

# CHAPTER 12:

## Disaster Leasing

<b>1. Overview</b> .....	<b>12-1</b>
<b>2. Basis for Disaster Leasing</b> .....	<b>12-1</b>
a. Leasing Authorities .....	12-1
b. Presidential Disaster Declaration .....	12-1
<b>3. Acquisition Planning/Pre-solicitation Requirements</b> .....	<b>12-2</b>
a. Request for GSA Action .....	12-2
b. Request Transmitted to Leasing Specialist .....	12-2
c. Class Justifications .....	12-3
<b>4. Market Survey Process</b> .....	<b>12-3</b>
a. FEMA Consultation and Market Survey .....	12-3
b. Coordination with Federal Protective Service .....	12-3
<b>5. Solicitation and Negotiations</b> .....	<b>12-4</b>
a. Minimum Content of Disaster Lease Contracts .....	12-4
b. Occupancy Agreements .....	12-5
c. FPS Services and Fees Related to FEMA Disaster Leases .....	12-5
d. Term .....	12-5
e. Negotiations .....	12-5
f. Regional Management Control .....	12-6
g. Condemnation .....	12-7
h. Environmental/NEPA .....	12-7
<b>6. Award</b> .....	<b>12-7</b>
<b>7. Lease Administration and Management</b> .....	<b>12-8</b>
a. Documentation .....	12-8



---

b. Contract Payments.....	12-9
<b>Attachment 1: MOA Between DHS/FEMA and GSA (June 2007).....</b>	<b>12-11</b>
<b>Attachment 2: Class Justification for Other Than Full and Open Competition (November 1992).....</b>	<b>12-12</b>
<b>Attachment 3: MOA Between DHS-FEMA and FPS (April 2008) .....</b>	<b>12-17</b>

## 1. Overview

---

This chapter outlines procedures for acquiring temporary leasehold interests in real property for the Federal Emergency Management Agency (FEMA) and/or other agencies that may respond to declared emergencies. Leases for temporary or permanent space to accommodate agencies displaced by disasters are entered into under GSA's standard 40 U.S.C. §585 authority, not the statutory authorities discussed in this chapter.

When the President issues a disaster declaration, representatives of GSA, FEMA, and other agencies deploy to the affected area. In accordance with the Memorandum of Agreement dated June 18, 2007 and Emergency Support Functions of the National Response Framework, GSA must provide contracting support to FEMA consistent with mission assignments and tasks issued by FEMA.

The procedures described in this chapter highlight the differences between the standard leasing process and the process for FEMA disaster leasing. This chapter states GSA's standard procedures for FEMA disaster leasing unless otherwise directed and changed in writing at the local command level or when deemed not to meet FEMA's operational and programmatic requirements in its response to the Presidential Emergency Declaration.

## 2. Basis for Disaster Leasing

---

### a. Leasing Authorities

Pursuant to 40 U.S.C. §585, GSA may enter into a lease to accommodate a federal agency in buildings or improvements for a term of up to 20 years. GSA's statutory authority limits leasing of unimproved land to terms up to 1 year.

The Lease Contracting Officer (LCO) must immediately notify Central Office and the regional Portfolio office of any disaster leases that exceed prospectus limitations before the award of such a lease.

### b. Presidential Disaster Declaration

When the President issues a disaster declaration, representatives of GSA, FEMA, and other agencies deploy to the affected area. In accordance with the June 2007 Memorandum of Agreement between DHS/FEMA and GSA (see [Attachment 1](#) to this chapter) and Emergency Support Function No. 7 of the National Response Framework, GSA must provide contracting support services to FEMA consistent with mission assignments and tasks issued by FEMA.

GSA regional managers will appoint a GSA coordinator to work with FEMA on all GSA activities related to disasters. Only the appointed coordinator or designee may accept mission assignments and tasks from FEMA.



