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Parent topic: Federal Acquisition Regulation

18.000 Scope of part.

(a) This part identifies *acquisition* flexibilities that are available for *emergency acquisitions*. These flexibilities are specific techniques or procedures that *may* be used to streamline the standard *acquisition* process. This part includes-

(1) Generally available flexibilities; and

(2) *Emergency acquisition flexibilities* that are available only under prescribed circumstances.

(b) The *acquisition* flexibilities in this part are not exempt from the requirements and limitations set forth in FAR part 3, Improper Business Practices and Personal Conflicts of Interest.

(c) Additional flexibilities *may* be authorized in an *executive agency* supplement to the FAR.

18.001 Definition.

Emergency acquisition flexibilities, as used in this part, means flexibilities provided with respect to any *acquisition* of *supplies* or services by or for an *executive agency* that, as determined by the head of an *executive agency*, *may* be used-

(a) In support of a *contingency operation* as defined in 2.101;

(b) To facilitate the defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack against the *United States*;

(c) In support of a request from the Secretary of State or the Administrator of the *United States*

Agency for International Development to facilitate the provision of international disaster assistance; or

(d) When the President issues an *emergency* declaration, or a *major disaster* declaration.

Subpart 18.1 - Available Acquisition Flexibilities

18.101 General.

The FAR includes many *acquisition* flexibilities that are available to the *contracting officer* when certain conditions are met. These *acquisition* flexibilities do not require an *emergency* declaration or designation of *contingency operation*.

18.102 System for Award Management.

(a) In accordance with 4.1102, contractors are not required to be *registered in the System for Award Management (SAM*) at the time of submission of *offers* or quotations for—

(1) Contracts awarded without providing for *full and open competition* due to unusual and compelling urgency (see 6.302-2); or

(2) Contracts awarded by a *contracting officer*–

(i) Deployed in the course of military operations;

(ii) Located outside the *United States* and its *outlying areas*, for work to be performed in support of diplomatic or developmental operations, in an area that has been designated by the Department of State as a danger pay post; or

(iii) In the conduct of *emergency* operations.

(b) However, contractors are required to be registered in SAM in order to gain access to the *Disaster Response Registry*.

(c) *Contracting officers shall* consult the *Disaster Response Registry* via https://www.sam.gov., Search Records, Advanced Search, *Disaster Response Registry* Search to determine the availability of contractors for debris removal, distribution of *supplies*, reconstruction, and other disaster or *emergency* relief activities inside the *United States* and *outlying areas*. (See 26.205).

18.103 Synopses of proposed contract actions.

Contracting officers need not submit a synopsis notice when there is an unusual and compelling urgency and the Government would be seriously injured if the agency complied with the notice time periods. (See 5.202(a)(2).)

18.104 Unusual and compelling urgency.

Agencies *may* limit the number of sources and *full and open competition* need not be provided for *contracting* actions involving urgent requirements. (See 6.302-2.)

18.105 Federal Supply Schedules (FSSs), multi-agency blanket purchase agreements (BPAs), and multi-agency indefinite delivery contracts.

Streamlined procedures and a broad range of goods and services *may* be available under Federal Supply Schedule contracts (see subpart 8.4), multi-agency BPAs (see 8.405-3(a)(6)), or multi-agency, indefinite-delivery contracts (see 16.505(a)(8)). These *contracting* methods *may offer* agency advance planning, pre-negotiated *line items*, and special terms and conditions that permit rapid response.

18.106 Acquisitions from Federal Prison Industries, Inc. (FPI).

Purchase from FPI is not mandatory and a waiver is not required if public exigency requires immediate delivery or performance (see 8.605(b)).

18.107 AbilityOne specification changes.

Contracting officers are not held to the notification required when changes in AbilityOne specifications or descriptions are required to meet *emergency* needs. (See 8.712(d).)

18.108 Qualifications requirements.

Agencies *may* determine not to enforce *qualification requirements* when an *emergency* exists. (See 9.206-1.)

