Part 218 - EMERGENCY ACQUISITIONS

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Parent topic: Defense Federal Acquisition Regulation

Subpart 218.1 - AVAILABLE ACQUISITION FLEXIBILITIES

218.170 Additional acquisition flexibilities.

Additional acquisition flexibilities available to DoD are as follows:

(a) *Circumstances permitting other than full and open competition.*Use of the authority at FAR 6.302-2, Unusual and compelling urgency, may be appropriate under certain circumstances. See PGI 206.302-2 .

(b) *Use of advance Military Interdepartmental Purchase Request (MIPR).* For urgent requirements, the advance MIPR may be transmitted electronically. See PGI 208.7004-3 .

(c) *Use of the Governmentwide commercial purchase card.* Governmentwide commercial purchase cards do not have to be used for purchases valued at or below the micro-purchase threshold if the place of performance is entirely outside the United States. See 213.270 (c)(1).

(d) *Master agreement for repair and alteration of vessels.* The contracting officer, without soliciting offers, may issue a written job order for emergency work to a contractor that has previously executed a master agreement, when delay would endanger a vessel, its cargo or stores, or when military necessity requires immediate work on a vessel. See 217.7103-4, 252.217-7010, and PGI 217.7103-4.

(e) *Spare parts breakout program.* An urgent immediate buy need not be delayed if an evaluation of the additional information cannot be completed in time to meet the required delivery date. See PGI 217.7506, paragraph 1-105(e).

(f) *Storage and disposal of toxic and hazardous materials.* Under certain emergency situations,

exceptions apply with regard to the prohibition on storage or disposal of non-DoD-owned toxic or hazardous materials on DoD installations. See 223.7102(a)(3) and (7).

(g) *Authorization Acts, Appropriations Acts, and other statutory restrictions on foreign acquisition.* Acquisitions in the following categories are not subject to the restrictions of 225.7002, Restrictions on food, clothing, fabrics, specialty metals, and hand or measuring tools: (1) Acquisitions at or below the simplified acquisition threshold; (2) Acquisitions outside the United States in support of combat operations; (3) Acquisitions of perishable foods by or for activities located outside the United States for personnel of those activities; (4) Acquisitions of food, specialty metals, or hand or measuring tools in support of contingency operations, or for which the use of other than competitive procedures has been approved on the basis of unusual and compelling urgency in accordance with FAR 6.302-2; (5) Emergency acquisitions by activities located outside the United States for personnel of those activities; and (6) Acquisitions by vessels in foreign waters. See 225.7002-2.

(h) *Rights in technical data.* The agency head may notify a person asserting a restriction that urgent or compelling circumstances (e.g., emergency repair or overhaul) do not permit the Government to continue to respect the asserted restriction. See 227.7102-2; 227.7103-5; 227.7103-13; 227.7104; 227.7203-13; 252.227-7013; 252.227-7014; 252.227-7015; 252.227-7018; and 252.227-7037.

(i) *Tax exemption in Spain.* If copies of a contract are not available and duty-free import of equipment or materials is urgent, the contracting officer may send the Joint United States Military Group copies of the Letter of Intent or a similar document indicating the pending award. See PGI 229.7001.

(j) *Electronic submission and processing of payment requests.* Exceptions to the use of Wide Area WorkFlow are at 232.7002(a).

(k) *Mortuary services.* In an epidemic or other emergency, the contracting activity may obtain services beyond the capacity of the contractor's facilities from other sources. See 237.7003(a) and 252.237-7003.

Subpart 218.2 - EMERGENCY ACQUISITION FLEXIBILITIES

218.201 Contingency operation.

(1) *Selection, appointment, and termination of appointment.* Contracting officer qualification requirements pertaining to a baccalaureate degree do not apply to DoD employees or members of the armed forces who are in a contingency contracting force. See 201.603-2(2).

(2) *Policy for item unique identification.* Contractors will not be required to provide DoD item unique identification if the items, as determined by the head of the contracting activity, are to be used to support a contingency operation. See 211.274-2(b).

(3) *Use of the Governmentwide commercial purchase card.* Governmentwide commercial purchase cards do not have to be used for purchases valued at or below the micro-purchase threshold if the purchase or payment is for an overseas transaction by a contracting officer in support of a contingency operation, or for training exercises in preparation for overseas contingency, humanitarian, or peacekeeping operations. See 213.201(g) and 213.270(c)(3) and (5).

(4) *Governmentwide commercial purchase card.* A contracting office supporting a contingency

operation or a humanitarian or peacekeeping operation may use the Governmentwide commercial purchase card to make a purchase that exceeds the micro-purchase threshold but does not exceed the simplified acquisition threshold if certain conditions are met. See 213.301(3).

(5) *Imprest funds and third party drafts.* Imprest funds are authorized for use without further approval for overseas transactions at or below the micro-purchase threshold in support of a contingency operation or a humanitarian or peacekeeping operation. See 213.305-3(d)(iii)(A).

