



Capital Region
Minority Supplier
Development Council



MINORITY BUSINESS DEVELOPMENT AGENCY
BUSINESSCENTER
U.S. DEPARTMENT OF COMMERCE



MINORITY BUSINESS DEVELOPMENT AGENCY
FEDERAL PROCUREMENT CENTER
U.S. DEPARTMENT OF COMMERCE

Key steps to

DOING BUSINESS

with the

**FEDERAL GOVERNMENT
AND CONTRACTING DURING
A NATIONAL EMERGENCY**

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12 STEPS TO DOING BUSINESS WITH THE FEDERAL GOVERNMENT

STEP 1: Identify your NAICS code(s)

It is necessary to know the [North American Industry Classification System \(NAICS\)](#) code and the [Federal Supply Classification \(FSC\)](#) code for your product or service. Most federal government product/service listings and procurements are identified by these codes.

STEP 2: Determine if the Federal Government purchases what you sell

Conducting basic market research in the federal market is relatively stress-free, inexpensive and fast. By accessing the [Federal Procurement Data System](#) website you will be able to identify what the government has purchased, which agency bought it, who sold it, how much was the contract for and the effective dates of the award.

STEP 3: Obtain a DUNS Number from Dun & Bradstreet

This is a business identification number that is used much like your social security number. This is a cost-free service for companies wanting to do business with the federal government. If you do not have one, contact Dun and Bradstreet at <http://fedgov.dnb.com/webform>. If you are unable to obtain the DUNS number through their webpage, feel free to use our [DUNS number request form](#).

STEP 4: Register in the System for Award Management (SAM)

You must be registered in SAM to be awarded a contract from any federal civilian or military agency. You can complete this process in www.sam.gov. This is a free service. **If you want contract during National Emergency, you MUST register in the Disaster Response Registry link listed below.**

<https://sam.gov/SAM/pages/public/searchRecords/advancedDRSearch.jsf>

STEP 5: Determine if your firm qualifies for 8(a), SDB or HUBZone certification

These certifications are detailed at www.sba.gov. Firms with these certifications may compete for set-aside contracts. Check the [Table of Small Business Standards](#) to determine if your business is considered small.

STEP 6: Begin to search for federal government procurement opportunities

Identify current procurement opportunities in your product or service area by checking at the beta.SAM.gov website under the contract opportunities TAB, the federal civilian and military government single point of entry for many opportunities over \$25,000. Once you start to search for current open bids you will get a good feel for the market for your products and services.

STEP 7: Familiarize yourself with both the federal Civilian and Department of Defense (DoD) contracting legal procedures

The [Federal Acquisition Regulations \(FAR\)](#) and the [Defense Federal Acquisition Regulation Supplement \(DFARS\)](#) are the two main legal regulations for federal acquisitions.

STEP 8: Investigate if getting on the GSA Schedule is right for you

Federal agencies can use [General Services Administration Federal Supply Service Schedule](#) Contracts to make purchases. These pre-approved contracts are used to buy commonly used products, services, and solutions needed to fulfill their missions and day-to-day operations.

STEP 9: Familiarize yourself with the forecasts for your targeted agencies

Each federal agency typically produces an [Annual Procurement Forecast](#) as required by the Small Business Act, which is maintained by their Office of Small and Disadvantaged Business Utilization (OSDBU) or equivalent. Use these forecasts to determine if they are good prospects for you.

STEP 10: Explore subcontracting opportunities

Regardless of your product or service, it is important that you do not neglect a very large secondary market - subcontracting opportunities through prime contractors. Although there is no single point of entry for subcontracting opportunities in the federal civilian procurement marketplace, SBA is a valuable source for obtaining information on [subcontracting opportunities](#).

For DoD -The [SADBU Website](#) lists all major DoD prime contractors by state and provides a point of contact (Small Business Liaison Officer) within each firm. Investigate potential opportunities with these firms. Many of these firms also have websites that may be useful. Partnering with a prime contractor as their subcontractor can be an excellent entry platform to the federal marketplace.