## 3. Acquisition Planning/Pre-solicitation Requirements

---

### a. Request for GSA Action

FEMA will submit a Mission Assignment or task to the Emergency Support Function No. 7 leader (GSA's coordinator or designee) at the Regional Response Coordination Center or the Joint Field Office. Generally, FEMA requests for supplies, space or services will be submitted on a FEMA Form 90-136, Action Request Form, or other approved tasking document.

The form must have been approved and signed by the appropriate FEMA Emergency Response Team Operations Section Chief or Acting Chief and a FEMA Comptroller/Finance Section funding official.

The form must include the following information, at a minimum, in the Justification/Statement of Work:

- FEMA tracking number;
- FEMA contact and phone number;
- Type of space required (e.g., warehouse, office, land);
- Related security requirements;
- Approximate amount of space required;
- Nature of occupancy (e.g., Joint Field Office, Disaster Recovery Center, warehouse, travel trailer staging area);
- Term (months or years); and
- Desired location (city or county and state).

### b. Request Transmitted to Leasing Specialist

GSA's coordinator will forward the request form to the GSA real estate acquisition coordinator for the affected location who will then initiate lease actions. **GSA Leasing Specialists (LSs) must not initiate leasing actions based on a verbal request and must not accept forms directly from FEMA.**

The real estate acquisition coordinator or assistant must maintain a copy for tracking and assign the project to the appropriate LCO. They must:

1. Receive the Action Request Form (ARF); usually a FEMA Form 60-1, Requisitions for Supplies, Equipment and/or Services;
2. Prepare the lease file for the LS or LCO where appropriate (60-1 and blank action log); and
3. Deliver the lease file to the assigned LS or LCO (via hand-carrying or email).



### c. Class Justifications

One or more justifications for different types of leases may be in effect at any one time for LCOs to reference.

The Commissioner signed a GSA “Class Justification for Other than Full and Open Competition for Acquisitions of Space and Related Services to Support Federal Agencies Acting in Response to Emergencies OR Major Disaster Situations As Herein Specified” on November 5, 1992. The justification is still valid for leases GSA acquires for FEMA and other agencies responding to a disaster.

The 1992 justification must not be used for leases to provide replacement space, either temporary or permanent, for displaced agencies or space for displaced citizens, which require their own separate justifications based on the unusual and compelling urgency of the situation. LCOs may sign those leases while class justifications are pending approval.

The LCO must include a certification in the lease contract file when relying upon the 1992 justification. Certification language is on the last page of the justification. It says in part, “The Contracting Officer anticipates being able to negotiate a fair and reasonable price consistent with market conditions and the Government’s requirements.” The LCO must document the agreed-upon price in relation to the current market as part of the certification, recognizing that market conditions for these leases may be considerably different from the market conditions before the disaster.

## 4. Market Survey Process

### a. FEMA Consultation and Market Survey

The LCO must contact the FEMA representative to obtain complete information on the requirement and initiate a market survey to locate potential acceptable properties. In many cases, FEMA will identify specific locations on the request form along with the name and telephone number of the owners. FEMA often requests a specific property because of the need to be housed in a specific area, and the FEMA team has surveyed the area for sources. The LCO must also use sources such as internal contacts, current Lessors, area realtors, and onsite market surveys with FEMA to locate space. LCOs must document the availability of sources and place the documentation in the permanent file. See the class justification for disaster leases for responders (see [Attachment 2](#) to this chapter) for information and limitations. If the class justification does not fit the facts, then a separate one must be prepared.

### b. Coordination with Federal Protective Service

The LCO should coordinate with the FEMA representative regarding the provision of law enforcement and security services provided through the Federal Protective Service (FPS) before the market survey. FPS services for disaster leases will be provided in accordance with provisions in the Memorandum of Agreement between DHS-FEMA and FPS (see [Attachment 3](#)). FPS should be included on the market survey to the extent practicable. The LCO must notify FEMA of apparent security deficiencies at sites surveyed.



