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T3.2.1.5 - Disaster or Emergency Preparedness and Response Revised 1/2009

A Disaster or Emergency Contracting Added 10/2006

1 Local Area Set-Asides for Disaster or Emergency Added 10/2006

(a) The Contracting Officer (CO) may set-aside procurements for competition among only offerors residing or doing business primarily in an area where the President has declared a major disaster or emergency. A major disaster may result in numerous Presidential declarations spanning counties in several contiguous States. The CO, in consultation with the program official, defines the specific geographic area for the local area set-aside. This set-aside area need not include all the counties in the President-declared disaster or emergency area, but cannot go outside it.

(b) The CO may use other methods to give preference to offerors residing or doing business primarily in the area affected by a disaster or emergency to the extent practicable. For example, the CO may use the local area preference as an evaluation factor for award.

(c) The CO may also combine a local area set-aside with a small business set-aside.

(d) A local area set-aside does not eliminate other AMS requirements for procurement, such as competition considerations.

2 Continuity of Mission Critical Contracts Revised 4/2012

a. *General.*

(1) Continuity of mission critical contracts during times of National Emergency or Incidents of National Significance, such as pandemic influenza, is required to ensure the integrity of the FAA and the National Airspace System (NAS). The program office must identify to the contracting office those contracts that are required to ensure continuity of critical supplies and services and at what level these supplies and services must be delivered. Critical contracts may include:

(a) Support for communication infrastructure;

(b) Supplies and services for crucial transportation support;

(c) Supplies and services for facility security; and

(d) Support for emergency response activities.

(2) The Contracting Officer (CO) must include clauses ensuring that the tasks and deliverables from mission critical contracts are continued during times of National Emergency or Incidents of National Significance. This is to include a requirement for the submission of a Continuity of Contract Performance Plan to the CO by the contractor that addresses how the contractor will continue to provide supplies and services at the contracted level if a National Emergency or Incident of National

Significance should occur.

(3) The Continuity of Contract Performance Plan must be reviewed and accepted by the FAA Emergency Planning Staff.

(4) If a contract is deemed non-critical by the program office, the CO must suspend or stop the contract during an emergency until it is determined conditions are favorable for non-critical contracts.

(5) Management must identify COs and Contracting Officer's Representatives (CORs) on mission critical contracts that can assume the roles of CO and COR, if the primary personnel are unavailable, in times of National Emergency or Incidents of National Significance.

b. National Emergencies or Incidents of National Significance include, but are not limited to:

(1) Outbreak of pandemic influenza or infectious disease;

(2) Terrorist attack;

(3) Natural disaster.

c. The Continuity of Contract Performance Plan must address:

(1) Plans and procedures;

(2) Identification of essential functions;

(3) Delegations of authority, planned order of succession, and cross-training to ensure personnel are available to provide services and make key decisions;

(4) Proposed alternate operating facilities;

(5) Interoperable and Effective Communications;

(6) Critical records or data;

(7) Protection of human capital;

(8) Testing and training of the plan;

(9) Devolution of control and direction; and

(10) Reconstitution and resuming normal operations.

d. Further information regarding the FAA's reaction to a National Emergency or Incident of National Significance and content of the Continuity of Contract Performance Plan can be found in the National Response Plan and the National Strategy for Pandemic Influenza Implementation Plan.

B Clauses Added 10/2006

view contract clauses

C Forms Added 10/2006

view procurement forms

D Appendix Added 7/2007

1 Appendix - Emergency Procurement Guide Revised 7/2012

FAA Emergency Procurement Guide

This guide is for the use of FAA personnel when responding to a bona fide emergency, incident of national significance, or aiding in disaster relief efforts. This guide supplements and summarizes FAA Acquisition Management System (AMS); specific policy and guidance for FAA procurement is available on the FAST website.

Emergency: A sudden, unforeseen event that requires action to correct or to protect lives or property.

The flexibilities in this guide may be used:

1. In support of FAA contingency operations or restoration of the NAS;

2. To facilitate the defense against or recovery from nuclear, biological, chemical, or radiological attack against the United States; or

3. When the President declares an incident of national significance, emergency declaration, or a major disaster declaration.

Unauthorized Commitments: DO NOT make commitments or promises of any kind to bind the Government if you are not a properly warranted Contracting Officer (CO) or an authorized holder of a purchase card and the requirement is within your warrant or delegation.

When purchasing goods or services in an emergency, COs and cardholders **must** ensure that applicable FAA security standards are properly addressed and adhered to.

Purchase Cards

The purchase card is a valuable tool that can be utilized to procure requirements in times of emergency. Despite the presence of an emergency situation:

Single and monthly limits established for the card account by the Chief of the Contracting

Office (COCO) in the cardholder's Delegation of Purchasing Authority (DPA) must still be strictly adhered to; and

The person making the purchase must be the cardholder on the card account and have a valid DPA issued by the COCO.

Emergency Spending Limits

The maximum single purchase limit that can be assigned to purchase card is $100,000, while the maximum billing cycle or monthly limit is $999,900. The COCO establishes both limitations based on justification and recommendations of a cardholder's approving official. If a cardholder is designated or tasked to respond to emergencies or participate in relief efforts, that individual's single and monthly limit can be raised to a level that allows for an efficient and effective emergency response.

