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Chapter 9 Domestic and Overseas Disaster Response



Domestic and Overseas Disaster Response

Key Points

- Federal Emergency Management Agency (FEMA) (branch of Department of Homeland Security) is the lead federal agency responsible for coordinating contracting support for domestic emergency operations.
- Department of Defense (DoD) does not augment FEMA or other federal agencies with contracting staff, but can support specific contracting related tasks as directed by the President or Secretary of Defense.
- Military forces operating in domestic support operations should keep contracted support to the deployed force to a minimum to avoid competing with other support efforts for limited local resources.
- Many domestic support operations are handled at the state level. In these cases, Army and Air National Guard units provide military support under state active duty or Title 32 United States Code (USC) control.
- Acquisition and emergency acquisition flexibilities are identified in *Federal Acquisition Regulation (FAR) Part 18* and *Defense Federal Acquisition Regulation Supplement (DFARS) Part 218*.
- Contracting officers are fully authorized to innovate and use sound business judgment that is otherwise consistent with law and within the limits of their authority.

Introduction

Domestic emergencies affect the public welfare, endanger life and property, or disrupt the usual process of government. Domestic emergencies may result from enemy attack, a natural disaster

(hurricane, earthquake, flood, fire) or a man-made disaster (insurrection or civil disturbance). The faster contingency contracting officers (CCO) can establish a robust contracting support network, the better. Efficient use of time can contribute to saving peoples' lives. Domestic contracting operations after a disaster such as an earthquake, hurricane, tornado, flood, or other severe weather conditions depend on advance planning and preparation. This chapter discusses actions a contracting officer should take when assigned to support relief and recovery operations after a domestic emergency (such as natural or man-made disaster) or a humanitarian assistance mission (such as disaster assistance to a foreign nation). The chapter also provides guidance to assist contracting offices supporting the mission before, during, and after an emergency situation at their home station.

Domestic Emergencies



The Secretary of Homeland Security is responsible for coordinating federal operations with the United States to prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies. For most emergency operations within the United States, FEMA serves as the lead federal agency and provides support to local, tribal, or state authorities under the provisions of the *Stafford Act* and guidance contained in the *National Response Framework*. The DoD supports these missions by providing Defense Support of Civil Authorities (DSCA). Federal response is shown in Figure 10.

Defense Support of Civil Authorities. Contracting support provided in support of homeland security operations is similar to support provided for foreign contingency contracting support.

Homeland Security Operations. Contracting support to homeland security operations is very similar to contracting support to foreign

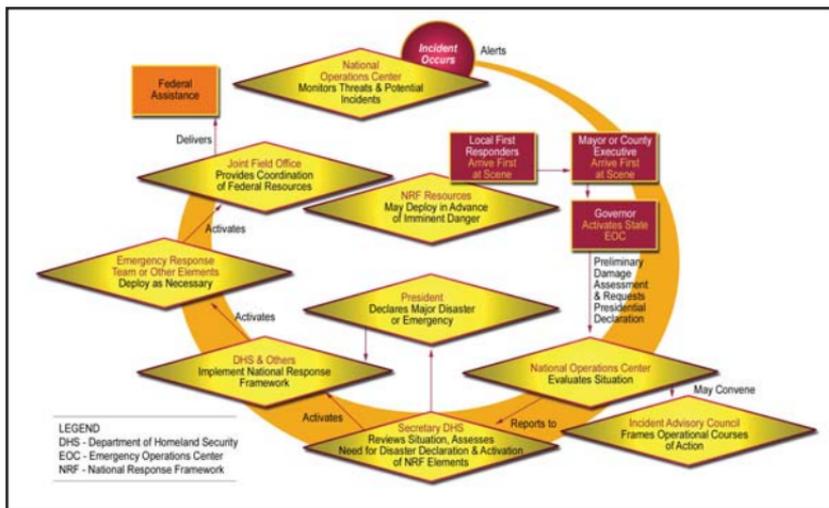


Figure 10. Federal Response

contingencies, but has some nuances that can make it very different than planning and executing contracting support in foreign contingencies.

The National Response Framework (NRF). The NRF is an all-hazards plan that provides the structure and mechanisms for national-level policy and operational direction for incident management to ensure timely and effective federal support. The NRF is applicable to all federal departments and agencies that have primary jurisdiction for, or participate in, operations requiring coordinated federal response. The NRF identifies how federal departments and agencies will respond to state, tribal, or local requests for assistance (RFA). The NRF is coordinated and managed by FEMA. The overall coordination of federal incident management activities is executed through the Secretary of Homeland Security. See http://www.fema.gov/pdf/emergency/nrf/about_nrf.pdf for more information.

Robert T. Stafford Act. The *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Public Law 107-136) (*42 USC Section 5121*),

authorizes the federal government to help state and local governments alleviate the suffering and damage caused by disasters. Requests for DoD assistance may occur under the *Stafford Act* or non-*Stafford Act* conditions. A *Stafford Act* incident is one in which state and local authorities declare a state of emergency and request federal assistance. The *Stafford Act* establishes programs and processes for the federal government to provide major disaster and emergency assistance to states, local governments, tribal nations, individuals, and qualified private nonprofit organizations. A non-*Stafford Act* incident is essentially any of the other emergencies that occur each year which do not necessarily overwhelm state and local authorities, but during which the local authorities would benefit from federal assistance and coordination. The Secretary of Homeland Security is responsible for overall coordination of federal Stafford and non-Stafford incident management activities.

