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Chapter 9 Domestic Emergency Response



Key Points

- The Federal Emergency Management Agency (FEMA), a branch of the US Department of Homeland Security (DHS), is the lead federal agency responsible for coordinating contracting support for domestic emergency operations.
- DoD does not augment FEMA or other federal agencies with contracting staff, but can support specific contracting-related tasks as directed by the President or the Secretary of Defense.
- Military forces working on domestic support operations should minimize contracted support to the deployed force to avoid competing with other support efforts for limited local resources.
- Many domestic support operations are handled at the state level. In these cases, Army and Air National Guard units provide military support under state active duty or under Title 32 of the United States Code (*32 U.S.C.*) control.
- Acquisition and emergency acquisition flexibilities are identified in Part 18 of the Federal Acquisition Regulation (*FAR Part 18*) and Part 218 of the Defense Federal Acquisition Regulation Supplement (*DFARS Part 218*).
- Contracting officers are fully authorized to innovate and use sound business judgment that is otherwise consistent with law and within the limits of their authority.

Introduction⁶

Domestic emergencies can affect the public welfare, endanger life and property, or disrupt the usual process of government. Domestic emergencies can result from an enemy attack, natural disaster (e.g., hurricane, earthquake, flood, fire), or a man-made disaster (e.g., insurrection or civil disturbance). The more rapidly contingency contracting officers (CCOs) can establish a robust contracting support network, the better. Efficient use of time can contribute to saving the lives of disaster victims. The effectiveness of domestic contracting operations after a disaster such as an earthquake, hurricane, tornado, flood, or other severe weather conditions depends on advance planning and preparation.

This chapter discusses actions that a contracting officer should take when assigned to support relief and recovery operations after a domestic emergency. The chapter also provides guidance to help contracting offices that support the mission before, during, and after an emergency at their home stations. Although this chapter discusses many topics covered elsewhere in the handbook, it does so from the perspective of domestic emergency responses. Additional information on domestic emergencies is included in the *Emergency Acquisitions Guide* issued by the Office of Federal Procurement Policy (OFPP).

Domestic Emergencies

The Secretary of Homeland Security is responsible for coordinating federal operations in the United States to prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies. For most emergency operations in the United States, FEMA serves as the lead federal agency and provides support to local, tribal, or state

⁶ Portions of this chapter were developed based on the *Emergency Acquisitions Guide* issued by the Office of Federal Procurement Policy (January 2011).

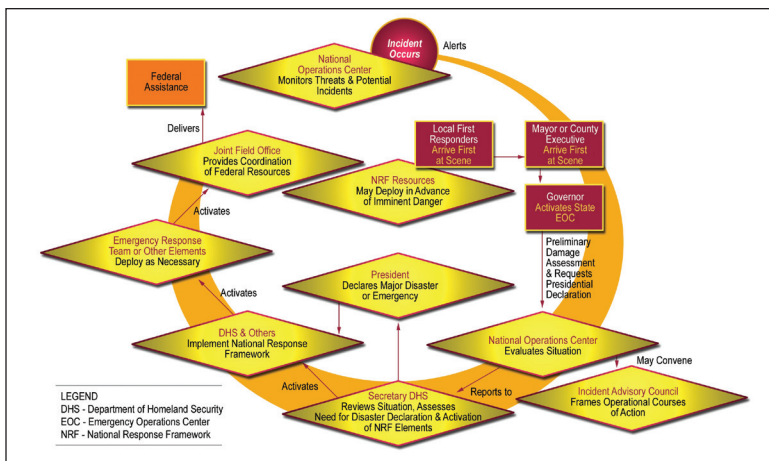


Figure 11. Federal Response

authorities under the provisions of the Stafford Act and the guidance in the National Response Framework (NRF). DoD supports these missions by providing Defense Support of Civil Authorities (DSCA). The federal response to domestic emergencies is depicted in **Figure 11**.

Defense Support of Civil Authorities. Contracting support for homeland security operations is similar to the support provided for foreign contingency contracting.

Homeland security operations. Planning and executing contracting support for homeland security operations are very similar to planning and executing contracting support for foreign contingencies, but do have some nuances that can make it very different.

National Response Framework. The NRF is an all-hazards plan that provides the structure and mechanisms for national-level policy and operational direction for incident management to ensure timely and effective federal support. The NRF applies to all federal departments

and agencies that have primary jurisdiction for, or participate in, operations requiring a coordinated federal response. The NRF specifies how federal departments and agencies will respond to state, tribal, or local requests for assistance (RFAs). FEMA coordinates and manages the NRF. The Secretary of Homeland Security executes overall coordination of federal incident management activities. Additional information is available at <http://www.fema.gov/emergency/nrf/>.

