

GAO

Report to Congressional Committees
and Acting Administrator, Office of
Federal Procurement Policy

September 1997

ACQUISITION REFORM

Classes of Contracts Not Suitable for the Federal Acquisition Computer Network



**National Security and
International Affairs Division**

B-276449

September 17, 1997

Congressional Committees and
Acting Administrator, Office of Federal Procurement Policy

The Federal Acquisition Streamlining Act of 1994 (FASA), Public Law 103-355, mandated a governmentwide Federal Acquisition Computer Network (FACNET) architecture to enable federal agencies and vendors to do business electronically in a standard way and move the government's procurement process away from paper. It was expected that FACNET would be used for most competitive contract awards valued above the micro-purchase threshold of \$2,500, up to the simplified acquisition threshold of \$100,000. Procurements in this range are simplified acquisitions that may be conducted using procedures that are less complex than those required for full and open competitive acquisitions. In January 1997, we reported numerous concerns about FACNET implementation, including FASA's requirements.¹ Legislation has been introduced to amend the FASA requirements to allow electronic commerce (EC) to be implemented in a more flexible manner.

This letter responds to the FASA requirement that we report on "the classes of contracts² in amounts greater than the micro-purchase threshold and not greater than the simplified acquisition threshold that are not suitable for acquisition through a system with full FACNET capability." Specifically, we ascertained characteristics of contract actions that agencies found not suitable for FACNET processing and evaluated the reasonableness and consistency of agencies' explanations why they were unsuitable for FACNET. In addition, we analyzed governmentwide EC statistics to determine agencies' use of FACNET and other EC purchasing methods. We obtained information from senior procurement officials at 24 federal agencies. (A list of the responding agencies is in app. I.)

Background

FACNET is a governmentwide systems architecture for acquisition based on electronic data interchange (EDI), which is the computer-to-computer exchange of routine business documents using standardized data formats. A key goal of FACNET and the governmentwide EC program is to present a "single face to industry"—making the government look like a single entity

¹Acquisition Reform: Obstacles to Implementing the Federal Acquisition Computer Network (GAO/NSIAD-97-26, Jan. 3, 1997).

²For this report, "class of contracts" means a group of contracts that bears some common characteristic(s), for example, a category or subcategory of products or services. Another example is contract awards above or below some dollar amount or within a specified dollar range.

rather than a collection of independent departments and agencies. The EC program aims to simplify and standardize doing business by eliminating the need to deal with numerous different agencies' procurement processes, forms, and rules.

FASA requires that agencies award at least 75 percent of eligible contracts through a system that has implemented all the FACNET functions.³ Contracting offices in agencies that are not in compliance by December 31, 1999, will lose their authority to use simplified acquisition procedures for contracts exceeding \$50,000.

Agencies can exclude certain contract actions when calculating the percentage of FACNET use:⁴

- The Federal Acquisition Regulatory (FAR) Council has determined that certain contract actions, such as delivery orders, task orders, and in-scope modifications against established contracts, should not be considered when determining agency compliance with FASA's 75-percent criterion.⁵ Essentially, this means that only contract awards should be counted.⁶
- FASA authorizes the head of each executive agency to exempt its procuring activities (or portions thereof) from the requirement to implement full FACNET capability based on a determination that such implementation is not cost-effective or practicable. Contracts awarded by exempted activities are not to be considered in determining agency compliance with the criterion.
- FASA provides that the FAR Council may determine—after considering our report on this subject—that classes of contracts are not suitable for acquisition through a system with full FACNET capability.

In our January 1997 report, we questioned the FASA-mandated approach to EC. Also, we observed that since passage of FASA, alternative electronic

³The functions include allowing an agency to electronically (1) provide widespread public notice of solicitations for contracting opportunities issued by the agency; (2) receive responses to solicitations and associated requests for information; (3) provide public notice of contract awards (including price); (4) receive questions regarding solicitations, where practicable; (5) issue orders, where practicable; (6) make payments to contractors, where practicable; and (7) archive data relating to each procurement action made using such system.

⁴FASA defines a contract as eligible if it is not in any class of contracts determined by the FAR Council to be unsuitable for acquisition through a system with full FACNET capability.

⁵See FAR Part 4.505-4.