Overview of Disaster Response and Incident Management. This overview illustrates actions federal agencies will likely take to assist state and local governments that are overwhelmed by a major disaster or emergency. Figure 10 provides a graphic display of a federal response under the *Stafford Act*.

Request for Assistance (RFA) Process. Federal agencies or state governors request DoD capabilities to support their emergency response efforts by using a formal RFA process. How DoD handles RFAs depends on various factors, such as *Stafford Act* or non-*Stafford Act* situation, urgency of the incident, establishment of a Joint field office (if a defense coordinating officer or Joint Task Force has been appointed) and originator of the request (incident command, state, regional, or national).

Contracting Support to Domestic Emergency Operations. For domestic emergencies, the *National Response Framework* (<http://www.fema.gov/emergency/nrf/>), defines the key principles, roles, and structures that organize the way we respond as a nation. It describes how communities, tribes, states, federal government, and private-sector partners apply these principles for a coordinated, effective response to

incidents that range from the serious but purely local, to large-scale or catastrophic disasters.

Normally, FEMA is the lead federal agency in domestic emergency operations. When required, US military support assists FEMA or other lead federal agencies as directed by DoD. Generally, this military support comes in the form of organic military forces with limited contracted support. Additional information on disaster or emergency response contracting can be found at www.acquisition.gov. The following are key principles for providing contracting support during domestic disaster and emergency operations:

- DoD does not augment FEMA or other federal agencies with contracting staff, but can support specific contracting related tasks as directed by the President or Secretary of Defense.
- Military forces operating in domestic support operations should keep contracted support to the deployed force to a minimum in order to avoid competing with state and federal agencies for limited local commercial resources.

Title 32 National Guard Operations. There are many domestic support operations that are handled at the state level. In these cases, Army and Air National Guard units provide military support under Title 32 USC, *National Guard or State Active Duty*. When National Guard units deploy within the continental United States, they normally receive contracting support from their home state. In these situations, they will usually have several governmentwide commercial purchase card (GCPC) holders with the unit and, when required, warranted contracting officers. These are generally short-term deployments such as disaster response. When the National Guard has contracting personnel shortages in a particular state, the National Guard Bureau-Joint Task Force-State (NGB JTF-State) coordinates with other states to provide short-term contracting personnel support augmentation to the state requesting assistance. In some cases,

the NGB JTF-State may also form and dispatch a *contracting tiger team* of experienced contracting personnel capable of soliciting, awarding, and administering large service and military construction contracts.

Overseas Disaster Response

While the DoD humanitarian assistance mission may include numerous activities where resources are deployed to a foreign land, from a contingency contracting perspective, the focus is on foreign disaster relief (FDR) and emergency response (ER) operations. When contracting in support of FDR and ER operations, the initial response is treated as a contingency operation (See Chapter 5). As the situation matures, additional guidance is issued regarding changes in the application of available emergency acquisition flexibilities.

Interagency Coordination. During FDR and ER operations, the overall DoD response involves interagency coordination similar to that discussed earlier for domestic emergencies. It may also involve coordination with international bodies (such as the United Nations) and nongovernmental organizations (NGO) such as the International Red Cross. Contracting officers must be aware of NGOs operating in the area, their status with both the host nation and the United States (US) military, and the parameters restricting support to and from the NGO before entering into any contractual arrangement where the NGO is either the supplier or customer.

- DoD components participate in FDR and ER activities:
 - In emergency situations in order to save lives
 - With the concurrence of the Secretary of State
 - When directed by the President

All responses to such crises are coordinated with the Department of State (DOS) and other relevant agencies. DoD, FDR, and ER activities may also be conducted upon receipt of an official request for assistance from DOS, normally the receipt of a disaster declaration notice from the

US ambassador or chief of mission. Within an individual country, the US ambassador or chief of mission are the initial focal points for interagency coordination. He or she will also lead the country team comprised of all US agencies present and involved in the operation.

DoD Role. Similar to a presidential declaration of a domestic disaster, the FDR and ER authorization supports the ability of DoD, through its combatant commanders, to respond to natural and man-made disasters when necessary to prevent loss of lives or serious harm to the environment and to manage the humanitarian considerations of security crises. Other emergency response activities include services and supplies for transportation of emergency assistance, logistical support, search and rescue, medical evacuation, and refugee assistance. Projects also may assist recipient countries and NGOs in building capabilities to respond to emergencies (such as training of first responders), thus reducing the potential need for US military involvement in crisis response.

In foreign emergency operations, the contracting environment closely tracks to a contingency operation in theater and the material presented in previous chapters is applicable. The key differences have been discussed in the section on humanitarian assistance.

