

## EMERGENCY CONTRACTING IN THE US FEDERAL GOVERNMENT

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**ABSTRACT.** Emergency contracting has risen to the fore in both interest and importance in the US since September 11, 2001 (9/11). Most recently, the US government's response to Hurricanes Katrina and Rita piqued the interest of both the Executive and Legislative branches of the US government and their respective oversight bodies<sup>2</sup>. This paper briefly reviews the literature of emergency contracting with special focus on the statutory and regulatory framework for emergency contracting, identifies some contracting solutions established by the US government to deal more effectively with emergency contracting, and pinpoints some problems faced by emergency contracting agencies and anomalies of their emergency contracting practices.

### INTRODUCTION

Emergency contracting<sup>1</sup> and contingency contracting are often synonymously and interchangeably used in government emergency procurement (Peckinpugh, 2001), although they differ conceptually to some extent. Emergency contracting describes those circumstances where urgent requirements are generated as a result of natural or man-made disasters. Contingency contracting includes those requirements generated to meet peacekeeping, special and military operations (contingency operations). For the purposes of this

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paper the terms “emergency contracting” will include both emergency and contingency contracting. Emergency contracting has risen to the fore in both interest and importance in the US since September 11, 2001 (9/11). Most recently, the US government’s response to Hurricanes Katrina and Rita piqued the interest of both the Executive and Legislative branches of the US government and their respective oversight bodies<sup>2</sup>. This paper briefly reviews the literature of emergency contracting with special focus on the statutory and regulatory framework for emergency contracting, identifies some contracting solutions established by the US government to deal more effectively with emergency contracting, and pinpoints some problems faced by emergency contracting agencies and anomalies of their emergency contracting practices.

#### OVERVIEW

The goal of the US federal acquisition system is to provide best value goods and services while maintaining the integrity of the process and the trust of the American taxpayer. Maintaining the integrity of that system requires both competition and transparency. In emergency contracting the challenge is to balance the need for competition and transparency with the urgent nature of the requirements. The discourse that follows all emergency responses inevitably centers on the question as to whether the government’s response effectively balanced competition and transparency with the urgent need for goods and services. Often lost in that discourse is the distinction between the effectiveness of the contracting process in purchasing the goods and services required and the ability of the logistics process to receive and distribute those goods and services effectively. Often it is the failure of the logistics process’s ability to receive and distribute the goods and services that colors the effectiveness of the contracting process to balance its competing interests while getting best value. In the US this often leads to calls to assign the responsibility of domestic response to emergency situations to the Department of Defense which has in place an effective logistics system for use in support of its war fighters. These calls for assigning domestic response missions to the Department of Defense pose significant threat to the division of responsibilities within the government between the Department of Defense and the civilian agencies as well as threaten to overburden an already taxed

Department of Defense infrastructure.<sup>3</sup> More importantly, for the purpose of this article, they do not address the issues associated with the contracting for goods and services.

The response to 9/11 saw a major test of US Federal contracting authorities. During the previous decade, the US federal system underwent the most significant changes to its contracting authorities since the passage of the Armed Services Procurement Act of 1947 (ASPA)<sup>4</sup> and the Federal Property and Administrative Services Act of 1949 (FPASA).<sup>5</sup> These changes, for example, created a micro-purchase authority for purchases under \$2,500, implemented a purchase card program allowing non-contracting officers to make purchases up to \$2,500 using government “credit cards;” simplified the processes for purchasing goods and services of a value of a \$100,000 or less; and, provided for the purchase of commercial-off-the shelf (COTS) products and services using “commercial like terms and conditions” including expedited competitions up to \$5 million. In responding to 9/11 these authorities made it possible for goods and services to be purchased within hours of the first attack on the World Trade Center in compliance with all rules and regulations and for best value. It was the consensus of the reviewers of 9/11 that no major changes in the contracting authorities were necessary, although some minor threshold increases were made for the use of the purchase card and COTS. In response to Hurricanes Katrina and Rita, the evaluation of the government’s response was completed with the release of the April 28, 2006 report by the Senate. A quick review of this report discloses that the Senate found organizational versus contracting problems in the Federal Emergency Management Agency’s (FEMA) response to these disasters.