---

## ↳ 5. Solicitation and Negotiations

---

- FEMA usually identifies a building, locates a building point of contact (POC), and will have completed FEMA's Facility Review and Approval (which includes security, safety, logistics, and environmental matters) before the lease is assigned to a LS/LCO.
- Sometimes the building POC listed on the ARF (Form 60-1) may be someone other than the Lessor. In this case, please return the file to the real estate acquisition coordinator so that procedures can be corrected with FEMA.
- In some cases, during a disaster of smaller scale, the LS or LCO may be requested to identify property for FEMA. In this case, please refer to the above guidance and any other directions from the GSA coordinator.

---

## 5. Solicitation and Negotiations

---

### a. Minimum Content of Disaster Lease Contracts

In solicitations for disaster leases, the LCO must use either a Standard Form 2, U.S. Government Lease for Real Property or GSA Form 3626, US Government Lease for Real Property (Short Form); a lease rider; a GSA Form 3518, Representations and Certifications; and GSA Form 3517, General Clauses; and the full text of GSA Form 3516A, Solicitation Provisions. The LCO may consider using GSA Form 3626 in lieu of the SF 2 when the lease cost will not exceed the Simplified Lease Acquisition Threshold for space in a building.

If the full text of standard SFO conditions and performance requirements are not incorporated, disaster leases must, at a minimum, require—

1. A certificate of occupancy, or equivalent as stated in applicable sections of the SFO.
2. Fire and life safety compliance, in accordance with State and Local codes, and applicable sections of the SFO.
3. Accessibility compliance, in accordance with ABAAS (Architectural Barriers Act Accessibility Standards) requirements, and applicable sections of the SFO.
4. OSHA, Asbestos and other environmental requirements, in accordance with State and Local codes, and applicable sections of the SFO.
5. Services, utilities, and maintenance.

These minimum conditions and performance requirements are stated in the Standard Conditions and Requirements section of the GSA Form 3626, U.S. Government Lease for Real Property (Short Form). The text may be incorporated directly from the GSA Form 3626.

**Prior registration of a Lessor in the Central Contractor Registration system is not required for executing disaster leases** (FAR §4.1102 (3) (ii)). However, once GSA transfers the disaster lease to GSA inventory and uses reimbursable billing, the LCO must require the Lessor to register in the CCR system. Registration must be completed no later than 60 days after the execution date of the Supplemental Lease Agreement (SLA) directing the Lessor to bill GSA.



## b. Occupancy Agreements

GSA and FEMA have agreed not to require Occupancy Agreements for disaster leases that will be directly billed to FEMA. The LCO must advise and consult with FEMA throughout the process regarding available space for lease and anticipated costs. When a FEMA disaster lease requirement can be filled in vacant existing owned or leased space, an Occupancy Agreement will be required, and standard pricing policies apply. In such instances, the standard FEMA AB code should be used for STAR project purposes, and standard DHS-FPS security fees apply. Note: AB code 7060 (see paragraph “7.a. Documentation” below) is used in disaster leasing when the rent is billed directly to FEMA. It **must not** be used when GSA is billed using reimbursable billing.

## c. FPS Services and Fees Related to FEMA Disaster Leases

For Stafford Act disaster leases, FPS services provided directly to FEMA are governed by the guidelines set forth in the April 2008 MOA between DHS-FEMA and FPS (see [Attachment 3](#)).

FPS services provided for leases that were initially Stafford Act disaster leases but were transferred to the GSA inventory must use standard lease procedures, including GSA reimbursable billing via an Occupancy Agreement (OA) in accordance with the provisions under section “7.b. Contract Payments” below, and must follow the established GSA-FPS protocols for FPS service provision and fee reimbursement.

## d. Term

FEMA will have included the required lease term on the request form.

Under the Stafford Act, FEMA has authority to provide direct temporary housing assistance to individuals and households displaced as a result of disasters. That includes providing temporary trailer homes, etc. That authority necessarily includes the authority to lease land and property upon which to place the temporary housing. FEMA’s authority is 18-month authority, so upon FEMA’s delegation to GSA, the LCO will have authority to enter into leases for unimproved land for firm terms up to 18 months.

