




Washington, D.C. 20530

OCT 10 2007

MEMORANDUM FOR BUREAU PROCUREMENT CHIEFS

FROM: Michael H. Allen 
Procurement Executive

SUBJECT: Procurement Guidance Document (PGD) 07-12, Maintaining Contractor Performance During a Pandemic or Other Emergency

In accordance with guidance from the Homeland Security Council, agencies have been developing plans for keeping our government workforce operational during a pandemic influenza or other emergency periods. Our plans must include keeping our contract workforce performing the critical services needed to support our mission.

Attached is a "Notice to Contractors" intended to encourage their best efforts in keeping contract performance going during pandemic influenza or other emergencies. The notice informs the contractor that it is responsible for notifying the government contract office if it anticipates not being able to perform and for working with us to fill gaps as necessary. The notice also advises the contractor of our rights in emergency situations to use federal employees, employees of other agencies, contract support from other existing contracts, or to enter into new contracts using the Emergency Acquisition Flexibilities in FAR Subpart 18.2 and in the Office of Federal Procurement Policy guidance on Emergency Acquisitions dated May, 2007 (attached).

This notice is to be used in all new solicitations and contracts/task orders for products or services considered critical to mission accomplishment. Incorporating this notice into existing contracts is at the discretion of the contracting officer depending on the critical need for the products or services, time remaining on the contract, etc., on a case by case basis.

Implementation will require a large scale communications effort with your program offices and COTRs. For the most critical deliverables, it may be advisable to meet with the contractors and program offices to explain the need for the contractor to have a reasonable plan for continued performance during emergency periods.

Bureaus may modify this notice to cover unique requirements, however, this Department-wide policy supercedes any bureau level policy previously developed on this subject.

The three most significant actions discussed in the above mentioned government-wide Emergency Acquisitions guidance are the raising of the micro-purchase threshold, the raising of the simplified acquisition threshold, and the raising of the threshold on the individual government purchase cards. The bureau-level contact person (and alternates) for purchase card issues will be responsible for notifying the credit card company when individual card thresholds are to be increased during a declared emergency.

When raising these thresholds, the bureau-level contact person should also consider whether the Merchant Category codes need to be expanded or eliminated and also whether the cycle (daily or monthly) total spending and number of transactions limits on a card need to be increased for the duration of the emergency. Unless absolutely necessary, this should be done on an individual need basis and only at reasonable levels as would be adequate to cover the types and amounts of goods and services the individual would be expected to be procuring.

It should be noted that cash advances cannot be authorized according to the government's credit card contracts.

If you have any questions on the use of this notice to contractors, please call Larry Silvis on (202) 616-3754.

Attachments

**Continuing Contract Performance During a Pandemic Influenza
or other National Emergency**

During a Pandemic or other emergency we understand that our contractor workforce will experience the same high levels of absenteeism as our federal employees. Although the Excusable Delays and Termination for Default clauses used in government contracts list epidemics and quarantine restrictions among the reasons to excuse delays in contract performance, we expect our contractors to make a reasonable effort to keep performance at an acceptable level during emergency periods.

The Office of Personnel Management (OPM) has provided guidance to federal managers and employees on the kinds of actions to be taken to ensure the continuity of operations during emergency periods. This guidance is also applicable to our contract workforce. Contractors are expected to have reasonable policies in place for continuing work performance, particularly those performing mission critical services, during a pandemic influenza or other emergency situation.

The types of actions a federal contractor should reasonably take to help ensure performance are:

- Encourage employees to get inoculations or follow other preventive measures as advised by the public health service.
- Contractors should cross-train workers as backup for all positions performing critical services. This is particularly important for work such as guard services where telework is not an option.
- Implement telework to the greatest extent possible in the workgroup so systems are in place to support successful remote work in an emergency.
- Communicate expectations to all employees regarding their roles and responsibilities in relation to remote work in the event of a pandemic health crisis or other emergency.
- Establish communication processes to notify employees of activation of this plan.
- Integrate pandemic health crisis response expectations into telework agreements.
- With the employee, assess requirements for working at home (supplies and equipment needed for an extended telework period). Security concerns should be considered in making equipment choices; agencies or contractors may wish to avoid use of employees' personal computers and provide them with PCs or laptops as appropriate.
- Determine how all employees who may telework will communicate with one another and with management to accomplish work.
- Practice telework regularly to ensure effectiveness.

- Make it clear that in emergency situations, employees must perform all duties assigned by management, even if they are outside usual or customary duties.
- Identify how time and attendance will be maintained.

It is the contractor's responsibility to advise the government contracting officer if they anticipate not being able to perform and to work with the Department to fill gaps as necessary. This means direct communication with the contracting officer or in his/her absence, another responsible person in the contracting office via telephone or email messages acknowledging the contractors notification. The incumbent contractor is responsible for assisting the Department in estimating the adverse impacts of nonperformance and to work diligently with the Department to develop a strategy for maintaining the continuity of operations.

The Department does reserve the right in such emergency situations to use federal employees, employees of other agencies, contract support from other existing contractors, or to enter into new contracts for critical support services. Any new contracting efforts would be acquired following the guidance in the Office of Federal Procurement Policy issuance "Emergency Acquisitions", May, 2007 and Subpart 18.2, Emergency Acquisition Flexibilities, of the Federal Acquisition Regulations.