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Part XVIII

General Services Administration

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Semiannual Regulatory Agenda

**GENERAL SERVICES ADMINISTRATION**

**41 CFR Chapters 101, 102, 105, 301, and 304**

**48 CFR Chapter 5**

**Unified Agenda of Federal Regulatory and Deregulatory Actions**

**AGENCY:** General Services Administration (GSA).

**ACTION:** Semiannual Regulatory Agenda.

**SUMMARY:** This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those that were completed since the spring 2016 edition. This agenda was developed under the guidelines of Executive Order 12866 “Regulatory Planning and Review.” GSA’s purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process. GSA also invites interested persons to

recommend existing significant regulations for review to determine whether they should be modified or eliminated. Published proposed rules may be reviewed in their entirety at the Government’s rulemaking Web site at <http://www.regulations.gov>.

Since the fall 2007 edition, the Internet has been the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov), in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), GSA’s printed agenda entries include only:

(1) Rules that are in the Agency’s regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact

on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years, including GSA’s regulatory plan.

**FOR FURTHER INFORMATION CONTACT:** Hada Flowers, Division Director, Regulatory Secretariat Division at 202–501–4755.

Dated: September 1, 2016.

**Troy Cribb**,  
Associate Administrator, Office of Government-wide Policy.

**GENERAL SERVICES ADMINISTRATION—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
395 .....	General Services Administration Acquisition Regulation (GSAR); GSAR 2016–G506, Federal Supply Schedule, Order-Level Materials.	3090–AJ75

**GENERAL SERVICES ADMINISTRATION—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
396 .....	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2015–G512, Unenforceable Commercial Supplier Agreement Terms.	3090–AJ67

**GENERAL SERVICES ADMINISTRATION—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
397 .....	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2010–G511, Purchasing by Non-Federal Entities.	3090–AJ43
398 .....	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2013–G504, Transactional Data Reporting.	3090–AJ51

**GENERAL SERVICES ADMINISTRATION (GSA)**

*Office of Acquisition Policy*

Proposed Rule Stage

**395. • General Services Administration Acquisition Regulation (GSAR); GSAR 2016–G506, Federal Supply Schedule, Order-Level Materials**

*Legal Authority:* 40 U.S.C. 121(c)

*Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation

(GSAR) to clarify the authority to acquire order-level materials when placing a task order or establishing a Blanket Purchase Agreement (BPA) against a Federal Supply Schedule (FSS) contract. This proposed rule seeks to provide clear and comprehensive implementation of the ability to acquire order-level materials through the FSS program to create parity between FSS contracts and commercial indefinite-delivery/indefinite-quantity (IDIQ) contracts, reduce the need to conduct less efficient procurement transactions, lower barriers of entry to the federal

marketplace and make it easier to do business the federal government.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/09/16	81 FR 62445
NPRM Comment Period End.	11/08/16	
Final Rule .....	05/00/17	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Leah Price, Procurement Analyst, General Services Administration, 1800 F Street NW.,

Washington, DC 20405, Phone: 703 605–2558, Email: leah.pricer@gsa.gov.  
RIN: 3090–AJ75

**GENERAL SERVICES ADMINISTRATION (GSA)**

Office of Acquisition Policy

Final Rule Stage

**396. General Services Administration Acquisition Regulation (GSAR); GSAR Case 2015–G512, Unenforceable Commercial Supplier Agreement Terms**

*Legal Authority:* 40 U.S.C. 121(c)  
*Abstract:* GSA is amending the General Services Administration Acquisition Regulation (GSAR) to streamline the evaluation process to award contracts containing commercial supplier agreements Government and industry often spend significant time negotiating elements common in almost every commercial supplier agreement where the terms conflict with federal law. Past negotiations would always lead to deleting the terms from the contract, but only after several rounds of legal review by both parties. This case would explore methods for automatically nullifying these common terms out of contracts.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/31/16	81 FR 34302
NPRM Comment Period End.	08/01/16	
Final Rule .....	04/00/17	