Incident Command System (ICS). ICS is a standardized on-scene incident management concept designed specifically to allow responders to adopt an integrated organizational structure equal to the complexity and demands of any single incident or multiple incidents without being hindered by jurisdictional boundaries. ICS was developed to manage and address the following problems:

- Too many people reporting to one supervisor
- Different emergency response organizational structures
- Lack of reliable incident information
- Inadequate and incompatible communications
- Lack of structure for coordinated planning among agencies

- Unclear lines of authority
- Terminology differences among agencies and unclear or unspecified incident objectives
- An ICS enables integrated communication and planning by establishing a manageable span of control

Emergency Acquisition Authorities



Acquisition and emergency acquisition flexibilities are identified in *FAR Part 18* and *DFARS Part 218*.

Overview. *FAR Part 18, Emergency Acquisitions*, identifies available flexibilities as well as flexibilities that are available only for the following prescribed circumstances:

- Contingency operations. (*FAR 18.201*) (See Chapter 5)
- Defense or recovery from nuclear, biological, chemical or radiological attack. (*FAR 18.202*)
- Incidents of national significance, emergency declaration or major disaster declaration. (*FAR 18.203*)

The contracting flexibilities available during domestic emergencies vary with the specific circumstances involved. For example, when the President issues a major disaster declaration, the thresholds for micro-purchases and simplified acquisitions do not automatically increase. Such increases, however, may be triggered by incident-specific legislation (such as emergency supplemental appropriations acts passed to fund the response to Hurricane Katrina).

Absent the threshold increases available under the specific incidents, contracting officers are fully authorized to innovate and use sound business judgment that is otherwise consistent with law and within the limits of their authority. Do not assume that a new approach is prohibited simply

because it is not in the FAR. The fact that the FAR does not endorse a particular strategy or practice does not necessarily mean that it is prohibited by law, executive order, or other regulation. (*FAR 1.102-4(e)*)

Micro-Purchases

(Normally under \$3K¹) See definition at FAR 2.101

- \$15K¹ per transaction within the United States
- \$25K¹ per transaction outside the United States

Small Dollar Acquisitions Under the Simplified Acquisition Threshold (Normally \$3K to \$100K¹)

See definition at FAR 2.101

- \$250K¹ for purchases inside the United States
- \$1M¹ for purchases outside the United States

Commercial Item Acquisitions (Over \$5.5M)

In general, the test program for certain commercial items allows the use of simplified acquisition procedures up to the \$5.5M limit or up to \$11M if used in support of a contingency operation. When the purchase is to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack, the limit may be increased by the agency head to \$11M. See Federal Acquisition Regulation 15.500(e).

Use of Commercial Item Procedures for Acquiring Noncommercial Items

Contingency contracting officers may treat any acquisition of supplies or services that are to be used to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack, as an acquisition of commercial items under Federal Acquisition Regulation Part 12. This allows noncommercial items to be purchased using the policies and practices applicable to commercial items. See Federal Acquisition Regulation 12.102(f)(1).

Table 8. Quick Reference: Emergency Acquisition Flexibilities for Defense or Recovery from Nuclear, Biological, Chemical, or Radiological Attack, Part 1¹

Caution: Cost accounting standards are generally inapplicable to commercial item acquisitions. However, a contract in an amount greater than \$16M that is awarded on a sole-source basis for an item or service treated as a commercial item that does not otherwise meet the definition of a commercial item is **NOT** exempt from cost accounting standards or cost or pricing data requirements, (See Federal Acquisition Regulation 12.102(f)(2)).

Suspension of Policy for Unique Item Identification

Contractors are not required to provide DoD unique item identification for items to be used to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack. (See Department of Defense Federal Acquisition Regulation Supplement 211.274-2(b)).

Table 8. Quick Reference: Emergency Acquisition Flexibilities for Defense or Recovery from Nuclear, Biological, Chemical, or Radiological Attack, Part 2

Contracting officers facing emergency situations should seek legal assistance to identify their options.

Emergency Acquisition Flexibilities. The following authorities are available during any of the types of emergency situations described in this section. Table 8 provides a quick response summary for emergency acquisition flexibilities for defense or recovery from nuclear, biological, chemical, or radiological attack.

- Relief from Registration in Central Contractor Registration (CCR). Contracting officers may make award to contractors not registered in the CCR. If practicable, the CCO will modify the contract or agreement to require registration after award. (*FAR 4.1102(a)(3)* and *4.1102(b)*)
- Relief from Use of Electronic Funds Transfer (EFT). Contract payments are exempt from EFT requirements when EFT is not known to be possible, or an EFT payment would not support the objectives of the operation.

- Defense or Recovery from Specific Attacks. Table 8 provides a quick reference to the flexibilities available to support acquisitions that are made, when determined by the agency head, to facilitate defense against or recovery from nuclear, biological, chemical or radiological attack or declared contingency.

Incidents of National Significance, Emergency Declaration, or Major Disaster Declaration. The flexibilities (as follow) are available when one of the following is declared:

- Incident of national significance
- Emergency declaration
- National emergency
- A major disaster

Limited Use of Full and Open Competition. Contracting officers may limit the use of full and open competition when authorized or required by statute that the acquisition be made through another agency or from a specified source. This includes the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*.

Local Area Preferences. The *Stafford Act* further requires preference be given to local organizations, firms, and individuals when contracting in support of major disaster or emergency assistance activities. Preference may take the form of a local area set-aside or an evaluation factor. A local area set-aside restricts competition to offerors residing or doing business primarily in the area affected by a major disaster or emergency.

