



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

NOV - 2 2012

Department of the Interior Acquisition Policy Release (DIAPR) 2013 - 01

Subject: Departmental Documentation Regarding Acquisition Flexibilities That Support Hurricane/Post Tropical Storm Sandy Recovery Efforts

1. **Purpose:** The purpose of this DIAPR is to provide guidance on flexibilities available to support Hurricane/Post Tropical Storm Sandy response and recovery efforts.
2. **Effective Date:** Effective immediately upon signature.
3. **Expiration Date:** This policy release will remain in effect until cancelled or superseded.
3. **Background:** Hurricane/Post Tropical Storm Sandy affected at least 24 States from Florida to New England. Between October 26 and 30, 2012, President Obama issued Major Disaster declarations in the States of New Jersey, New York, and Connecticut; and Emergency declarations in the States of New Hampshire, Virginia, West Virginia, Delaware, Rhode Island, Pennsylvania, Maryland, Massachusetts, and the District of Columbia.

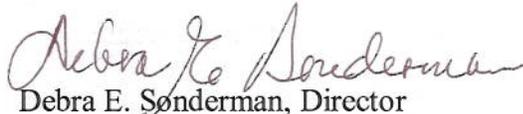
These declarations invoke Emergency Acquisition flexibilities authorized in Federal Acquisition Regulation (FAR) Part 18, in support of the Federal response to the crisis in the Eastern United States. The Major Disaster and Emergency declarations have given rise to a continuing urgent need for supplies 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 response and recovery efforts in the States of New Jersey, New York, and Connecticut, New Hampshire, Virginia, West Virginia, Delaware, Rhode Island, Pennsylvania, Maryland, Massachusetts, and the District of Columbia.

The Department of the Interior (DOI) Senior Procurement Executive has approved the attached Class Justification and Approval for Other than Full and Open Competition in accordance with FAR Part 6. A waiver to FAR Part 5 publication requirements and suspension of the CCR (SAM) waiver requirements, as outlined in DIAPR 2007-02, was also approved, so that DOI contracting activities can procure needed supplies and services of an unusual and compelling nature in an accelerated fashion to support the Hurricane/Post Tropical Storm Sandy response and recovery initiatives.

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, PAM, at (202) 513-0699 or via e-mail at Brigitte_Meffert@ios.doi.gov; or Debbie Glass, PAM, at (202) 513-0381 or via e-mail at Debra_Glass@ios.doi.gov.



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

Attachments

- 1) Class Justification and Approval for Other Than Full and Open Competition and Waiver of Publication Requirements for Acquisitions That Support Hurricane Sandy
- 2) Class Determination and Findings for Acquisitions That Support Hurricane/Post Tropical Storm Sandy Response and Recovery Efforts

**UNITED STATES
DEPARTMENT OF THE INTERIOR**

**CLASS DETERMINATION AND FINDINGS
ACQUISITIONS THAT SUPPORT HURRICANE/POST TROPICAL STORM
SANDY RESPONSE AND RECOVERY EFFORTS**

FINDINGS

1. Hurricane/Post Tropical Storm Sandy affected at least 24 States, from Florida to New England. Between October 26 and 30, 2012, President Obama issued Major Disaster declarations in the States of New Jersey, New York, and Connecticut; and Emergency declarations in the States of New Hampshire, Virginia, West Virginia, Delaware, Rhode Island, Pennsylvania, Maryland, Massachusetts, and the District of Columbia. These declarations invoke Emergency Acquisition Flexibilities authorized in Federal Acquisition Regulation (FAR) Part 18, in support of the Federal response to the disasters and emergencies in the States of New Jersey, New York, Connecticut, New Hampshire, Virginia, West Virginia, Delaware, Rhode Island, Pennsylvania, Maryland, Massachusetts, and the District of Columbia.
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 the Eastern United States beginning October 26, 2012. 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

