

impact on VA's socioeconomic programs.

2. The FAR requires that all proposed acquisitions, including sole source acquisitions, exceeding \$25,000, with certain exceptions, be transmitted to the GPE. The rule differs from the FAR in several ways. First, it provides, at section 873.108(a), that acquisitions exceeding the simplified acquisition threshold (SAT) (currently \$100,000) would not have to be announced in the GPE. Rather, the rule requires that contracting officers publicly announce such proposed acquisitions utilizing a medium designed to obtain competition to the maximum extent practicable. The rule lists a number of examples for where the announcements may be announced, including the GPE. The intent of the rule is to maximize the dissemination of information regarding such proposed acquisitions, not to limit dissemination. Most acquisitions for services are of interest only to the local community. In many cases, it is impossible for a firm located some distance from a VA medical center to provide coronary bypass operations, X-ray or oncology services, or other services necessary to operate the medical center, on a timely basis. We believe that both small and large local service providers of health-care resources (*e.g.*, hospitals and clinics) are more likely to be made aware of acquisition opportunities if the acquisitions are announced in mediums that are seen and read by the local service community or if they are contacted directly. Accordingly, we believe this provision of the rule will tend to increase competition rather than decrease competition and will provide small businesses with increased opportunities.

Second, the rule at section 873.108(b) provides that sole source acquisitions from institutions affiliated with VA and from medical practice groups and other entities associated with an affiliated institution are exempt from the requirement for synopsis in the GPE. 38 U.S.C. 8153 specifically authorizes VA to acquire health-care resources on a sole source basis from institutions affiliated with VA and from medical practice groups and other entities associated with an affiliated institution. Exempting such acquisitions from synopsis in the GPE is consistent with statute, which imposes no requirement for VA to solicit and consider any other offers. Thus, this provision of the rule will have no impact on competition, since competition is not required under any circumstances.

Section 873.108(b) also exempts from publication sole source acquisitions of

hospital care, medical services, and other health-care services from any source, whether or not the source is affiliated with VA. However, as required by 38 U.S.C. 8153(a)(3)(D), acquisitions from non-affiliates, if conducted on a sole source basis, must still be justified and approved. Acquisitions for hospital care, medical services, or other health-care services would usually be conducted on a sole source basis only if there was an emergency need for such services. Otherwise, the acquisitions would likely be conducted competitively, if not acquired from an affiliate. The FAR provides an exemption from synopsis in the GPE under conditions of unusual or compelling urgency and where the Government would be seriously injured by any delay due to the publication requirement. We expect that most of the sole source acquisitions of hospital care, medical services, and other health-care services covered by this provision will be conducted under conditions of unusual or compelling urgency. Such acquisitions would include emergency hospital care for a veteran in an area not served by a nearby VA medical center. Even under the FAR, this type of acquisition is exempt from synopsis in the GPE by virtue of its being an urgent and compelling acquisition. This provision of the rule will simplify the acquisition process by freeing the contracting officer from having to make individual determinations regarding publication for each sole source acquisition of hospital care, medical services, and other health-care services. Since we expect most such acquisitions to already be exempt under the FAR, we believe this provision will have little, if any, impact on competition or on awards to small businesses.

Third, the rule at section 873.108(c) exempts acquisitions below the SAT from the requirement for public announcement, including synopsis in the GPE. However, the rule at section 873.104 requires the contracting officer to seek competition to the maximum extent practicable and to permit all responsible sources, as appropriate, to submit a bid, proposal, or quotation. In addition, for acquisitions below the SAT, section 873.111 states that contracting officers should solicit a sufficient number of sources to promote competition to the maximum extent practicable. Section 873.107 requires that acquisitions be set aside for small business. These provisions tend to mitigate any negative impact that section 873.108(c) may have on small businesses.

The alternatives to the above provisions regarding public

announcements in the GPE that were considered were to eliminate these provisions and follow the provisions of the FAR or to limit the exemptions to specific categories of acquisitions, such as acquisitions for medical services. The objectives of the rule are to allow VA to become more efficient in procuring health-care resources. The intent of this rule is to provide procurement processes that are simpler and less time consuming than those of the FAR. As discussed above, we believe that the flexibility to select the public medium that best captures the awareness of interested sources will enable the Department to maximize the effective distribution of information on VA solicitations and more efficiently take advantage of competition without decreasing competition. For this reason, the provisions regarding publicizing contract actions have been retained without change.

List of Subjects

48 CFR Parts 801 and 852

Government Procurement, Reporting and recordkeeping requirements.

48 CFR Parts 806, 812, 837, and 873

Government Procurement.

Approved: October 11, 2002.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 48 CFR chapter 8 is amended as follows:

PART 801—VETERANS AFFAIRS ACQUISITION REGULATIONS SYSTEM

1. The authority citation for part 801 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

801.301–70 [Amended]

2. The chart in section 801.301–70, paragraph (c) is amended by adding two OMB information collection approval numbers to read as follows:

801.301–70 Paperwork Reduction Act requirements.

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48 CFR part or section where identified and described				Current OMB control No.
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852.207–70			2900–0590
* * * * *				
852.237–7			2900–0590
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