⁶Contract awards include new definitive contracts, new purchase orders, initial letter contracts, and orders under basic ordering agreements but exclude delivery orders, task orders, and in-scope modifications that have been issued against established contracts.

purchasing methods had become readily available to the government and its vendors. Given these alternative methods, the prescriptive requirements of FASA, and problems with implementation, we questioned the extent to which FACNET made good business sense for simplified acquisitions. We recommended that the executive branch (1) develop a coherent EC strategy and implementation approach incorporating the single-face-to-industry goal and (2) seek legislative changes, if FASA's requirements for FACNET were an impediment to implementing the governmentwide EC strategy.

Since then, the President's Management Council has tasked a high-level management committee to review EC implementation and develop a more integrated federal EC strategy. The executive branch also recently proposed legislative changes to repeal mandated use of FACNET. On July 8, 1997, the Senate approved an amendment to the Fiscal Year 1998 National Defense Authorization Bill that would, among other things (1) repeal mandated use of FACNET; (2) define EC to include electronic mail or messaging, World Wide Web technology, electronic bulletin boards, purchase cards, electronic funds transfer, and EDI; and (3) ensure that any notices of agency requirements or solicitation for contract opportunities are provided in a form that allows convenient and universal user access through a single governmentwide point of entry. The amendment calls for uniformity in federal EC implementation to the maximum extent that is practicable. The House National Defense Authorization Bill did not contain any language regarding FACNET. Therefore, the Senate amendment will be addressed in conference. This report provides information that could be useful in congressional deliberations.

Results in Brief

Senior procurement officials generally found contracts unsuitable for FACNET when (1) widespread public solicitation of offers was inappropriate, (2) transmitting essential contracting information through the network was not practical or feasible, or (3) alternative purchasing methods were faster and more efficient. The agencies provided clear, reasonable, and consistent business and technical reasons why numerous types of contracts should be excluded from mandatory FACNET processing.

Available data showed continuing limited use of FACNET for contract awards. However, there is no governmentwide data available on agencies' use of other EC purchasing methods. Consequently, it is difficult to assess the government's overall progress in doing business electronically in a

standard way. Governmentwide EC statistical information may not be available until the year 2000.

Agencies Found Several Contract Types Not Suitable for FACNET

Responses from 24 agencies indicated a general consensus among senior federal procurement officials that, for several types of contracts, the use of FACNET is inappropriate, impractical, or inefficient. As discussed below, the agencies provided clear, reasonable, and consistent reasons for excluding contracts from mandatory FACNET processing.

Contracts for Which Widespread Public Solicitation Is Inappropriate

A primary function of FACNET, mandated by FASA, is to enable agencies to provide widespread electronic public notice of solicitations for contracting opportunities.⁷ Several agencies' senior procurement officials identified procurements for which nationwide public solicitation of offers was inappropriate or ineffective in filling requirements. These officials considered such procurements unsuitable for acquisition through FACNET.

A major group of contracts in this category is procurements with "on-site" or local vendor requirements that generally require soliciting competition from vendors in a local area. Construction and building maintenance services contracts, for example, typically require a site visit to understand the work to be performed, examine conditions affecting the work, and accurately estimate the cost of performance. One agency cited its requirement for weed control services as a typical example of a contract that requires a local presence by vendors to bid intelligently and keep costs down for acceptable performance. Another agency noted that purchases of subsistence items are limited to the local commuting area because they require the buyer to view and select the commodities.

According to procurement officials, nationwide solicitation through FACNET for procurements with "on-site" or local commuting area requirements was often inappropriate because vendors from outside the area could not reasonably be expected to be able to fulfill the requirement, resulting in additional costs to prepare and evaluate offers with no commensurate benefit to vendors or the agency.

Widespread public notice may not be required or appropriate for other types of contracts. For example, agencies' officials noted that awards to Small Disadvantaged Business Concerns, referred to as 8(a) contractors, do not use public solicitation of offers.

⁷Generally, non-FACNET procurements in excess of \$25,000 must be advertised in the Commerce Business Daily. See FAR Part 5.101.

Transmission of Essential Contract Information Is Impractical or Infeasible

Senior procurement officials found FACNET unsuitable for numerous contracts because essential procurement information could not be sent, received, or communicated effectively through FACNET. In particular, senior procurement officials considered FACNET inappropriate for procurements requiring extensive government specifications, lengthy written or oral proposals, sensitive or classified information, technical evaluations, and urgent delivery or performance. For example, contracts for various services, such as research and development efforts, were cited frequently because of the lengthy statements of work and other attachments that were often required. According to procurement officials, transmitting such information through FACNET is difficult, costly, and often infeasible.⁸ The Department of Defense (DOD) is working with the National Technical Information Service to address this issue by developing methods for making drawings, specifications, and standards cited in government solicitations available electronically. According to DOD officials, early results of this program appear promising.