When using a local area set-aside, the contracting officer may further restrict it to an area smaller than that defined by the disaster or emergency declaration (but cannot extend outside it), or to small business concerns in the restricted area. (*FAR 26.202*) **Note:** use of a local area set-aside is required for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities.

Temporary Waiver of Cargo Preference Act Requirements. In normal circumstances, the *Cargo Preference Act of 1954* requires preference for US-flag vessels when transportation by ocean vessel is necessary. *FAR 47.502(c)* allows waiver of this requirement when the Congress, the President, or the Secretary of Defense declares that an emergency justifying a temporary waiver exists and so notifies the appropriate agency or agencies.

Lessons Learned—Avoid Common Pitfalls

Sourcing. Be careful not to overload construction contractors. Limit the amount of short-term emergency projects to each contractor. Some small contractors will promise you the world, but may overextend themselves and then can't progress on all work. Watch for contractor workers jumping from one construction site to another. This is a sure sign that a contractor doesn't have adequate manpower and resources to complete all work on time.

- **Contractor Qualifications.** You may not have the time to do a full background check on all contractors. Additionally, because of the emergency, you will probably waive the bid bond, which further increases your risk when dealing with an unknown contractor. While you cannot exclude sources simply because you are unfamiliar with them, consider limiting your sources to known contractors as much as possible. During your planning, identify several contractors that respond to natural disasters and specialize in all-purpose, emergency recovery contracting.
- **Bid Bonds.** Increased contract termination risk is partially explained by not requiring bid bonds on short-term solicitations. A bid bond may weed out the less qualified contractors; however, the use of emergency procurement procedures may not allow the contractor enough time to secure a bid bond. Unfortunately, you

may not find out your contractor is not qualified until after contract award, when the contractor can't obtain performance and payment bonds. This is a local judgment call, but the use of terminations for convenience is a viable alternative in this situation. Bid bonds can be waived due to the emergency circumstances; however, there are no provisions available to the contracting office to waive performance and payment bonds. If a contractor is unable to obtain this bonding on a construction contract, the contract must be terminated.

Long-Term Issues. The effects of a disaster often last beyond the initial recovery effort. If the disaster causes extensive damage to the installation, recovery can take a long time. While most long-term support involves administering construction contracts, there are other long-term efforts. This section discusses long-term contracting issues and offers suggestions to avoid common pitfalls.

- **Prolonged Emergency Use.** The contracting office must inform senior leadership that emergency buying procedures do not last forever. It gets increasingly difficult to justify emergency projects identified several weeks or months after the disaster occurred. Because of the short turnaround involved with emergency contracting procedures, your customers will try to stretch *emergency* work to the limit. Also, watch for companion contracting projects to emergency repairs (for example, adding garages to damaged units). Emergency procedures can only be used for emergencies. Be prepared to play *hard ball* on this issue.
- **Contract Administration.** Contract administration for emergency projects may be very challenging. Specifications and solicitations will be rushed, resulting in a potentially *loose* contract. If your contract is loosely written, expect a significant increase in change orders. Consider assigning more contract administrators than normal

to the affected parts of the contracting office. Also consider seeking assistance from Defense Contract Management Agency for complex service contracts.

- **Service Contracts.** Several major service contracts may be altered significantly during and after an emergency situation. The grounds maintenance contract, for example, will probably see a large increase in work orders for services such as clearing of debris, removing stumps, and trimming trees. The military family housing contract may also be significantly affected by an increased need for interior minor damage repair work. Monitor new work closely and return service contract terms to their original scope promptly upon satisfactory completion of the recovery-related work.
- **Custodial Contracts.** If there is major structural damage on the installation, organizations may move into temporary facilities. This will require custodial service contracts to be modified to temporarily add and delete services for buildings. This can be both costly and an administrative burden. Some janitorial contracts are paid based on square footage serviced so movement of organizations into smaller quarters or trailers will result in overpayment unless the contract is modified. If you take the approach of swapping building square footage, look at the entire scope of contract changes to ensure the government only pays the contractor for work being performed. Tasks that were required in one building (such as high dusting, window cleaning, and so forth) may not be required in the temporary facilities.
- **Construction Contracts.** Depending on the extent of damage to the installation, your construction contract administration workload will increase and may continue for a prolonged period. If so, consider detailing more administrators to the construction branch until workload levels return to normal.

- Contractor employee. Existing contractor support may also be impacted as employees may have evacuated or are responding to personal needs.

Advance Planning for Emergencies at Your Home Station

Successful domestic contracting operations after a disaster depend on advance planning and preparation.

The remaining sections of this chapter cover topics of interest to those involved in domestic emergency response operations. The primary focus is installation and home station readiness and response. This is in keeping with the current DoD role in domestic emergencies—providing organic military forces (with limited contracted support) to assist FEMA or other lead federal agencies.

No one is ever truly prepared to handle the devastation caused by a natural or man-made disaster, but a viable readiness plan can often significantly soften the impact. When a disaster hits, there is no time to train personnel on how to effectively support recovery efforts. Personnel must be well versed in contingency and emergency contracting procedures ahead of time. Below are some issues contracting offices can prepare and train for in advance of an emergency event.

