

October 28, 2004

AGAR ADVISORY

**UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT
AGAR ADVISORY NO. 67**

Emergency Response to Contingency Operation, Humanitarian or Peacekeeping Operations, or Terrorist Attack, Revised

INTRODUCTION: This Agriculture Acquisition Regulation (AGAR) Advisory has been prepared to highlight the increased authorities available to acquire property or services to be used in support of a contingency operation or to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.

SUMMARY:

The Office of Federal Procurement Policy Act was again amended to authorize the use of simplified procurement procedures to defend from terrorism or radiological attack.

AGAR Advisory Number 63, previously providing instructions on this topic, has expired.

The authority to determine that products or services are needed for such defense has been delegated to appropriate levels in order to be prepared to act.

The purchase card management system local instructions are amended in advance in order to take advantage of the simplified techniques.

The local managers responsible for emergency response and the contracting personnel assigned to support their needs should continue to meet on a regular basis to discuss the techniques and how to use them.

SPECIFIC ISSUES:

Documentation of need –

Heads of agencies and staff office Directors are presently authorized to make a determination that property (e.g. hardware, software, personal property, or supplies) and services are needed either to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack or are in support of a contingency operation. This authority may be re-delegated.

The requiring official must include the agency head or staff office head's determination with the requisition or in the documentation supporting the use of a purchase card. It is this determination that allows the acquiring official to use streamlined procedures.

Preference for Socioeconomic Program Vendors –

Acquiring officials (Contracting Officers or purchase card holders) responding to a determination that property or services are needed in support of a contingency operation or to facilitate defense against or recovery from attack are encouraged to seek out and utilize small, small disadvantaged, women-owned, veteran-owned, service-disabled veteran-owned, and HUBZone businesses.

In planning for potential reaction situations, acquiring officials should also look to the Javits-Wagner-O'Day Act Program participants as contingent sources. These participating non-profits are currently a significant portion of the Department of Defense "surge" or reactive capacity.

Management activity required of purchase card managers:

Purchase card managers should maintain inventory of users and anticipated needs and must both adjust the purchase card system pre-set thresholds to allow implementation of these procedures and assure that revised letters of delegation are provided in accordance with Departmental Regulation 5013-6, dated February 13, 2003, subsection 14c. The letters of delegation must specifically distinguish the authority to act in normal situations from the authority to act to facilitate defense against or recovery from attack.

Micropurchase procedures for personal property or supplies:

Contracting Officers may acquire, using micropurchase procedures, property or supplies, specifically determined to be for such defense or recovery, up to \$15,000 (inside the United States) or \$25,000 (outside the United States). The letters of delegation for officials presently authorized to use the purchase card up to the current micropurchase threshold of \$2,500 may be changed to authorize the acquisition of property or supplies, specifically determined to be for such defense or recovery, up to \$15,000 or \$25,000. The small business set-aside requirement is waived up to \$15,000. Note that under normal procedures, the issuance of a purchase card conveys the delegations of authority to use it. However, delegations for additional levels of authority for defense or recovery must be conveyed in writing to the cardholder by the authorized agency management official.

Micropurchase procedures for services:

Officials without a warrant but authorized to acquire services via the purchase card up to the micropurchase threshold of \$2,500 are restricted by this Advisory to that dollar threshold. Contracting Officers may acquire services using the micropurchase procedures up to \$15,000 (inside the United States) or \$25,000 (outside the United

States). The provisions of the Service Contract Act (wage determinations and the clause at 52.222-41) do apply. The small business set-aside requirement is waived up to \$15,000.

Simplified acquisition procedures for personal property, supplies, or services:

Contracting Officers acting within the scope of their warrant authority have additional flexibility when delegated authority in writing for defense or recovery actions by the authorized agency management official.

For an acquisition of supplies or services to be awarded and performed **outside** of the United States in support of a contingency operation or to facilitate defense against or recovery from attack, the simplified acquisition threshold is \$1,000,000; or

For an acquisition of supplies or services to be awarded and performed **inside** of the United States in support of a contingency operation or to facilitate defense against or recovery from attack, the simplified acquisition threshold is \$250,000.

In each of these simplified acquisition thresholds, the small business set-aside requirement applies up to the maximum dollar amount of the authority.

QUESTIONS:

If you have questions regarding this advisory, please contact Todd Repass, Chief, PPD via email at Todd.Repass@da.usda.gov or by phone at (202) 690-1060; or send an email to procurement.policy@da.usda.gov.

This advisory is available at <http://www.usda.gov/procurement/policy/advisories.html>.

EXPIRATION DATE: This advisory will remain in effect until cancelled.