18.109 Priorities and allocations.

The Defense Priorities and Allocations System (DPAS) supports approved *national defense, emergency* preparedness, and energy programs and was established to facilitate rapid industrial mobilization in case of a national *emergency*. (See subpart 11.6.)

18.110 Soliciting from a single source.

For purchases not exceeding the *simplified acquisition threshold*, *contracting officers may* solicit from one source under certain circumstances. (See 13.106-1(b).)

18.111 Oral requests for proposals.

Oral requests for proposals are authorized under certain conditions. (See 15.203(f).)

18.112 Letter contracts.

Letter contracts *may* be used when contract performance *must* begin immediately. (See 16.603.)

18.113 Interagency acquisitions.

Interagency acquisitions are authorized under certain conditions. (See subpart 17.5.)

18.114 Contracting with the Small Business Administration (The 8(a) Program).

Contracts *may* be awarded to the Small Business Administration (SBA) for performance by eligible 8(a) participants on either a sole source or competitive basis. (See subpart 19.8.)

18.115 HUBZone sole source awards.

Contracts *may* be awarded to Historically Underutilized Business Zone (*HUBZone*) small business concerns on a sole source basis. (See 19.1306.)

18.116 Service-disabled Veteran-owned Small Business (SDVOSB) sole source awards.

Contracts *may* be awarded to Service-disabled Veteran-owned Small Business (SDVOSB) concerns eligible under the SDVOSB Program on a sole source basis. (See 19.1406.)

18.117 Awards to economically disadvantaged women-owned small business concerns and women-owned small business concerns eligible under the Women-Owned Small Business Program.

Contracts *may* be awarded to economically disadvantaged women-owned small business (EDWOSB) concerns and women-owned small business (WOSB) concerns eligible under the WOSB Program on a competitive or sole source basis. (See subpart 19.15.)

18.118 Overtime approvals.

Overtime approvals *may* be retroactive if justified by *emergency* circumstances. (See 22.103-4(i).)

18.119 Trade agreements.

The policies and procedures of FAR 25.4 *may* not apply to *acquisitions* not awarded under *full and open competition* (see 25.401(a)(5)).

18.120 [Reserved]

18.121 Bid guarantees.

The chief of the *contracting office may* waive the requirement to obtain a bid guarantee for *emergency acquisitions* when a performance bond or a performance bond and payment bond is required. (See 28.101-1(c).)

18.122 Advance payments.

Agencies *may* authorize advance payments to facilitate the *national defense* for actions taken under Public Law 85-804 (see subpart 50.1, Extraordinary Contractual Actions). These advance payments *may* be made at or after award of sealed bid contracts, as well as negotiated contracts. (See 32.405.)

18.123 Assignment of claims.

The use of the no-setoff provision *may* be appropriate to facilitate the *national defense* in the event of a national *emergency* or natural disaster. (See 32.803(d).)

18.124 Electronic funds transfer.

Electronic funds transfer payments *may* be waived for *acquisitions* to support unusual and compelling needs or *emergency acquisitions*. (See 32.1103(e).)

18.125 Protest to GAO.

When urgent and compelling circumstances exist, agency protest override procedures allow the *head of the contracting activity* to determine that the *contracting* process *may* continue after GAO has received a protest. (See 33.104(b) and (c).)

18.126 Contractor rent-free use of Government property.

Rental requirements do not apply to items of Government production and research property that are part of a general program approved by the Federal *Emergency* Management Agency and meet certain criteria. (See 45.301.)

18.127 Extraordinary contractual actions.

subpart 50.1 prescribes policies and procedures for entering into, amending, or modifying contracts in order to facilitate the *national defense* under the extraordinary *emergency* authority granted by Public Law 85-804 (50 U.S.C. 1431-1434). This includes-

(a) Amending contracts without consideration (see 50.103-2(a));

(b) Correcting or mitigating mistakes in a contract (see 50.103-2(b)); and

(c) Formalizing informal commitments (See 50.103-2(c)).