Topics to Consider. Develop a plan that best suits your particular operating location or area of deployment. If your office is located in an area susceptible to hurricanes or tornadoes, your plan should reflect these possibilities. The plan below is a generic outline of what to do in an emergency, but the outline should be further tailored to fit your specific needs. This plan should also be coordinated and integrated into local support plans. The plan should communicate to senior leadership:

- Contracting's role during contingency conditions.
- How contracting can support installation recovery.

- The tools required to carry out this support.

Consider the following when drafting your office's plan:

- Contingency support for local emergencies.
- Review of installation operation plans (OPLAN).
- Defense Logistics Agency (DLA) Capabilities and Sources. DLA has been formally designated as the DoD executive agent for the following commodities: subsistence; bulk fuel; construction and barrier material; and medical material. DLA contracts contain surge clauses for added flexibility to meet increased demands, including emergency response situations. Your plan should include use of DLA to the fullest extent possible.

In addition to developing and maintaining your local support plan, the chief of the contracting activity will ensure that local contingency plans requiring contracting support for the installation are reviewed and coordinated. These plans typically address local and deployed location conditions ranging from natural disasters and industrial accidents, to local hostilities and acts of terrorism. The contracting activity will review these plans to:

- Determine types of supplies and services that might be needed with short lead time, such as rental vehicles, snow removal, construction materials, and environmental cleanup services.
- Become familiar with local conditions and factors that are unique to the area, such as geological conditions, industrial hazards, weather conditions and problems, civilian emergency services, and so forth.
- Become familiar with installation relocation or alternate work site plans.
- Establish alternate data automation capabilities.

- Determine appropriate actions to continue performance of essential contractor services pursuant to Department of Defense Instruction *(DoDI) 1100.22, Manpower Mix Instruction*.
- Ensure that plans provide for adequate transportation, communications, and office space for contracting and other essential contingency support personnel.
- Ensure inclusion of procedures for receipt and inspection of purchases; facilitate prompt payment and expeditious closeout of contract files.
- Ensure that the process for prioritizing requirements is agreed to before the contingency hits. It is important to have an authority outside of contracting decide which of the competing customer requirements are the most critical. If everything is important, nothing will get done. Suggest that the installation commander form a requirements review board drawn from the senior requirements officials on the installation. This will ensure that the relative importance of the requirements is established in a fair and effective manner.

Local Contracting Support Plans.

Contracting offices will develop a comprehensive local support plan (usually as an annex to the logistics chapter of your installation's plan) to ensure contingency contracting support for tasks assigned by the installation OPLANs. Plans will provide as a minimum:

- A capability for commanders to contact contracting personnel on short notice through the unit emergency action center or command post, and account for all contracting personnel when emergencies occur during duty hours.
- Identification of contingency contracting officers (CCOs—may be identified on unit recall rosters). Also consider how contracting officers within tenant organizations may assist recovery efforts.

- Instructions on where to relocate the contracting office in the event the primary contracting facility is not usable, considering alternate locations on and off the installation.
- A current list of installation emergency plans and their contracting portions.
- Provisions for emergency communications with installation officials, customers, and suppliers.
- Procedures for manual requisitioning of supplies, including required approval authorities, forms, and general processing requirements.
- Provisions for funding requests.
- Instructions for manual purchase registers and recordkeeping.
- Guidance for use of the GCPC for emergency purchases, including keeping a manual purchase log in the absence of connectivity to the automated log at: <https://access.usbank.com/cpsApp1/index.jsp>.
- Procedures for using alternate data automation facilities to restore automated purchasing support and records.
- Instructions for use of unit deployment kit. Include a global positioning system [GPS] even for local disasters.
- Current telephone listings for key regional contracting offices, local suppliers, other nearby installations, and grid maps of the installation and local areas.
- An ongoing process for developing, maintaining, and using currently available source lists for emergency supplies and services, identifying sources available for 24-hour response to emergency requirements. Lists should include the commodity or service contractor or vendor address, point of contact, and 24-hour telephone number. Update the lists quarterly to ensure the sources will be available to help address the contingency or emergency.

- Think ahead and address surge capability for supplies with contractors in order to source critical supplies outside of the local area, such as lumber and roofing materials, as these supplies will quickly be consumed or destroyed in a natural disaster. If there's time to act ahead of the disaster, as with a hurricane, most contractors will preposition items outside the disaster area to facilitate a quick response.
- Procedures for accommodating a spike in contract terminations.
- Procedures for accommodating unusual contract administration requirements.

After Action Reports (AAR).



One of the best ways to plan and prepare for local emergencies is to review applicable AARs from prior emergencies. See the AAR Web site: <https://acc.dau.mil/contingency>.

When reviewing AARs, you should consider:

- The type of emergency involved and the associated needs with each phase of the emergency (such as initial response and recovery).
- The types of acquisition vehicles that were relied on, contract terms and conditions, and prices paid.
- Roles and responsibilities assumed by other agencies providing acquisition assistance and the interagency agreements used to document responsibilities.
- How the acquisitions were funded.
- The types of logistical challenges encountered in delivering products and services, and steps taken to address these challenges.
- Any legal issues that arose.
- Management's overall assessment of agency and contractor performance.