STEP 11: Investigate government programs

There are several SBA programs that may be of interest to you, such as the 8(a) Business Development Mentor-Protégé Program, the Small Business Innovation Research Program, Small Business Technology Transfer Research Program and the Technology Resources Network. www.sba.gov

There are several DoD programs, some derived from the aforementioned programs, that may also be of interest to you, such as the Mentor-Protégé Program, the Small Business Innovation Research Program, and the Historically Black Colleges and Universities and Minority Institutions Program. Information on these and other programs is available on the SADBU Website. <http://www.acq.osd.mil/sadbu/>

STEP 12: Market your firm to the right contacts

Identify your prospective government customers, research their requirements, and familiarize yourself with the procurement regulations and strategies. There are many procuring organizations to consider, and educating yourself about their roles and m

CONTRACTING WITH FEMA AND THE ARMY CORPS OF ENGINEERS DURING A NATIONAL EMERGENCY

Procurement activities during disasters, FEMA and all other federal agencies adhere to the Federal Acquisition Regulations (FAR) Part 18 – Emergency Acquisitions, FAR Subpart 26.2 – Disaster or Emergency Assistance Activities and the Robert T. Stafford Act, Section 307. Vendors seeking to do business with **FEMA or other federal agencies during disasters should familiarize themselves** with the FAR Parts and the Robert T. Stafford Act section mentioned above.

Acquisition flexibilities used during disasters are specific techniques or procedures that may be used to streamline the standard acquisition process. Additional flexibilities may be authorized in an executive agency supplement to the FAR. Acquisition flexibilities include:

- Applying FAR Part 18
- Utilizing local sources
- Utilizing disaster support tools
- Utilizing Government Wide Area Contracts, GSA Schedules, Strategic Sourcing Contracts, Multi-Agency Blanket Purchase Agreements, Multi-Agency Indefinite Delivery Contracts, etc.

There are **three (3) phases** of disaster contracting that take place:

Response (1-30 days)

- The Response phase can include activities to meet basic human needs such as Joint Field Office setup, Search and Rescue support, Individual Assistance support and Public Assistance support.

Recovery (30+days)

- The Recovery phase includes efforts to return communities back to self-sufficiency such as Housing and Medical support.

Long Term Recovery (beyond 90 days).

- Long-Term Recovery is established when the needs of the community and individuals extend beyond the initial 30 to 90 days.

Vendors should contact the state's Emergency Management Office where the disaster has been declared when seeking to do business with FEMA and other Federal agencies during a disaster. The state's Emergency Management Office will be actively engaged with first responders, FEMA Regional Offices located near the disaster, and

other federal agencies that have been rallied to respond to the emergency. Often, the state's Emergency Management Office will have valuable information on its website for vendors who want to provide goods or services to the areas affected by the disaster. Other points of contact for potential resource disaster partners include:

- Army Corps of Engineers
- American Red Cross
- Small Business Administration - Office of Disaster Assistance
- Defense Logistics Agency
- Faith Based Information

FEMA Small Business Program

500 C Street, SW
Washington, DC 20472-3210

Email: FEMA-SB@fema.dhs.gov

Phone: 202-288-4657

Army Corps of Engineers Small Business Support to FEMA

The first step in doing business with USACE is for your company to be registered in SAM.gov (<https://sam.gov/SAM/pages/public/index.jsf>) and specifically in the Disaster Response Registry (<https://sam.gov/SAM/pages/public/searchRecords/advancedDRSearch.jsf>)

The Corps is always looking for innovative and creative opportunities to help create a more efficient enterprise. If interested in doing business with us, I invite you to our website where you can find more about the what/where/how to contract with us: <https://www.usace.army.mil/Business-With-Us/Contracting/>

Contract opportunities can be found on Beta.SAM at <https://beta.sam.gov/search?index=opp>

Point of Contact Kay.J.Riplinger-Baltz@usace.army.mil

CONTRACTING WITH THE DEPARTMENT OF DEFENSE (DoD)

A Step-by-Step Approach to the Department of Defense (DoD) Marketplace

There are several basic steps every company should do to increase their ability to contract in the marketplace. Becoming a government contractor can increase your company's growth in many ways. Follow the links to prepare for doing business with the government.

