



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



October 2, 2009

Department of the Interior Acquisition Policy Release (DIAPR) 2010 - 01

Subject: Departmental Documentation Regarding Acquisition Flexibilities That Support Territory of American Samoa Earthquake, Tsunami, and Flooding Recovery Efforts

1. **Purpose:** The purpose of this policy release is to transmit documentation to authorize or waive acquisition procedures for the procurement of supplies and services that support the Territory of American Samoa Natural Disaster recovery effort. Documents provided are:
 - (a) Departmental Class Determination and Findings – Acquisitions That Support Territory of American Samoa Earthquake, Tsunami, and Flooding Recovery Efforts
 - (b) Departmental Class Justification and Approval to Limit Competition and Waiver of Publication Requirements for Acquisitions That Support Territory of American Samoa Earthquake, Tsunami, and Flooding Recovery Efforts
 - (c) Departmental Stewardship Action Plan for Acquisitions That Support Territory of American Samoa Earthquake, Tsunami, and Flooding Recovery Efforts

This DIAPR will also be transmitted to Bureau Procurement Chiefs electronically.

2. **Effective Date:** Immediately.
3. **Expiration Date:** This policy release will remain in effect until cancelled or superseded.
3. **Background:** President Obama declared a major disaster on September 29, 2009, in relation to an earthquake, tsunami, and flooding in the Territory of American Samoa. This declaration invokes Emergency Acquisition flexibilities authorized in Federal Acquisition Regulation (FAR) Part 18, in support of the Federal response to the disaster in American Samoa. The major disaster declaration has given rise to a continuing urgent need for supplies and services of an unusual and compelling nature.

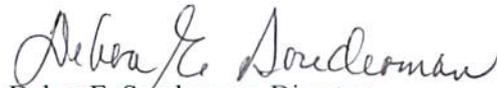
The Assistant Secretary – Policy, Management and Budget, as head of the agency, has authorized increasing certain procurement thresholds for all Department contracting activities, limited to acquisition of supplies and services directly supporting the recovery efforts in American Samoa.

The Department Senior Procurement Executive has approved a class justification and approval for other than full and open competition per FAR Part 6. A waiver to FAR Part 5 publication requirements was also approved. As a result, Department contracting activities can procure needed supplies and services of an unusual and compelling nature in an accelerated fashion to support the American Samoa recovery initiatives.

A contingency contracting action plan is provided to ensure prudent stewardship of taxpayer funds for current and future acquisitions supporting earthquake, tsunami, and flooding rescue, recovery, and reconstruction operations in the American Samoa.

4. **Action required:** Bureau Procurement Chiefs shall ensure that the attached documents are widely disseminated within their acquisition community and that the authority provided in the document is used appropriately by contracting officers.

5. **Additional Information:** Questions may be directed to Brigitte Meffert or Tiffany Schermerhorn, Senior Procurement Analyst, Office of Acquisition and Property Management. Brigitte can be reached at 202-208-3348, or via email at Brigitte_Meffert@ios.doi.gov. Tiffany is available on 202-513-0747, or via email at Tiffany_Schermerhorn@ios.doi.gov.



Debra E. Sonderman, Director
Office of Acquisition and Property Management and
Senior Procurement Executive

Attachments



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



United States Department of the Interior Class Justification and Approval for Other Than Full and Open Competition And Waiver of Publication Requirements for Acquisitions That Support Territory of American Samoa Earthquake, Tsunami, and Flooding Efforts

JUSTIFICATION

1. Federal law (41 U.S.C.253(c) (2)) authorizes under certain conditions, including unusual and compelling urgency, contracting without providing for full and open competition. Exceptions are also authorized to the statutory requirements in the Small Business Act (15 U.S.C. 637(e)) and the Office of Federal Procurement Policy Act (41 U.S.C. 416), to provide public notice of contracting opportunities. The President declared that a major disaster exists in the Territory of American Samoa, resulting from an earthquake, tsunami, and flooding that began September 29, 2009.