Training. FEMA's Emergency Management Institute, in coordination with the Defense Acquisition University and the Federal Acquisition Institute, offers online courses on the National Incident Management System and the Incident Command System for all contracting officers who may be deployed during an emergency. Visit <https://acc.dau.mil/communitybrowser.aspx?id=21708> or www.fai.gov for current course offerings and updates to these supplementary contracting courses.

Power. For planning purposes, you must assume there will be no power to operate office equipment. Access to a portable generator and plenty of fuel should be a top priority. Procure these requirements quickly (if not already acquired), because they will be bought up quickly and hard to find in the local area. Resources are limited and getting your requirement to the top of the installation priority list will be difficult. If you cannot get the approval for a generator, consider relocating your operation to where the generators will be available—hospital, commander's office, command post, and so forth. These arrangements must be worked out in advance and detailed in your contingency plan.

Off-Site Location. You may need to work from an alternate location. Include this option in your continuity of operations plans. If the installation is severely damaged, consider establishing an off-site location. Designate your proposed on- and off-installation alternative contracting sites in advance and incorporate them into the installation contingency plan. When an emergency disaster or event occurs, senior management must quickly decide how and from where you will operate.

Buying Procedures. Your plan should include the buying procedures contracting officers will use during an emergency (See Chapter 4). You can avoid many buying problems by maintaining a current and accurate emergency support source listing covering commodities, services, and construction. This list should include:

- Multiple vendors for all required goods and services
- Telephone numbers (business and home) for each vendor

- An accurate address for each vendor (in case telecommunications are out)
- A 24-hour point of contact for each business

One critical lesson learned is that local vendors may not be able to support the installation in an emergency. Chances are, if the installation is trying to recover, so are local civilian contractors and support agencies. Develop a list of contractors or vendors outside your local area. If other installations are nearby, you may want to exchange vendor lists for wider coverage. Finally, make sure your vendor listings are kept current. Review them quarterly to update and supplement with new sources, based on market research.

Reachback. In a catastrophic disaster or event that produces severe and widespread damage of such a magnitude that the local contracting office cannot execute its mission, contracting offices must coordinate lateral support with other regional contracting offices unaffected by the disaster or event. Contracting offices may be requested to commit contracting resources to the affected area in the form of personnel or reachback contracting support. Contracting offices located in areas that have a greater potential to be affected by a catastrophe should team with other nearby contracting offices (and those capable of providing reachback contracting support because they have similar missions) to plan and prepare for a catastrophic contingency.

On-Scene Operations

Initial contracting actions during a recovery effort are the most critical. How you assess your support capabilities and how widespread the damage is will set the tone for the entire recovery process.

Activating Recall Procedures. Your first priority during an emergency is to get your personnel to work. If you are fortunate, you will be able to contact them by telephone or recall announcements over the radio or television. You may, however, have to go house to house to recall

personnel. The more personnel you are able to recall, the more comprehensive your support will be.

Assessing Damage to the Contracting Office. Quickly assess the physical appearance of the contracting office. Assess its overall functioning capabilities and decide whether to stay or relocate to your alternate site. At a minimum, you must find a site where personnel safely may access tables, desks, and phones. Consider the following when evaluating the contracting office and alternate sites:

- Do you have telephone capabilities?
- Is there electricity?
- What is the extent of damage?
- Is it safe and otherwise suitable for operations?

Organizing the Contingency Staff. Once the personnel recall is complete, assess division support capabilities. If personnel are experienced, set up a *flat* organization, letting your experts buy and administer supply, construction, and service requirements with as little supervision as possible. If personnel are inexperienced, set up a more structured, centralized support organization. Next, designate what roles your personnel must perform. You may have to dedicate staff members to order from preestablished blanket purchase agreements (BPA) or federal schedules and assign another group to acquire other requirements (such as equipment rentals, specialized parts, and supplies from the open market). The following must also be considered:

- **Major Construction and Service Contracts.** Evaluate construction sites for damage and identify any new construction requirements. Assign staff members to coordinate with major service contractors to restore refuse, sanitation, and grounds maintenance support as quickly as possible.

- Assign staff members as *runners* to pick up needed goods in the local area. If, however, local area vendors are unable to support the installation, you may have to send a runner with a CCO outside the local area to procure needed goods and services.

Completing Initial Set-Up Actions.



Once you've established your support organization, there are several immediate actions you need to address:

- Identify the initial requirements you will need to procure.
- Contact the local commander to provide an update on your status and your plan of operations.
- Establish Communications. Find out what is available to you. If phone lines are up, you are in business. If not, obtain access to mobile radios or cellular phones, if available.
- Contact Finance. Make sure money isn't a problem. Have them send over a single obligation authority, if possible.
- Seek Lateral Support. If you are able to communicate via long distance, contact your head of contracting activity (HCA) and neighboring installations to put them on standby for possible support.
- Assess Power Capabilities. If you have no power, consider relocating to a building on the installation that has power. If power is limited, make sure contracting is in line to receive a portable generator. If you have limited power, do not try to activate the standard procurement system or other automated contract writing system. A personal computer with word processing capability is all you need.
- Obtain Transportation. Make sure enough vehicles are available to support your needs. Most initial purchases will be government

pickup. Ensure at least one of your vehicles is capable of transporting large volumes of goods (such as lumber, plywood, and rolls of plastic sheeting). A large pickup truck is ideal.