## e. Negotiations

The LCO must contact the owners and conduct negotiations.

FEMA has agreed to instruct its contractors and agents to refrain from engaging in substantive negotiations or discussions with prospective Lessors regarding terms and conditions, including proposed pricing, when the lease is to be entered into by GSA. The LCO retains full responsibility and authority for negotiating lease terms and must not yield to pressures from any level or source to relinquish his or her responsibility to due diligence, including determinations of fair and reasonable pricing. The LCO will consult the Office of Regional Counsel for support as necessary.

### Fair and Reasonable Rates

The LCO must make determinations as to fair and reasonable rates. This can be accomplished in various ways depending on the circumstances and the LCO’s knowledge of the market.

#### Leased Space

For leased space, the LCO must employ standard leasing protocols in making a fair and reasonable rate determination.



## ↳ 5. Solicitation and Negotiations

---

### Leased Land

The LCO should compare offered land rents to rental rates for land having the same or a similar highest and best use to the land they expect to lease—that is, retail land rental rates for retail-oriented land, industrial land rental rates for industrial land, agricultural land rental rates for use of agricultural land for such as pasture and vacant unimproved lands, fields with crops growing, and so forth.

Consideration of the land comparables to be used should be given to the amenities present at the site GSA intends to lease such as zoning, land with active businesses on site, on- and off-site pavement and other site amenities, utilities that are in place, and other infrastructural improvements. Where offered land rents mandate that GSA reimburse the offeror for any cost or service in addition to the offered land rental rate, comparison with land comparables or other reasonable supporting data must be provided to adequately account for these additional costs.

Local market conditions and circumstances after the disaster may be considered in determining fair and reasonable pricing.

When the value of land and rental rates for land are not reasonably obvious or readily supportable, Central Office strongly advises the LCO to consult with GSA regional appraisers or other local land market experts (real estate brokers, auctioneers, tax assessors, and real estate appraisers) to determine the market value and adequate rates of return on land for determining reasonable land rental rates, and use all other available resources (including local and regional published data) in making such a determination.

Regions should make every reasonable effort to make appraisal resources available to the LCO, including appraisal staff, land valuation details, and other portfolio experts, to assist the LCO in making such determinations for land leases.

### Renewal Options

When the LCO elects to exercise a lease renewal option in accordance with the guidelines under section “5.d. Term” above, the LCO must reevaluate market conditions to determine whether the option rate is fair and reasonable. Market conditions under disaster settings can change rapidly. It is suggested that on the 6-month anniversary of the lease or the 9-month anniversary of the land lease, the LCO should consult with the regional appraiser regarding market conditions and market data before exercising a renewal option. The appraiser can advise on the need for an appraisal to support renegotiation of the lease rate if market conditions warrant.

The final responsibility and determination of fair and reasonable rates for these disaster situations will be at the discretion of the LCO. The LCO must document the file on how this determination was made.

## **f. Regional Management Control**

Central Office recommends that the regions establish an informal pricing consultation process before award to encourage LCO consultation with a peer or higher level associate who is not involved in the particular acquisition. Documentation may be informal. The senior emergency management LS is the consultant available onsite.

### g. Condemnation

If a fair and reasonable price consistent with current market conditions cannot be negotiated, it may be necessary for the Government to condemn the leasehold interest. In such situations the LCO must consult with Office of Regional Counsel at the earliest possible time.

