

further delay prior coordination for the mix of signals needed to effect transition to DTV pending the development of more detailed criteria.

Ordering Clauses

8. Pursuant to sections 4(i) of the Communications Act, as amended, 47 U.S.C. 154(i), and 1.429 (k) of the Commission's rules, 47 CFR 1.429 (k), that the Society of Broadcast Engineers' Request for Temporary Stay of the rules *is granted*, suspending effect of these rules until October 16, 2003.

Federal Communications Commission.

Geraldine Matise,

*Deputy Chief, Policy and Rules Division,
Office of Engineering and Technology.*

[FR Doc. 03-17569 Filed 7-10-03; 8:45 am]

BILLING CODE 6712-01-P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 538, and 552

[GSAR Amendment 2003-02; GSAR Case No. 2002-G507]

RIN 3090-AH79

General Services Administration Acquisition Regulation; Consolidation of Industrial Funding Fee and Sales Reporting Clauses; Reduction in Amount of Industrial Funding Fee

AGENCIES: General Services Administration (GSA), Office of Acquisition Policy.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to give GSA's Federal Supply Service (FSS) the unilateral right to change the percentage rate of the Industrial Funding Fee (IFF) in Multiple Award Schedule (MAS) contracts. The final rule also modifies and consolidates provisions of two existing GSA clauses that implement collection of the IFF by FSS on sales from all Federal Supply Schedule contracts. These clauses are Industrial Funding Fee and Contractor's Report of Sales. They have been consolidated into a single clause, Industrial Funding Fee and Sales Reporting. This new clause eliminates duplicative information from the preceding clauses, clarifies sales reporting procedures, and describes the procedures FSS will utilize to unilaterally effect future IFF rate changes.

Additionally, while the GSAR does not specify the percentage rate of the IFF, GSA's Federal Supply Service

intends to lower the current IFF rate from 1.0 percent to 0.75 percent of reported sales, effective January 1, 2004. The final rule gives GSA's Federal Supply Service the authority to change the IFF after consulting with OMB prior to effecting any future changes.

The January 1, 2004, change will be implemented by means of a bilateral contract modification to be executed electronically. As consideration to Federal Supply Schedule contractors for any potential costs incurred as the direct result of this change, FSS will allow these vendors to continue to include the 1 percent IFF in their contract prices until December 31, 2003, but to forward to FSS an IFF of 0.75 percent for reported sales for the period of October 1, 2003, through December 31, 2003. Examples of the type of costs GSA anticipates contractors could incur include updating published prices and modifying accounting systems.

DATES: *Effective Date:* July 11, 2003.

Applicability Date: Solicitations issued and contracts awarded after July 1, 2003, shall comply with this change. Existing FSS contracts shall be modified by December 31, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie Duarte, Regulatory Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501-4225, for information pertaining to status or publication schedules. For clarification of content, contact Vonda J. Sines, Procurement Analyst, at (703) 305-7542, or Linda Nelson, Procurement Analyst, at (202) 501-1900. Please cite GSAR Amendment 2003-02, GSAR case 2002-G507. The TTY Federal Relay Number for further information is 1-800-877-8973.

SUPPLEMENTARY INFORMATION:

A. Background

The General Services Administration published a proposed rule in the **Federal Register** at 68 FR 13212, March 18, 2003, with request for comments. Comments were received from 11 respondents, representing individual vendors as well as associations. GSA considered all comments and concluded that the proposed rule should be converted to a final rule with certain changes. Accordingly, the final rule:

1. Revises the clause at 552.238-74(a)(3) to make clear that reportable sales do not include those made under FAR Part 14 or non-FAR contracts, but do include sales to states and localities under Cooperative Purchasing authority.

2. Makes minor restructuring and editorial changes to the clause at 552.238-74 to provide a clearer intent of the clause language.

3. Adds the words "and Sales Reporting" to the clause at 552.215-71, Examination of Records by GSA (Multiple Award Schedules).

B. Summary and Discussion of Significant Public Comments

1. *IFF not currently included.* Five Schedule contractors indicated that they did not realize the IFF was intended to be passed on to their customers.

Response: GSA intends that the IFF cost be borne by the customer and merely collected and remitted by Schedule contractors. All current Multiple Award Schedule (MAS) contracts contain the clause at 552.238-76, Industrial Funding Fee. This clause requires that the IFF be included in the award price(s) and reflected in the total amount charged to ordering activities. GSA is consolidating and streamlining the current Industrial Funding Fee and Contractor's Report of Sales clauses to make doing business with the agency easier for Schedule contractors.

2. *Covered sales.* Three respondents stated that a sale should be subject to the IFF only if the order references the vendor's GSA Schedule or both the vendor and the purchasing agency agree that the purchase is being made under the vendor's MAS contract. They further commented that GSA should not require a vendor to provide the burden of proof that a sale was made outside the Schedule.

Response: Under current policy, GSA will consider the totality of the circumstances in determining if a sale is subject to the IFF. The final rule does not alter this policy, but recognizes various circumstances under which a sale would not be subject to the IFF (e.g., contracts awarded under FAR parts 12, 13, 14, or 15, or a non-FAR contract). This clarification is designed to help ensure that sales conducted outside the authority of the Schedules program are not made subject to the IFF, even if the product or service being purchased is also available on a Schedule contract.

Since vendors always have the ability to make sales outside the Schedule, they need to establish with their customers at the time of order placement whether a sale is being conducted under or outside the Schedule. This distinction is important, since FSS, as a fee-for-service operation, must rely on the fees generated from Schedule sales to cover expenses associated with the MAS program.

3. *Consideration.* Five comments suggested that the costs of reprinting price lists/catalogs or of maintaining separate price lists are substantially greater than the consideration offered,