DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 3, 4, 5, 6, 8, 9, 13, 15, 16, 22, 23, 25, 27, 28, 29, 32, 36, 41, 42, 43, 44, 45, 46, 47, 49, 52, and 53

[FAR Case 94-770]

RIN 9000-AG18

Federal Acquisition Regulation; Simplified Acquisition Procedures/ FACNET

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: This proposed rule is issued pursuant to the new simplified acquisition and Federal Acquisition Computer Network (FACNET) requirements of the Federal Acquisition Streamlining Act of 1994 (the Act). This regulatory action was subject to Office of Management and Budget review under Executive Order 12866 dated September 30, 1993.

DATES: *Comments:* Comments should be submitted on or before May 5, 1995 to be considered in the formulation of a final rule

Public Meeting: A public meeting will be held on April 3, 1995, at 9:30 a.m. in the GSA Auditorium on the first floor of the GSA Building.

Oral and Written Statements: Persons wishing to make oral or written statements at the public meeting should submit to the FAR Secretariat a copy of the presentation by March 29, 1995.

ADDRESSES: Interested parties should submit written comments to:

General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405.

Please cite FAR case 94–770 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Diana Maykowskyj, Team Leader, Simplified Acquisition Procedures/ FACNET Team, on (703) 274–6307 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–755. Please cite FAR Case 94–770, Simplified Acquisition Procedures.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Acquisition Streamlining Act of 1994, Pub. L. 103–355, (the Act) provides authorities that streamline the acquisition process and minimize burdensome Government-unique requirements. Major changes that can be expected in the acquisition process as a result of the Act's implementation include the areas of commercial item acquisition, simplified acquisition procedures, the Truth in Negotiation Act and FACNET.

The terms "simplified acquisition" and "Federal Acquisition Computer Network (FACNET)" are defined by the Federal Acquisition Streamlining Act of 1994 (the Act). The Act defines the simplified acquisition threshold as \$100,000. It limits use of simplified acquisition procedures by procurement activities not having certified Interim FACNET to procurements not exceeding \$50,000. Use of simplified acquisition procedures is also limited to procurements not exceeding \$50,000 if an agency does not have certified Full FACNET by January 1, 2000.

Review of the law and the proposed implementing rule requires that the difference between the simplified acquisition threshold and the use of simplified acquisition procedures be recognized. The simplified acquisition threshold is \$100,000. The authority to use simplified acquisition procedures depends on implementation and proper certification of FACNET.

This rule proposes to incorporate FAR Subpart 4.5 for FACNET information and guidance. FAR Subpart 4.5 provides definitions, certification information. and exemptions in accordance with the Act. FAR case 91-104 ("Electronic Commerce") and this implementation of the Act are interdependent and are meant to be considered jointly Reviewers are advised that FACNET is not a single electronic system that will be used by all executive agencies. It is, however, a universal electronic capability that will permit potential contractors to, as a minimum, obtain information on proposed procurements, submit questions, and receive awards on a government-wide basis. Each agency will determine the system(s) that will be used by its procuring activities so that they can certify Interim FACNET for those activities and Full FACNET for the agency. The Act and the proposed rule also provide for exempting individual procurements and procuring activities from the use of FACNET. This becomes significant when agencies certify Full FACNET which is based, in part, on the percentage of non-exempt

transactions which were made through FACNET during the previous fiscal year.

Implementation of FACNET (Electronic Commerce) will include a vendor registration requirement for any business entity wishing to do business with the Government electronically. Contractor's information will be submitted to the Centralized Contractor Registration System in accordance with the Federal implementation conventions.

There are technical requirements and other procedures with respect to FACNET that are not appropriate for coverage in the FAR but are needed by executive agencies to fully implement FACNET. This information will be disseminated via other appropriate means.

Public Meeting. A public meeting will be held on April 3, 1995 at 9:30 a.m. in the GSA Auditorium to enable the public to present its views on this rule. This rule will only be discussed at the public meeting session. Any subsequent public meetings will be devoted to other revisions to the FAR. Persons or organizations wishing to make presentations will be allowed 10 minutes each to present their views, provided they notify the FAR Secretariat, at (202) 501-4755. Written statements for presentation should be submitted to the FAR Secretariat by March 29, 1995, Persons or organizations with similar positions are encouraged to select a common spokesman for presentation of their views. This meeting, in conjunction with the Federal Register notice soliciting public comments on the rule, will be the only opportunity for the public to present its views.

This rule overlaps in some areas with the "Electronic Commerce" rule (FAR case 91–104) appearing elsewhere in this issue of the **Federal Register**. Presenters are welcome to submit prepared statements concerning the "electronic commerce" rule to the extent that the statement has some interrelation with this simplified acquisition/FACNET rule.

Interested members of the public may obtain a copy of the desired rule from the FAR Secretariat, see ADDRESSES caption.

B. Regulatory Flexibility Act

The proposed rule may have a significant positive 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 it is designed to reduce the burden on entities desiring to do business with the Government and will apply to all large and small business