

Dated: July 12, 1996.  
Eleanor R. Spector,  
*Director, Defense Procurement.*

Dated: July 8, 1996.  
Ida M. Ustad,  
*Deputy Associate Administrator for  
Acquisition Policy, General Services  
Administration.*

Dated: July 15, 1996.  
Tom Luedtke,  
*Deputy Associate Administrator for  
Procurement, National Aeronautics and  
Space Administration.*  
[FR Doc. 96-18497 Filed 7-25-96; 8:45 am]  
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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 1, 3, 4, 13, 31, 52, and 53

[FAC 90-40; FAR Case 93-009; Item I]

RIN 9000-AG83

#### Federal Acquisition Regulation; Contingent Fee Representation

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

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency  
Acquisition Council and the Defense  
Acquisition Regulations Council have  
agreed on a final rule amending the  
Federal Acquisition Regulation (FAR) to  
delete the provision requiring an offeror  
to provide a contingent fee  
representation and agreement and to  
submit a statement of contingent or  
other fees. This regulatory action was  
not subject to Office of Management and  
Budget review under Executive Order  
12866, dated September 30, 1993, and is  
not a major rule under 5 U.S.C. 804.

**EFFECTIVE DATE:** September 24, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mr.  
Ralph DeStefano at (202) 501-1758 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 90-40, FAR case 93-  
009.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

FAR 3.404(b) requires the contracting  
officer to insert the provision at 52.203-  
4, Contingent Fee Representation and

Agreement, in all solicitations, with six  
exceptions. The provision requires  
offerors to provide a contingent fee  
representation as requested by the  
contracting officer. When the  
representation is answered  
affirmatively, the offeror must also  
provide a completed Standard Form  
(SF) 119, Statement of Contingent or  
Other Fees, or a signed statement  
indicating the SF 119 was previously  
submitted to the same contracting office.  
A proposed rule was published in the  
Federal Register at 60 FR 57140,  
November 13, 1995. This final rule  
revises FAR 3.404 to remove the  
requirement for the solicitation  
provision and removes the  
accompanying sections 3.405 through  
3.408 which deal with the SF 119. FAR  
3.409 and 3.410 have been renumbered.

##### B. Regulatory Flexibility Act

The Department of Defense, the  
General Services Administration, and  
the National Aeronautics and Space  
Administration certify that this final  
rule will not 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 there  
is a slight beneficial impact on small  
entities since offerors will no longer be  
required to provide contingent fee  
representations and agreements or to  
submit statements of contingent or other  
fees. However, the underlying policy  
pertaining to contingent fee  
arrangements has not changed.

##### C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub.  
L. 96-511) is deemed to apply because  
the final rule eliminates a previously  
approved information collection  
requirement under Office of  
Management and Budget (OMB) number  
9000-0003, Statement of Contingent or  
Other Fees (SF 119). Accordingly, a  
request for elimination of the  
information collection requirement is  
being submitted to OMB.

List of Subjects in 48 CFR Parts 1, 3, 4,  
13, 31, 52, and 53

Government procurement.

Dated: July 16, 1996.  
Edward C. Loeb,  
*Director, Federal Acquisition Policy Division.*

Therefore, 48 CFR Parts 1, 3, 4, 13, 31,  
52, and 53 are amended as set forth  
below:

1. The authority citation for 48 CFR  
Parts 1, 3, 4, 13, 31, 52, and 53  
continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C.  
chapter 137; and 42 U.S.C. 2473(c).

## PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

### 1.106 [Amended]

2. Section 1.106 is amended in the list  
of "FAR Segments" and "OMB Control  
Numbers" following the introductory  
text by removing "52.203-4" and  
"9000-0003", and "SF 119" and "9000-  
0003".

## PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3. Section 3.404 is revised to read as  
follows:

### 3.404 Contract clause.

The contracting officer shall insert the  
clause at 52.203-5, Covenant Against  
Contingent Fees, in all solicitations and  
contracts exceeding the simplified  
acquisition threshold, other than those  
for commercial items (see parts 2 and  
12).

### 3.405 through 3.408-2 [Removed]

4. Sections 3.405 through 3.408-2 are  
removed.

### 3.409 and 3.410 [Redesignated as 3.405 and 3.406]

5. Sections 3.409 and 3.410 are  
redesignated as 3.405 and 3.406.

6. The newly designated 3.406 is  
amended by revising the first sentence  
to read as follows:

### 3.406 Records.

For enforcement purposes, agencies  
shall preserve any specific evidence of  
one or more of the violations in 3.405(a),  
together with all other pertinent data,  
including a record of actions taken.

\* \* \*

## PART 4—ADMINISTRATIVE MATTERS

7. Section 4.803 is amended by  
revising paragraph (a)(11) to read as  
follows:

### 4.803 Contents of contract files.

\* \* \* \* \*

(a) \* \* \*

(11) Contractor's certifications and  
representatives.

\* \* \* \* \*

## PART 13—SIMPLIFIED ACQUISITION PROCEDURES

### 13.111 [Amended]

8. Section 13.111 is amended by  
removing paragraph (c) and  
redesignating paragraphs (d) through (j)  
as (c) through (i).

## PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

### 31.205–38 [Amended]

9. Section 31.205–38 is amended at the end of paragraph (f) by removing the parenthetical “(see 3.408–2)”.

## PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### 52.203–4 [Reserved]

10. Section 52.203–4 is removed and reserved.

### 52.203–5 [Amended]

11. Section 52.203–5 is amended in the introductory paragraph by removing “3.404(c)” and inserting “3.404”.

## PART 53—FORMS

### 53.203 [Amended]

12. Section 53.203 is amended by removing paragraph (a) and the designation of paragraph (b).

### 53.301–119 [Removed]

13. Section 53.301–119 is removed.

[FR Doc. 96–18498 Filed 7–25–96; 8:45 am]

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 3, 4, 5, 8, 11, 12, 13, 15, 16, 19, 22, 23, 25, 28, 29, 32, 36, 41, 42, 43, 44, 45, 46, 47, 52, and 53

[FAC 90–40; FAR Cases 94–770 and 94–771; Item II]

RIN 9000–AG18/9000–AG26

### Federal Acquisition Regulation; Simplified Acquisition Threshold; Federal Acquisition Computer Network; and Micro-Purchase Procedures

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

**ACTION:** Interim rules adopted as final with changes.

**SUMMARY:** The Federal Acquisition Regulatory Council is amending the Federal Acquisition Regulation (FAR) to finalize the interim rules concerning simplified acquisition procedures and Federal Acquisition Computer Network (FACNET) requirements of the Federal Acquisition Streamlining Act of 1994.

This rule also implements section 4302 of the Federal Acquisition Reform Act which deleted the requirement for attaining interim FACNET certification before simplified acquisition procedures could be used between \$50,000 and \$100,000. This is a significant rule within the meaning of Executive Order 12866; however, it is not a major rule under 5 U.S.C. 804.

**EFFECTIVE DATE:** August 26, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mr. Paul Linfield at (202) 501–1757 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 90–40, FAR cases 94–770 and 94–771.

### SUPPLEMENTARY INFORMATION:

#### A. Background

The Federal Acquisition Streamlining Act of 1994, Public Law 103–355 (FASA), provided a number of authorities that streamlined the acquisition process and made a number of substantial changes in the manner in which relatively low dollar procurements are conducted. FASA created a micro-purchase threshold of \$2,500, a simplified acquisition threshold of \$100,000, provided for the use of simplified acquisition procedures up to the \$100,000 threshold, and created the Federal Acquisition Computer Network (FACNET). FASA limited use of simplified acquisition procedures by procurement activities not having certified interim FACNET to procurements not exceeding \$50,000. The Federal Acquisition Reform Act of 1996 (Division D of the National Defense Authorization Act for Fiscal Year 1996), Public Law 104–106 (FARA), deleted the requirement for attaining interim FACNET certification before simplified acquisition procedures could be used between \$50,000 and \$100,000. This final rule implements that provision of FARA, as well as the aforementioned provisions of FASA.

The simplified acquisition procedures of FASA were implemented in the FAR at 60 FR 34741 on July 3, 1995, in FAC 90–29, FAR case 94–770. The micro-purchase provisions of FASA were implemented in the FAR at 59 FR 64786 on December 15, 1994, in FAC 90–24, FAR case 94–771. Also published in FAC 90–29 was an interim rule on FAR case 91–104, Electronic Contracting, which remains interim and is not being finalized at this time.

An interagency team is considering technical issues pertaining to Central Contractor Registration at FAR 4.503.

There may be additional changes to that section as part of FAR case 94–772.

Among the changes in this final rule are:

- Definitions contained in the rule have been moved to FAR 2.101.
- The requirement for interim FACNET to be accomplished before simplified acquisition procedures can be used for acquisitions between \$50,000 and \$100,000 has been deleted.
- The clause at 52.222–40, Service Contract Act of 1965, as amended, Contracts of \$2,500 or Less, has been deleted based upon a regulatory change by the Department of Labor.
- An information phone number for FACNET is provided in 4.503.
- The coverage in Part 13 on small business programs has been moved to Part 19 under FAR case 94–782 of this Federal Acquisition Circular.

Note that for non-FACNET acquisitions over \$25,000, a synopsis for 15 days is still required.

#### B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final rule, and a Final Regulatory Flexibility Analysis (FRFA) has been prepared and submitted to the Chief Counsel for Advocacy for the Small Business Administration. This rule implements the simplified acquisition procedures and Federal Acquisition Computer Network (FACNET) requirements of the Federal Acquisition Streamlining Act of 1994 (the Act) (Public Law 103–355). The rule applies to all businesses, large and small organizations, educational and nonprofit, who are interested in participating in Government acquisitions at or below the simplified acquisition threshold of \$100,000. The implementation of FACNET provides for the electronic exchange of acquisition information between the private sector and the Federal Government. It is estimated that the electronic exchange of acquisition information will improve business opportunities for more than 300,000 vendors currently doing business with the Government. A copy of the FRFA may be obtained from the FAR Secretariat at the General Services Administration, 18th and F Streets NW., Washington, DC 20405.

#### C. Paperwork Reduction Act

This final rule does impose an additional reporting or recordkeeping requirement on the public which requires the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.* Contractors are required to electronically register with