2. I, as the Senior Procurement Executive, Department of the Interior, hereby issue the following waiver for any acquisitions directly related to the Department's response to the declared disaster areas located within the Territory of American Samoa, (including any action that would subsequently require formal ratification by an authorized official at a contracting activity) that are made by Department of the Interior contracting activities; and based on 41 U.S.C. 253 (c)(2) (further described in Federal Acquisition Regulation 6.302-2, Unusual and Compelling Urgency); and 15 U.S.C. 637(c) and 41 U.S.C. 416 (further described in Federal Acquisition Regulation 5.202(a)(2)):

(a) The requirement for publication of the requirement via FedBizOpps.

(b) The requirement for full and open competition applicable to acquisitions executed in response to the declared disasters.

3. The devastation to the Territory of American Samoa, as a result of the earthquake, tsunami, and flooding, is so extensive, and the recovery needs are of such an urgent and compelling nature, that the Government and the public could be seriously harmed unless the agency is permitted to limit the number of sources from which it solicits bids or proposals. This approval and waiver shall be applied to DOI acquisitions for goods and services (including A&E and construction) related to the major disaster recovery effort of the Territory of the American Samoa, as well as, any enhanced security efforts deemed to be urgently needed. It is anticipated that actions taken under this approval will be of such unusual and compelling urgency that:

(a) The total value of this class action cannot be predetermined.

(b) The nature of the emergency as opposed to a contractor's unique qualifications will require the use of this approval.

(c) The contracting officer will not have access to (in terms of time, security needs, and communication or transportation restraints) sufficient numbers of vendors to achieve normal competition. Therefore, the extent of limited competition utilized and the selection of the applicable contractor shall be at the discretion of the procuring contracting officer.

(d) Market research, beyond locating the most available responsible vendor, may require time not available in the circumstances. Nevertheless, to the extent that time is available, as determined by the contracting officer, it shall be performed.

(e) The contracting officer's signature on the award will evidence that the anticipated costs to the Government are expected to be fair and reasonable.

(f) No offerors are expected to express an interest in any applicable acquisitions since applicable procurements will not be publicized pursuant to the above waiver of FAR 5.2 publication requirements. However, if any source expresses an interest, the contracting officer shall document the file to record that fact and how the matter was resolved.

(g) Actions to overcome barriers to competition: Due to the unusual and compelling needs resulting from the major disaster in the Territory of the American Samoa, no such actions to overcome barriers to competition need be taken.

(h) The extent and nature of harm to the Government or the public cannot be known in advance of this justification.

4. Limitations:

(a) Contracts utilizing this class justification and valued at more than \$10,000,000 life-cycle cost shall be pre-approved by the Senior Procurement Executive.

(b) New service contracts issued utilizing this class justification shall not have a period of performance longer than one year and whenever possible will be awarded for a shorter period reflecting only the particular task(s) or emergency situation(s) urgently needing to be addressed. New procurement modifications to existing contracts shall not extend the term of the contract beyond a one-year period. Fully competitive service contracts shall replace the initial emergency contracts to the maximum extent possible when continuing service is needed.

This limitation is not applicable to construction contracts where completion of the project requires more than a 12 month contract period.

(c) This class justification is limited to requirements of the Department of the Interior. DOI acquisition offices supporting the acquisition requirements of other Federal agencies may utilize class justifications issued by those agencies as authorized by the agencies.

(d) The warranted authority of the individual contracting officer shall constitute the dollar limitation for actions under this Class Justification and the review levels remain unchanged.

5. This waiver shall be applied as follows by each contracting officer:

(a) Before the award is executed, or as soon as possible thereafter, place a copy of this approval in the acquisition file along with a brief explanation indicating compliance with the applicable limitations, if any, listed above.