COVID-19 EMERGENCY RESPONSE INFORMATION

During the COVID-19 Coronavirus Emergency Pandemic Response period, send all DoD inquiries related to supporting this effort to the following group email in-box: osd.pentagon.ousd-a-s.mbx.covid-19-industry@mail.mil

Helpful COVID-19 Coronavirus Emergency Pandemic Response website links:

- DoD Contracting COVID-19 Information: <https://www.acq.osd.mil/dpap/pacc/cc/COVID-19.html>
- Acquisition.gov Coronavirus Acquisition-Related Information and Resources: <https://www.acquisition.gov/coronavirus>
- System for Award Management (SAM) Disaster Response Registry: <https://www.acquisition.gov/disaster-response-registry>

Note: It is critical that suppliers intending to provide medical devices and medical personal protective equipment register here.

1. Identify your Product or Service.

It is essential to know the Federal Supply Class or Service (FSC/SVC) codes, the Product and Service Codes (PSCs), and North American Industry Classification System (NAICS) codes for your products, services or industry in which your organization normally does business.

The PSC Manual provides codes to describe products, services, and research and development (R&D) purchased by the Federal Government. Many government product/service listings and future procurements are identified according to the PSC.

The PSC Manual is located at: <https://www.acquisition.gov/psc-manual>

NAICS is the standard used by the Federal Government to classify businesses for the purpose of collecting, analyzing, and publishing statistical data related to the United States' business economy according to the type of economic activity (process of production) in Canada, Mexico and the United States of America.

NAICS Codes are located at: <https://www.census.gov/eos/www/naics/>

2. Obtain a Commercial and Government Entity Code (CAGE) or North Atlantic Treaty Organization Commercial and Government Entity (NCAGE) Code.

CAGE Code (domestic vendors) and NCAGE Code (foreign vendors) is required data for registering in SAM. A CAGE Code is five character alpha-numerical identifier assigned to entities located within the United States and its' territories. A NCAGE Code is five character alpha-numerical identifier assigned to entities located outside of the United States and its territories. The CAGE Code is used to support procurement and acquisition processes through the Federal Government. CAGE Codes are given an expiration date of five years from the last update, and NCAGE Code expirations currently do not apply.

A CAGE Code for domestic vendor(s) is obtained at:
<https://cage.dla.mil/Home/UsageAgree>

Note: For vendors seeking prime contracts paid directly from the Government, proceed to the next step to apply for a DUNS number.

An NCAGE Code for foreign vendor(s) is obtained at:
<https://eportal.nspa.nato.int/AC135Public/CageTool/home>

3. Obtain a Data Universal Numbering System (DUNS) Number and Register in the System for Award Management (SAM).

Registration is required of your entity (business, individual, or government agency) in order to do business with the Federal Government. A DUNS number and registration within SAM are prerequisites for any contract award.

DUNS number is a proprietary system developed and regulated by Dun & Bradstreet.

SAM is the official website of the Federal Government designed to hold information relevant to procurement and financial transactions. Entities may register at no cost directly on the website. User guides and webinars are available under the Help tab. Please be aware that there are businesses that offer assistance registering in SAM for a fee; you are not required to use any of these services – registration in SAM is always free if you go directly to the government website.

Obtain a DUNS number through Dun and Bradstreet at:
<https://www.dnb.com/duns-number/get-aduns.html>

After obtaining a DUNS number, then register in SAM at: <https://sam.gov>. 4. Explore Federal and DoD Programs with the Small Business Administration (SBA). DoD Office of Small Business Programs mission is to “maximize opportunities for small businesses to contribute to national security by providing combat power for our troops and economic power for our nation.” See <https://business.defense.gov/> for more information.

Additional DoD Small Business Information:

- Guide to Marketing to DoD:
<https://business.defense.gov/Small-Business/Marketing-to-DoD/>
- DoD Small Business Offices:
<https://business.defense.gov/Small-Business/DoD-Small-BusinessOffices/>
- DoD Acquisition Forecasts:
<https://business.defense.gov/Small-Business/Acquisition-Forecasts/>

The SBA offers assistance and certification in preference programs to small business concerns, go to <https://www.sba.gov/>.

