



**U.S. Department of Housing and Urban Development**  
Washington, D.C. 20410

CHIEF PROCUREMENT OFFICER

**Class Deviation from the Federal Acquisition  
Regulation (FAR) to exercise Special Emergency Procurement Authorities –  
Hurricane Harvey**

On September 1, 2017, the Civilian Agency Acquisition Council (CAAC) issued CAAC Letter 2017-03 which authorized Federal agencies to issue a class deviation as described herein, in addition to other matters. The CAAC letter was issued in accordance with FAR Section 1.404 authorizing agencies to issue a class deviation to implement Pub. L. 114-328 which expands special emergency procurement authorities to facilitate defense against or recovery from cyber attack, provide international disaster assistance under the Foreign Assistance Act of 1961, and support for an emergency or major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The CAAC letter serves as consultation in accordance with FAR Section 1.404 authorizing agencies to issue such a class deviation.

At this point in time and in the wake of the disaster declaration for Hurricane Harvey and/or recovery efforts, HUD is electing to issue a class deviation on the following only.

Hurricane Harvey has been declared a major disaster by the President (see DR-4332 on the FEMA Disaster Declarations webpage), Thus, the emergency acquisition flexibilities listed in FAR Subpart 18.2 are available for use along with the existing acquisition flexibilities enumerated in FAR Subpart 18.1. Please note the flexibilities in FAR Subpart 18.1 apply to any emergency, both with and without a major disaster declaration.

For direct purposes of the response:

- The micro-purchase threshold is increased to \$20,000 for any contract to be awarded and performed, or purchase to be made in support of the designated areas. The Davis-Bacon and Service Contract Act (SCA) thresholds are not changed.
- The simplified acquisition threshold (SAT) is increased to \$750,000, or \$13,000,000 for commercial items, for any contract to be awarded and performed, or purchased in support of the designated areas, including the acquisition of leasehold interests in real property.
- The additional flexibilities of FAR Subpart 18.2 cannot be used for any other acquisition. The threshold increases are specific only to support the designated areas. The major disaster area declaration will be revised as the disaster continues to unfold. As the geographic area of the Presidential declaration is revised, the geographic area applicable to the threshold increases in this deviation is simultaneously revised without the need for a revision to this deviation.

Please note that the Government-wide Purchase Card (GPC) thresholds may be, on a situational and approved basis, increased up to the deviated micro-purchase threshold. In these cases, the GPC is considered both a procurement and payment method. Emergency transactions up to the deviated micro-purchase threshold are not required to be reported to FPDS-NG as, pursuant to Federal Acquisition Regulation (FAR) Subpart 4.6, only transactions exceeding the micro-purchase thresholds are considered contract actions required to be reported.

### Procurement Requirements.

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

Because the President's major disaster declaration is under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (41 U.S.C 5121, *et seq.*), Contracting Officers are required to give preference to local firms in the disaster area as discussed in FAR Subpart 26.2. The easiest way to do this is through local area set-asides. Contracting officers should also first consider small business local area set-asides when feasible. In addition,

- Use pre-positioned or pre-existing contracts first, such as Blanket Purchase Agreements (BPAs), schedule contracts, or Indefinite Delivery/Indefinite Quantity contracts (IDIQs)
- Utilize local firms to the maximum extent practicable in response to major disaster or emergency declarations per FAR Subpart 26.2
- Often, you'll find that local firms are better situated to support recovery efforts
- Limit competition when needed
- When competition is limited, the most applicable exception will normally be FAR 6.302-2 Urgent and Compelling. Under the urgent and compelling 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.

FPDS Reporting.

GSA added a new National Interest Action (NIA) to the NIA field in FPDS as a means of tracking acquisition costs for contract actions (as defined in FAR Subpart 4.6) of the multiple Federal agencies involved in Hurricane Harvey, an incident of great national interest. This new NIA Code shall be used strictly for reporting purposes related to Hurricane Harvey and involves the exercise of the emergency authorities identified in FAR Subpart 18.2, Emergency Acquisition Flexibilities.

FPDS system details for this NIA follow:

- Code: H17H
- Description: Hurricane Harvey 2017
- Start date: 08/28/2017

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

Sources.

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.

CAAC letter 2017-03 constitutes consultation with the Chair of the CAAC required by FAR Section 1.404(a)(1). A copy of this deviation will be provided to the FAR Secretariat, General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW, 2<sup>nd</sup> Floor, Washington, DC 20405, Attn. Ms. Joanne Sosa at [GSARegSec@gsa.gov](mailto:GSARegSec@gsa.gov).

This deviation shall remain in effect from the date of issuance until rescinded or superseded by a published revision to the FAR. The point of contact is Procurement Analyst Patrick McQuoid at 215-430-6718 or [Pat/McQuoid@hud.gov](mailto:Pat/McQuoid@hud.gov).

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Keith W. Surber  
Chief Procurement Officer

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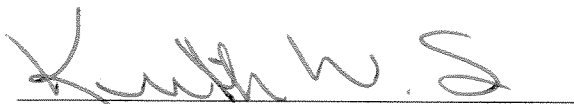
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