(b) Place with this approval in the file a short description of:
(1) action taken; (2) the supplies or services required; (3) the extent of competition pursued or a short description explaining why only one source was solicited; (4) market research undertaken, if any, in support of the action.

(c) Additionally, the file shall also contain: (1) a list of any additional vendors expressing an interest in the acquisition and a short description of the resolution of their inquiries; and, (2) a signed statement that the award was made in response to the major disaster in the Territory of the American Samoa, and that the descriptions above are accurate representations to the best of his /her knowledge.

For brevity, it is suggested that 5(b) and 5(c) above be included in one document.

APPROVAL

This class justification and approval is accurate and complete to the best of my knowledge, may be amended, and is effective through such time as the major disaster in the Territory of American Samoa is declared ended. However, its continued utility shall be reviewed by the Office of Acquisition and Property Management staff not less than annually for the duration of the national emergency in the Territory of the American Samoa.

Routine acquisitions supporting the agency's mission, including routine security related acquisitions, are not covered by this approval and waiver.

CONCUR:

 10/2/09

Melodee Stith
DOI Competition Advocate
Office of Acquisition and Property Management

APPROVAL OF SENIOR PROCUREMENT EXECUTIVE:

 10/2/09

Debra E. Sonderman, Director
Office of Acquisition and Property Management
and Senior Procurement Executive

United States
Department of the Interior
CLASS DETERMINATION AND FINDINGS
ACQUISITIONS THAT SUPPORT TERRITORY OF AMERICAN SAMOA
EARTHQUAKE, TSUNAMI AND FLOODING RECOVERY EFFORTS

FINDINGS

1. President Obama declared a major disaster on September 29, 2009, in relation to an earthquake, tsunami, and flooding in the Territory of American Samoa. This declaration invokes Emergency Acquisition Flexibilities authorized in Federal Acquisition Regulation (FAR) Part 18, in support of the Federal response to the disaster in American Samoa.
2. According to the Office of the Secretary of Defense, Acquisition, Technology and Logistics, for the purpose of using the Contingency Operation procurement flexibilities enumerated in FAR 18.201, the FAR 2.101 definition of “contingency operation” has been met with regard to the situation in American Samoa beginning September 29, 2009. FAR 18.201 authorizes the head of the agency to determine that increases are needed in certain thresholds for acquisition of supplies and services to support such an emergency operation.

DETERMINATION

1. Pursuant to the authority delegated to me under Part 209, Chapter 4 of the Department of the Interior Departmental Manual, and subject to the requirements contained in the Appendix to this Determination and Findings, I hereby authorize increasing the following procurement thresholds for all Department of the Interior contracting activities, *limited to acquisition of supplies and services directly supporting the recovery efforts in American Samoa*:
 - Micro-purchases: \$15,000 in the case of any contract awarded and performed, or purchased, inside the United States; \$25,000 for contracts to be awarded and performed, or purchased, outside the United States;
 - Simplified Acquisition: \$250,000 in the case of any contract to be awarded and performed, or purchased, inside the United States; \$1 million for contracts to be awarded and performed, or purchased, outside the United States; and
 - Simplified Acquisitions Under the Test Program for Certain Commercial Items: \$11 million, including options, if the contracting officer reasonably expects that offers will include only commercial items.
2. The Federal Procurement Data System – Next Generation’s Governmentwide \$3,000 procurement transaction reporting threshold remains in force. Contracting

personnel shall identify procurements supporting the American Samoa recovery initiative by selecting "American Samoa Earthquake, Tsunami and Flooding" in the National Interest Action field in FPDS.

3. These increased procurement thresholds are temporary and shall remain in effect until the disaster relief efforts related to the earthquake, tsunami, and flooding in the Territory of American Samoa are formally terminated.

