

Office of Acquisition and Property Management

September 1, 2005

Department of the Interior Acquisition Policy Release (DIAPR) 2005-05

SUBJECT: Departmental Class Justification and Approval to Limit Competition and Waiver of Publication Requirements for Acquisitions in Response to Hurricane Katrina

1. Purpose:

To transmit a copy of the subject Class Justification and Approval and Waiver document. This DIAPR will also be transmitted to Bureau Procurement Chiefs electronically.

2. Effective Date:

Immediately.

3. Expiration Date:

This policy release will remain in effect until cancelled or superseded.

4. Background:

President George W. Bush, as a result of Hurricane Katrina, declared that a major disaster exists in certain counties and parishes in the State of Florida, on August 24, 2005, and the States of Alabama, Mississippi, and Louisiana, on August 29, 2005. These declarations have given rise to a continuing urgent need for supplies and services of an unusual and compelling nature.

This Class Justification and Approval and Waiver document provides coverage to DOI contracting activities that would need to act with appropriately accelerated procedures. In order to continue to empower and accelerate the acquisition process supporting the Hurricane Katrina recovery effort, DOI's Senior Procurement Executive has signed a class justification and approval for other than full and open competition per FAR Part 6 and a waiver to FAR Part 5 publication requirements. It is available for use by any DOI contracting activity for DOI acquisitions meeting the criteria set forth in the document. For those contracting activities that do not have requirements related to Hurricane Katrina, these authorities do not apply.

5. Action Required:

Bureau Procurement Chiefs shall ensure that the attached document is widely disseminated within their acquisition community and that the authority provided in the document is used appropriately by warranted contracting officers.

6. Additional Information:

The attachment is provided in order to make it available for inclusion in the contract file. If you have questions about this matter, please contact Kate B. Oliver at 202-208-3345 or by e-mail at: Kate_Oliver@ios.doi.gov or Patricia Corrigan by phone at 202-208-1906 or email at: Pat_Corrigan@ios.doi.gov.

/ signed Debra E. Sonderman, Director
Office of Acquisition and Property Management
Senior Procurement Executive

United States Department of the Interior Class Justification and Approval for Other Than Full and Open Competition And Waiver of Publication Requirements

Federal law (41 U.S.C.253(c) (2)) authorizes under certain conditions, including unusual and compelling urgency, contracting without providing for full and open competition. Exceptions are also authorized to the statutory requirements in the Small Business Act (15 U.S.C. 637(e)) and the Office of Federal Procurement Policy Act (41 U.S.C. 416), to provide public notice of contracting opportunities. The President declared that as a result of Hurricane Katrina, major disaster areas exist in specific counties and parishes in the States of Florida (August 24, 2005), Alabama, Mississippi, and Louisiana (August 29, 2005).

I, as the Senior Procurement Executive, Department of the Interior, hereby issue the following waiver for any acquisitions directly related to the Department's response to the declared disaster areas located within the States of Florida, Alabama, Mississippi, and Louisiana (including any action that would subsequently require formal ratification by an authorized official at a contracting activity) that are made by Department of the Interior contracting activities; and based on 41 U.S.C. 253 (c)(2), further described in Federal Acquisition Regulation 6.302-2, Unusual and Compelling Urgency; and 15 U.S.C. 637(c) and 41 U.S.C. 416, further described in Federal Acquisition Regulation 5.2(a)(2):

- (1.) The requirement for publication of the requirement via FedBizOpps.**
- (2.) The requirement for full and open competition applicable to acquisitions executed in response to the declared disasters.**

The devastation to certain counties and parishes in the States of Florida, Alabama, Mississippi, and Louisiana, by Hurricane Katrina, is so extensive, and the recovery needs are of such an urgent and compelling nature, that the Government and the public could be seriously harmed unless the agency is permitted to limit the number of sources from which it solicits bids or proposals. This approval and waiver shall be applied to DOI acquisitions for goods and services (including A&E and construction) related to the Hurricane Katrina recovery effort. This includes any related recovery efforts as well as any enhanced security efforts deemed to be urgently needed.

It is anticipated that actions taken under this approval will be of such unusual and compelling urgency that:

- (1) The total value of this class action cannot be predetermined.**
- (2) The nature of the emergency as opposed to a contractor's unique qualifications will require the use of this approval.**
- (3) The contracting officer will not have access to (in terms of time, security needs, and communication or transportation restraints) sufficient numbers of vendors to achieve normal competition. Therefore, the extent of limited competition utilized and the selection of the applicable contractor shall be at the discretion of the procuring contracting officer.**
- (4) Market research, beyond locating the most available responsible vendor, may require time not available in the circumstances. Nevertheless, to the extent that time is available, as determined by the contracting officer, it shall be performed.**
- (5) The contracting officer's signature on the award will evidence that the anticipated costs to the Government are expected to be fair and reasonable.**
- (6) Sources expressing interest: No offerors are expected to express an interest in any applicable acquisitions since applicable procurements will not be publicized pursuant to the above waiver of FAR 5.2 publication requirements. However, if any source expresses an interest, the contracting officer shall document the file to record that fact and how the matter was resolved.**
- (7) Actions to overcome barriers to competition: Due to the unusual and compelling needs resulting from Hurricane Katrina, no such actions to overcome barriers to competition need be taken.**
- (8) The extent and nature of harm to the Government or the public cannot be known in advance of this justification.**

Limitations:

- (1) Contracts utilizing this class justification and valued at more than \$10,000,000 life-cycle cost shall be pre-approved by the Senior Procurement Executive.**
- (2) New service contracts issued utilizing this class justification shall not have a period of performance longer than one year and whenever possible will be awarded for a shorter period reflecting only the particular task(s) or emergency situation(s) urgently needing to be addressed. New procurement modifications to existing contracts shall not extend the term of the contract beyond a one-year period. Fully competitive service contracts shall replace the initial emergency contracts to the maximum extent possible when continuing service is needed. This limitation is not applicable to construction contracts where completion of the project requires more than a 12 month contract period.**

(3) This class justification is limited to requirements of the Department of the Interior. DOI acquisition offices supporting the acquisition requirements of other Federal agencies may utilize class justifications issued by those agencies as authorized by the agencies.

