

GSA's Transactional Data Reporting (TDR) Pilot Gets Green Light For Expansion, Despite Blistering Criticism From GSA OIG

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Despite a highly critical audit report from the General Services Administration (GSA) Inspector General (OIG), GSA has nevertheless signaled its intent to continue with a "focused expansion" of its controversial Transactional Data Reporting (TDR) program.

As reported in prior alerts, the TDR program replaces the equally controversial Commercial Sales Practices (CSP) disclosures and Price Reductions Clause (PRC) tracking requirements that GSA traditionally relied on to ensure that GSA Schedule prices are fair and reasonable. Instead, TDR requires Schedule contractors to report transaction-level (i.e., order level) information regarding the actual discounts granted to individual GSA Schedule buyers, and contemplates that GSA contracting personnel will use this transaction-level pricing information to drive down prices at the Schedule level.

GSA OIG, which has issued a number of reports criticizing the TDR program, on June 24 issued its latest scathing report which found that the TDR pilot "is not meeting its intended purpose of improving taxpayer value." Among other shortcomings, the OIG found that the data collected by TDR is "inaccurate and unreliable," and that GSA contracting personnel are not actually using TDR data to negotiate prices. As a result, OIG recommended that GSA take steps to restrict access to the TDR pilot, and develop an "exit strategy" to end the TDR pilot.

Despite the OIG's critique, GSA signaled its intent to continue with the expansion of the TDR pilot. In a formal response to the audit by the Federal Acquisition Service (FAS) Commissioner, GSA agreed that

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"corrective actions are needed to address how contracting personnel access, understand, and use relevant data." However, GSA disagreed with the OIG's recommendation to develop an "exit strategy" to end the TDR pilot. Instead, GSA relied on a recent evaluation of TDR by the GSA Senior Procurement Executive (SPE), which found that when TDR was used, "government prices are lower, the reporting burden on contractors is reduced, and small businesses generate stronger sales growth." Based on these positive results, GSA announced that it would continue with a "focused expansion" of TDR, despite the OIG's calls for an end to TDR.

The long term prospects for the TDR program remain to be seen, given its status as a pilot, as well as GSA OIG's continuing efforts to bring an end to this controversial experiment. Even if it continues, the impacts of TDR on Schedule contractors (and prices) also remain to be seen, given the lack of clear guidance on how TDR data will be used to impact Schedule prices. Despite these uncertainties, GSA remains committed to TDR for the time being. And, for some Schedule holders, the short term benefit of no longer having to comply with the much-maligned PRC and CSP may more than offset any uncertainty regarding the long-term survival of the TDR program or its impact on Schedule prices.