Several procurement officials indicated that procurements involving sensitive information are not suitable for FACNET processing because, in their view, FACNET does not currently provide adequate security.⁹ Additionally, acquisitions that require urgent delivery of a service or material are not considered good candidates for FACNET because procurements that are conducted through FACNET would take too long to complete.

Procurement officials also cited several types of acquisitions that could not be conducted through FACNET because vendors were not on FACNET. For example, for some procurements with on-site or local commuting area requirements, agencies' officials indicated that there were few or no local vendors participating in FACNET. Several agencies' officials considered FACNET impractical for overseas procurements, especially in developing countries because vendors did not have the technical sophistication or infrastructure to sell via FACNET. Likewise, some procurement officials said it is unreasonable to expect individuals and noncommercial organizations to be on FACNET since they are not set up to sell products or services on a

⁸The policy for FACNET use outlined in FAR Part 4.502 states that contracting officers may supplement FACNET transactions by using other media to meet the requirements of any contract action (e.g., transmit hard copy of drawings).

⁹FAR Part 4.502(b) states that before using FACNET or any other method of EDI, the agency head shall ensure that the EDI system is capable of ensuring authentication and confidentiality commensurate with the risk and magnitude of the harm from loss, misuse, or unauthorized access to or modification of the information.

frequent basis and investing in FACNET for a few orders was not considered cost-effective.

Alternative Purchasing Methods Are More Efficient

Procurement officials from several agencies considered FACNET unsuitable if they found other purchasing methods or EC technologies to be more efficient, less costly, and easier to use. For example, procurement officials noted a number of alternative purchasing methods they considered more economical and easier to use than FACNET. These methods included purchase card procurements and orders placed against electronic catalogs and existing contracts, such as General Services Administration (GSA) supply schedules, GSA Advantage,¹⁰ and governmentwide indefinite delivery/indefinite quantity contracts. Several procurement officials stated that the Internet and Web-based technologies are better EC options than FACNET because they are easier to access, have fewer technical limitations, and are relatively inexpensive for agencies and contractors to implement and use.

Procurement officials also said that it was generally less expensive and quicker to purchase commercial products and services valued under \$25,000 locally using traditional oral and paper-based solicitation methods rather than FACNET when sufficient competition was available. One official noted that for actions between \$2,500 and \$10,000, which do not require “posting” notices of solicitations, contracting offices without FACNET capability processed these procurements in a few days using locally available suppliers with good past performance records; FACNET capable sites were not able to meet their customers’ needs in the same time frames.

Little Information Reported on Agencies’ EC Transactions

Available data shows limited and declining use of FACNET for contract awards. However, the lack of governmentwide data on agencies’ use of other EC purchasing methods, such as purchase cards and orders placed electronically against catalogs and indefinite delivery/indefinite quantity contracts, impedes efforts to assess the government’s progress in moving toward doing business electronically and achieving the “single face to industry” goal.

In our earlier report, we estimated that in 1995, less than 2 percent of about 2 million federal procurement actions above the micro-purchase

¹⁰GSA Advantage is an on-line ordering system that allows agencies to search through all GSA sources of supply and select the item that is the best value for their requirements.

threshold and below the simplified acquisition threshold (\$2,501 and \$100,000) were made through FACNET. The most recent and readily available data from the EC Program Office (January through June 1997) indicated that the volume of procurement actions processed through FACNET had declined, when compared to the same period a year earlier.¹¹

On December 23, 1996, the Administrator for Federal Procurement Policy notified agency senior procurement executives that the EC concept for procurement had been broadened to include orders placed electronically against electronic catalogs and indefinite delivery/indefinite quantity contracts, purchase cards use, FACNET transactions, and Web-based contacting actions and requested agencies to report monthly the number and dollar value of EC transactions in each of these categories.¹²

The Administrator's memorandum stated that it is difficult to measure the impact of EC without adequate data. Also, vendors have pointed out that they need information on the volume and value of federal EC purchases to determine whether there are sufficient business opportunities to justify the investments needed to participate. The limited governmentwide EC statistics are posted for public access on the Internet. As of July 25, 1997, only 6 of 21 agencies had submitted monthly statistics on the number and value of their agencies' FACNET solicitations and orders for January through June 1997. Five of these six agencies also reported data on other EC procurements. Four of the 21 agencies had not reported EC statistics. Thus, no governmentwide data is currently available on the volume and value of all EC procurements. Both GSA and the Office of Federal Procurement Policy commented that they are modifying the Federal Procurement Data System to collect EC statistical information and it may not be available until the year 2000.

