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ACQUISITION  
TECHNOLOGY  
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MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
(ATTN: ACQUISITION EXECUTIVES)  
DIRECTORS OF DEFENSE AGENCIES

SUBJECT: Emergency (Contingency) Contracting – Acquisition Flexibilities

On July 5, 2006, an interim FAR rule was published in the Federal Register revising FAR Part 18 to provide a single reference to the acquisition flexibilities already available in the FAR. The purpose of this rule is to facilitate and expedite acquisitions of supplies and services during all types of emergencies. The interim rule may be accessed at <http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/pdf/06-5964.pdf>.

For clarity and ease, the interim rule divides the flexibilities into two main groups. The first group titled “Available Acquisition Flexibilities” identifies the flexibilities that may be used anytime and do not require an emergency declaration. The second group titled “Emergency Acquisition Flexibilities” identifies the flexibilities that may be used only after an emergency declaration or designation has been made by the appropriate official.

To further facilitate and expedite DoD acquisitions of supplies and services, the attachment to this memorandum contains a single reference point for DFARS acquisition flexibilities. To provide for consistency, the references are divided into the same two groups as the FAR rule (“Available Acquisition Flexibilities” and “Emergency Acquisition Flexibilities”).

Part 218 of the DFARS is currently being drafted to supplement the coverage contained in the FAR rule. The attached references, along with the FAR interim rule, should be utilized by personnel engaged in emergency acquisitions until publication of the final FAR rule at Part 18 and the DFARS emergency acquisition coverage in Part 218.

Shay D. Assad  
Director, Defense Procurement and  
Acquisition Policy

Attachment:  
As stated



## Emergency Acquisitions

This document identifies the DoD unique acquisition flexibilities that are available for emergency acquisitions.

### 1. Available acquisition flexibilities.

(a) *Unusual and compelling urgency.* PGI identifies circumstances under which use of unusual and compelling urgency may be appropriate. 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 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) *Required time for submission of notice.* Submit requests for immediate wage determination responses for emergency acquisitions through the labor advisor. If the request is justified, the labor advisor will contact the Department of Labor headquarters officials. See 222.1008-7(d).

(g) *Storage and disposal of toxic and hazardous materials.* 10 U.S.C. 2692 prohibits storage or disposal of non-DoD-owned toxic or hazardous materials on DoD installations. 223.7102 provides two emergency exceptions. See 223.7102(a)(3) and (7).

(h) *Authorization Acts, Appropriations Acts, and other statutory restrictions on foreign acquisition.* Acquisitions in

the certain categories are not subject to the restrictions of 225.7002, Restrictions on food, clothing, fabrics, specialty metals, and hand or measuring tools. See 225.7002-2.

(i) *Rights in technical data.* Agency head may notify the person asserting the 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 and 252.227-7015; 227.7103-5 and 252.227-7013; 227.7103-13 and 252.227-7037; 227.7104 and 252.227-7018; 227.7203-13 and 252.227-7037; 252.227-7014; 252.227-7015.

(j) *Tax exemption in Spain.* If copies of the contract are not available and duty-free import of equipment or materials is urgent the contracting officer will send JUSMG-MAAG three copies of the Letter of Intent or a similar document indicating the pending award. See PGI 229.7001.

(k) *Electronic submission and processing of payment requests.* Contractors do not have to submit payment requests in electronic form for awards made to foreign vendors for work performed outside the United States or purchases to support unusual or compelling needs of the type described in FAR 6.302-2. See 232.7002(a)(1) and (a)(3).

(l) *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(b) and 252.237-7003.

## 2. Emergency acquisition flexibilities.

### I. Contingency operations.

(a) *Selection, appointment, and termination of appointment.* Contracting officer qualification requirements pertaining to a baccalaureate degree and 24 semester credit hours of business related courses do not apply to DoD employees or members of the armed forces who are in a contingency contracting force. See 201.603-2(2).

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

(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 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 213.270(c)(2) and (c)(3).

(d) *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).

(e) *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 humanitarian or peacekeeping operation. See 213.305-3(iii)(A).

(f) *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 humanitarian or peacekeeping operation. See 213-306(a)(1)(B).

(g) *Undefinitized contract actions.* The head of the agency may waive certain limitations for UCAs if the head of the agency determines that the waiver is necessary to support (1) a contingency operation; or (2) a humanitarian or peacekeeping operation. See 217.7404-5(b).

(h) *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 Treasury, Office of Foreign Assets Control. See 225.701-70.

(i) *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) Acquisition outside the United States in support of combat operations; (3) Acquisition of perishable foods by or for activities located outside the United States for personnel of those activities; (4) Acquisition 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 IAW FAR 6.302-2; (5) Emergency acquisitions by activities located outside the United States for personnel of those activities; (6) Acquisitions by vessels in foreign waters. See 225.7002-2.

(j) *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, humanitarian or peacekeeping operations. See 232.7002(a)(2).

## II. Defense or Recovery from certain attacks.

*Policy for unique item identification.* Contractors will not be required to provide DoD unique item identification if the items, as determined by the head of the agency, are to be used to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack. See 211.274-2(b).

## III. Incidents of national significance, emergency declaration, or major disaster declaration.

(a) *Establishing or maintaining alternative sources.* PGI contain a sample format for Determination and Findings citing the authority of FAR 6.202(a). Alternate 2 deals with having a supplier available for furnishing supplies or services in case of a national emergency. See PGI 206.202.

(b) *Electronic submission and processing of payment requests.* Contractors do not have to submit payment requests in electronic form for contract 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)(2).