



GSA Office of Government-wide Policy

SPE Memo SPE-2020-07

## MEMORANDUM FOR ALL GSA CONTRACTING ACTIVITIES AND HEADS OF CONTRACTING ACTIVITY

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SUBJECT: Emergency Acquisition Flexibilities for Novel Coronavirus Disease 2019 (COVID-19)

### 1. Purpose.

The Novel Coronavirus Disease 2019 (COVID-19) was declared an emergency by the President on March 13, 2020. COVID-19 has also been declared a pandemic by the World Health Organization on March 11, 2020 (see the [WHO webpage](#)), and public health emergency by the Secretary of Health and Human Services on January 31, 2020 (see the [Public Health Emergency webpage](#)). GSA anticipates being part of the response operation. Many GSA contracting officers may be called on to aid in response efforts. The following information is provided to assist the Heads of Contracting Activities (HCAs) and contracting officers actively responding to the Coronavirus.

### 2. Contract and Lease Flexibilities.

This memorandum focuses on the flexibilities in FAR subpart 18.2, but as a reminder, the flexibilities in FAR subpart 18.1 apply to any emergency situation, both with and without an emergency declaration. Further information on emergency acquisition is now available on the GSA Acquisition Portal under the [Emergency Acquisitions Webpage](#). Additionally, information specific to public health emergencies is also available on the GSA Acquisition Portal under the [Public Health Emergencies Webpage](#).

For direct purposes of the response to Coronavirus Disease 2019:

- The micropurchase threshold is increased to:
  - \$20,000 in the case of any contract to be awarded and performed, or purchase to be made, inside the United States, including the acquisition of leasehold interests in real property; and

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- \$30,000 in the case of any contract to be awarded and performed, or purchase to be made, outside the United States, including the acquisition of leasehold interests in real property.
- The simplified acquisition threshold (SAT) is increased to:
  - \$750,000 or any contract to be awarded and performed, or purchase to be made, inside the United States, including the acquisition of leasehold interests in real property; and
  - \$1.5 million for any contract to be awarded and performed, or purchase to be made, outside the United States, including the acquisition of leasehold interests in real property.
- The threshold for simplified procedures for certain commercial items, including the acquisition of leasehold interests in real property, is increased to \$13 million (see FAR 13.500(c) and 18.202(d)).
- The additional flexibilities of FAR subpart 18.2 cannot be used for any other acquisition, including depot back-fills. The threshold increases are specific only to support the designated areas. We expect the designated areas may be revised as the disease spreads. As the geographic area of the Presidential declaration is revised, the geographic area applicable to the threshold increases in this memorandum is simultaneously revised without the need for a revision to this memorandum<sup>1</sup>.
- The Davis-Bacon and Service Contract Act (SCA) thresholds are not changed by the use any of these flexibilities.

The threshold increases will remain in effect until July 1, 2020, unless otherwise rescinded, modified or extended.

### **3. FPDS Reporting.**

A new National Interest Action (NIA) code has been established in FPDS as a means of tracking acquisition costs of the multiple Federal agencies involved in Coronavirus Disease 2019, an incident of great national interest. This new NIA Code shall be used strictly for reporting purposes related to Coronavirus Disease 2019 and involves the exercise of the emergency authorities identified in FAR subpart 18.2, Emergency Acquisition Flexibilities. The new NIA value details are as follows:

NIA Code: P20C  
 NIA Description: COVID-19  
 Start Date: 03/13/2020  
 End Date: 07/01/2020

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<sup>1</sup> Geographic location for the emergency can be tracked on the [FEMA Disaster Declarations webpage](#).

If you have any FPDS system questions or problems, please contact our supporting Federal Service Desk at <https://www.fsd.gov>.

#### **4. Additional Guidance.**

HCA's in each affected region, working in conjunction with Regional Emergency Coordinators (RECs), are in the best position to activate its emergency response coordination process to respond effectively to regional emergency needs. GSA has talented contracting officers across the country capable of lending needed support.

U.S. Small Business Administration's Office of Disaster Assistance provides additional guidance and resources for efficiently including small business concerns to successfully and quickly respond to requirements in support of relief efforts. See <https://www.sba.gov/offices/headquarters/oda/resources>.

Several existing contract vehicles are specifically designed to address emergencies and should be considered first.

- Check to see if the required services and supplies are available under [GSA's Disaster Relief and Emergency Preparedness Schedules](#) on GSA Advantage.
- Consult the [Disaster Response Registry](#) via SAM Advanced Search for the availability of contractors for debris removal, distribution of supplies, relief services and other actions (see FAR 18.102).
- If these sources do not meet the need, consider other existing contract vehicles before soliciting new contracts.

In our response efforts, market research is always important. Contracting officers should note the following:

Because the President's emergency declaration is under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (41 U.S.C 5121, et seq.), normally Contracting Officers would be required to give preference to local firms in the designated area as discussed in FAR subpart 26.2. In this case, as the disaster response applies to a global pandemic, there is no clearly identified local area. Thus, at this time local set-aside requirements do not apply. This memorandum will be updated if OMB offers supplemental guidance on that point.

If, in responding, you need to limit competition, one possible exception is FAR 6.302-2 Unusual and compelling urgency. Under this exception:

- You do not need to submit a synopsis if the delay would seriously injure our efforts.
- You do need to go to the maximum competition practicable. Often, you can do that by phoning a reasonable number of sources and asking for quotes and delivery time, on the spot.

- Justifications and approvals may take place after award, if they would unreasonably delay the acquisition.
- If you employ this flexibility, make sure you have a tracking system so you are assured that the appropriate documentation is completed and the decisions and reasons are clearly explained. It is recommended that notes be kept as you go along and complete all documentation within 1-week of the event.
- For all contracts awarded under this authority, keep the period of performance brief. Contracts of this type should not go any longer than necessary to respond to the emergency and allow for a re-compete.

## **5. Point of Contact.**

Any questions regarding this memo may be directed to [GSARPolicy@gsa.gov](mailto:GSARPolicy@gsa.gov).

## **6. Additional Resources.**

- GSA's Acquisition Portal [Emergency Acquisitions webpage](#)
- GSA's Acquisition Portal [Public Health Emergencies webpage](#)
- [Office of Federal Procurement Policy \(OFPP\) Emergency Acquisition Guidance](#)
- GSA's [Emergency Response website](#)
- [Disaster Declarations](#) (FEMA)
- [Coronavirus Disease 2019 Updates](#) (CDC)