A warranted CO can make purchases up to $100,000 using a purchase card (if within their warrant limits); however the maximum Single Purchase Limit that may be issued to an un-warranted cardholder is $10,000. If a non-warranted cardholder wishes to have a single purchase limit above $10,000 (up to the $100,000 maximum) for emergency operations, the individual must receive written approval from the COCO.

Prohibited Purchases

The following items cannot be purchased using a government purchase card:

- Long-term rental or lease of land or buildings
- Cash advances, including money orders
- Telephone services controlled by the GSA or the local Office of Information Services or Regional Communications Office
- Cellular or communication devices and services covered by the National Wireless Program Office (NWPO)
- Gifts
- Personal purchases or services
- Travel-related expenses
- Obtain Government owned or leased vehicles

Restricted Purchases

- Drinking water, except when:
    - A duly constituted health authority pronounces the drinking water to be unsafe for human consumption at the site;
    - A viable and safe water source for FAA personnel is not available on or within a reasonable distance of the worksite;
    - FAA personnel reasonably foresee a disaster or emergency, such as the imminent landfall of a hurricane (See AMS Procurement Guidance 3.2.2.5 for additional restrictions); or
    - The drinking water is provided in a controlled environment to enable collections for drug use analysis for safety sensitive positions.
    - Food items for meetings and conventions, except as detailed in AMS

Procurement
Guidance 3.2.2.5.

- Membership fees for individual employees (the agency may purchase membership in a society or association in its own name)
- Subscriptions to publications or magazines not relating to official duties
- Clothing (or personal apparel of any description); requirements for special type clothing necessitated by agency requires written justification from the requestor's supervisor and should be coordinated with legal counsel
- Rental of aircraft by persons not in aircraft related positions
- Fans, air conditioning and cooling equipment, space heaters and heating equipment, except as properly installed for general use in connection with the maintenance and operations requirements for the site.
- Water coolers, or vacuum cleaners and other household appliances (i.e. refrigerators, microwaves, etc), except as requisitioned for general use by the authorities charged with building maintenance and equipment, plaques, trophies, etc. given to employees for high quality work or special projects (See AMS Procurement Guidance 3.2.2.5 for additional information) Services over $2,500
- Construction over $2,000
- Store gift cards or gift certificates (see AMS Guidance T3.2.2.5.A.4.d.(3)).

Purchase Card Flexibilities

See the *Emergency Procurement Flexibilities* section below in this guide.

Purchase Card Do's and Don'ts

- Be sure not to charge travel related expenses on the purchase card.
- Ensure that funding is available and approvals are received. Despite the presence of an emergency, funding must be available prior to purchase.
- Never allow anyone else to use your purchase card.
- Secure the card at all times and immediately report lost or stolen cards to the Agency Program Coordinator (APC) and bank.
- Ensure that vendors understand that FAA is exempt from sales tax.
- Never exceed assigned single or monthly purchase limits.
- Never split a purchase to avoid single or monthly purchase limits.

Credit Card Checks

- For those vendors that don't accept a purchase card, credit card checks have a single purchase limit of $2,500.

Procurement Resources and Tools for Emergencies

Mailing Lists: Keeping a mailing list of vendors for a given locale for various supplies or services may prove useful when emergency response limits time for market research. Some if not all regional procurement offices have lists available, and can be easily formed.

Qualified Vendors List (QVL): A QVL is a mailing list where vendors submit their background (to include experience, certifications, etc) to the FAA to qualify to be on the QVL.

As requirements become known, QVL vendors compete for award. A QVL can be useful where lists are needed in specialized areas such as NAVAIDS, electrical, EPDM roofing, or EFIS siding.

Blanket Purchase Agreement (BPA)

- If an area finds a recurring need for a supply or service during an emergency response, the procurement office can establish BPAs locally.
- Individuals can be identified by the CO as authorized users of the BPA and can place purchases or "calls" against it.
- A BPA can be established with zero funding, and when needs arise it can be funded per action or in "bulk."
- BPAs can be established with either local or national vendors depending on the need.
- BPAs can be established with multiple vendors for the same need.

Indefinite Delivery/ Indefinite Quantity Contract (ID/IQ)

- If a need is known but the schedule and quantity are unknown, an ID/IQ contract can be a valuable tool.
- An ID/IQ contract can be established with a single or multiple vendors.
- An ID/IQ does have a guaranteed minimum quantity in the contract.
- Funds are obligated by each task or delivery order, not by the contract itself.

County, City, or Local Trade Organization

- As a response to an emergency can involve varying levels of government, many state, county, and city governments have already established listings of vendors in varying trades that can be utilized.
- In several areas, vendors have committed personnel and equipment to mobilize for emergency response when required.
- Several trade organizations have also formulated listings of their members that have committed their resources to emergency responses. These include heavy construction contractors (earth moving, etc), electricians, and landscape contractors (tree removal, etc.).
- Many government offices or trade organizations list these vendors in annual publications for reference when needed.