### h. Environmental/NEPA/NHPA

GSA is the acquisition agency responsible and will lead, unless otherwise agreed to by FEMA, in addressing environmental issues, including performing National Environmental Policy Act (NEPA) analyses and National Historic Preservation Act (NHPA) consultation, as applicable. FEMA will serve as a cooperating agency. To the maximum extent practicable, consistent with the GSA NEPA Desk Guide

([http://pbsportal.pbs.gsa.gov:7777/pls/portal/docs/page/PL/Documents/PL/library/NEPA\\_DeskGuide\\_1.pdf](http://pbsportal.pbs.gsa.gov:7777/pls/portal/docs/page/PL/Documents/PL/library/NEPA_DeskGuide_1.pdf)), rely on categorical exclusions or environment assessments and findings of no significant impact for the proposed leasing action. If an environmental assessment or environmental impact statement is necessary, coordinate with FEMA as required. For leases that may affect historic properties, coordinate with the Regional Historic Preservation Officer to identify Section 106 compliance issues and avoid adverse effects to the extent possible, following Advisory Council on Historic Preservation guidelines for emergency consultation, as applicable.

In every acquisition, the LCO must forward all NEPA documentation received to the Office of General Counsel attorney assigned to the FEMA response team for review. The LCO must also consult with regional environmental program officials to assist in the reviews. If a concern is raised in this review, reviewers must consult with FEMA and/or PBS national environmental program officials for resolution.

The LCO must include a copy of the final NEPA findings, analysis, and concurrence in the lease file.

- NEPA clearances are required for all **land leases** before the LCO can sign the lease, although FEMA may be the organization actually performing the assessment. Be sure those clearances are in place before executing the lease for the Government.
- Disaster Recovery Center (DRC) locations should have been indicated as "Approved" in the lease file before it is assigned to the LS/LCO. A NEPA clearance is not usually required (the file indicates "NA").

## 6. Award

---

After conducting negotiations, the LS or LCO must provide a cost estimate to the GSA's coordinator referencing the FEMA request form action number. GSA's coordinator will request that FEMA develop a corresponding FEMA Form 40-1, *Requisition and Commitment for Services and Supplies*, approving the proposed lease. GSA will not accept the form without a funds citation for payment and a name in the funds certification box.

The LS or LCO will need to advise FEMA of the negotiated rental amount and request the funding.

- Once an amount has been negotiated, email or fax a request for funds to the Realty Services coordinator. The Realty Services coordinator will communicate with FEMA.



## 7. Lease Administration and Management

---

- The LS or LCO should continue with lease preparations and forward the draft lease to the Lessor for signature with the appropriate cover letter information.

The LCO may award the lease when the Form 40-1 is received with the funding code and contract number. The negotiated amount is approved by FEMA when a Form 40-1 is received for a **minimum of the firm-term commitment**. Please be sure to note that a “certifying official” has signed or electronically stamped the form. The LCO may then execute the lease for the Government.

## 7. Lease Administration and Management

---

The LCO must include the FEMA Procurement Instrument Identifier (PIID) number, as issued on an approved FEMA 40-1, along with a regionally issued GSA lease number on disaster leases. If any Stafford Act disaster leases will transition to GSA billing in accordance with section “7.b. [Contract Payments](#)” below, the existing Lease number will be retained, however other project information must be updated accordingly (for example, in STAR, new AB code, signed OA, and so on).

GSA Property Management will perform lease administration and lease management for FEMA disaster leases. The LCO may designate qualified and trained FEMA personnel as CORs or COTRs for specifically enumerated duties under a particular lease. In such cases GSA retains the contract administration responsibilities unless specifically delegated upon request. (See the DHS/FEMA-GSA MOA, section IV, A.7, and B.8 and 9 in [Attachment 1](#).) FEMA representatives must present COR or COTR certificates to the LCO prior to being designated as a COR or COTR for FEMA.

With specific respect to leasehold interests in land for FEMA, GSA should not assume any responsibility related to the use, management, operation, demobilization of facilities, and functions related to the leased property, including but not limited to providing site infrastructure, site management, repair and replacement of facilities, social services, decommissioning and demobilization requirements, removal of improvements, and site restoration requirements.

### a. Documentation

#### Hours and Expenses

The LCO must keep a log of regular and overtime hours and expenses in support of projects for reporting to GSA’s coordinator as requested. The real estate acquisition coordinator will keep track of these items and report them to the GSA coordinator as necessary. All LSs/LCOs, however, are required to keep their timesheets and travel expense logs updated. Copies should be printed or emailed to the real estate acquisition coordinator as requested.