Subpart 18.2 - Emergency Acquisition Flexibilities

18.201 Contingency operation.

(a) *Contingency operation* is defined in 2.101.

(b) *Micro-purchase threshold*. The threshold increases when the *head of the agency* determines the *supplies* or services are to be used to support a *contingency operation*. (See 2.101 and 13.201(g).)

(c) *Simplified acquisition threshold*. The threshold increases when the *head of the agency* determines the *supplies* or services are to be used to support a *contingency operation*. (See 2.101.)

(d) SF 44, *Purchase Order-Invoice*-Voucher. The normal threshold for the use of the SF 44 is at or below the *micro-purchase threshold*. Agencies *may*, however, establish higher dollar limitations for purchases made to support a *contingency operation*. (See 13.306.)

(e) *Simplified procedures for certain commercial products and commercial services.* The threshold limits authorized for use of this authority *may* be increased for *acquisitions* to support a *contingency operation*. (See 13.500(c).)

18.202 Defense or recovery from certain events.

(a) *Micro-purchase threshold.* The threshold increases when the *head of the agency* determines the *supplies* or services are to be used to facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; to facilitate provision of international disaster assistance; or to support response to an *emergency* or *major disaster*. (See 2.101.)

(b) *Simplified acquisition threshold.* The threshold increases when the *head of the agency* determines the *supplies* or services are to be used to facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; to facilitate provision of international disaster assistance; or to support response to an *emergency* or *major disaster*. (See 2.101.)

(c) *Commercial product or commercial service treatment. Contracting officers may* treat any *acquisition* of *supplies* or services as an *acquisition* of *commercial products* or *commercial services* if the *head of the agency* determines the *acquisition* is to be used to facilitate the defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack. (See 12.102(f)(1) and

13.500(c).)

(d) *Simplified procedures for certain commercial products and commercial services.* The threshold limits authorized for use of this authority *may* be increased when it is determined the *acquisition* is to facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; to facilitate provision of international disaster assistance; or to support response to an *emergency* or *major disaster*. (See 13.500(c).)

(e) *Sustainable products and services. Contracting officers* are encouraged, but not required, to procure *sustainable products and services* if the *head of the agency* determines the *supplies* or services are to be used to facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; to facilitate provision of international disaster assistance; or to support response to an *emergency* or *major disaster* (see 23.106(c)).

18.203 Emergency declaration or major disaster declaration.

(a) Disaster or *emergency* assistance activities. Preference will be given to local organizations, firms, and individuals when *contracting* for *major disaster* or *emergency* assistance activities when the President has made a declaration under the Robert T. Stafford Disaster Relief and *Emergency* Assistance Act. Preference *may* take the form of local area set-asides or an evaluation preference. (See 6.208 and subpart 26.2.)

(b) Ocean transportation by U.S. flag vessels. The provisions of the Cargo Preference Act of 1954 *may* be waived in *emergency* situations. (See 47.502(c).)

18.204 Humanitarian or peacekeeping operation.

(a) A *humanitarian or peacekeeping operation* is defined in 2.101.

(b) *Simplified acquisition threshold*. The threshold increases when the *head of the agency* determines the *supplies* or services are to be used to support a *humanitarian or peacekeeping operation*. (See 2.101.)

18.205 Resources.

(a) *National Response Framework*. The National Response Framework (NRF) is a guide to how the Nation conducts all-hazards response. This key document establishes a comprehensive, national, all-hazards approach to domestic incident response. The Framework identifies the key response principles, roles and structures that organize national response. It describes how communities, States, the Federal Government, the private-sector, and nongovernmental partners apply these principles for a coordinated, effective national response. It also describes special circumstances where the Federal Government exercises a larger role, including incidents where Federal interests are involved and catastrophic incidents where a State would require significant support. The NRF is available at https://www.fema.gov/media-library/assets/documents/117791.

(b) *OFPP Guidelines*. The Office of Federal *Procurement* Policy (OFPP) "*Emergency Acquisitions* Guide" is available at https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/assets/procurement_guides

/emergency_acquisitions_guide.pdf.