Procurement Technical Assistance Centers are located in most states and partially funded by DoD to provide small business concerns with information on how to do business with the DoD. See <https://www.dla.mil/SmallBusiness/PTAP/>

The General Services Administration (GSA) helps small businesses stay competitive in the federal market. Online and onsite federal experts offer small businesses the training tools to succeed, visit: <https://www.gsa.gov/small-business>

4. Identify Current Federal and DoD Contract Opportunities at Beta.SAM.gov.

View procurement notices from Federal contracting offices to find opportunities to bid for Federal business. These include pre-solicitation notices, solicitation notices, award notices and sole source notices. Manage your searches and track notices by creating an account. Start your search at <https://beta.sam.gov/search>. DoD-developed guides for using the Beta.SAM website are available here:

<https://dodprocurementtoolbox.com/site-pages/contract-opportunities>.

5. Familiarize Yourself with Federal and DoD Contracting Regulations and Procedures.

Familiarize yourself with the Federal Acquisition Regulation (FAR) <https://www.acquisition.gov/> and the Defense Federal Acquisition Regulation Supplement (DFARS) <https://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>.

6. Look at Business Opportunities at the U.S. General Services Administration (GSA).

As the acquisition arm of the federal government, GSA plays a vital role in connecting the private sector with federal agencies fulfilling their business needs. GSA offers professional services, equipment, supplies, telecommunications, and information technology from commercial businesses to government organizations and the military through acquisition solutions from its Federal Acquisition Service (FAS). See <https://www.gsa.gov/buying-selling/new-to-gsa-acquisitions/how-to-sell-to-the-government>

7. Explore FedMall Contract Opportunities.

FedMall is an e-commerce ordering system for Department of Defense (DoD), Federal, State, and authorized local Agencies to search for and acquire products from government reserves and commercial sources. Buyers will have access to tens of millions of individual items of supply, from centrally managed DoD and General Service Administration (GSA) assets to commercial off-the-shelf (COTS) products. As a supplier, you will access FedMall primarily via the Supplier Portal—a dedicated website where you will register, manage your catalog items, and view purchase orders. The Supplier Portal is available at <https://www.suppliers.fedmall.mil/>.

8. See Links to Other Useful Information.

USA Spending.gov - <https://www.usaspending.gov/#/>

Defense Pricing and Contracting (DPC) - <https://www.acq.osd.mil/dpap/index.html>

As of 03/27/2020

PART 18

EMERGENCY ACQUISITIONS

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Subpart 18.2 - Emergency Acquisition Flexibilities

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Parent topic: Federal Acquisition Regulation

18.000 Scope of part.

- (a) This part identifies acquisition flexibilities that are available for emergency acquisitions. These flexibilities are specific techniques or procedures that may be used to streamline the standard acquisition process. This part includes-
 - (1) Generally available flexibilities; and
 - (2) Emergency acquisition flexibilities that are available only under prescribed circumstances.
- (b) The acquisition flexibilities in this part are not exempt from the requirements and limitations set forth in FAR [part 3](#), Improper Business Practices and Personal Conflicts of Interest.
- (c) Additional flexibilities may be authorized in an executive agency supplement to the FAR.

18.001 Definition.

Emergency acquisition flexibilities, as used in this part, means flexibilities provided with respect to any acquisition of supplies or services by or for an executive agency that, as determined by the head of an executive agency, may be used.

- (a) In support of a contingency operation as defined in [2.101](#);
- (b) To facilitate the defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack against the United States;
- (c) In support of a request from the Secretary of State or the Administrator of the United States Agency for International Development to facilitate the provision of international disaster assistance; or
- (d) When the President issues an emergency declaration, or a major disaster declaration.

Subpart 18.1 - Available Acquisition Flexibilities**18.101 General.**

The FAR includes many acquisition flexibilities that are available to the contracting officer when certain conditions are met. These acquisition flexibilities do not require an emergency declaration or designation of contingency operation.

18.102 System for Award Management.

- (a) In accordance with 4.1102, contractors are not required to be registered in the System for Award Management (SAM) at the time of submission of offers or quotations for—
 - (1) Contracts awarded without providing for full and open competition due to unusual and compelling urgency (see 6.302-2); or
 - (2) Contracts awarded by a contracting officer—
 - (i) Deployed in the course of military operations;
 - (ii) Located outside the United States and its outlying areas, for work to be performed in support of diplomatic or developmental operations, in an area that has been designated by the Department of State as a danger pay post; or
 - (iii) In the conduct of emergency operations.
- (b) However, contractors are required to be registered in SAM in order to gain access to the Disaster Response Registry.
- (c) Contracting officers shall consult the Disaster Response Registry via <https://www.sam.gov>, Search Records, Advanced Search, Disaster Response Registry Search to determine the availability of contractors for debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief activities inside the United States and outlying areas. (See 26.205).