*Regulatory Flexibility Analysis Required:* Yes.  
*Agency Contact:* Janet Fry, Program Analyst, General Services Administration, 1800 F Street NW., Washington, DC 20405, Phone: 703 605–3167, Email: janet.fry@gsa.gov.  
RIN: 3090–AJ67

**GENERAL SERVICES ADMINISTRATION (GSA)**

Completed Actions

**397. General Services Administration Acquisition Regulation (GSAR); GSAR Case 2010–G511, Purchasing by Non-Federal Entities**

*Legal Authority:* 40 U.S.C. 121(c)  
*Abstract:* The General Services Administration (GSA) amended the

General Services Administration Acquisition Regulation (GSAR) to implement the Federal Supply Schedules Usage Act of 2010 (FSSUA), the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 (NAHASDA), the John Warner National Defense Authorization Act for Fiscal Year 2007 (NDAA), and the Local Preparedness Acquisition Act for Fiscal Year 2008 (LPAA), to provide increased access to GSA’s Federal Supply Schedules (Schedules). GSA also amended the Federal Supply Schedule Contracting and Solicitation Provisions and Contract Clauses, in regard to this statutory implementation. This case is included in GSA’s retrospective review of existing regulations under Executive Order 13563. Additional information is located in GSA’s retrospective review (2016), available at: [www.gsa.gov/improvingregulations](http://www.gsa.gov/improvingregulations).

*Completed:*

Reason	Date	FR Cite
Final Rule .....	06/06/16	81 FR 36425
Final Rule Effective.	07/06/16	

*Regulatory Flexibility Analysis Required:* Yes.  
*Agency Contact:* Dana L. Munson, Phone: 202 357–9652, Email: [dana.munson@gsa.gov](mailto:dana.munson@gsa.gov).  
RIN: 3090–AJ43

**398. General Services Administration Acquisition Regulation (GSAR); GSAR Case 2013–G504, Transactional Data Reporting**

*Legal Authority:* 40 U.S.C. 121(c)  
*Abstract:* The General Services Administration (GSA) amended the General Services Administration Acquisition Regulation (GSAR) to include clauses that require vendors to report transactional data from orders placed against certain Federal Supply Schedule (FSS) contracts, Governmentwide Acquisition Contracts (GWACs), and Governmentwide Indefinite-Delivery, Indefinite-Quantity (IDIQ) contracts.

Transactional data refers to the information generated when the Government purchases goods or services from a vendor. It includes specific details such as descriptions, part numbers, quantities, and prices paid for the items purchased. GSA has experimented with collecting

transactional data through some of its contracts and found it instrumental for improving competition, lowering pricing, and increasing transparency. Accordingly, GSA will now test these principles on a broader base of its contracting programs. This move supports the Government’s shift towards category management by allowing it to centrally analyze what it buys and how much it pays, and thereby identify the most efficient solutions, channels, and sources to meet its mission critical needs.

GSA will introduce a new Transactional Data Reporting clause to its FSS contracts in phases, beginning with a pilot for select Schedules and Special Item Numbers. Participating vendors will no longer be subject to the existing requirements for Commercial Sales Practices (CSP) disclosures and Price Reductions clause (PRC) basis of award monitoring, resulting in a substantial burden reduction. Stakeholders have identified the CSP and PRC requirements as some of the most burdensome under the Schedules program. These actions represent the most significant change to the Schedules program in the past two decades. GSA has also created a Transactional Data Reporting clause for all new GWACs and Governmentwide IDIQ contracts and may apply the clause to any existing contracts in this class that do not contain other transactional data requirements.

In all, the Transactional Data Reporting rule will result in an estimated burden reduction of \$29 million a year, which consists of a projected \$15 million a year compliance burden minus the estimated \$44 million a year burden for the CSP and PRC requirements being waived for vendors participating in the FSS pilot.

*Completed:*

Reason	Date	FR Cite
Final Rule .....	06/23/16	81 FR 41103
Final Rule Effective.	06/23/16	

*Regulatory Flexibility Analysis Required:* Yes.  
*Agency Contact:* Matthew McFarland, Phone: 202 690–9232, Email: [matthew.mcfarland@gsa.gov](mailto:matthew.mcfarland@gsa.gov).  
RIN: 3090–AJ51