Managing Initial Purchases. The first 24 hours of recovery will be the most hectic and will require a concentrated buying effort. Before everyone gets too involved in this intense effort, get organized. Make sure you set up a purchase request tracking list and ensure all personnel are aware of the procedures. The simplest and best method is to start with a separate block of purchase order numbers. It is also a good idea to appoint a requisition control point (RCP) monitor. The RCP monitor can manually, or through the use of a personal computer or laptop, track requests throughout the acquisition process. This individual will also be able to detect duplicate requisitions, which are common in the first few days.

- Establish one focal point for each customer. The local commander will have the majority of initial inputs, some of which may not have been properly coordinated. Communicate to the commander that you need one point of contact for all requests.
- Establish comprehensive procedures for receiving goods. Have a central receiving point for all goods brought into the installation. If the goods are delivered directly to the customer, establish a point of contact and instruct the customer on the proper method of receiving goods. Make your customer responsible for the timely submission of paperwork.

Dealing with Rental Requests. During the first week of recovery there may be numerous requests for rental of equipment, vehicles, and temporary living and office quarters. Consider the following factors before filling your customers' requests.

Heavy Equipment. Before renting, first make sure you cannot borrow the equipment from other bases, posts, military installations, or federal agencies. During hurricane recovery operations at Charleston and Shaw Air Force Bases, several pieces of equipment were received from other installations and the Southwest Asia (SWA) transportation unit at Seymour Johnson Air Force Base. The SWA unit alone transported 42 pieces of heavy equipment and vehicles to Shaw and 17 pieces to Charleston. There are two reasons to exhaust all internal sources before renting:

- It is very expensive to rent heavy pieces of equipment and vehicles. Many companies insist their operators accompany their equipment, adding an additional expense.
- If disaster recovery is extensive, rental periods may be long, increasing the risk of damage. If forced to rent heavy equipment or vehicles, ensure they are returned immediately when no longer required.

Leasing Trailers and Temporary Buildings. If installation facilities are damaged extensively, you may need to lease trailers or temporary buildings. Be very careful when leasing trailers. Set minimum acceptable requirements, such as size, amount of functional office space, outlets, doors, windows, and so forth. Stress to commanding officials that you need time to ensure you obtain a quality product. Suggest a site visit before leasing a trailer or temporary building as site preparation may be problematic. Consider electrical distribution needs early on. Another problem common with trailer leases is that the tenants may want to make extensive alterations to make it similar to the permanent facility they previously occupied. This should be avoided—lease trailers strictly for office use. If major alterations are allowed, the installation may end up buying the trailers. This later becomes a real property nightmare, causing funding problems as lease for purchase must use capital investment or construction funds. Ensure that the total lease payments remain lower than

90 percent of the purchase price. Relocatable buildings must be obtained in accordance with DoDI 4165.56. In particular, the lease period normally may not be more than 3 years. In all cases, coordinate requirements through civil engineering or real property management.

Managing Other Service Requirements. Grounds maintenance, refuse, and mess attendant contractors could significantly aid installation recovery with appropriate modifications to their contracts. The grounds maintenance contractor may have the equipment and manpower to help clear debris from the installation. The refuse contractor can play a similar role by increasing the frequency of his pickups and providing several large dumpsters. The mess attendant contractor can aid by going to a 24-hour food service operation.

These increased contractor efforts represent changes to their contracts and compensation will be due; however, you will be dealing with known, and hopefully reliable, sources. Contracting officers can issue change orders (with the appropriate funds) and negotiate the changes when the situation calms down. In some cases, you may have already established unit prices for the increased work. By going to contractors you can rely on, you'll save time and avoid emergency contracts with unknown sources. Tree removal will be one of the largest service requirements for high wind-related emergencies (tornados or hurricanes).

Obtaining Key Commodities. Several supply items will be in high demand during a disaster recovery. Consider establishing BPAs with multiple suppliers within and outside the local area for these commodities if your installation is located in a high-risk disaster area. Some of these are as follows:

- Ice. This may be a hard commodity to find. If power is out, the commissary, food service, and installation residents will need ice to preserve their food. Develop at least one source outside the local area because you will be competing with the local community. Make sure the individual who is receiving the ice monitors the

quantity carefully. All ice and water purchases must be authorized by an approved medical authority (for example, Army veterinarian). See “Approved Food Sources” link on the US Army Veterinarian Web site for locations by theater at <http://vetcom.amedd.army.mil/food.html>.

- Paper Products. With power off, on-base dining facilities will use paper products to feed the troops. Because personnel may be working 24 hours a day, paper product usage will increase substantially.
- Other Common Items (such as lumber, plastic sheeting and chain saws). All will likely be scarce in the local market since you will be competing with the demands of local residents. Again, consider setting up BPAs with multiple suppliers.

