

all executive agencies. It is, however, a universal electronic capability that will permit potential contractors to, at a minimum, obtain information on proposed procurements, submit responses, query the system, 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 this 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 includes a vendor registration requirement for any business entity wishing to do business with the Government electronically. Contractor information will be submitted to the Central Contractor Registration 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.

Further, be advised that the micro-purchase coverage that appeared in the **Federal Register** on December 15, 1994, FAR case 94-771 will be merged with the SAT/FACNET coverage in the final rule. This will incorporate all of the FASA changes under simplified acquisition procedures.

This rule also implements section 4004 of FASA to reserve each contract for the purchase of goods or services that have an anticipated value greater than \$2,500, but not greater than \$100,000, for exclusive small business participation unless the contracting officer determines there is no reasonable expectation of obtaining offers from two or more small businesses that are competitive with market price, quality and delivery.

In implementing section 4004, the issue of the nonmanufacturer rule arose. Existing regulations allow a small business to furnish "any domestic end product" under procurements set-aside for small business and utilizing small purchase procedures. Based upon discussion with SBA's Office of Size Standards, it was determined that this automatic waiver of the non-manufacturers rule would not apply to

acquisitions under the simplified acquisition threshold and its perpetuation would be in conflict with SBA's Size Regulations, which govern this issue. Based upon this advice, the rule requires all dealers submitting a bid or quotation on a procurement reserved for small business to furnish the product of a small business manufacturer unless the Small Business Administration has issued a waiver.

The reader should note the key features represented in FAR case 94-770 which will change the acquisition process significantly upon implementation and continue to do so as contracting offices/activities and agencies begin to certify and implement the use of FACNET. These key features are: the small purchase limitation of \$25,000 becomes the simplified acquisition threshold of \$100,000 (see 13.101); use of the simplified acquisition procedures is tied to FACNET—simplified acquisition procedures may be used up to \$50,000 upon FAR implementation without FACNET and up to \$100,000 upon interim FACNET certification (see 13.103)(b)); for non-FACNET acquisitions over \$25,000, a synopsis for 15 days is still required; solicitation response time must provide a reasonable amount of time to afford potential offerors a reasonable opportunity to respond; the regulation exempts simplified acquisition procedures from 15 statutes and from certain provisions and clauses; contracting officers need to add any necessary clauses to the back of the purchase order form; and all purchases between \$2,500 and \$100,000 are reserved for small business (see 19.502-2).

In addition to what the Act provided, the SAT/FACNET Team has incorporated coverage that provides flexibility and latitude that encourages the contracting officer to use innovative approaches in awarding contracts, seek the "best value" for the Government which includes past performance and quality; permits use of other than fixed price orders/contracts, when authorized by the agency; encourages the use of options; and increases the property clause threshold to be commensurate with the implementation and certification of FACNET.

The most significant change in this rule is the implementation of FACNET which is addressed primarily in Subpart 4.5. FACNET will provide the capability of existing computer hardware and software to perform certain functions in a standard manner in order to provide one face to industry for the entire Government. FACNET is the preferred

means for conducting all purchases under the simplified acquisition threshold (\$100,000) and above the micro-purchase threshold (\$2,500). Contracting offices/activities may not conduct acquisitions using simplified acquisition procedures between \$50,000 and \$100,000, until they have certified and implemented interim FACNET.

However, it is also significant to highlight what requirements did not change with FASA, such as the compliance with Part 8, required sources of supply; the policy on not splitting orders; requirement for posting \$10,000 (\$5,000 DOD); the need to synopsise over \$25,000; the requirement for small business set-asides; and contracting reporting.

This interim rule and the interim rule published elsewhere in this issue under FAR case 91-104, Electronic Contracting, are interdependent and are meant to be considered jointly.

B. Regulatory Flexibility Act

This 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.* This interim rule is designated to reduce the burden on entities desiring to do business with the Government and will apply to all large and small business entities, and all educational and nonprofit organizations who are interested in participating in Government acquisitions. The interim rule establishes the simplified acquisition threshold and sets forth policies and guidance for the implementation of FACNET pursuant to the Act. The implementation of Electronic Contracting and use of the Federal Acquisition Computer Network (FACNET) 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 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 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.