Robert T. Stafford Act. The Robert T. Stafford Disaster Relief and Emergency Assistance Act (*42 U.S.C. Section 5121–5206*) authorizes the federal government to help state and local governments alleviate the suffering and damage caused by disasters. Requests for DoD assistance can occur under Stafford Act or non–Stafford Act conditions. A Stafford Act incident is defined as one in which state and local authorities declare a state of emergency and request federal assistance. The Stafford Act establishes programs and processes for the federal government to provide major disaster and emergency assistance to states, local governments, tribal nations, individuals, and qualified private nonprofit organizations. A non–Stafford Act incident is essentially any of the other emergencies that occur each year that do not necessarily overwhelm state and local authorities, but would benefit from federal assistance and coordination. The Secretary of Homeland Security is responsible for the overall coordination of federal Stafford Act and non–Stafford Act incident management activities.

Overview of disaster response and incident management. This overview illustrates actions that federal agencies will likely take to assist state and local governments that are overwhelmed by a major disaster or emergency. Figure 11 shows a graphic display of a federal response under the Stafford Act.

Request for assistance process. Federal agencies or state governors can request DoD capabilities to support their emergency response efforts by using a formal RFA process. DoD handles RFAs based on factors

such as its categorization as a Stafford Act or non-Stafford Act event, urgency of the incident, establishment of a Joint field office (if a defense coordinating officer or Joint task force has been appointed), and originator of the request (e.g., incident command, state, regional, or national).

Contracting support for domestic emergency operations. For domestic emergencies, the NRF (available at <http://www.fema.gov/emergency/nrf/>) defines the key principles, roles, and structures that organize the nation's response. The NRF describes how communities, tribes, states, the federal government, and private-sector partners apply these principles for a coordinated, effective response to incidents that range from the serious, but purely local, to large-scale or catastrophic disasters.

Normally, FEMA is the lead federal agency in domestic emergency operations. When required, US military support personnel assist FEMA or other lead federal agencies, as directed by DoD. In general, this military support takes the form of organic military forces with limited operational contract support (OCS). The US Army Corps of Engineers (USACE) contingency response team (CRT) deploys to support the FEMA response team. USACE contingency contracting personnel may deploy in support of the USACE CRT and will contract for services and supplies as the mission dictates and as authorized by the USACE head of contracting activity (HCA) and the principal assistant responsible for contracting (PARC). Additional information on disaster and emergency response contracting is available at https://www.acquisition.gov/emergency_contracting.asp. The following key principles govern the provision of contracting support during domestic disaster and emergency operations:

- DoD does not augment FEMA or other federal agencies with contracting staff, but can support specific contracting-related tasks, as directed by the President or Secretary of Defense.

- Military forces operating in domestic support operations should minimize contracted support to the deployed force to avoid competing with state and federal agencies for limited local commercial resources.

National Guard operations (Title 32). National Guard support operations are described in National Guard Regulation 500-1. Many domestic support operations are handled at the state level. In these cases, Army and Air National Guard units provide military support under 32 U.S.C., “National Guard or State Active Duty.” When National Guard units deploy within CONUS, they normally receive contracting support from their home state. In these situations, the National Guard unit will usually have several governmentwide commercial purchase card (GCPC) holders with the unit and, when required, warranted contracting officers. Such deployments are generally short term, such as a disaster response. When the National Guard experiences contracting personnel shortages in a particular state, the National Guard Bureau (NGB) Joint Task Force–State (JTF-State) coordinates with other states to provide short-term contracting personnel support augmentation to the state requesting assistance. In some cases, the NGB JTF-State may also form and dispatch a contracting tiger team of experienced contracting personnel who are capable of soliciting, awarding, and administering large service and military construction contracts. Similar in concept to the National Guard tiger teams, the Office of Management and Budget (OMB) may deploy members of the Contingency Contracting Corps to help during an emergency situation, as noted in 41 U.S.C. Section 2312.

Incident Command System. The Incident Command System (ICS) is a standardized on-scene incident management tool designed specifically to allow responders to adopt an integrated organizational structure that is equal to the complexity and demands of a single incident or multiple incidents without hindrance by jurisdictional

boundaries. ICS was developed to manage and address the following problems:

- Too many people reporting to one supervisor
- Differing emergency response organizational structures
- Lack of reliable incident information
- Inadequate and incompatible communications
- Lack of structure for coordinated planning among agencies
- Unclear lines of authority
- Terminology differences among agencies and unclear or unspecified incident objectives.

An ICS enables integrated communication and planning by establishing a manageable span of control.

Emergency Acquisition Authorities

Acquisition and emergency acquisition flexibilities are identified in *FAR Part 18*, “Emergency Acquisitions,” and *DFARS Part 218*.

Overview. *FAR Part 18* identifies generally available flexibilities as well as flexibilities that are available only for the following specified circumstances:

- Contingency operation (as described in *FAR 18.201* and Chapter 5)
- Defense or recovery from chemical, biological, radiological, or nuclear (CBRN) attack (*FAR 18.202*)
- Emergency declaration or major disaster declaration. (*FAR 18.203*)

The contracting flexibilities available during domestic emergencies vary with the specific circumstances involved. For example, when the President issues a major disaster declaration, the thresholds for micropurchases and simplified acquisitions do not automatically increase. However, such increases may be triggered by incident-specific

legislation (such as emergency supplemental appropriations acts passed to fund the response to Hurricane Katrina).