18.103 Synopses of proposed contract actions.

Contracting officers need not submit a synopsis notice when there is an unusual and compelling urgency and the Government would be seriously injured if the agency complied with the notice time periods. (See 5.202(a)(2).)

18.104 Unusual and compelling urgency.

Agencies may limit the number of sources and full and open competition need not be provided for contracting actions involving urgent requirements. (See 6.302-2 .)

18.105 Federal Supply Schedules (FSSs), multi-agency blanket purchase agreements (BPAs), and multi-agency indefinite delivery contracts.

Streamlined procedures and a broad range of goods and services may be available under Federal Supply Schedule contracts (see subpart 8.4), multi-agency BPAs (see 8.405-3(a)(6)), or multi-agency, indefinite-delivery contracts (see 16.505(a)(8)). These contracting methods may offer agency advance planning, pre-negotiated line items, and special terms and conditions that permit rapid response.

18.106 Acquisitions from Federal Prison Industries, Inc. (FPI).

Purchase from FPI is not mandatory and a waiver is not required if public exigency requires immediate delivery or performance (see 8.605 (b)).

18.107 AbilityOne specification changes.

Contracting officers are not held to the notification required when changes in AbilityOne specifications or descriptions are required to meet emergency needs. (See [8.712](#) (d).)

18.108 Qualifications requirements.

Agencies may determine not to enforce qualification requirements when an emergency exists. (See [9.206-1](#) .)

18.109 Priorities and allocations.

The Defense Priorities and Allocations System (DPAS) supports approved national defense, emergency preparedness, and energy programs and was established to facilitate rapid industrial mobilization in case of a national emergency. (See [subpart 11.6](#) .)

18.110 Soliciting from a single source.

For purchases not exceeding the simplified acquisition threshold, contracting officers may solicit from one source under certain circumstances. (See [13.106-1](#) (b).)

18.111 Oral requests for proposals.

Oral requests for proposals are authorized under certain conditions. (See [15.203](#) (f).)

18.112 Letter contracts.

Letter contracts may be used when contract performance must begin immediately. (See [16.603](#) .)

18.113 Interagency acquisitions.

Interagency acquisitions are authorized under certain conditions. (See [subpart 17.5](#) .)

18.114 Contracting with the Small Business Administration (The 8(a) Program).

Contracts may be awarded to the Small Business Administration (SBA) for performance by eligible 8(a) participants on either a sole source or competitive basis. (See [subpart 19.8](#) .)

18.115 HUBZone sole source awards.

Contracts may be awarded to Historically Underutilized Business Zone (HUBZone) small business concerns on a sole source basis. (See [19.1306](#) .)

18.116 Service-disabled Veteran-owned Small Business (SDVOSB) sole source awards.

Contracts may be awarded to Service-disabled Veteran-owned Small Business (SDVOSB) concerns on a sole source basis. (See [19.1406](#) .)

18.117 Awards to economically disadvantaged women-owned small business concerns and women-owned small business concerns eligible under the Women-Owned Small Business Program.

Contracts may be awarded to economically disadvantaged women-owned small business (EDWOSB) concerns and women-owned small business (WOSB) concerns eligible under the WOSB Program on a competitive or sole source basis. (See [subpart 19.15](#) .)

18.118 Overtime approvals.

Overtime approvals may be retroactive if justified by emergency circumstances. (See [22.103-4](#) (i).)

18.119 Trade agreements.

The policies and procedures of FAR [25.4](#) may not apply to acquisitions not awarded under full and open competition (see [25.401\(a\)\(5\)](#)).

18.120 Use of patented technology under the North American Free Trade Agreement.

Requirement to obtain authorization prior to use of patented technology may be waived in circumstances of extreme urgency or national emergency. (See [27.204-1](#) .)

18.121 Bid guarantees.

The chief of the contracting office may waive the requirement to obtain a bid guarantee for emergency acquisitions when a performance bond or a performance bond and payment bond is required. (See [28.101-1](#) (c).)