Property managers must keep a log of regular and overtime hours and expenses in support of lease administration for all GSA disaster leases.

#### FPDS

FEMA disaster leases must be reported by GSA in the Federal Procurement Data System (FPDS), except for any FPDS entries required to be made after contract administration has been



delegated to FEMA for a particular lease or leases. All information reported by GSA into FPDS must be obtained through STAR.

### Lease Files

The region geographically containing the declared disaster area must maintain all original lease documents and pre-award documentation, and input this documentation into eLease for record keeping purposes. If a LCO is deployed from another region to work on leases during disaster recovery, the deployed LCO must consult with the affected regional managers to arrange for the proper assignment and physical transfer of those leases and project files to a LCO assigned to the affected region. File retention and disposal will be according to standard schedules for GSA leases.

The LCO must transmit a complete copy of the lease contract file to FEMA. After award and execution by the Government, return the file to the real estate acquisition coordinator as soon as possible. The coordinator will:

- follow up with the Lessor for a completed automated clearinghouse (ACH) electronic payment form;
- provide a sample copy of the payment invoice;
- provide a lease copy to both FEMA and the Lessor;
- file the active lease; and
- monitor the lease for expiration requirements.

### STAR Records

PBS has identified a unique AB code for FEMA Stafford Act disaster leases, which is 7060. This unique code will simplify recordkeeping and reporting. All FEMA disaster leases should be entered into STAR according to standard lease input procedures. Since CCR registration is not required for Stafford Act disaster leases, and STAR will require an input for CCR information, using zero-fill (0) for those fields is suggested for consistency.

### Electronic Documentation and Resources

GSA National Office will maintain electronic copies of FEMA forms and GSA lease templates, delegations of authority, and other directives and resource documents on the Office of Real Estate Acquisition page of GSA InSite.  
([http://pbsportal.pbs.gsa.gov:7777/pls/portal/url/page/PQ/Office\\_Of\\_National\\_Customer\\_Services/Solutions\\_Development\\_Division\\_Home](http://pbsportal.pbs.gsa.gov:7777/pls/portal/url/page/PQ/Office_Of_National_Customer_Services/Solutions_Development_Division_Home))

## b. Contract Payments

For real property leases FEMA will initially be responsible for making timely payments to the Lessor. Under this “direct billing” approach, GSA will utilize FEMA funding codes/citations to support lease awards, and such leases will instruct Lessors to bill FEMA directly. No later than 6 months following a lease award, FEMA, in consultation with GSA, will determine whether a given lease should continue to utilize the “direct billing” approach or be converted to the “reimbursable billing” approach. See the DHS/FEMA-GSA MOA, section VI in [Attachment 1](#) for details on contract payment and reimbursement.



### ↳ 7. Lease Administration and Management

---

If FEMA decides to keep the lease for an extended term, it must provide a new or amended FEMA Form 40-1 before the LCO extends the lease, unless the original Form 40-1 covers a longer term.

- A new Form 60-1 will be provided if FEMA requests GSA to extend the current terms or to terminate the contract.
- A Supplemental Lease Agreement should then be prepared as necessary and forwarded to the Lessor. A Form 40-1 is required before lease execution by the Government.

If FEMA requests termination or expiration, the Lessor should be provided with the appropriate letter and a Release of Claims form. When a Stafford Act disaster lease transfers to standard GSA reimbursable billing, the LCO must follow standard GSA lease procedures, including:

- initiating a new STAR project with the standard FEMA AB Code;
- obtaining BA 53 Certification of Funds;
- obtaining a signed OA from FEMA; and
- issuing a Supplemental Lease Agreement to direct the Lessor to bill GSA thereafter.

These billing conversions will be handled individually and assigned per the current regional protocol.