Absent the threshold increases available under the specific incidents, contracting officers are fully authorized to innovate and use sound business judgment that is otherwise consistent with law and within the limits of their authority. CCOs should not assume that a new approach is prohibited simply because it is not in the FAR. The fact that the FAR does not endorse a particular strategy or practice does not necessarily mean that it is prohibited by law, executive order, or other regulation. (*FAR 1.102-4(e)*) Contracting officers facing emergency situations should seek legal assistance to identify their options.

Emergency acquisition flexibilities. In **Table 7** is a quick-response summary of emergency acquisition flexibilities for defense against, or recovery from, a CBRN attack. In addition, the following authorities are available during any of the types of emergency situations described in this section:

- **Relief from registration in the Central Contractor Registration.** Contracting officers may make an award to contractors not registered in the Central Contractor Registration (CCR). If practicable, the CCO will modify the contract or agreement to require registration after award. (*FAR 4.1102(a)(3)* and *4.1102 (b)*)⁷
- **Relief from the use of electronic funds transfer.** Contract payments are exempt from electronic funds transfer (EFT) requirements when it is not known whether EFT is possible or when an EFT payment would not support the objectives of the operation.
- **Defense or recovery from specific attacks.** Table 7 shows a quick reference to the flexibilities available to support acquisitions that are made when the agency head determines that they will facilitate defense against, or recovery from, a CBRN attack or a declared contingency.

⁷ The General Services Administration is updating many acquisition-related systems into a single System for Award Management (SAM). Please check <https://www.sam.gov/> for more details.

Micro-Purchases**(Normally under \$3K) See definition at FAR 2.101**

- \$15K per transaction within the United States
- \$30K per transaction outside the United States

**Small Dollar Acquisitions Under the Simplified Acquisition
Threshold (Normally \$3K to \$150K)****See definition at FAR 2.101**

- \$300K for purchases inside the United States
- \$1M for purchases outside the United States

**Use of Commercial Item Procedures for Acquiring
Noncommercial Items**

Contingency contracting officers may treat any acquisition of supplies or services that are to be used to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack, as an acquisition of commercial items under FAR Part 12. This allows noncommercial items to be purchased using the policies and practices applicable to commercial items. See FAR 12.102(f)(1).

Caution: Cost accounting standards are generally inapplicable to commercial item acquisitions. However, a contract in an amount greater than \$17.5M that is awarded on a sole-source basis for an item or service treated as a commercial item that does not otherwise meet the definition of a commercial item is NOT exempt from cost accounting standards or cost or pricing data requirements. (See FAR 12.102(f)(2)).

Suspension of Policy for Unique Item Identification

Contractors are not required to provide DoD unique item identification for items to be used to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack. (See DFARS Supplement 211.274-2(b)).

**Table 7. Quick Reference: Emergency Acquisition Flexibilities
for Defense against, or Recovery from, a CBRN Attack**

Incidents of national significance, emergency declaration, or major disaster declaration. The flexibilities described in this section are available when one of the following is declared:

- Incident of national significance
- Emergency declaration
- National emergency
- Major disaster.

Limited use of full and open competition. Contracting officers may limit the use of full and open competition when a statute authorizes (or requires) an acquisition through another agency or from a specified source. Such statutes include the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Local area preferences. The Stafford Act further requires that preference be given to local organizations, firms, and individuals when contracting to support major disaster or emergency assistance activities. Preference may take the form of a local area set-aside or an evaluation factor. A local area set-aside restricts competition to offerors that reside or do business primarily in the area affected by a major disaster or emergency.

When using a local area set-aside, the contracting officer may further restrict it to an area smaller than (but *not* larger than) the area defined by the disaster or emergency declaration or to small business concerns in the restricted area. (*FAR 26.202*) Note that use of a local area set-aside is required for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities.

Temporary waiver of Cargo Preference Act requirements. In normal circumstances, the Cargo Preference Act of 1954 requires that preference be given to US-flag vessels when transportation by ocean vessel is necessary. *FAR 47.502(c)* allows a waiver of this requirement

when Congress, the President, or the Secretary of Defense declares that an emergency justifying a temporary waiver exists and then notifies the appropriate agency or agencies.