For *Pamela Hare*
Rhea S. Suh
Assistant Secretary – Policy,
Management and Budget

10-2-09
Date

Appendix

GUIDELINES FOR IMPLEMENTING INCREASED PROCUREMENT THRESHOLDS IN SUPPORT OF DISASTER RELIEF EFFORTS RESULTING FROM THE EARTHQUAKE, TSUNAMI AND FLOODING IN THE TERRITORY OF AMERICAN SAMOA

Purchases using these temporary procurement authorities must have a clear and direct relationship to the current disaster relief operations. Consequently, you must make your determination(s) in writing by a brief memorandum to the contract file specifying the product or service being procured and its relationship to the recovery efforts in American Samoa. In addition, the Federal Procurement Data System – Next Generation's Governmentwide \$3,000 procurement transaction reporting threshold remains in force. Contracting personnel shall include the following annotation in the Description line of applicable transaction reports: "Disaster Relief Support."

If you are a micro-purchase card holder and your supervisor increases your purchase card authority to \$15K (or \$25K for purchases outside the U.S.), no additional documents are required.

If you have a warrant that limits your authority to the Simplified Acquisition Threshold, no further action is required to contract at the higher dollar threshold of \$250K (or \$1 million for purchases outside the United States).

If you have a warrant that limits your authority to a specified dollar amount, an interim warrant should be issued to increase the amount of your authority to the new thresholds.

Remember, we have many tools in our tool chest to address requirements. While urgent requirements may dictate limiting competition, competition should be conducted where possible in meeting requirements (see Department of the Interior Acquisition Policy Release 2010-01, dated October 1, 2009). Also, as we choose suppliers keep in mind our small business goals and the fact that small businesses can play an important part in meeting our customer agency requirements.

Increases in the purchase card authority for micro-purchase card holders and for contracting officers must be coordinated through your bureau/office A/OPC on an individual basis.

FREQUENTLY ASKED QUESTIONS

Q: Do the new thresholds apply to purchases in support of non-disaster relief efforts?

A: No, the increases in the thresholds are limited to purchases in support of agencies in the disaster relief efforts.

Q: Does a micro-purchase card holder have to have a warrant to make purchases for good or services over \$3,000 up to \$15K (\$25K for purchases outside the U.S.)?

A: No, no warrant is necessary, the designation as a micro-purchase card holder and the increase in the purchase card dollar limitation are sufficient.

Q: Does the increased threshold include construction up to \$15K?

A: No, construction purchases on the purchase card are still limited to \$2,000.

Q: Are there any other limitations on purchases up to \$15K using the purchase card?

A: No, there are no other new limitations. Records are still required to be kept. Review by the approving authority is still required monthly. Purchases above the \$3,000 threshold are limited to government requirements in support of disaster recovery.

Q: Do contracting officers assigned to support another bureau have to be issued a new warrant?

A: No, they do not need to be issued a new warrant. However, the purpose of a warrant is to provide information to vendors regarding the actual authority of the warrant holder. If a new warrant is not issued, a letter of designation, or some other indicia of actual authority, needs to be provided to the contracting officer.

Practically speaking, it will prove to be simpler to issue all contracting officers working for another bureau a new temporary warrant, stating the dollar level limitations if any of the contracting officer and that this delegation is effective until revoked.

**UNITED STATES DEPARTMENT OF THE INTERIOR
STEWARDSHIP ACTION PLAN FOR SIGNIFICANT ACQUISITIONS
RELATED TO THE TERRITORY OF AMERICAN SAMOA EARTHQUAKE,
TSUNAMI AND FLOODING RECOVERY EFFORTS**

I. Purpose. To provide an agency-wide action plan for ensuring prudent stewardship of taxpayer funds for current and future acquisitions supporting tsunami rescue, recovery, and reconstruction operations in the Territory of American Samoa.

II. Applicability. This action plan applies to all Department of the Interior bureaus and offices involved in awarding acquisition transactions in support of tsunami rescue and relief operations. If warranted, this plan will be expanded to include additional contingency contracting situations. The agency's Senior Procurement Executive will advise affected agency personnel of any expansion.

