GSA to the award price; GSA would bill agencies the adjusted price and retain the difference to fund the program.

Twenty-two responses were received from Federal agencies. These agencies, for the most part, objected to the proposed procedure as administratively burdensome. Most agencies did not want GSA to become the centralized billing and payment point for schedule transactions. Objections were based primarily on potential disruptions of their own agency accounting systems for agency procedures. Some agencies stated that they would have to create separate systems just for schedule purchases if the proposal was adopted. Nearly all agencies perceived the proposed centralized billing and payment system to be cumbersome, intrusive and unnecessarily bureaucratic.

Other concerns frequently raised by agencies included payments to vendors without proper verification of acceptance; payment of the 1 percent fee for nonschedule items included on purchase orders for schedule items; and problems associated with use of the Governmentwide credit card under such a system.

Fourteen vendors and associations responded. Their responses for the most part indicated that they did not wish GSA to assume the role of centralized billing and payment point; that they did not want to adjust their agency pricelists to reflect a price other than the contract award price; and that they found it burdensome that the agency purchase order would not reflect their invoiced amounts.

Based on these comments received from Federal agencies and industry, the GSA has determined that implementation of industrial funding of the Federal Supply Schedule Program must be accomplished in the least disruptive manner possible to both agencies and contractors and that the concerns raised must be alleviated.

To accomplish this, GSA has considered a number of alternatives suggested by both Federal agencies and industry. Many respondents suggested

that the General Services Administration collect its 1 percent fee on a periodic basis, monthly or quarterly, based on the value of orders placed. While several agencies suggested we accomplish this by billing the agencies, GSA, in light of issues raised regarding centralized payment and billing, does not wish to impose any additional burden on its customer agencies.

Therefore, in order to implement industrial funding while addressing the concerns expressed by respondents to the previous proposal, GSA has determined that the most efficient and least disruptive method of obtaining the funding is by recouping its costs from ordering activities through a quarterly remittance from contractors based on reported sales. This method will require no changes in agency ordering or paying procedures and will have minimal impact on schedule contractors.

GSA plans to include an initial 1 percent Industrial Funding Fee (IFF) in its contract award prices which will be reflected in the total amount charged to ordering activities. The award price or discount appearing in schedule pricelists will already include the 1 percent IFF. The ordering activity will order from the pricelists and pay contractors in accordance with current procedures. Schedule contractors will then remit to GSA on a quarterly basis 1 percent of the sales under schedule contracts.

To facilitate this change in funding the Federal Supply Schedule Program, the GSA Form 72A, Contractor's Report of Orders Received, will be clarified regarding procedures for reporting.

B. Executive Order 12866

This rule was submitted to the Office of Management and Budget under Executive Order 12866.

C. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Contractors awarded Federal Supply Schedule contracts by GSA's Federal Supply Service will be impacted by this rule. Currently, the FSS has 4,922 schedule contracts which involve sales of approximately \$2.7 billion per annum. Seventy six (76) percent of the schedule contracts are held by small business concerns. The changes to the Report of Orders Received clause are either minor clarifications or will be beneficial to contractors, including small business, because they increase the time available to contractors for submitting the report;

allow for quarterly summaries instead of monthly data; and provide sales rather than orders received which is consistent with commercial recordkeeping practices. The new clause, which provides for payment of an industrial funding fee, will not have a significant economic impact on contractors because the fee will be included in the contract price(s) and will be taken into account during the negotiation of the schedule contract. The procedures established in the new clause for collection of the industrial funding fee represent the least burdensome alternative to both Federal agencies and contractors. Therefore, a final regulatory flexibility analysis was not prepared.

D. Paperwork Reduction Act

The revised clause at 552.238-72, Contractor's Report of Sales, contains an information collection requirement that is subject to the Paperwork Reduction Act (44 U.S.C. 3501 et sequentia) that has previously been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and assigned control number 3090-0121. The changes made to the clause by this rule do not have an impact on the information collection requirement which was previously approved. Therefore, it has not been submitted to OMB for approval under the Act.