18.122 Advance payments.

Agencies may authorize advance payments to facilitate the national defense for actions taken under Public Law 85-804 (see [subpart 50.1](#) , Extraordinary Contractual Actions). These advance payments may be made at or after award of sealed bid contracts, as well as negotiated contracts. (See [32.405](#) .)

18.123 Assignment of claims.

The use of the no-setoff provision may be appropriate to facilitate the national defense in the event of a national emergency or natural disaster. (See [32.803](#) (d).)

18.124 Electronic funds transfer.

Electronic funds transfer payments may be waived for acquisitions to support unusual and compelling needs or emergency acquisitions. (See [32.1103](#) (e).)

18.125 Protest to GAO.

When urgent and compelling circumstances exist, agency protest override procedures allow the head of the contracting activity to determine that the contracting process may continue after AGO has received a protest. (See [33.104](#) (b) and (c).)

18.126 Contractor rent-free use of Government property.

Rental requirements do not apply to items of Government production and research property that are part of a general program approved by the Federal Emergency Management Agency and meet certain criteria. (See [45.301](#) .)

18.127 Extraordinary contractual actions.

[subpart 50.1](#) prescribes policies and procedures for entering into, amending, or modifying contracts in order to facilitate the national defense under the extraordinary emergency authority granted by Public Law 85-804 ([50 U.S.C. 1431-1434](#)). This includes-

- (a) Amending contracts without consideration (see [50.103-2\(a\)](#));
- (b) Correcting or mitigating mistakes in a contract (see [50.103-2\(b\)](#)); and
- (c) Formalizing informal commitments (See [50.103-2\(c\)](#)).

Subpart 18.2 - Emergency Acquisition Flexibilities

18.201 Contingency operation.

- (a) Contingency operation is defined in [2.101](#).
- (b) Micro-purchase threshold. The threshold increases when the head of the agency determines the supplies or services are to be used to support a contingency operation. (See [2.101](#) and [13.201\(g\)](#).)
- (c) Simplified acquisition threshold. The threshold increases when the head of the agency determines the supplies or services are to be used to support a contingency operation. (See [2.101](#).)
- (d) [SF 44](#), Purchase Order-Invoice-Voucher. The normal threshold for the use of the [SF 44](#) is at or below the micro-purchase threshold. Agencies may, however, establish higher dollar limitations for purchases made to support a contingency operation. (See [13.306](#).)
- (e) *Simplified procedures for certain commercial items*. The threshold limits authorized for use of this authority may be increased for acquisitions to support a contingency operation. (See [13.500\(c\)](#).)

18.202 Defense or recovery from certain events.

- (a) *Micro-purchase threshold*. The threshold increases when the head of the agency determines the supplies or services are to be used to facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; to facilitate provision of international disaster assistance; or to support response to an emergency or major disaster. (See [2.101](#).)
- (b) *Simplified acquisition threshold*. The threshold increases when the head of the agency determines the supplies or services are to be used to facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; to facilitate provision of international disaster assistance; or to support response to an emergency or major disaster. (See [2.101](#).)
- (c) *Treating certain items as commercial*. Contracting officers may treat any acquisition of supplies or services as an acquisition of commercial items if the head of the agency determines the acquisition is to be used to facilitate the defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack. (See [12.102\(f\)\(1\)](#) and [13.500\(c\)](#).)
- (d) *Simplified procedures for certain commercial items*. The threshold limits authorized for use of this authority may be increased when it is determined the acquisition is to facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; to facilitate provision of international disaster assistance; or to support response to an emergency or major disaster. (See [13.500\(c\)](#).)

18.203 Emergency declaration or major disaster declaration.

- (a) Disaster or emergency assistance activities. Preference will be given to local organizations, firms, and individuals when contracting for major disaster or emergency assistance activities when the President has made a declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Preference may take the form of local area set-asides or an evaluation preference. (See [6.208](#) and [subpart 26.2](#).)

- (b) Ocean transportation by U.S. flag vessels. The provisions of the Cargo Preference Act of 1954 may be waived in emergency situations. (See [47.502\(c\)](#).)

18.204 Humanitarian or peacekeeping operation.

- (a) A humanitarian or peacekeeping operation is defined in [2.101](#).
- (b) Simplified acquisition threshold. The threshold increases when the head of the agency determines the supplies or services are to be used to support a humanitarian or peacekeeping operation. (See [2.101](#).)