Lessons Learned to Avoid Common Pitfalls

Sourcing. CCOs should be careful not to overload construction contractors and should limit the number of short-term emergency projects for each contractor. Some small contractors will promise the world, but might overextend themselves and then not make progress on all work. CCOs should watch for contractor workers who jump from one construction site to another—a sure sign that a contractor does not have adequate personnel and resources to complete all work on time. CCOs also should consider the following issues:

- **Contractor qualifications.** CCOs might not have the time to do a full background check on all contractors. In addition, because of the emergency, the CCO will probably waive the bid bond, further increasing the risk when dealing with an unknown contractor. Although CCOs cannot exclude sources simply because they are unfamiliar, they should consider limiting sources to known contractors as much as possible. During planning, CCOs can identify several contractors that respond to natural disasters and specialize in all-purpose emergency recovery contracting.
- **Bid and other bonds.** The increased risk of contract termination during an emergency is partially explained by not requiring bid bonds on short-term solicitations. A bid bond can weed out the less qualified contractors; however, the use of emergency procurement procedures might not give the contractor enough time to secure a bid bond. Unfortunately, CCOs might not find out that a contractor is unqualified until after contract award, when the contractor cannot obtain performance and payment bonds. This is a local

judgment call, but the use of terminations for convenience is a viable alternative in this situation. Bid bonds can be waived because of the emergency circumstances; however, no provisions are available for the contracting office to waive performance and payment bonds. If a contractor is unable to obtain this bonding on a construction contract, the contract must be terminated.

Long-term issues. The effects of a disaster often last beyond the initial recovery effort. If the disaster extensively damages the installation, recovery can take a long time. Although most long-term support involves administering construction contracts, there are other long-term issues. This section discusses long-term contracting issues and offers suggestions to avoid the following and other common pitfalls:

- **Prolonged emergency use.** The contracting office must inform senior leadership that emergency buying procedures do not last forever. It becomes increasingly difficult to justify emergency projects when they are identified several weeks or months after the disaster. Because of the short turnaround involved with emergency contracting procedures, customers will try to stretch emergency work to the limit. CCOs also should watch for companion contracting projects to emergency repairs (e.g., adding garages to damaged units). Emergency procedures can only be used for emergencies. CCOs must be prepared to play hardball on this issue.
- **Contract administration.** Contract administration for emergency projects may be very challenging. Specifications and solicitations will be rushed, resulting in a potentially loosely written contract. CCOs can expect a significant increase in change orders if a contract is loosely written. CCOs should consider assigning more contract administrators than normal to the affected parts of the contracting office or seeking assistance from the Defense Contract Management Agency for complex service contracts.

- **Service contracts.** Several major service contracts could be altered significantly during and after an emergency. For example, the grounds maintenance contract will probably see a large increase in work orders for services such as clearing debris, removing stumps, and trimming trees. The military family housing contract also might be significantly affected by an increased need for interior minor damage repair work. CCOs should monitor new work closely and promptly return service contract terms to their original scope after the recovery-related work is satisfactorily completed.
- **Custodial contracts.** If the installation suffers major structural damage, organizations may move into temporary facilities. This approach will require the modification of custodial service contracts to temporarily add and delete services for buildings, which can be both costly and administratively burdensome. Some janitorial contracts are paid based on square footage serviced, so moving organizations into smaller quarters or trailers will result in overpayment unless the contract is modified. When taking the approach of swapping building square footage, the CCO must review the entire scope of the contract changes to ensure that the government only pays the contractor for work being performed. Tasks that were required in one building (e.g., high dusting, window cleaning) might not be required in the temporary facilities.
- **Construction contracts.** Depending on the extent of damage to the installation, the construction contract administration workload will increase and might continue for a prolonged period. If so, the CCO should consider detailing more administrators to the construction branch until workload levels return to normal.
- **Contractor employees.** Existing contractor support also might be impacted because employees either have evacuated or are responding to personal needs.

Advance Planning for Emergencies at the Home Station

Successful domestic contracting operations after a disaster depend on advance planning and preparation.

The remainder of this chapter covers topics of interest to personnel involved in domestic emergency response operations. The primary focus is readiness and response for installations and home stations. This focus is consistent with the current DoD role in domestic emergencies—providing organic military forces with limited operational contract support to assist FEMA or other lead federal agencies.

No one is ever truly prepared to handle the devastation caused by a natural or man-made disaster, but a viable readiness plan can often significantly soften the impact. When a disaster hits, there is no time to train personnel on how to effectively support recovery efforts. Personnel must be well versed in advance in contingency and emergency contracting procedures. The rest of this section addresses some issues that contracting offices can prepare and train for before an emergency event.

Topics to consider. The CCO should develop a plan that best suits the particular operating location (or area of deployment). If the office is located in an area susceptible to hurricanes or tornadoes, the plan should reflect these possibilities. The plan discussed in this section is a generic outline of what to do in an emergency, but it should be further tailored to fit the specific needs of the operating location. This plan should also be coordinated and integrated into local support plans. The plan should communicate the following to senior leadership:

- Role of contracting during contingency conditions
- Use of contracting to support installation recovery
- Tools required to provide this support.

