

**Pt. 50**

the contract delivery schedule is not sufficient to permit a realistic cure period of 10 days or more, the *Cure Notice* should not be issued. The *Cure Notice* may be in the following format:

**CURE NOTICE**

You are notified that the Government considers your \_\_\_\_\_ [*specify the contractor's failure or failures*] a condition that is endangering performance of the contract. Therefore, unless this condition is cured within 10 days after receipt of this notice [*or insert any longer time that the Contracting Officer may consider reasonably necessary*], the Government may terminate for default under the terms and conditions of the \_\_\_\_\_ [*insert clause title*] clause of this contract.

(End of notice)

(b) *Show cause notice.* If the time remaining in the contract delivery schedule is not sufficient to permit a realistic cure period of 10 days or more, the following *Show Cause Notice* may be used. It should be sent immediately upon expiration of the delivery period.

**SHOW CAUSE NOTICE**

Since you have failed to \_\_\_\_\_ [*insert "perform Contract No. \_\_\_\_\_ within the time required by its terms", or "cure the conditions endangering performance under Contract No. \_\_\_\_\_ as described to you in the Government's letter of \_\_\_\_\_ (date)"*], the Government is considering terminating the contract under the provisions for default of this contract. Pending a final decision in this matter, it will be necessary to determine whether your failure to perform arose from causes beyond your control and without fault or negligence on your part. Accordingly, you are given the opportunity to present, in writing, any facts bearing on the question to \_\_\_\_\_ [*insert the name and complete address of the contracting officer*], within 10 days after receipt of this notice. Your failure to present any excuses within this time may be considered as an admission that none exist. Your attention is invited to the respective rights of the Contractor and the Government and the liabilities that may be invoked if a decision is made to terminate for default.

Any assistance given to you on this contract or any acceptance by the Government of delinquent goods or services will be solely for the purpose of mitigating damages, and it is not the intention of the Government to condone any delinquency or to waive any rights the Government has under the contract.

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(End of notice)

[48 FR 42447, Sept. 19, 1983, as amended at 60 FR 48250, Sept. 18, 1995]

**PART 50—EXTRAORDINARY CONTRACTUAL ACTIONS**

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AUTHORITY: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 48 FR 42471, Sept. 19, 1983, unless otherwise noted.

**50.000 Scope of part.**

This part prescribes policies and procedures for entering into, amending, or modifying contracts in order to facilitate the national defense under the extraordinary emergency authority

## Federal Acquisition Regulation

50.201

granted by Public Law 85-804 (50 U.S.C. 1431-1434), referred to in this part as the "Act", and Executive Order 10789, dated November 14, 1958, referred to in this part as "the Executive order", It does not cover advance payments (see subpart 32.4).

[65 FR 46073, July 26, 2000]

### 50.001 Definitions.

As used in this part—

*Approving authority* means an agency official or contract adjustment board authorized to approve actions under the Act and Executive Order.

*Secretarial level* means a level at or above the level of a deputy assistant agency head, or a contract adjustment board.

[48 FR 42471, Sept. 19, 1983, as amended at 66 FR 2134, Jan. 10, 2001]

## Subpart 50.1—General

### 50.101 Authority.

(a) The Act empowers the President to authorize agencies exercising functions in connection with the national defense to enter into, amend, and modify contracts, without regard to other provisions of law related to making, performing, amending, or modifying contracts, whenever the President considers that such action would facilitate the national defense.

(b) The Executive Order authorizes the heads of the following agencies to exercise the authority conferred by the Act and to delegate it to other officials within the agency: the Government Printing Office; the Federal Emergency Management Agency; the Tennessee Valley Authority; the National Aeronautics and Space Administration; the General Services Administration; the Defense, Army, Navy, Air Force, Treasury, Interior, Agriculture, Commerce, and Transportation Departments; the Department of Energy for functions transferred to that Department from other authorized agencies; and any other agency that may be authorized by the President.

### 50.102 Policy.

(a) The authority conferred by the Act may not (1) be used in a manner that encourages carelessness and laxity

on the part of persons engaged in the defense effort or (2) be relied upon when other adequate legal authority exists within the agency.

(b) Actions authorized under the Act shall be accomplished as expeditiously as practicable, consistent with the care, restraint, and exercise of sound judgment appropriate to the use of such extraordinary authority.

(c) Certain kinds of relief previously available only under the Act; e.g., rescission or reformation for mutual mistake, are now available under the authority of the Contract Disputes Act of 1978. In accordance with subparagraph (a)(2) above, part 33 must be followed in preference to part 50 for such relief. In case of doubt as to whether part 33 applies, the contracting officer should seek legal advice.

### 50.103–50.104 [Reserved]

### 50.105 Records.

Agencies shall maintain complete records of all actions taken under this part 50. For each request for relief processed, these records shall include, as a minimum—

(a) The contractor's request;

(b) All relevant memorandums, correspondence, affidavits, and other pertinent documents;

(c) The Memorandum of Decision (see 50.306 and 50.402); and

(d) A copy of the contractual document implementing an approved request.

## Subpart 50.2—Delegation of and Limitations on Exercise of Authority

### 50.201 Delegation of authority.

An agency head may delegate in writing authority under the Act and Executive Order, subject to the following limitations:

(a) Authority delegated shall be to a level high enough to ensure uniformity of action.

(b) Authority to approve requests to obligate the Government in excess of \$50,000 may not be delegated below the secretarial level.

(c) Regardless of dollar amount, authority to approve any amendment without consideration that increases