The new clause at 552.238-77, Industrial Funding Fee, contains an information collection requirement that is subject to the Paperwork Reduction Act (44 U.S.C. 3501 et sequentia). The clause provides for certain information to be submitted on the check or with the payment of the industrial funding fee in order to permit GSA to identify the payment as an industrial funding fee and match it with the appropriate contract and reporting period. This information is the same as is normally required when transmitting payments in the commercial world and does not represent a Government-unique information collection. Therefore, the estimated burden for this clause under the Paperwork Reduction Act is zero. GSA has a blanket approval under control number 3090-0250 from OMB for information collections with a zero burden estimate.

Comments on the information collections cited above may be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Washington, DC 20503 and to the Office of Acquisition Policy (V), GSA, 18th & F Streets, NW, Washington, DC 20405.

List of Subjects in 48 CFR Parts 538 and 552

Government procurement.

Accordingly, 48 CFR Parts 538 and 552 are amended as follows:

1. The authority citation for 48 CFR Parts 538 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 538—GSA SCHEDULE CONTRACTING

2. Section 538.203-71 is amended by revising paragraph (a) and adding a new paragraph (f) to read as follows:

538.203-71 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the clause at 552.238-72, Contractor's Report of Sales, in solicitations issued and contracts awarded under GSA's schedule program. Paragraph (b) may be modified as necessary to meet program requirements. If it is necessary to identify the official responsible for preparing the report, the contracting officer may use the clause with its Alternate I. When the clause is used by IRMS the contracting officer shall use the clause with its Alternate II.

* * * * *

(f) Contracting officers in the Federal Supply Service (FSS) shall insert the clause at 552.238-77, Industrial Funding Fee, in solicitations and contracts awarded under the single award schedule and multiple award schedule programs.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 552.238-72 is amended by revising the heading and revising paragraphs (a) and (b) of the basic clause to read as follows:

552.238-72 Contractor's report of sales.

* * * * *

Contractor's Report of Sales (APR 1995)

(a) Contractors shall furnish quarterly the dollar value (rounded to the nearest whole dollar) of all sales under the contract during the preceding 3-month period to include any partial month. A separate report for each National Stock Number (NSN), Special Item Number (SIN), or subitem shall be prepared and submitted, unless otherwise specified, on GSA Form 72A.

(b) The report is due in the office specified below or specified at the time of award 30 days following the completion of the reporting period. A report is required even when no sales occur during the reporting period. Sales for orders that extend beyond the contract period will be reported within 60 days of final delivery.

* * * * *

4. Section 552.238-77 is added to read as follows:

552.238-77 Industrial funding fee.

As prescribed in 538.203-71(f), insert the following clause:

Industrial Funding Fee (APR 1995)

(a) Contractors shall pay the Federal Supply Service, GSA, an industrial funding fee (IFF) at the end of each contract quarter. The IFF shall be remitted at the same time the GSA Form 72A, Contractor's Report of Sales, is submitted under clause 552.238-72, Contractor's Report of Sales. The IFF equals _____ * of total sales reported on GSA Form 72A. The IFF reimburses the GSA Federal Supply Service for the costs of operating the Federal Supply Schedules Program and recoups its operating costs from ordering activities. Offerors should include the IFF in the prices submitted with their offer. The fee will be included in the award price(s) and reflected in the total amount charged to ordering activities.

(b) The IFF amount due shall be paid by check or electronic funds transfer to the "General Services Administration." Where multiple special item numbers and/or contracts are involved, the IFF's may be consolidation into one payment. To ensure that the payment is credited properly, the Contractor should identify the check or electronic transmission as an "Industrial Funding Fee" and include the following information: contract number(s); report amount(s); and report period(s).

(1) If the IFF payment is made by check, it should be forwarded to the following address:

General Services Administration

(2) If the IFF payment is made by electronic funds transfer through the Automated Clearing House (ACH), the Contractor should provide their financial institution with the following information for use in making payments: (i) the ACH Transmission Routing Number of the [Contracting officer to insert the name of the bank]: [Contracting officer to insert the Routing Number] and (ii) the GSA Account Number: [Contracting officer to insert the GSA Account Number]. Contractors may call [Contracting officer to insert the phone number] (GSA Accounts Receivable) with questions regarding payments through the ACH.