The CCO should consider the following when drafting the office plan:

- Contingency support for local emergencies.
- Review of installation operation plans (OPLANs).
- Defense Logistics Agency (DLA) capabilities and sources. DLA is formally designated as the DoD executive agent for specific commodities: subsistence goods, bulk fuel, construction and barrier materials, and medical materials. DLA contracts contain surge clauses for added flexibility to meet increased demands, including those associated with emergency responses. The plan should include using DLA to the fullest extent possible.
- Prepositioned contractors. Agencies are encouraged to seek out prepositioned contractors to facilitate a timely emergency response. Prepositioned contractors that have products and services often needed for emergency responses are available at websites such as:
 - GSA Disaster Relief Program: www.gsa.gov/disasterrelief/
 - GSA Wildland Fire Program: <http://www.gsa.gov/portal/content/104500>
 - Interagency Contract Resource List: <https://www.contractdirectory.gov/>
- Pre-identified contractors. When contractors complete CCR, they can designate their potential availability to provide disaster response products and services. CCOs should consult the Disaster Response Registry available at www.ccr.gov for information on these firms. (*FAR 26.205*)

In addition to developing and maintaining the local support plan, the chief of the contracting office will ensure that local contingency plans requiring contracting support for the installation are reviewed and coordinated. These plans typically address local and deployed location conditions ranging from natural disasters and industrial accidents to

local hostilities and acts of terrorism. The contracting activity will review these plans as follows:

- Determine the types of supplies and services that might be needed, but have a short lead time, such as rental vehicles, snow removal, construction materials, and environmental cleanup services.
- Become familiar with local conditions and factors that are unique to the area, including geological conditions, industrial hazards, weather conditions and associated problems, and civilian emergency services.
- Become familiar with installation relocation or alternate work site plans.
- Establish alternate data automation capabilities.
- Determine appropriate actions to continue performance of essential contractor services pursuant to *Department of Defense Instruction (DoDI) 1100.22*, “Policy and Procedures for Determining Workforce Mix.”
- Ensure that plans provide for adequate transportation, communications, and office space for contracting and other essential contingency support personnel.
- Ensure inclusion of procedures for receipt and inspection of purchases. Facilitate prompt payment and expeditious closeout of contract files.
- Ensure that the process for prioritizing requirements is agreed to before the contingency occurs, recognizing the importance of having an authority outside of contracting decide which competing customer requirements are the most critical. Avoid considering everything as important, because nothing will get done. Suggest that the installation commander form a requirements review board drawn

from the senior requirements officials on the installation, ensuring that the relative importance of the requirements is established fairly and effectively.

Local contracting support plans.

Contracting offices will develop a comprehensive local support plan (usually as an annex to the logistics chapter of the installation plan) to ensure contingency contracting support for tasks assigned by the installation OPLANs. Local contracting support plans will provide the following at a minimum:

- Capability for commanders to contact contracting personnel on short notice through the unit emergency action center or command post and to account for all contracting personnel when emergencies occur during duty hours.
- Identification of CCOs, who may be identified on unit recall rosters) and consideration of how contracting officers in tenant organizations can assist recovery efforts.
- Instructions on where to relocate the contracting office if the primary contracting facility is not usable, considering alternate locations on and off the installation.
- Current list of installation emergency plans and their contracting portions.
- Provisions for emergency communications with installation officials, customers, and suppliers.
- Procedures for manual requisitioning of supplies, including required approval authorities, forms, and general processing requirements.
- Provisions for funding requests.
- Instructions for manual purchase registers and record keeping.

- Guidance for use of the GCPC for emergency purchases, including keeping a manual purchase log in the absence of connectivity to the automated log available at <https://access.usbank.com/cpsAppl/index.jsp>.
- Procedures for using alternate data automation facilities to restore automated purchasing support and records.
- Instructions for use of the unit deployment kit, which must include a global positioning system (GPS), even for local disasters.
- Current telephone listings for key regional contracting offices, local suppliers, and other nearby installations as well as grid maps of the installation and local areas.
- Ongoing process for developing, maintaining, and using currently available source lists for emergency supplies and services, identifying sources available for 24-hour response to emergency requirements. Lists should include the commodity or service contractor (or vendor) address, point of contact, and 24-hour telephone number. The lists should be updated quarterly to ensure that the sources will be available to help address the contingency or emergency.
- Advance strategy to address surge capability for supplies with contractors to source critical supplies outside of the local area, such as lumber and roofing materials, because these supplies will quickly be consumed or destroyed in a natural disaster. If there is time to act ahead of the disaster, as with a hurricane, most contractors will preposition items outside the disaster area to facilitate a quick response.
- Procedures for accommodating a spike in contract terminations.
- Procedures for accommodating unusual contract administration requirements.

After action reports. One of the best ways to plan and prepare for local emergencies is to review applicable after action reports (AARs) from previous emergencies. The AAR website is available at <https://acc.dau.mil/contingency>.

