

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Parts 1, 2, 4, 5, 7, 8, 9, 12, 14,
15, 16, 19, 20, 25, 28, 32, 36, 45, 52, and
53

[FAC 90-29; FAR Case 91-104; Item II]

RIN 9000-AE46

**Federal Acquisition Regulation;
Electronic Contracting**

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

ACTION: Interim rule with request for
comment.

SUMMARY: The Federal Acquisition
Regulatory Council (FARC) is issuing an
interim rule to amend the Federal
Acquisition Regulation (FAR) to address
the use of electronic commerce/
electronic data interchange in
Government contracting. This regulatory
action was subject to Office of
Management and Budget review under
Executive Order 12866, dated
September 30, 1993.

DATES: *Effective Date:* July 3, 1995.

Comment Date: Comments should be
submitted to the FAR Secretariat at the
address shown below on or before
September 1, 1995 to be considered in
the formulation of a final rule.

ADDRESSES: Interested parties should
submit written comments to: General
Services Administration, FAR
Secretariat (VRS), 18th & F Streets, NW,
Room 4037, Attn: Ms. Beverly Fayson,
Washington, DC 20405. Please cite FAC
90-29, FAR case 91-104 in all
correspondence related to this case.

FOR FURTHER INFORMATION CONTACT:
Mr. Edward Loeb at (202) 501-4547 in
reference to this FAR case. For general
information, contact the FAR
Secretariat, Room 4037, GS Building,
Washington, DC 20405 (202) 501-4755.
Please cite FAC 90-29 (FAR Case 91-
104).

SUPPLEMENTARY INFORMATION:**A. BACKGROUND**

A proposed rule was published in the
Federal Register at 58 FR 69588,
December 30, 1993. The rule proposed
amendments to the FAR to remove any
barriers to the use of electronic data
interchange in Government contracting.
Thirty-six comments from ten

respondents were received during the
public comment period. After
evaluating the public comments,
another proposed rule was published
because significant changes to the rule
published on December 30, 1993, were
deemed to be necessary.

A revised proposed rule was
published in the **Federal Register** at 60
FR 12384, March 6, 1995. Eighteen
comments were received in response to
the proposed rule.

This interim rule and the interim rule
published elsewhere in this issue under
FAR case 94-770, Simplified
Acquisition Procedures/FACENET, are
interdependent and are meant to be
considered jointly.

B. Regulatory Flexibility Act

This interim rule is expected to 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 it encourages broader use of
electronic contracting, thereby
improving industry access to Federal
contracting opportunities. The
implementation of Electronic
Contracting and use of the Federal
Acquisition Computer Network
(FACENET) will provide for electronic
exchange of acquisition information
between the private sector and the
Federal Government that will increase
the opportunities for vendors currently
doing business with the Government,
particularly small businesses. It is
recognized that an initial start-up cost
will be incurred for the purchase of a
personal computer, modem, software,
and telephone lines, estimated to be
\$1,500. Additionally, it is anticipated
that most small businesses will
subscribe to third party value added
network (VAN) services to facilitate
their communications with the
Government's computers. The cost of an
advance subscription ranges from
approximately \$30 to \$100 per month,
depending on the type of services
obtained. The interim rule does not
duplicate, overlap, or conflict with any
other Federal rules. An Initial
Regulatory Flexibility Analysis (IRFA)
has been prepared and may be obtained
from the FAR Secretariat. A copy of the
IRFA will be submitted to the Chief
Counsel for Advocacy of the Small
Business Administration. Comments are
invited from small businesses and other
interested parties. Comments from small
entities concerning the affected FAR
parts will also be considered in
accordance with 5 U.S.C. 610. Such
comments must be submitted separately
and should cite 5 U.S.C. 601, *et seq.*
(FAR case 91-104) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does
not apply because the interim rule does
not impose any information collection
requirements which require the
approval of the Office of Management
and Budget under 44 U.S.C. 3501, *et
seq.*

**D. Determination to Issue an Interim
Rule**

A determination has been made by
the Secretary of Defense (DOD), the
Administrator of General Services
(GSA), and the Administrator of the
National Aeronautics and Space
Administration (NASA) under the
authority provided by section 22 of the
Office of Federal Procurement Policy
Act (41 U.S.C. 418b) to issue this
regulation as an interim rule.

The Simplified Acquisition Threshold
Procedures/Federal Acquisition
Computer Network (SAT/FACNET) rule
(FAR Case 94-770) and the Electronic
Contracting (EC) rule (FAR Case 91-104)
benefit industry and Government by
enhancing efficiency of contracting in
an environment of declining personnel
staffing and resulting increase in
workload for contracting personnel. The
rules are linked and require
simultaneous promulgation. The
proposed rules were published
simultaneously in the **Federal Register**
on March 6, 1995, with the public
comment period closing on May 5,
1995. A public meeting was held on
these rules on April 3, 1995, and no
substantive comments were presented at
the meeting.

Section 22 of the Office of Federal
Procurement Policy Act permits
issuance of procurement policies,
regulations, procedures, or forms as
interim rules prior to consideration of
public comments when urgent and
compelling circumstances make it
impracticable to do otherwise. Urgent
and compelling reasons exist to make
these rules effective prior to full
consideration of public comment.
Proceeding with these interim rules is
required to permit the Federal
Government to cope with the
fundamental downsizing of its
acquisition workforce and the large end-
of-fiscal-year workload, with
diminished resources. The Federal
Acquisition Streamlining Act of 1994
(FASA) and its provisions on SAT/
FACNET, provide relief from various
burdens that affect the Government
acquisition process. For example,
purchases under the new simplified
acquisition approach will become far
less complex than today. Using figures
from the Department of Defense for