(c) If the full amount of the IFF is not paid within 30 calendar days after the end of the applicable reporting period, it shall constitute a contract debt to the United States Government under the terms of FAR 32.6. The Government may exercise all rights under the Debt Collection Act of 1982, including withholding or setting off payments and interest on the debt (see FAR 52.232-17, Interest).

(d) Failure to submit sales reports, falsification of sales reports, and/or failure to pay the IFF in a timely manner may result in termination or cancellation of this contract. Willful failure or refusal to furnish

the required reports, falsification of sales reports, or failure to make timely payment of the IFF constitutes a cause for terminating the contractor for default under FAR 52.249-9, Default (Fixed-Priced Supply and Service). (End of Clause)

*The percentage amount of the fee to be inserted in the above clause shall be determined and provided to contracting officers by the Commissioner, Federal Supply Service, or a designee.

Dated: March 27, 1995.

Ida M. Ustad,

Associate Administrator for Acquisition Policy.

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48 CFR Parts 552 and 570

[APD 2800.12A CHGE 60]

RIN-AF66

General Services Administration Acquisition Regulation; Leasing Real Property

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to modify the Proposals for Adjustment clause to reflect the statutory increase in the threshold for submission of cost or pricing data from \$100,000 to \$500,000; to reflect the current small business size standard in the definition of small business; to eliminate requirements for obtaining appraisals in connection with the acquisition of leasehold interests in real property; to reflect the new statutory threshold of \$500,000 for submission of cost or pricing data and to make other editorial changes for clarity; to reflect the elimination of requirements for appraisals and to eliminate reference to automatic renewal clauses which are no longer used; to reflect the new statutory threshold of \$500,000 for submission of cost or pricing data; and to remove the requirement for Forms 387, Analysis of Value Statement, 3516, Solicitation Provisions, 3517, General Clauses, and 3518, Representations and Certifications. GSA is deleting all forms which contain solicitation provisions and/or contract clauses from the regulation. The regulation will continue to prescribe solicitation provisions and/or contract clauses which are to be included in solicitations or contracts.

EFFECTIVE DATE: April 18, 1995.

FOR FURTHER INFORMATION CONTACT: Tom Wiznowski, Office of GSA Acquisition Policy, (202) 501-1224.

SUPPLEMENTARY INFORMATION:

A. Background

This rule implements section 1251 of the Federal Acquisition Streamlining Act (FASA), Pub. L. 103-355, October 13, 1994 as it applies to the acquisition of leasehold interests in real property. Section 1251, among other things, increased the threshold for submission of cost or pricing data from \$100,000 to \$500,000 for civilian agencies. The increase in the threshold was effective upon enactment. FASA also provides that prime contracts entered into on or before the effective date of enactment of FASA shall be amended, without requiring consideration, to reflect the increased threshold upon the request of a contractor.

This rule also implements one of the recommendations made by a GSA process re-engineering team for improving the process for acquiring leasehold interests in real property. The reengineering team recommended that the requirement for obtaining appraisals in connection with certain leases of real property be eliminated. This rule eliminates the requirement for appraisals but provides for the use of a market survey or an appraisal to establish a basis for use of the market price exemption from the requirement for obtaining certified cost or pricing data.

B. Executive Order 12866

This rule was submitted to the Office of Management and Budget under Executive Order 12866.

C. Regulatory Flexibility Act

The General Services Administration certifies that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because most leases of real property awarded to small entities are awarded on a competitive basis or on the basis of an established market price and the requirement for certified cost or pricing data do not apply. The elimination of the requirement for obtaining an appraisal in certain circumstances when acquiring a leasehold interest will have no impact on small entities offering to lease space to the Government. Therefore, a final regulatory flexibility analysis was not prepared.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping information collection requirements or collection of information from offerors,