The OA must enumerate all terms, costs, and conditions for the lease location. Conventional pricing policy principles will apply when determining whether the space is cancelable or non-cancelable (see also Pricing Policy Desk Guide Chapter 2.15 Pricing Standards -PBS Fee). For land leases, the LCO should also apply pricing policy principles in determining the whether the OA should be cancelable or non-cancelable, and exercise professional discretion in applying such a determination accordingly.

The LCO must require the Lessor to register in the Central Contractor Registration (CCR) system. Registration must be completed no later than 60 days after the execution date of the SLA directing the Lessor to bill GSA.



---

## Attachment 1: MOA Between DHS/FEMA and GSA (June 2007)

---

### **Memorandum of Agreement Between the Department of Homeland Security and the General Services Administration**

This MOA establishes a framework for providing resource support and other real and personal property and non-personal services by GSA pursuant to Emergency Support Function No. 7 and other provisions of the National Response Plan. The purpose of the MOA is to improve emergency and disaster response efforts in:

- Ordering and provision of supplies, services, or space;
- Contract administration and support;
- Payment and reimbursement for supplies, services, or space;
- Coordination between the parties to the MOA; and
- Dispute resolution.

This MOA does not address FEMA disaster preparedness or recovery needs after expiration of a FEMA mission assignment (generally 60 days, unless extended). However, GSA will provide supplies, space, or services to FEMA for disaster preparedness and recovery needs to the maximum extent available under existing GSA authorities and normal agency ordering and payment procedures.

The full text of the MOA is available at <http://www.gsa.gov/portal/category/21132>



## **Attachment 2: Class Justification for Other Than Full and Open Competition (November 1992)**

---

### **General Services Administration Class Justification for Other Than Full and Open Competition—Acquisitions of Space and Related Services to Support Federal Agencies Acting in Response to Emergencies or Major Disaster Situations as Herein Specified**

This class justification applies to acquisitions of space and related services to support agencies acting in response to emergencies or major disaster situations. It is for use by GSA contracting activities in services for the Federal Emergency Management Agency (FEMA) and other Federal agencies responding to the following types of situations:

- National emergencies declared by the President under applicable provisions of law, such as the Stafford Act of 1988 (P.L. 100-707);
- Emergencies declared by responding Federal agencies pursuant to statutorily authorized emergency plans or other applicable provisions of law; and
- Emergencies of a health/safety or other nature that so threaten the mission of an agency in a Government-owned or -leased building that the agency must relocate quickly.

The full text of the justification appears on the pages that follow.



Attachment 2: Class Justification for Other Than Full and Open Competition  
(November 1992) ↵

GENERAL SERVICES ADMINISTRATION CLASS JUSTIFICATION FOR OTHER  
THAN FULL AND OPEN COMPETITION

ACQUISITIONS OF SPACE AND RELATED SERVICES TO SUPPORT FEDERAL  
AGENCIES ACTING IN RESPONSE TO EMERGENCIES OR MAJOR DISASTER  
SITUATIONS AS HEREIN SPECIFIED.

Identification and description of action being approved,

This class justification for other than full and open competition is for use by the General Services Administration's (GSA's) contracting activities in the acquisition of space and related services for the Federal Emergency Management Agency (FEMA) and other Federal agencies responding to emergency situations and major disasters as specified below. This class justification is applicable to the following emergencies:

- a. National emergencies declared by the President under applicable provisions of law, including, but not limited to, the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (P. L. 100-707);
- b. Emergencies declared by responding Federal agencies pursuant to statutorily authorized emergency plans or other applicable provisions of law; and
- c. Emergencies of a health/safety or other (HSO) nature which so adversely impact the mission of an agency in a Government-owned or leased building as to necessitate the agency's expeditious relocation therefrom.

Description of supplies or services required.

GSA Order ADM P 2400.16A dated January 8, 1992, entitled Domestic Emergency Assistance Program, establishes GSA's overall guidance for providing assistance to Federal agencies in emergencies. The Order states that GSA "must ensure that the requesting agency is provided space that meets its needs," and "other services currently provided to the Federal establishment."

Identification of statutory authority.