When reviewing AARs, the CCO should consider the following:

- Type of emergency involved and the associated needs for each phase of the emergency (such as initial response and recovery)
- Types of acquisition vehicles that were relied on, contract terms and conditions, and prices paid
- Roles and responsibilities assumed by other agencies providing acquisition assistance and the interagency agreements used to document responsibilities
- Process for, and type of, funding for the acquisitions
- Types of logistical challenges encountered in delivering products and services and also the steps taken to address these challenges
- Any legal issues that arose
- Management's overall assessment of agency and contractor performance.

Training. FEMA's Emergency Management Institute, in coordination with the Defense Acquisition University and the Federal Acquisition Institute, offers online courses on the National Incident Management System and the ICS for all contracting officers who may be deployed during an emergency. Current course offerings and updates to these supplementary contracting courses are available at <http://training.fema.gov/EMICourses/> or <http://www.fai.gov/drupal/>.

Power. For planning purposes, CCOs must assume there will be no power to operate office equipment. Access to a portable generator and plenty of fuel should be a top priority. CCOs should procure these

requirements quickly (if not already acquired) because they will be bought quickly and will be hard to find in the local area. Resources are limited, and getting your requirement to the top of the installation priority list will be difficult. If approval for a generator is not possible, CCOs should consider relocating the operation to a site where generators will be available (e.g., hospital, commander's office, command post). These arrangements must be made in advance and detailed in the contingency plan.

Offsite location. CCOs might need to work from an alternate location, so this option should be included in the continuity of operations plans. If the installation is severely damaged, the establishment of an offsite location should be considered. Each CCO should designate proposed on- and off-installation alternative contracting sites in advance and incorporate them into the installation contingency plan. When an emergency or disaster event occurs, senior management must quickly decide how and from where the CCO will operate.

Buying procedures. CCO plans should include the buying procedures that the contracting officers will use during an emergency. CCOs can avoid many buying problems by maintaining a current and accurate emergency support source list for commodities, services, and construction. This list should include the following:

- Multiple vendors for all required goods and services
- Telephone numbers (business and home) for each vendor
- Accurate address for each vendor (in case telecommunications are out)
- 24-hour point of contact for each business.

One critical lesson learned is that local vendors might not be able to support the installation in an emergency. If the installation is trying to recover, chances are that local civilian contractors and support agencies

also are in recovery mode. CCOs should develop a list of contractors or vendors outside the local area. If other installations are nearby, exchanging vendor lists for wider coverage might be a good idea. CCOs also must make sure that vendor listings are current by reviewing them quarterly to update the list and supplement it with new sources based on market research.

Reachback. In a catastrophic disaster or an event that produces severe and widespread damage of such a magnitude that the local contracting office cannot execute its mission, contracting offices must coordinate lateral support with other regional contracting offices unaffected by the disaster or event. Contracting offices may be requested to commit contracting resources to the affected area in the form of personnel or reachback contracting support. Contracting offices in areas that have a greater potential to be affected by a catastrophe should team with other nearby contracting offices (and those capable of providing reachback contracting support because they have similar missions) to plan and prepare for a catastrophic contingency.

On-Scene Operations

Initial contracting actions during a recovery effort are the most critical. How support capabilities are assessed and how widespread the damage is will set the tone for the entire recovery process.

Activating recall procedures. The CCO's first priority during an emergency is to get personnel to work. Fortunate CCOs will be able to contact them by telephone or by recall announcements over the radio or television. However, CCOs might have to go house to house to recall personnel. The more personnel that can be recalled, the more comprehensive support will be.

Assessing damage to the contracting office. The CCO must quickly assess the contracting office's physical appearance and its overall functioning capabilities and then decide whether to stay or

relocate to the alternate site. At a minimum, the CCO must find a site where personnel can safely access tables, desks, and telephones. CCOs should consider the following when evaluating the contracting office and alternate sites:

- Telephone capabilities
- Electricity
- Extent of the damage
- Safety and other aspects of suitability for operations.

Organizing the contingency staff. Once the personnel recall is complete, an assessment of division support capabilities is needed. If personnel are experienced, a flat organization should be established that allows experts to buy and administer supply, construction, and service requirements with as little supervision as possible. If personnel are inexperienced, a more structured, centralized support organization is appropriate. The next step is designating the roles that personnel must perform, including dedicating staff members to order from preestablished blanket purchase agreements (BPAs) or federal schedules and assigning another group to acquire other requirements (such as equipment rentals, specialized parts, and supplies from the open market). CCOs also might need to take the following actions:

- For major construction and service contracts, evaluate construction sites for damage, identify any new construction requirements, and assign staff members to coordinate with major service contractors to restore sanitation, refuse, and grounds maintenance support as quickly as possible.
- Assign staff members as runners to pick up needed goods in the local area; however, if local area vendors are unable to support the installation, send a runner to a CCO outside the local area to procure needed goods and services.

