

Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

D. 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 within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the purpose of the rule is to assign to GSA the sole discretion to set the rate of the IFF and to clarify for contractors how to handle changes in the IFF. The rule also modifies and consolidates the provisions of two existing GSAR clauses in terms of sales reporting and procedures changes when the IFF rate changes. While some 78 percent of the Federal Supply Schedule contracts represent small business concerns, all contractors holding Federal Supply Schedules are already required to report quarterly sales and to periodically submit the Industrial Funding Fee to FSS. The final rule does not change these two requirements. It does require both small and large businesses to execute appropriate bilateral contract modifications and to make changes to published prices and accounting systems. GSA will mitigate the anticipated cost to contractors for these changes by offering consideration based on reported sales for the period of October 1, 2003, through December 31, 2003.

E. Paperwork Reduction Act

Prior clause 552.238-74, Contractor's Report of Sales, contained an information requirement subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) that was previously approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and assigned control number 3090-0121. Prior clause 552.238-76, Industrial Funding Fee, also contains an information collection requirement that is subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). However, the estimated burden for this clause has been determined to be zero, and GSA has a blanket approval under control number 3090-0250 from OMB for information collections with a zero burden estimate.

The consolidation of information from these two clauses into a single clause results in no additional burden and, therefore, no additional approval from OMB is required.

List of Subjects in 48 CFR Parts 501, 538, and 552

Government procurement.

Dated: July 7, 2003.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy.

■ Therefore, GSA amends 48 CFR parts 501, 538, and 552 as set forth below:

■ 1. The authority citation for 48 CFR parts 501, 538, and 552 continues to read as follows:

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

PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION SYSTEM

501-106 [Amended]

■ 2. Amend section 501.106 at GSAR reference 552.238-74 by removing the OMB Control Number "3090-0121" and adding "3090-0121 & 3090-0250" in its place.

■ 3. Amend section 538.273 by revising paragraph (b)(1); and by removing paragraph (b)(3). The revised text reads as follows:

538.273 Contract clauses.

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(b) * * *

(1) 552.238-74, Industrial Funding Fee and Sales Reporting.

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PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Amend section 552.212-71 by revising the date of the clause; and in paragraph (b) by revising entry 552.238-74 to read as follows:

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

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Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Items (July 2003)

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(b) *Clauses.*

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552.238-74 Industrial Funding Fee and Sales Reporting

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552.212-72 [Amended]

■ 5. Amend section 552.212-72 by revising the date of the clause to read "(July 2003)"; and by removing from the end of paragraph (b) "552.238-76 Industrial Funding Fee".

552.215-71 [Amended]

■ 6. Amend section 552.215-71 by revising the date of the clause to read "(JULY 2003)"; and in the first sentence

of the clause by adding "and Sales Reporting" after the word "Fee".

■ 7. Revise section 552.238-74 to read as follows:

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 (July 2003)

(a) *Reporting of Federal Supply Schedule Sales.* The Contractor shall report all contract sales under this contract as follows:

(1) The Contractor shall accurately report the dollar value, in U.S. dollars and rounded to the nearest whole dollar, of all sales under this contract by calendar quarter (January 1–March 31, April 1–June 30, July 1–September 30, and October 1–December 31). The dollar value of a sale is the price paid by the Schedule user for products and services on a Schedule task or delivery order. The reported contract sales value shall include the Industrial Funding Fee (IFF). The Contractor shall maintain a consistent accounting method of sales reporting, based on the Contractor's established commercial accounting practice. The acceptable points at which sales may be reported include—

- (i) Receipt of order;
- (ii) Shipment or delivery, as applicable;
- (iii) Issuance of an invoice; or
- (iv) Payment.

(2) Contract sales shall be reported to FSS within 30 calendar days following the completion of each reporting quarter. The Contractor shall continue to furnish quarterly reports, including "zero" sales, through physical completion of the last outstanding task order or delivery order of the contract.

(3) Reportable sales under the contract are those resulting from sales of contract items to authorized users unless the purchase was conducted pursuant to a separate contracting authority such as a Governmentwide Acquisition Contract (GWAC); a separately awarded FAR Part 12, FAR Part 13, FAR Part 14, or FAR Part 15 procurement; or a non-FAR contract. Sales made to state and local governments under Cooperative Purchasing authority shall be counted as reportable sales for IFF purposes.

(4) The Contractor shall electronically report the quarterly dollar value of sales, including "zero" sales, by utilizing the automated reporting system at an Internet website designated by the General Services Administration (GSA)'s Federal Supply Service (FSS). Prior to using this automated system, the Contractor shall complete contract registration with the FSS Vendor Support Center (VSC). The website address, as well as registration instructions and reporting procedures, will be provided at the time of award. The Contractor shall report sales separately for each National Stock Number (NSN), Special Item Number (SIN), or sub-item.

(5) The Contractor shall convert the total value of sales made in foreign currency to U.S. dollars using the "Treasury Reporting Rates of Exchange" issued by the U.S. Department of Treasury, Financial