18.205 Resources.

- (a) *National Response Framework*. The National Response Framework (NRF) is a guide to how the Nation conducts all-hazards response. This key document establishes a comprehensive, national, all-hazards approach to domestic incident response. The Framework identifies the key response principles, roles and structures that organize national response. It describes how communities, States, the Federal Government, the private-sector, and nongovernmental partners apply these principles for a coordinated, effective national response. It also describes special circumstances where the Federal Government exercises a larger role, including incidents where Federal interests are involved and catastrophic incidents where a State would require significant support. The NRF is available at <http://www.fema.gov/emergency/nrf/>.
- (b) *OFPP Guidelines*. The Office of Federal Procurement Policy (OFPP) “Emergency Acquisitions Guide” is available at https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/assets/procurement_guides/emergency_acquisitions_guide.pdf.

FAR SUBPART 26.2 MAJOR DISASTER OR EMERGENCY ASSISTANCE ACTIVITIES

26.200 Scope of subpart.

This subpart implements the Robert T. Stafford Disaster Relief and Emergency Assistance Act ([42U.S.C. 5150](#)), which provides a preference for local organizations, firms, and individuals when contracting for major disaster or emergency assistance activities.

26.201 Definitions.

Emergency response contract means a contract with private entities that supports assistance activities in a major disaster or emergency area, such as debris clearance, distribution of supplies, or reconstruction.

Local firm means a private organization, firm, or individual residing or doing business primarily in a major disaster or emergency area.

Major disaster or emergency AREA means the area included in the official Presidential declaration(s) and any additional areas identified by the Department of Homeland Security. Major disaster declarations and emergency declarations are published in the Federal Register and are available at <http://www.fema.gov/news/disasters.fema>.

26.202 Local area preference.

- (a) When awarding emergency response contracts during the term of a major disaster or emergency declaration by the President of the United States under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ([42 U.S.C. 5121](#), ET SEQ.), preference shall be given, to the extent feasible and practicable, to local firms. Preference may be given through a local area set-aside or an evaluation preference.
- (b) When using the authority under the Stafford Act, see the definitions of “micro-purchase threshold” and “simplified acquisition threshold” in [2.101](#) for the authority to use an increased micro-purchase threshold and simplified acquisition threshold.

26.202-1 Local area set-aside.

The contracting officer may set aside solicitations to allow only local firms within a specific geographic area to compete (see [6.208](#)).

- (a) The contracting officer, in consultation with the requirements office, shall define the specific geographic area for the local set-aside.

- (b) A major disaster or emergency area may span counties in several contiguous States. The set-aside area need not include all the counties in the declared disaster/emergency area(s), but cannot go outside it.
- (c) The contracting officer shall also determine whether a local area set-aside should be further restricted to small business concerns in the set-aside area (see [part 19](#)).

26.202-2 Evaluation preference.

The contracting officer may use an evaluation preference, when authorized in agency regulations or procedures.

26.203 Transition of work.

- (a) In anticipation of potential emergency response requirements, agencies involved in response planning should consider awarding emergency response contracts before a major disaster or emergency occurs to ensure immediate response and relief. These contracts should be structured to respond to immediate emergency response needs, and should not be structured in any way that may inhibit the transition of emergency response work to local firms (E. G., unnecessarily broad scopes of work or long periods of performance).
- (b) [42U.S.C.5 150\(b\)\(2\)](#) requires that agencies performing response, relief, and reconstruction activities transition to local firms any work performed under contracts in effect on the date on which the President declares a major disaster or emergency, unless the head of such agency determines in writing that it is not feasible or practicable. This determination may be made on an individual contract or class basis. The written determination shall be prepared within a reasonable time given the circumstances of the emergency.
- (c) In effecting the transition, agencies are not required to terminate or renegotiate existing contracts. Agencies should transition the work at the earliest practical opportunity after consideration of the following:
 - (1) The potential duration of the disaster or emergency.
 - (2) The severity of the disaster or emergency.
 - (3) The scope and structure of the existing contract, including its period of performance and the milestone(s) at which a transition is reasonable (E. G., before exercising an option).
 - (4) The potential impact of a transition, including safety, national defense, and mobilization.
 - (5) The expected availability of qualified local offerors who can provide the products or services at a reasonable price.
- (d) The agency shall transition the work to local firms using the local area set-aside identified in [26.202-1](#).