Evaluating Construction Needs. The biggest impacts of Hurricane Hugo recovery efforts occurred in the construction branch of each contracting office. Construction work involved assessing and modifying ongoing construction projects damaged by the storm, and the rapid procurement of new construction projects to repair installation damage. Taking the following steps will help minimize construction issues you may encounter during installation recovery:

- Evaluate current construction sites using a team approach—a construction contract administrator and an inspector evaluate the damage at each construction site. After an initial government assessment, meet with the contractor to develop a plan of action. Resolve any storm damage assessment differences between contractors and inspectors early in the process. This will go a long way to prevent future contract claims.
- Once the extent of damage is agreed to by all parties, liability has to be addressed. Natural or man-made disasters are created by an act of God or external source—neither of which are the responsibility of

the contractor. The contracting officer must determine how much additional time is due the contractor, and who is liable to pay for any damages to the construction project or site.

- Be careful when negotiating time extensions. Lost productivity, staging of work, and availability of subcontractors all must be considered. The contractor, if behind schedule at the time of the disaster, may try to pad the estimate in order to catch up with other work commitments. Remember, time is money.
- The liability issue is more involved. As a general rule, the contractor is liable for damage caused to the construction site. FAR clause 52.236-7, Permits and Responsibilities, states "...the contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract." Many contractors believe the government is self-insured and will automatically pay for any rework. This belief is the reason we require contractor's insurance. The enforcement of the permits and responsibilities clause has been upheld in several Armed Services Board of Contract Appeals decisions. *Leitner Construction Company, Inc., AGBCA No. 78-126, April 30, 1979*, and *J. L. Coe Construction Co., Inc., 67- 2BCA 6473, July 27, 1967*, both state "the builder under a construction contract has the risk of loss or damage to the work constructed due to any cause except the fault of the owner until the completion and final acceptance of the work by the owner."
- The permits and responsibilities clause does not, however, give the government carte blanche authority to enforce contractor rework. There may be mitigating circumstances the contracting officer has to consider. For example, if the government has taken beneficial occupancy, it would not be able to enforce the clause. Similarly, the clause may also be rendered void by government-caused delays.

This problem was encountered by the Charleston Air Force Base during recovery from Hurricane Hugo. The construction contractor would have completed the project prior to the disaster if it were not for project delays caused by government design deficiencies. The contracting officer negotiated a settlement to share the risk with the contractor and pay for half of the construction rework caused by the hurricane. Suggestion: installations in areas susceptible to natural disasters should stress the permits and responsibilities clause in all construction solicitations and in preconstruction meetings.

- You can expect several new construction requirements after a natural disaster. Most short-term emergency efforts involve repairing existing facilities. Initially, there may be a hard push from local senior leadership to issue letter contracts to local contractors. Although in some cases this may be unavoidable, use of alternate emergency procedures is preferable for installation construction recovery. Use letter contracts or cost-reimbursement type contracts only as a last resort. Coordinate with your HCA.
- If you can locate two or more sources, use a short-term request for proposals to increase competition and avoid a cost-reimbursement type contract. Shaw and Charleston Air Force Bases used this method very effectively during Hurricane Hugo recovery. After civil engineering developed the statement of work, a government team (contracting officer, construction contract administrator, civil engineer, and inspector) met with prospective contractors at the site. All contractor questions were clarified at the site visit and they were given one day to turn in their proposals. Bid bonds (bid guarantee) were waived; however, performance (secures performance and fulfillment of the contractor's obligations) and payment bonds (ensures vendors pay their employees and suppliers) were required before actual work started on the contract.

- Another alternative to mitigate the increased demand for contracting support is use of preestablished indefinite delivery, indefinite quantity or requirements-type contracts (for example, job order contracts or simplified acquisition for installation engineering requirements contract). These contracts are ideal for small, limited design, repair, and priority projects. You can expand the role of these contracts by using them to repair minor damage to housing units. Be careful not to use these contracts as a cure-all for installation emergency construction needs. The contractors may not be able to keep up with the work demands.

Notes

1. It is anticipated that the simplified acquisition threshold for commercial items will increase. Please check FAR 13.003 for changes in the SAT.

Chapter Acronyms

AAR – After Action Report
BPA – Blanket Purchase Agreement
CCO – Contingency Contracting Officer
CCR – Central Contractor Registration
DFARS – Defense Federal Acquisition Regulation Supplement
DLA – Defense Logistics Agency
DoD – Department of Defense
DoDI - Department of Defense Instruction
DOS – Department of State
EFT – Electronic Funds Transfer
ER – Emergency Response
FAR – Federal Acquisition Regulation
FDR – Federal Disaster Relief
FEMA – Federal Emergency Management Agency
GCPC – Governmentwide Commercial Purchase Card
GPS – Global Positioning System
HCA – Head of Contracting Activity
ICS – Incident Command System
NGB-JTF – National Guard Bureau Joint Task Force
NGO – Nongovernmental Organization
NRF – National Response Framework
OPLAN – Operation Plan
RCP – Requisition Control Point
RFA – Request for Assistance
SWA – Southwest Asia
US – United States
USC – United States Code

Chapter 9 Notes
Domestic and Overseas Disaster Response

