DATES: This rule is effective March 29, 1995.

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SUPPLEMENTARY INFORMATION: (1) A notice of proposed rulemaking was published in the Federal Register on February 23, 1994. This notice removed all provisions for using GSA nonmandatory schedule contracts for FIP resources from the FIRMR. Thirtyfour (34) comments were received on the proposed rule. All comments were considered, and, where possible, incorporated into the final rule. For example, several respondents requested that the FIP MAS procedures remain in the FIRMR to ensure that all ordering activities and schedule vendors would know where to find them. Respondents also suggested incorporation of the MAS 'guiding principles' into the FIRMR procedures. This rule has been revised to reflect their concerns.

(2) To address recurring issues of concern to GSA customer agencies, the General Accounting Office (GAO), and MAS contractors, GSA initiated a MAS Improvement Project in October 1990. GSA prepared a uniform set of "guiding principles" to simplify and expedite the ordering process for all types of MAS buys. According to a recent GAO report, agencies state that a reason for failing to comply with the MAS ordering procedures is that it is too timeconsuming and difficult. One major objective of the MAS Improvement Project consistent with those concerns was to streamline and unify the procedures for ordering products and services provided under the MAS program. In line with this objective, this rule removes the FIRMR requirement that agencies synopsize orders valued at \$50,000 or higher that are placed against FIP MAS contracts. Since the FIP MAS contracts are now indefinite delivery/ indefinite quantity contracts, there is no longer a legal requirement to synopsize these orders.

GAO has also previously suggested that the ordering procedures for low dollar value items be less stringent than the procedures which apply to high dollar value orders. A micropurchase threshold of \$2,500 is incorporated in the guiding principles which will alleviate that situation. Below the \$2,500 threshold, agencies are allowed to place an order to any FIP schedule contractor without seeking competition. Above \$2,500, agencies must consider reasonably available information about products offered under MAS contracts to ensure that the selection meets the agency's needs at the lowest overall

cost. The guiding principles also reflect that MAS contractors no longer are required to pass on a price reduction extended to only one agency for a specific order to all MAS users. This rule incorporates GSA's guiding principles for MAS acquisitions.

(3) Explanation of the specific changes being made by this issuance are

shown below:

(a) Subpart 201–39.5 is removed to delete the synopsizing requirements related to the FIP MAS contracts.

(b) Section 201-39.601-2 is removed since synopsizing is no longer required.

- (c) Section 201–39.803–3 is revised to add the MAS "guiding principles" which streamline and simplify the procedures for using the FIP MAS contracts.
- (d) The FIRMR Index reference is revised to change the phrase "GSA nonmandatory schedule contract" to 'GSA nonmandatory FIP schedule contract" to differentiate the FIP MAS contracts from the newly nonmandatory FSS MAS contract programs.
- (4) This rule was submitted to, and approved by, the Office of Management and Budget in accordance with Executive Order 12866, Regulatory Planning and Review. The rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (U.S.C. 601 et seq.).
- (5) The Paperwork Reduction Act does not apply because the FIRMR changes do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 41 CFR Part 201-39

Archives and records, Computer technology, Federal information processing resources activities, Government procurement, Property management, Records management, and Telecommunications.

For the reasons set forth in the preamble, GSA is amending 41 CFR Part 201 as follows:

PART 201-39—ACQUISITION OF FEDERAL INFORMATION PROCESSING (FIP) RESOURCES BY CONTRACTING

1. The authority citation for part 201-39 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

Subpart 201-39.5—[Reserved]

2. Subpart 201-39.5 is removed and reserved.

§ 201-39.601-2 [Removed and reserved]

- 3. Section 201-39.601-2 is removed and reserved.
- 4. Section 201-39.803-3 is revised to read as follows:

§ 201-39.803-3 Procedures.

(a) Prior to selecting a GSA nonmandatory FIP schedule contract and placing an order, the agency shall justify any restrictive requirement (e.g., an "all or none" requirement or a requirement for "only new" equipment).

(b) Ordering activities can place orders of \$2,500 or less with any GSA nonmandatory FIP schedule contractor. GSA has already determined the prices of items under these contracts to be fair

and reasonable.

(c) To reasonably ensure that a selection represents the best value and meets the agency's needs at the lowest overall cost alternative, before placing a MAS order of more than \$2,500, an ordering activity should-

(1) Consider reasonably available information about products offered under Multiple Award Schedule contracts; this standard is met if the ordering activity does the following:

(i) Considers products and prices contained in any GSA MAS automated information system (e.g., Information Resources Management—On-line Schedules System); or

(ii) If automated information is not available, reviews at least three (3) price

lists.

- (2) In selecting the best value item at the lowest overall cost (the price of the item plus administrative costs), the ordering activity may consider such factors as
- (i) Special features of one item not provided by comparable items which are required in effective program performance;
 - (ii) Trade-in considerations:
- (iii) Probable life of the item selected as compared with that of a comparable item;
 - (iv) Warranty conditions; and
 - (v) Maintenance availability.
- (3) Give preference to the items of small business concerns when two or more items at the same delivered price will meet an ordering activity's needs.
- (d) MAS contractors will not be required to pass on to all schedule users a price reduction extended only to an individual agency for a specific order. There may be circumstances where an ordering activity finds it advantageous to request a price reduction, such as where the ordering activity finds that a schedule product is available elsewhere at a lower price, or where the quantity of an individual order clearly indicates the potential for obtaining a reduced price.