26.204 Justification for expenditures to other than local firms.

- (a) [42U.S.C .5150\(b\)\(1\)](#) requires that, subsequent to any Presidential declaration of a major disaster or emergency, any expenditure of Federal funds, under an emergency response contract not awarded to a local firm, must be justified in writing in the contract file. The justification should include consideration for the scope of the major disaster or emergency and the

immediate requirements or needs of supplies and services to ensure life is protected, victims are cared for, and property is protected.

- (b) The justification may be made on an individual or class basis. The contracting officer approves the justification.

26.205 Disaster Response Registry.

- (a) Contracting officers shall consult the Disaster Response Registry via <https://www.sam.gov> to determine the availability of contractors for debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief activities inside the United States and outlying areas.
- (b) A list of prospective vendors voluntarily participating in the Disaster Response Registry can be retrieved using the System for Award Management (SAM) search tool, which can be accessed via <https://www.sam.gov>, Search Records, Advanced Search, Disaster Response Registry Search. These vendors may be identified by selecting the criteria for “Disaster Response Contractors”. Contractors are required to register in SAM in order to gain access to the Disaster Response Registry.

26.206 Solicitation provision and contract clauses.

- (a) The contracting officer shall insert the provision at [52.226-3](#), Disaster or Emergency Area Representation, in solicitations involving the local area set-aside. For commercial items, see [12.301\(e\)\(4\)](#).
- (b) The contracting officer shall insert the clause at [52.226-4](#), Notice of Disaster or Emergency Area Set-aside in solicitations and contracts involving local area set-asides.
- (c) The contracting officer shall insert the clause at [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area, in all solicitations and contracts that involve local area set-asides.

THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 100-707), signed into law on November 23, 1988; amended the Disaster Relief Act of 1974 (Public Law 93-288). The Stafford Act constitutes the statutory authority for most Federal disaster response activities especially as they pertain to the Federal Emergency Management Agency (FEMA) and FEMA programs.

Sec. 307. Use of Local Firms and Individuals (42 U.S.C. 5150) Referenced in FAR Part 18

(a) Contracts or Agreements with Private entities

- (1) In General - In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster or emergency.
- (2) Construction - This section shall not be considered to restrict the use of Department of Defense resources under this Act in the provision of assistance in a major disaster.
- (3) Specific Geographic Area - In carrying out this section, a contract or agreement may be set aside for award based on a specific geographic area.

(b) Implementation

- (1) contracts not to Entities in area - Any expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, not awarded to an organization, firm, or individual residing or doing business primarily in the area affected by such major disaster shall be justified in writing in the contract file.
- (2) Transition - Following the declaration of an emergency or major disaster, an agency performing response, relief, and reconstruction activities shall transition work performed under contracts in effect on the date on which the President declares the emergency or major disaster to organizations, firms, and individuals residing or doing business primarily in any area affected by the major disaster or emergency, unless the head of such agency determines that it is not feasible or practicable to do so.

- (3) Formation of Requirements – The head of a Federal agency, as feasible and practicable, shall formulate appropriate requirements to facilitate compliance with this section.
- (c) Prior Contracts - Nothing in this section shall be construed to require any Federal agency to breach or renegotiate any contract in effect before the occurrence of a major disaster or emergency.

Sec. 308. Nondiscrimination in Disaster Assistance (42 U.S.C. 5151)

- (a) Regulations for Equitable and Impartial Relief Operations - The President shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out Federal assistance functions at the site of a major disaster or emergency. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status.
- (b) Compliance with Regulations as Prerequisite to Participation by Other Bodies in Relief Operations - As a condition of participation in the distribution of assistance or supplies under this Act or of receiving assistance under this Act, governmental bodies and other organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the President, and such other regulations applicable to activities within an area affected by a major disaster or emergency as he deems necessary for the effective coordination of relief efforts.

Sec. 309. Use and Coordination of Relief Organizations (42 U.S.C. 5152)

- (a) In providing relief and assistance under this Act, the President may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, long-term recovery groups, domestic hunger relief, and other relief, or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services housing and essential facilities, whenever the President finds that such utilization is necessary.