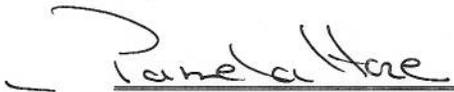
1. Pursuant to the authority delegated to me under Part 209, Chapter 4 of the Department of the Interior Departmental Manual, and subject to the requirements contained in the Appendix to this Determination and Findings, I hereby authorize increasing the following procurement thresholds for all Department of the Interior contracting activities, *limited to acquisition of supplies and services directly supporting the recovery efforts in the States of New Jersey, New York, Connecticut, New Hampshire, Virginia, West Virginia, Delaware, Rhode Island, Pennsylvania, Maryland, Massachusetts, and the District of Columbia* :
 - 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

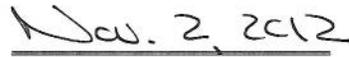
for contracts to be awarded and performed, or purchased, outside the United States; and

- o Simplified Acquisitions Under the Test Program for Certain Commercial Items (Upon Reauthorization): \$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 Hurricane/Post Tropical Storm Sandy recovery initiative by selecting “Hurricane Sandy” 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 Hurricane/Post Tropical Storm Sandy in the States of New Jersey, New York, Connecticut, New Hampshire, Virginia, West Virginia, Delaware, Rhode Island, Pennsylvania, Maryland, Massachusetts, and the District of Columbia are formally terminated.


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


Date

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 HURRICANE/POST TROPICAL STORM SANDY

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.

Hurricane/Post Tropical Storm Sandy affected at least 24 States from Florida to New England. Between October 26 and 30, 2012, President Obama issued Major Disaster declarations in the States of New Jersey, New York, and Connecticut; and Emergency declarations in the States of New Hampshire, Virginia, West Virginia, Delaware, Rhode Island, Pennsylvania, Maryland, Massachusetts, and the District of Columbia.

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 areas impacted by Hurricane/Post Tropical Storm Sandy, (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 Major Disaster declarations in the States of New Jersey, New York, and Connecticut; and Emergency declarations in the States of New Hampshire, Virginia, West Virginia, Delaware, Rhode Island, Pennsylvania, Maryland, Massachusetts, and the District of Columbia.

3. The devastation to areas affected by Hurricane/Post Tropical Storm Sandy is so extensive, and the recovery needs are of such an urgent and compelling nature, that the Federal 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

emergency effort of Hurricane/Post Tropical Storm Sandy, 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) Central Contractor Registration (CCR) (SAM) waiver requirements are suspended for contract actions related to Hurricane/Post Tropical Storm Sandy response and recovery efforts.

(h) Actions to overcome barriers to competition: Due to the unusual and compelling needs resulting from the emergency declaration of Hurricane Sandy, no such actions to overcome barriers to competition need be taken.

(i) 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) Offerors must provide a DUNS number.

(c) The bureau must conduct a search of the Excluded Parties List System prior to contract award, regardless of the nature of the action. If it is determined that the bureau has a compelling reason to award a contract to a suspended or debarred entity, the bureau must submit a written request for approval to the DOI Senior Procurement Executive.

(d) 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.

(e) 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.

(f) 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 Hurricane Sandy emergency declaration, 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.

6. Internal Controls for Future Procurement Actions. Bureaus and offices shall verify that the transactions made in support of Hurricane/Post Tropical Storm Sandy response/recovery efforts comply with laws and regulations and 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.

Based on their Hurricane/Post Tropical Storm Sandy rescue/relief experiences and needs, bureaus and offices shall identify and elevate for Departmental consideration and implementation, processes for mitigating acquisition, financial and program management risk for future response/recovery-related activities. Mitigation efforts shall include, at a minimum, the following outcomes.

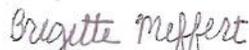
1. Increased program management approvals based on the risk and value of acquisitions.
2. Additional program management responsibilities to monitor contractor performance, as well as to verify that contractors have performed fully in accordance with contract terms & conditions.
3. Additional financial management controls.

APPROVAL

This class justification and approval is accurate and complete to the best of my knowledge. Its utility will be reviewed by the Office of Acquisition and Property Management staff for the duration of the aftermath of Hurricane Sandy.

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

CONCUR:


Brigitte M. Meffert
DOI Competition Advocate
Office of Acquisition and Property Management

APPROVAL OF SENIOR PROCUREMENT EXECUTIVE:


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