

ACQUISITION ALERT 06-06

This Alert is issued to provide updated guidance to all NOAA Acquisition personnel, including those with delegated procurement authority and users of the Government-wide purchase card. This guidance is provided based on a comprehensive review of purchase transactions utilizing the purchase card during the aftermath of Hurricanes Katrina and Rita. The guidance is based upon a review of questioned purchases by the Department of Commerce (DOC) Office of General Counsel.

Emergency Authorities – The Federal Acquisition Regulations (FAR) provide for expanded authorities for acquisition personnel, including purchase cardholders, in specific circumstances. These expanded authorities are not authorized for all purchase cardholders or acquisition personnel. The DOC Assistant Secretary for Administration/Chief Financial Officer shall, upon: (1) the occurrence of certain qualifying events; (2) appropriate declarations from the White House; (3) specific request from the Bureau Procurement Official; and (4) determining that circumstances warrant the utilization of expanded authorities, specifically authorize utilization of expanded authorities, where appropriate, to specifically identified individuals. No other individuals will have authority to utilize the expanded authorities. See FAR Part 18 for emergency authorities.

Acquisition of Food – It is well established that, absent specific statutory authority, appropriated funds may not be used for subsistence expenses or for food for civilian employees at their duty station, even though they may be working under unusual conditions. As an exception to the general rule, the Comptroller General has authorized government purchase of meals for employees at their duty station if the meals are necessary in an extreme emergency defined as danger to human life or the destruction of federal property.

In order for subsistence or food purchases for civilian employees to be allowable, the following determinations must be made at the appropriate organizational level:

- a. In order to carry out critical responsibilities of the agency, it is necessary to staff an office throughout an emergency;
- b. The emergency involves danger to human life or the possibility of destruction of Federal property; and
- c. To staff an office, it is necessary to provide meals and lodging to employees who must work during the emergency.

NOAA's National Weather Service (NWS) has implemented specific guidance for their organization detailing who, within the NWS has the authority to make the above determinations. Absent specific policy for other NOAA Line and Staff Offices, the determination shall be made at no lower than the Deputy Assistant Administrator level.

Other Line and Staff Offices shall provide a copy of such delegation of authority and policy to the Director, Acquisition and Grants Office (AGO), to be maintained for purposes of management oversight and control.

Where a specific determination that a qualifying situation exists, the following purchases are allowable using appropriated funds (whether purchased through an acquisition office, by an individual holding delegated procurement authority, or using the Government-wide purchase card):

- a. Lodging, or where lodging is not available and employees must be housed on-site at the Government facility, the basic amenities that would be available if off-site lodging was available (e.g., beds, mattresses, pillows, linens, washcloths, towels).
- b. Food and beverages (not including alcoholic beverages) for employees.
- c. Where employees in remote locations must remain on-site and food is purchased which must be prepared (e.g., food purchased at grocery or convenience stores), kitchen supplies such as paper and plastic ware, cooking utensils, dish detergent and paper towels if the employees do not have access to commercial dining or snack facilities.
- d. Office supplies such as chairs, cell phone protective cases, etc.
- e. Cleaning products such as antibacterial wipes, hand soap, and bleach needed to clean the office and maintain sanitary working conditions.

All items acquired that are not consumed through their use (e.g., linens, kitchen utensils, etc.) remain the property of the Government and are to be retained at the facility for future events of a similar nature.

The following acquisitions are not allowable, even in the event of a qualifying emergency:

- a. Food and beverages for non-employees (e.g., dependents of employees).
- b. Personal care items such as laundry detergent, shampoo, soap, deodorant, shaving crème, feminine hygiene products, infant care items (diapers, food, formula, wipes, etc.) for employees or non-employees.
- c. Personal entertainment products (e.g., magazines, alcoholic beverages, etc.).

Employees acquiring such prohibited items can be subject to both administrative action (revocation of acquisition authority) and disciplinary action and are personally liable for reimbursing the Government for the unallowable purchases.

In the event of any such emergency, the Acquisition and Grants Office will inform the Incident Command Center of the appropriate acquisition contact to whom any questions can be referred. At all other times, guidance can be obtained through the Acquisition and Grants Office Policy Lead (Don Kraus, 301-713-0833, X-140).