III. Definitions.

A. Transactions in support of tsunami rescue and relief operations. Official and necessary expenses authorized to support agency mission including continuity of operations, and/or the disaster relief responsibilities/efforts of other agencies as provided for under the Economy Act or other appropriate authorities, *and* used to alleviate the suffering and damage resulting from the tsunami in the Territory of American Samoa.

B. Significant acquisition. Based on an overall assessment of risk (considering awards to date, dollar amount of acquisitions, acquisition strategy, technical requirements, and related factors) and for purposes of this action plan, the Department of the Interior defines "significant acquisition" as follows:

- Any acquisition transaction in support of tsunami rescue and relief operations over \$500,000 resulting from use of emergency authorities.
- Any individual purchase card transaction in support of tsunami rescue and relief operations between \$15,000 and \$25,000.
- Any transactions over \$2,500 paid for using convenience checks under the DOI Integrated Charge Card Program's purchase business line.
- Any acquisition transaction in support of tsunami rescue and relief operations (of any dollar value) made within the first 14 working days following the tsunami (i.e., from September 29, 2009, through October 20, 2009).
- Acquisitions that the Chief Acquisition Officer (CAO), Senior Procurement Executive (SPE), Chief Financial Officer (CFO), Inspector General (IG), Chief Information Officer (CIO), the Solicitor (SOL), program managers, or bureau Heads of Contracting Activity consider risky for any reason -- including complexities in technical requirements or marketplace solutions (e.g., unusual requirements, lack of information about vendor capability, inexperience with particular acquisition strategies).

C. Exceptional circumstances. Life-threatening circumstances and those situations posing an immediate threat to the safety of individuals and the public health.

IV. Emergency Procurement Authorities. To date, the Assistant Secretary – Policy, Management and Budget (the CAO) under the authority delegated under Part 209, Chapter 4 of the U.S. Department of the Interior Departmental Manual, and the SPE have issued the following policies, procedures, and internal controls to implement emergency procurement authorities:

A. Department of the Interior Acquisition Policy Release (DIAPR) 2010-01, *Departmental Documentation Regarding Acquisition Flexibilities That Support Territory of American Samoa Earthquake, Tsunami and Flooding Recovery Efforts*, dated October 2, 2009; and

B. October 2, 2009, Department of the Interior Determination and Findings increasing certain procurement thresholds for National Park Service, U.S. Fish and Wildlife Service, U.S. Geological Survey and Office of Insular Affairs contracting activities in accordance with 41 USC 428a(b) and(c), *except for* construction subject to the Davis-Bacon Act, 40 USC 276 *and limited to* direct response to the current tsunami disaster relief operations.

V. Oversight. Spending on contingency operations, such as the American Samoa disaster recovery effort, requires increased scrutiny and additional internal controls for each action defined as a “significant acquisition” (see III above).

A. Review of Existing Procurement Actions. In consultation with the Department of the Interior’s SPE, the Interior CAO will require Interior bureau and office directors to implement adequate management controls to ensure compliance with proper acquisition procedures and the responsible management of tsunami relief funds.

Bureaus and offices shall review their respective contracting activity reports on each “significant acquisition” to verify that the transactions identified in the reports (a) meet the definition of “transaction in support of tsunami rescue and relief operations” as defined in section III.A., above; (b) comply with laws and regulations; and (c) were otherwise reasonable and appropriate. Further, bureaus and offices will determine whether modifications, terminations, or follow-on transactions are in the best interest of the government.

Representatives from the Office of the Secretary Office of Acquisition and Property Management, and Office of the Solicitor will be available to DOI bureaus and offices in an advisory capacity. Follow-up reviews of any identified significant acquisition transactions may be made by representatives of either or both the Office of Acquisition and Property Management and the Office of the Solicitor at the Solicitor’s and/or the SPE’s discretion.