Conclusions

Senior procurement executives identified several classes of contracts not suitable for FACNET. These were contracts where (1) widespread solicitation is inappropriate, (2) transmission of essential information through FACNET is impracticable or infeasible, or (3) alternative procurement methods, including other EC methods, are more efficient.

¹¹Complete governmentwide data is not available; however, DOD, which accounted for over 73 percent of all reported FACNET procurement actions in 1996, does report complete data that was used for this comparison. DOD officials told us the volume of FACNET procurements reported for 1996 dropped as a result of a systems software enhancement, which eliminated the counting of redundant transactions and other anomalies.

¹²The monthly statistics can be reported to the EC Program Office quarterly.

They provided clear, reasonable, and consistent business and technical reasons to support their positions. The most recent available data shows that FACNET use has declined since last year. However, comprehensive information is not available on the volume and value of other federal EC procurements.

We believe the information in this report further supports our earlier work that showed the government needs the flexibility to implement EC technologies and purchasing methods that make good business sense and are aligned with commercial applications. It also supports our earlier recommendation to develop a coherent and integrated federal strategy and implementation approach for using various EC technologies and purchasing methods to meet agencies' acquisition needs. That strategy and implementation approach remain to be completed.

Scope and Methodology

To address our objectives, we asked the Senior Procurement Executives at 25 federal agencies to give us information and explanations about (1) contracts they identified as not suitable for acquisition through FACNET and (2) the extent to which their agencies' competitive contract awards between \$2,500 and \$100,000 were generally suitable for acquisition through a system with full FACNET capability. We received responses from 24 agencies. We also interviewed senior officials at the Office of Federal Procurement Policy, DOD, and GSA responsible for the governmentwide EC program.

In addition, to assess federal agencies' use of FACNET and other EC purchasing methods, we reviewed data on FACNET transactions from DOD's Life-Cycle Information Integration Office and EC statistics submitted by federal agencies to the EC Program Office in GSA from January 1996 through June 1997. We did not independently verify the data.

We performed our work between January and August 1997 in accordance with generally accepted government auditing standards.

Agency Comments

In commenting on a draft of this report, DOD, the National Aeronautics and Space Administration (NASA), GSA, and the Office of Federal Procurement Policy generally agreed with our findings.

DOD stated that FACNET use will continue, even if a current congressional amendment repeals its mandated use. DOD noted that it is incorporating EC

into its business practices within the simplified acquisition threshold. DOD believes agencies' procurement officials should be allowed to determine for their agencies those classes of contracts not suitable for FACNET.

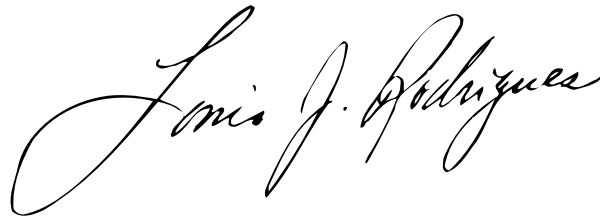
NASA stated that it advocates a strategy that recognizes the variety of users, situations, and transaction types and moves to match them with the appropriate EC technology. NASA noted that the challenge remains to offer alternatives to agencies and their end users that provide attractive and cost-effective reasons for moving forward from a non-EC environment. NASA stated that it is working with other agencies committed to developing a coherent strategy and implementation approach that takes advantage of the Internet, including moving toward a "single face" environment for advertising business opportunities.

Both GSA and the Office of Federal Procurement Policy expressed concern about the lack of comprehensive EC data. GSA stated that for the past 2 years the Electronic Commerce Program Office had been requesting monthly data from agencies on their FACNET and non-FACNET EC activities and, as the draft report noted, the response had not been good. GSA indicated that it had recommended to the Office of Federal Procurement Policy that EC statistical information be collected as part of the overall procurement data collection done through the Federal Procurement Data System. The Office of Federal Procurement Policy stated that to ensure more accurate and timely data on EC activities, it planned to modify the Federal Procurement Data System to collect EC statistical information. The Office of Federal Procurement Policy and GSA are working to get the change incorporated into the Federal Procurement Data System by fiscal year 1999.