Other Federal Resources

GSA

- GSA *Advantage* Disaster Relief: GSA has established a website to identify those products and services that are traditionally utilized in relief efforts. As the products are available through GSA *Advantage* and GSA Federal Supply Schedule (FSS) contracts, products and pricing are easily obtained.
- GSA *Advantage*: While using the purchase card, required supplies can be purchased and received in a short period of time. A cardholder can locate required items using the search feature on the site, or utilize tailored sections of the site that categorize the products into areas such as Homeland Security Products or Wild Fire and Equipment.
- GSA e-Buy: If a requirement is needed quickly, yet time limitations allow for some

market research, e-Buy allows for the distribution of an opportunity to FSS vendors and submission of the resulting vendor quote for the need electronically.

- GSA FSS or GSA BPA: There are several FSS contracts and Blanket Purchase Agreements (BPA) established by GSA or other agencies for various goods or services. GSA has the goods and services organized by type, and provides them in the GSA Schedule e-Library.

Department of Homeland Security (DHS) or Federal Emergency Management Agency (FEMA): DHS has established several contracts and agreements for supplies and services to be utilized during an emergency response. Information regarding the ability to utilize these tools or to learn of avenues available can be obtained by calling DHS at (202) 205-5045.

FEMA Source Lists: FEMA has formulated several lists of vendors of varying trades that may be utilized in relief efforts. The lists and contact information can be obtained by calling (202) 646-4686.

Defense Logistics Agency (DLA): DLA contracts for various supplies and services that can be utilized by the FAA. These include contracts for heavy equipment and buildings.

Air Force Contract Augmentation Program (AFCAP): This program provides various civil engineer and service capabilities to include structural fire protection, environmental management, and lodging.

Navy's Construction Capability (CONCAP) contract: Provides rapid response capability in emergency operations and is focused on construction and construction-related activities. Tasks include airfield construction, pier construction, and petroleum storage.

Army's Logistics Civil Augmentation Program (LOGCAP): Provides rapid response in areas to include construction support, general logistics services, and facility engineer support.

Emergency Procurement Flexibilities

- Mandatory Sources: An emergency may exempt procurements from complying with the Javits-Wagner-O'Day (JWOD) Act, Randolph Sheppard Act, and the Federal Prison Industries requirements. (AMS Procurement Guidance T3.8.4)
- Single Source Procurement: In an emergency, procurements can be awarded to a single source if in the best interest of the FAA. (AMS Procurement Guidance T3.2.2.4)
- Public Announcement: The requirement to synopsize or publicly announce procurements over $100,000 is waived for emergency actions. (AMS Procurement Guidance T3.2.2)
- Walsh-Healey Public Contracts Act: Contracts for supplies under emergency conditions are waived from this act. (AMS Procurement Guidance T3.6.2)
- Purchase Card: See section *Purchase Cards*.
- Credit Card Checks: See section *Purchase Cards*.
- Letter contracts: If the situation demands immediate response, a CO may issue a letter contract to a vendor. A letter contract includes identification of the requirement and a brief description of the work, a total amount for which the contractor shall be limited to expend and the FAA shall be required to pay; and the period of performance by the contractor. (AMS Procurement Guidance T3.2.4)

- Verbal Authorization: A CO may give a vendor a verbal authorization to begin work once funds are committed and complete the remaining contract phases after the fact. (AMS Policy 3.2.2.4.1.1)
- Oral Solicitations and Quotations: Oral solicitations may be used when processing a written solicitation would delay the acquisition of supplies or services in an emergency to the detriment of the FAA. Oral quotations may be authorized to allow for quicker receipt of pricing for goods and services. Documentation for each oral Request for Quote (RFQ) should include:
    - Description of requirement and RFQ number;
    - Rationale for use of oral quotations;
    - Sources solicited: Include date, time, and name of individuals contacted, and prices offered; and
    - Best value determination.
- System for Award Management (SAM): Contractors do not have to be registered in SAM before award of a contract, agreement, or lease in response to an emergency or disaster. (AMS Procurement Guidance T3.3.1)
- Electronic Fund Transfer (EFT): Payment by EFT is not required during emergencies or contingency operations. (AMS Procurement Guidance T3.3.1)
- Local Area Set-Asides for Disaster or Emergency: The CO may set-aside procurements for competition among only offerors residing or doing business primarily in an area where the President has declared a major disaster or emergency. (AMS Procurement Guidance T3.2.1.5)
- Bonds: For emergency acquisitions, the CO may waive the requirement to obtain a guarantee when performance bond and/or payment bonds are usually required. (AMS Procurement Guidance T3.4.1)
- Legal Coordination: At Headquarters, the Assistant Chief Counsel for Procurement, and at Regions and Centers, the Region or Center Counsel, may make written exceptions to the Coordination Policy described in T1.15, adjust dollar minimums, or in appropriate cases, waive the Coordination Policy. (AMS Procurement Guidance T1.15)
- Overtime: Approval of contractor overtime should be prospective, but if justified by emergency circumstances, approval may be retroactive. (AMS Procurement Guidance T3.6.2)