B. Internal Controls for Future Procurement Actions. Moreover, based on their tsunami rescue/relief experiences and needs, bureaus and offices shall, as part of their reporting processes, identify and elevate for Departmental consideration and implementation, processes for mitigating acquisition, financial and program management risk for future tsunami-related activities. These processes shall reflect an increased level of oversight and attention for “significant acquisitions,” as defined above. Mitigation efforts shall include, at a minimum, the following outcomes.

1. Minimization of variances in cost, schedule, or performance of “significant acquisitions.”
2. Increased program management approvals based on the risk and value of “significant acquisitions.”
3. Additional program management responsibilities to monitor contractor performance, as well as to verify that contractors have performed fully in accordance with the terms & conditions of their “significant acquisitions.”
4. Additional financial management controls.

C. Reporting. Bureaus and offices shall establish internal reporting requirements (including frequency thereof) for tsunami-related rescue/relief acquisition activities, with emphasis on “significant acquisitions.” Bureaus/offices will use Attachment A (format for tracking significant acquisition information) as a reporting tool in addition to appropriate JP Morgan charge card and Federal Procurement Data System-Next Generation reports, to meet their review, oversight and reporting needs.

VI. Managing Interagency Contracting. If conducting acquisitions for other Federal agencies, cognizant contracting officers and funds certifying officials will apply additional oversight to ensure the requesting agency has:

- A. the authority to make the purchase;
- B. provided sufficient funds; and
- C. approved the statement of work, and otherwise concurs with the acquisition and program management plan established for the acquisition.

Cognizant contracting officers shall fully document the transaction, including the date and time of the request, the name and contact information of the requesting official, and funding authorization information.

VII. Responsibilities. Bureau/office Heads of Contracting Activity shall articulate the various roles, responsibilities, and thresholds for appropriate acquisition-related officials, such as those listed below, in tsunami-related activities within the limitations and in compliance with the requirements identified in the emergency procurement authorities

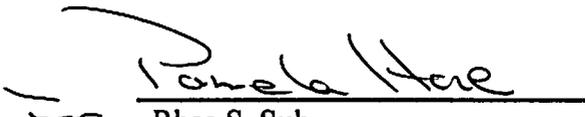
issued by the Interior CAO and SPE. However, approval thresholds for “significant acquisitions” shall generally be at a level higher than non-contingency contracting transactions.

- Contracting Officers.
- Bureau Procurement Chiefs
- Requiring Officials, Program Managers, and Contracting Officer Technical Representatives (COTRs).
- Purchase Cardholders and Approving Officials.
- Bureau/Office Charge Card Program Agency/Organization Program Coordinators
- Fund Certifying Officials

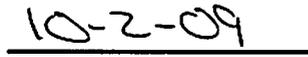
VIII. Additional Guidance. In addition to the guidelines issued in IV above, bureaus and offices shall compile and provide to the CAO with their report(s) any additional tsunami-related guidance issued by their organizations, the DOI, CFO, Office of Inspector General or other organizations that affect the acquisition process for this effort.

IX. Contingency Contracting Personnel. After consulting with appropriate Departmental personnel, and based upon the recommendations of the Bureau Procurement Chief of each contracting activity, the Department of the Interior has determined that it has sufficient contracting personnel and organizational infrastructure in place to fulfill mission requirements related to disaster relief, specifically the American Samoa tsunami effort. Moreover, the agency’s Integrated Charge Card Program includes requisite competencies (including training) for purchase cardholders and Approving Officials. The SPE shall remain in close contact with the Bureau Procurement Chiefs and the Integrated Charge Card Program Manager. Should the existing acquisition competencies need to be strengthened or new competencies developed, the CAO and SPE shall implement a training and development plan to achieve that goal.

X. Effective Date. This contingency contracting action plan is effective upon signature.



Rhea S. Suh
Assistant Secretary – Policy,
Management and Budget



Date