Completion of initial setup actions. Once the support organization is established, the following immediate actions need to be addressed:

- Identify initial requirements that will need to be procured.
- Contact the local commander to provide an update on status and the plan of operations.
- Establish communications by determining what is available. If telephone lines are up, the CCO is in business; if not, access to mobile radios or cellular phones, if available, should be obtained.
- Contact finance personnel to make sure that money is not a problem, and have them send over a single obligation authority, if possible.
- Seek lateral support, if long-distance communications are possible, by contacting the HCA and neighboring installations to put them on standby for possible support.
- Assess power capabilities and consider relocating to a building on the installation that has power if necessary. If power is limited, CCOs must make sure that contracting personnel are in line to receive a portable generator. With limited power, CCOs should not try to activate the standard procurement system or other automated contract writing system; a PC with word processing capability is all that is needed.
- Obtain transportation and make sure that enough vehicles are available to support CCO needs. Most initial purchases will be government pickup, so at least one vehicle should be capable of transporting large volumes of goods (such as lumber, plywood, and rolls of plastic sheeting). A large pickup truck is ideal.

Managing initial purchases. The first 24 hours of recovery will be the most hectic and will require a concentrated buying effort. Before everyone gets too involved in this intense effort, the CCO should get

organized by making sure that a purchase request tracking list is set up and that all personnel are aware of the procedures. The simplest and best method is starting with a separate block of purchase order numbers. It is also a good idea to appoint a requisition control point (RCP) monitor who can manually, or through the use of a PC or laptop, track requests throughout the acquisition process. The RCP monitor will also be able to detect duplicate requisitions, which are common in the first few days. CCOs also should take the following actions:

- **Establish one focal point for each customer.** The local commander will have the majority of initial inputs, and some might not be properly coordinated. CCOs should communicate to the commander the need for one point of contact for all requests.
- **Establish comprehensive procedures for receiving goods.** CCOs should have a central receiving point for all goods brought into the installation. If the goods are delivered directly to the customer, a point of contact must be established, and the customer must receive instructions on the proper method of receiving goods. CCOs should give the customer responsibility for the timely submission of paperwork.

Response to rental requests. During the first week of recovery, numerous requests might be made for equipment and vehicle rental and for temporary living and office quarters. A number of factors should be considered before filling customers requests.

Heavy equipment. Before renting, the CCO must first confirm that the equipment cannot be borrowed from other bases, posts, military installations, or federal agencies. During hurricane recovery operations at Charleston and Shaw Air Force Bases (AFBs), several pieces of equipment were received from other installations and from the Southwest Asia (SWA) transportation unit at Seymour Johnson AFB. The SWA unit alone transported 42 pieces of heavy equipment and

vehicles to Shaw AFB and 17 pieces to Charleston AFB. The following two reasons justify exhausting all internal sources before renting:

- It is very expensive to rent heavy pieces of equipment and vehicles. Many companies insist that their operators accompany the equipment, creating an additional expense.
- If disaster recovery is extensive, rental periods can be long, increasing the risk of damage. If forced to rent heavy equipment or vehicles, CCOs must ensure that they are returned immediately when no longer required.

Leasing trailers and temporary buildings. If installation facilities are damaged extensively, the CCO might need to lease trailers or temporary buildings. However, CCOs must be very careful when leasing trailers and must set minimum acceptable requirements (e.g., size, amount of functional office space, outlets, doors, windows). The CCO must stress to commanding officials that time is needed to ensure procurement of a quality product. CCOs should suggest a site visit before leasing a trailer or temporary building because site preparation might be problematic. Electrical distribution needs must be considered early. Another problem common with trailer leases is that the tenants might want to make extensive alterations to make it similar to the permanent facility they previously occupied. This problem should be avoided by leasing trailers strictly for office use. If major alterations are allowed, the installation may end up buying the trailers, which later become a real property nightmare, causing funding problems because the lease-for-purchase approach must use capital investment or construction funds. CCOs must ensure that the total lease payments remain lower than 90 percent of the purchase price. Relocatable buildings must be obtained in accordance with *DoDI 4165.56*. In particular, the lease period normally should not be more than 3 years. In all cases, CCOs should coordinate requirements through civil engineering or real property management.

Management of other service requirements. Grounds maintenance, refuse, and mess attendant contractors could significantly help installation recovery with appropriate modifications to their contracts. The grounds maintenance contractor might have the equipment and staffing needed to help clear debris from the installation. The refuse contractor can play a similar role by increasing the frequency of pickups and providing several large dumpsters. The mess attendant contractor can offer support by shifting to a 24-hour food service operation.

Such increased contractor efforts represent changes to their contracts, so compensation will be due; however, the CCO will be dealing with known and likely reliable sources. Contracting officers can issue change orders (with the appropriate funds) and can negotiate the changes when the situation eases. In some cases, the CCO might have already established unit prices for the increased work. By going to reliable contractors, the CCO will save time and avoid emergency contracts with unknown sources. Tree removal will be one of the largest service requirements for high-wind-related emergencies (e.g., tornados or hurricanes).