NASA's comments are reprinted in their entirety in appendix II. DOD, GSA, and the Office of Federal Procurement Policy provided oral comments. Agency suggestions to improve the technical accuracy of the report have been incorporated in the text where appropriate.

We are sending copies of this report to the Director, Office of Management and Budget; the Secretary of Defense; the Administrators for GSA and NASA; and other officials at the agencies included in our review. Copies will also be made available to others upon request.

Please contact me at (202) 512-4587 if you or your staff have any questions concerning this report. Major contributors to this report are listed in appendix III.

A handwritten signature in black ink that reads "Louis J. Rodrigues". The signature is written in a cursive, flowing style with large loops and a prominent initial "L".

Louis J. Rodrigues
Director, Defense Acquisition Issues

List of Congressional Committees and the Acting Administrator, Office of
Federal Procurement Policy

The Honorable Fred Thompson
Chairman
The Honorable John Glenn
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

The Honorable Strom Thurmond
Chairman
The Honorable Carl Levin
Ranking Minority Member
Committee on Armed Services
United States Senate

The Honorable Christopher Bond
Chairman
The Honorable John Kerry
Ranking Minority Member
Committee on Small Business
United States Senate

The Honorable Dan Burton
Chairman
The Honorable Henry A. Waxman
Ranking Minority Member
Committee on Government Reform and Oversight
House of Representatives

The Honorable Floyd Spence
Chairman
The Honorable Ronald V. Dellums
Ranking Minority Member
Committee on National Security
House of Representatives

The Honorable James Talent
Chairman

The Honorable John J. LaFalce
Ranking Minority Member
Committee on Small Business
House of Representatives

The Honorable Allan E. Brown
Acting Administrator
Office of Federal Procurement Policy

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Abbreviations

DOD	The Department of Defense
EC	electronic commerce
EDI	electronic data interchange
FACNET	Federal Acquisition Computer Network
FAR	Federal Acquisition Regulation
FASA	The Federal Acquisition Streamlining Act of 1994
GSA	General Services Administration
NASA	National Aeronautics and Space Administration

List of Responding Agencies

Department of Agriculture
Department of the Air Force
Department of the Army
Department of Commerce
Department of Defense
Department of Education
Department of Energy
Department of Health and Human Services
Department of Housing and Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of the Navy
Department of State
Department of Transportation
Department of the Treasury
Department of Veterans Affairs
Agency for International Development
Defense Logistics Agency
Environmental Protection Agency
General Services Administration
National Aeronautics and Space Administration
Office of Personnel Management
Small Business Administration

Comments From the National Aeronautics and Space Administration

National Aeronautics and
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Headquarters
Washington, DC 20546-0001



AUG 29 1997

Reply to Attn of: HC

Mr. Louis J. Rodrigues
Director, Defense Acquisition Issues
General Accounting Office
Washington, DC 20548

Dear Mr. Rodrigues:

Thank you for the opportunity to review and comment on your draft report entitled Acquisition Reform: Classes of Contracts Not Suitable for the Federal Acquisition Computer Network (GAO/NSIAD-97-232).

The findings of this report confirm concerns about FACNET raised in your January 1997 report, Obstacles to Implementing the Federal Acquisition Computer Network. We continue to believe that there is no single Electronic Commerce (EC) solution. We advocate a strategy that recognizes the variety of users, situations, and transaction types and moves to match them with the appropriate EC technology. We fully support the proposed legislation discussed in your report that seeks to broaden the definition of EC. This will allow agencies the flexibility to implement EC technologies and business practices that make good business sense across the Federal procurement spectrum. The challenge remains to offer alternatives to agencies and their end users that provide attractive and cost-effective reasons for moving forward from a non-EC environment.

We are working with other agencies committed to developing a coherent strategy and implementation approach that takes advantage of the Internet. Recently, we began offering our Internet posting software to agencies interested in moving towards a "single face" environment for advertising business opportunities. We participate with groups such as the Interagency Acquisition Internet Council that demonstrate agencies can work toward common goals and away from agency-specific software solutions and business practices. If you have questions, please contact Mr. Ken Stepka at (202) 358-0492 or ken.stepka@hq.nasa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Deidre A. Lee".

Deidre A. Lee
Associate Administrator
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