(6) *Standard Form (SF) 44, Purchase Order-Invoice-Voucher.* SF 44s may be used for purchases not exceeding the simplified acquisition threshold for overseas transactions by contracting officers in support of a contingency operation or a humanitarian or peacekeeping operation. See 213.306(a)(1)(B).

(7) *Only one offer.* The requirements at sections 215.371-2 do not apply to acquisitions, as determined by the head of the contracting activity, in support of a contingency operation. See 215.371-4(a)(2).

(8) *Approval of determination and findings for time-and-materials or labor-hour contracts.* The approval requirements in paragraphs (d)(i)(A)(*1*) and (*2*) of this section do not apply to contracts that, as determined by the head of the contracting activity, support contingency. See 216.601(d)(3).

(9) *Undefinitized contract actions.* The head of the agency may waive certain limitations for undefinitized contract actions if the head of the agency determines that the waiver is necessary to support a contingency operation or a humanitarian or peacekeeping operation. See 217.7404-5(b).

(10) *Prohibited sources.* DoD personnel are authorized to make emergency acquisitions in direct support of U.S. or allied forces deployed in military contingency, humanitarian, or peacekeeping operations in a country or region subject to economic sanctions administered by the Department of the Treasury, Office of Foreign Assets Control. See 225.701-70.

(11) *Authorization Acts, Appropriations Acts, and other statutory restrictions on foreign acquisition.* Acquisitions in the following categories are not subject to the restrictions of 225.7002, Restrictions on food, clothing, fabrics, specialty metals, and hand or measuring tools: (1) Acquisitions at or below the simplified acquisition threshold; (2) Acquisitions outside the United States in support of combat operations; (3) Acquisitions of perishable foods by or for activities located outside the United States for personnel of those activities; (4) Acquisitions of food, specialty metals, or hand or measuring tools in support of contingency operations, or for which the use of other than competitive procedures has been approved on the basis of unusual and compelling urgency in accordance with FAR 6.302-2; (5) Emergency acquisitions by activities located outside the United States for personnel of those activities; and (6) Acquisitions by vessels in foreign waters. See 225.7002-2.

(12) *Electronic submission and processing of payment requests.* Contractors do not have to submit payment requests in electronic form for contracts awarded by deployed contracting officers in the course of military operations, including contingency operations or humanitarian or peacekeeping operations. See 232.7002(a)(4).

218.202 Defense or recovery from certain events.

For acquisitions that, as determined by the head of the contracting activity, are 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, the following requirements do not apply:

(1) *Policy for unique item identification at 211.274-2(a).* Contractors are not required to provide DoD unique item identification if the items are to be used to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack. However, contractors are not exempt from this requirement if the items are to be used to facilitate defense against or recovery from cyber attack. See 211.274-2(b).

(2) *Only one offer requirements at section* 215.371-2. See 215.371-4(a)(2).

(3) *Approval of determination and findings for time-and-materials or labor-hour contracts at 216.601(d)(i)(A)(1) and (2).* See 216.601(d)(3).

218.203 Emergency declaration,or major disaster declaration.

(1) *Establishing or maintaining alternative sources.* PGI contains a sample format for Determination and Findings citing the authority of FAR 6.202(a), regarding exclusion of a particular source in order to establish or maintain an alternative source or sources. Alternate 2 of the sample format addresses having a supplier available for furnishing supplies or services in case of a national emergency. See PGI 206.202 .

(2) *Electronic submission and processing of payment requests.* Contractors do not have to submit payment requests in electronic form for contracts awarded by contracting officers in the conduct of emergency operations, such as responses to natural disasters or national or civil emergencies. See 232.7002 (a)(4).

218.204 Humanitarian or peacekeeping operation.

The following requirements do not apply to acquisitions that, as determined by the head of the contracting activity, are in support of humanitarian or peacekeeping operations:

(1) *Policy for item unique identification at 211.274-2(a).* See 211.274-2(b).

(2) *Only one offer requirements at sections* 215.371-2. See 215.371-4(a)(2).

(3) *Approval of determination and findings for time-and-materials or labor-hour contracts at 216.601(d)(i)(A)(1) and (2).* See 216.601(d)(3).

218.270 Head of contracting activity determinations.

The term “head of the agency” is replaced with “head of the contracting activity,” as defined in FAR 2.101, in the following locations:

(a) FAR 2.101: definition of “simplified acquisition threshold.”

(b) FAR 12.102(f).

(c) FAR 13.201(g).

(d) FAR 13.500(c)(1).

(e) FAR 18.2.

218.271 Use of electronic business tools.

When supporting a contingency operation or humanitarian or peacekeeping operation, follow the procedures at PGI 218.271 concerning the use of electronic business tools.