This waiver shall be applied as follows by each contracting officer:

(1) Before the award is executed, or as soon as possible thereafter, place a copy of this approval in the acquisition file along with a short note indicating compliance with the applicable limitations, if any, listed above.

(2) Place with this approval in the file a short description of:

(a) the action; (b) the supplies or services required; (c) the extent of competition pursued or a short description explaining why only one source was solicited; (d) market research undertaken, if any, in support of the action.

(3) Additionally, the file shall also contain: (a) a list of any additional vendors expressing an interest in the acquisition and a short description of the resolution of their inquiries; and, (b) a signed statement that the award was made in response to Hurricane Katrina and that the descriptions above are accurate representations to the best of his /her knowledge.

For brevity, it is suggested that (2) and (3) above be included in one document.

This class justification and approval is accurate and complete to the best of my knowledge and is effective, as may be amended, through such time as the national emergency is declared to be at an end. However, its continued utility shall be reviewed by the Office of Acquisition and Property Management staff on no less than an annual basis during the period of the national emergency.

Routine acquisitions supporting the agency's mission, including routine security related acquisitions, are not covered by this approval and waiver.

**/ signed Debra E. Sonderman, Director
Office of Acquisition and Property Management
Senior Procurement Executive**

Date: September 1, 2005

(SOURCE: www.whitehouse.gov/news/releases/2005/)

Statement on Federal Assistance for Mississippi

The President's action makes Federal funding available to affected individuals in the counties of Amite, Forrest, George, Greene, Hancock, Harrison, Jackson, Lamar, Marion, Pearl River, Perry, Pike, Stone, Walthall, and Wilkinson.

Assistance can include grants for temporary housing and home repairs, low-cost loans to cover uninsured property losses, and other programs to help individuals and business owners recover from the effects of the disaster.

Federal funding also is available to State and eligible local governments and certain private nonprofit organization on a cost-sharing basis in the counties of Adams, Amite, Attala, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Copiah, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Hinds, Itawamba, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lawrence, Leake, Lee, Lincoln, Lowndes, Madison, Marion, Monroe, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Perry, Pike, Rankin, Scott, Simpson, Smith, Stone, Walthall, Warren, Wayne, Webster, Wilkinson, and Winston for debris removal and emergency protective measures, including direct Federal assistance.

Federal funding is also available on a cost-sharing basis for hazard mitigation measures statewide.

Statement on Federal Disaster Assistance for Alabama

The President today declared a major disaster exists in the State of Alabama and ordered Federal aid to supplement State and local recovery efforts in the area struck by Hurricane Katrina on August 29, 2005, and continuing.

The President's action makes Federal funding available to affected individuals in the counties of Baldwin, Mobile, and Washington.

Assistance can include grants for temporary housing and home repairs, low-cost loans to cover uninsured property losses, and other programs to help individuals and business owners recover from the effects of the disaster.

Federal funding also is available to State and eligible local governments and certain private nonprofit organization on a cost-sharing basis in the counties of Baldwin, Clarke, Choctaw, Mobile, Sumter, and Washington for debris removal and emergency protective measures, including direct Federal assistance.

Federal funding is also available on a cost-sharing basis for hazard mitigation measures statewide.

Statement on Federal Disaster Assistance for Louisiana

The President today declared a major disaster exists in the State of Louisiana and ordered Federal aid to supplement State and local recovery efforts in the area struck by Hurricane Katrina beginning on August 29, 2005, and continuing.

The President's action makes Federal funding available to affected individuals in the parishes of Acadia, Ascension, Assumption, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Mary, St. Martin, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge, and West Feliciana. Assistance can include grants for temporary housing and home repairs, low-cost loans to cover uninsured property losses, and other programs to help individuals and business owners recover from the effects of the disaster.

Federal funding is available to State and eligible local government in the parishes of Acadia, Ascension, Assumption, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Mary, St. Martin, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge, and West Feliciana for debris removal and emergency protective measures, including direct Federal assistance.

Federal funding also is available to State and eligible local governments in the parishes of Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, Desoto, East Carroll, Evangeline, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, St. Landry, Tensas, Union, Vernon, Webster, West Carroll, and Winn for emergency protective measures, including direct Federal assistance.

Federal funding is also available on a cost-sharing basis for hazard mitigation measures in St. Mary, St. Tammany and Ouachita Parishes.

Statement on Federal Disaster Assistance for Florida

The President today declared a major disaster exists in the State of Florida and ordered Federal aid to supplement State and local recovery efforts in the area struck by Hurricane Katrina beginning on August 24, 2005, and continuing.

Federal funding also is available to State and eligible local governments and certain private nonprofit organizations on a cost-sharing basis in the counties of Broward and Miami-Dade for debris removal and emergency protective measures, including direct Federal assistance.

Federal funding is also available on a cost-sharing basis for hazard mitigation measures statewide.