Procurement of key commodities. Several supply items will be in high demand during disaster recovery. The CCO should consider establishing BPAs with multiple suppliers within and outside the local area for commodities such as the following if the installation is located in an area with a high risk of disaster:

- **Ice.** Ice might be a hard commodity to find. If the power is out, the commissary, food service, and installation residents will need ice to preserve their food. CCOs should develop at least one source outside the local area because of competition with the local community during a disaster. The person who is receiving the ice monitors the quantity carefully. All ice and water purchases must be authorized by an approved medical authority (e.g., an Army veterinarian). The

Approved Food Sources link on the US Army Veterinarian website notes their locations by theater, available at <http://vetcom.amedd.army.mil/food.html>.

- **Paper products.** With the power off, on-base dining facilities will use paper products to feed the troops. Because personnel might be working 24 hours a day, paper product usage will increase substantially.
- **Other common items.** Items such as lumber, plastic sheeting, and chain saws probably will be scarce in the local market because the CCO will be competing with the demands of local residents.

Evaluation of construction needs. Hurricane Hugo recovery efforts had the largest impact on the construction branch of each contracting office. Construction work involved assessing and modifying ongoing construction projects damaged by the storm and rapidly procuring new construction projects to repair installation damage. Taking the following steps will help minimize construction issues encountered during installation recovery:

- The CCO should evaluate current construction sites by using a team approach, with a construction contract administrator and an inspector evaluating the damage at each construction site. After an initial government assessment, the CCO should meet with the contractor to develop a plan of action. Resolving any storm damage assessment differences among contractors and inspectors early in the process will go a long way to prevent future contract claims.
- After all parties agree on the extent of damage, liability must be addressed. Natural or man-made disasters are created by an act of God or external source, and neither is the responsibility of the contractor. The contracting officer must determine how much additional time is due to the contractor and who is liable to pay for any damages to the construction project or site.

- The CCO should be careful when negotiating time extensions. Lost productivity, staging of work, and availability of subcontractors all must be considered. If behind schedule at the time of the disaster, the contractor might try to pad the estimate to catch up with other work commitments. CCOs must remember that time is money.
- The liability issue is more involved. As a general rule, the contractor is liable for damage caused to the construction site. As *FAR clause 52.236-7*, “Permits and Responsibilities,” states, “...the contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.” Many contractors believe that the government is self-insured and will automatically pay for any rework—for this reason, contractor’s insurance is required. Enforcement of the permits and responsibilities clause has been upheld in several Armed Services Board of Contract Appeals (ASBCA) decisions. Leitner Construction Company, Inc. (ASBCA No. 78-126, April 30, 1979) and J. L. Coe Construction Co., Inc. (67-2BCA 6473, July 27, 1967) both state, “...the builder under a construction contract has the risk of loss or damage to the work constructed due to any cause except the fault of the owner until the completion and final acceptance of the work by the owner.”
- The permits and responsibilities clause does not, however, give the government carte blanche authority to enforce contractor rework. The contracting officer might need to consider mitigating circumstances. For example, if the government has taken beneficial occupancy, it would not be able to enforce the clause. Similarly, the clause may also be rendered void by government-caused delays. Charleston AFB encountered this problem during recovery from Hurricane Hugo. The construction contractor would have completed

the project before the disaster but for project delays caused by government design deficiencies. The contracting officer negotiated a settlement to share the risk with the contractor and to pay for half of the construction rework caused by the hurricane. One suggestion is that installations in areas susceptible to natural disasters should stress the permits and responsibilities clause in all construction solicitations and in preconstruction meetings.

- The CCO can expect several new construction requirements after a natural disaster. Most short-term emergency efforts involve repairing existing facilities. Initially, local senior leadership may push hard for issuing letter contracts to local contractors. Although in some cases this option might be unavoidable, the use of alternate emergency procedures is preferable for installation construction recovery. The CCOs will use letter contracts or cost-reimbursement contracts only as a last resort. The CCO should coordinate with the relevant HCA.
- If the CCO can locate two or more sources, use of a short-term request for proposals can increase competition and avoid a cost-reimbursement contract. Shaw AFB and Charleston AFB used this method very effectively during the Hurricane Hugo recovery. After civil engineering personnel developed the statement of work, a government team (composed of the contracting officer, construction contract administrator, civil engineer, and inspector) met with prospective contractors at the site. All contractor questions were clarified at the site visit, and contractors were given one day to turn in proposals. Bid bonds (bid guarantees) were waived; however, performance and payment bonds (which respectively secure performance and fulfillment of contractor obligations and ensure that vendors pay their employees and suppliers) were required before actual work started on the contract.

- Another alternative to mitigate the increased demand for contracting support is preestablished indefinite delivery, indefinite quantity or requirements-type contracts (e.g., job order contracts or simplified acquisition for installation engineering requirements contracts). These contracts are ideal for small limited-design, repair, and high-priority projects. The CCO can expand the role of these contracts by using them to repair minor damage to housing units. CCOs must be careful not to use these contracts as a cure-all for installation emergency construction needs. The contractors might not be able to keep up with the work demands.



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