Section 303(c)(2) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 253(c)(2)), provides for contracting without full and open competition when there is an unusual and compelling urgency.



↳ Attachment 2: Class Justification for Other Than Full and Open Competition  
(November 1992)

---

Demonstration that the acquisition requires use of the authority cited.

Pursuant to the authority and **responsibilities** contained in the Federal Property and Administrative **Services** Act of 1949, as amended, GSA is often called upon to provide work space and related support services to Federal agencies in emergency situations. The need to provide such work **space and** services in support of disaster relief efforts is of unusual **and** compelling urgency, and any delay will seriously harm a critical Government program and the recipients of Federal assistance. This class justification is applicable only to individual acquisitions of **work** space and related supporting services provided to Federal agencies in response to the emergency or major disaster situations specified in the first paragraph of this Justification for Other Than Full and Open Competition.

Description of efforts to obtain as many offers as practicable.

A market survey shall be conducted and competition shall be solicited to the maximum extent possible from as many potential sources as is practicable, consistent with the **circumstances** of the particular emergency.

Determination that the anticipated cost will be fair and reasonable.

The Government anticipates being able to negotiate a fair and reasonable price, taking into account market conditions existing at the time of acquisition.

Description of the market survey conducted.

It is impossible to identify sources capable of providing space for emergency or disaster relief in advance of the determination of individual need. As the need for space arises, a market survey will be conducted. **All** potential sources which can be located within the timeframe, and which can provide habitable space suitable for the needs of the **responding** agency, will be solicited.

Other facts supporting the use of other than full and open competition.

None.

List of sources that expressed an interest in the acquisition.

Not applicable.



Attachment 2: Class Justification for Other Than Full and Open Competition  
(November 1992) 

Statement of actions to overcome barriers to competition.

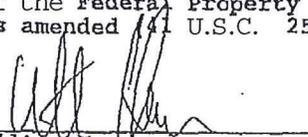
Under the circumstances described herein, there are no actions that the agency can take to overcome the barriers to full and open competition.

Contracting officer certification.

This class justification may be used by GSA contracting activities only when, with respect to each proposed lease contracting action taken pursuant to this **class** justification, the contracting officer executes and includes in the appropriate lease contract file the following certification:

"I certify that, to the **best of** my knowledge and belief, the requirement for space falls **within the** scope and applicability of the class justification for other than full and open competition for the acquisition of work space and related supporting services in response to emergencies or major disaster **situations** specified in the first **paragraph** of the class justification for other than full and open competition, entitled Identification and Description of Action Being Approved. The Contracting Officer anticipates **being able** to negotiate a fair and reasonable price consistent with market **conditions** and the Government's requirements."

This **class** justification for other than full and open competition is hereby made and approved in accordance with Section **303(c)(2)** of the **Federal Property and Administrative Services Act** of 1949, as amended (41 U.S.C. 253(c)(2)).

  
Milton Herzon  
Commissioner  
Public Buildings Service

Date: NOV 5 1992

CONCURRENCE:

  
Arthur E. Ronkovich  
Agency Competition Advocate



↳ Attachment 2: Class Justification for Other Than Full and Open Competition  
(November 1992)

---

Reviewed for Legal Sufficiency:

  
Melville H. Valkenburg  
Associate General Counsel  
Real Property Division

Approved:

  
Richard H. Hopf, III  
Associate Administrator  
for Acquisition Policy



## Attachment 3: MOA Between DHS-FEMA and FPS (April 2008)

---

### **Memorandum of Agreement Between the U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), and the U.S. Department of Homeland Security U.S. Immigration and Customs Enforcement (ICE) Federal Protective Service (FPS)**

This April 2008 MOA states the operational procedures and relationships for providing law enforcement and security services at GSA or DHS leased, owned, or occupied disaster facilities. It establishes a standard set of procedural arrangements for response and recovery operations between FEMA (the requesting agency) and FPS (the servicing agency).

The full text of the MOA is available at <http://www.gsa.gov/portal/category/21132>