#### **SOURCES FOR EMERGENCY CONTRACTING**

There are two sources for satisfying the needs of emergency contracting. Those sources are: special contracting authorities available in response to emergency situations and pre-positioned contracts capable of meeting the needs of emergency needs. Different agencies/departments have different sources of authority<sup>6</sup> and different pre-positioned contracting solutions for use in emergency operations.

### **Emergency Contracting Authorities**

In addition to the existing general authorities referenced above, section 428a of Title 41 United States Code (41 USC §428a) grants special emergency contracting authority to heads of executive agencies to determine that certain specified conditions exist that warrant the use of emergency contracting authorities. These conditions include contingency operations and the defense against or recovery from nuclear, biological, chemical, or radiological attacks against the United States (Luckey, 2005; Wolfe, 2005). FAR 2.101 defines “agency head” or “head of agency” to include the Secretary, Attorney General, Administrator, Governor, Chairperson, or other chief official of an executive agency, unless otherwise indicated, including any deputy or assistant chief official of an executive agency (Poole and Welch, 2005; Luckey, 2005). Agencies with these emergency contracting authorities include the Department of Defense, the Department of Treasury, the Department of The Interior, the Department of Agriculture, the Department of Commerce, the Department of Health and Human Services, the Department of Transportation, the Department of Homeland Security, the Atomic Energy Commission, General Services Administration, National Aeronautics and Space Administration, Tennessee Valley Authority, and the Government Printing Office (Luckey, 2005).

### **Emergency Contracting Exceptions to General Procurement Statutes**

In order to expedite the emergency service operations, several procurement statutes make exceptions for emergency contracting. For instance, the general rule in the Competition in Contracting Act (CICA) for Federal procurement is full and open competition. This Act has seven statutory exceptions to its general rule of full and open competition. Two exceptions cover emergency contracting, waiving full and open competition for emergency contracting in response to unusual and compelling urgency like the Katrina disaster rescue and relief operations (Luckey, 2005).

The Davis-Bacon Act (DBA) requires contractors to pay laborers the prevailing wage rates set by the Department of Labor. DBA provides for waivers under certain specified circumstances based on a determination by the President. DBA was suspended by Proclamation 7924 made by President Bush on September 8, 2005. The suspension of this Act meant that the competitive marketplace

would determine the wages paid to laborers (Luckey, 2005; Poole & Welch, 2005).

GSA Acquisition Letter V-05-19 issued on September 29, 2005 set the increased threshold for simplified lease acquisition for real property from \$100,000 to \$250,000. It also stated that the head of contracting activity must issue a memorandum describing the reason for using the increased threshold. In addition it required that the lease entered into the contract must have clear and direct relationship to the support of a national emergency like Hurricane Katrina rescue and relief operation.

The Buy American Act (BAA) is a key domestic preference statute governing procurement by the federal government of items of a value in excess of \$175,000, which tries to safeguard domestic markets by providing a preference for American goods in government purchases. The nationality of the contractor is not to be considered in determining if a product is of domestic origin. There are five procurement exceptions to this Act, two of which apply to emergency contracting. The micro-purchase threshold for procurement, which was used in support of Hurricane Katrina rescue and relief operations, would be exempt from the requirements of the Buy American Act (Luckey, 2005). Other exceptions for emergency contracting include oral requests for proposals, electronic fund transfer requirements, central contractor registration, award letters, and use of patterned technology under the North American Free Trade Agreement (NAFTA) (Luckey, 2005).

The increased thresholds for emergency contracting that are available for use to handle national crisis, like Hurricane Katrina, are shown in Table 1. The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) also waived the inclusion of parts of the Equal Employment Opportunity (EEO) clauses in emergency contracts to provide Hurricane Katrina relief. The OFCCP allows agencies to use alternate statements at the end of FAR clauses 52.222-26, 52.222-35, and 52.222-36 as stated in OFCCP's memo. The alternate statements waive the requirements to develop an affirmative action plan and prepare reports and notices related to the following laws and orders administered by OFCCP: Executive Order 11246; Section 4212 of the Vietnam Era Veterans' Readjustment Assistance Act (as amended); and, Section 503 of the

**TABLE 1**  
**Increased Thresholds for Emergency Procurement/Contracting Used**  
**for Katrina-related Relief Operations**

Procurement Level	Threshold Increase		Exception	Comments
	From	To		
Micro-purchases [FAR 13.201 (g)(1)(i)]	\$2,500	\$15,000	N/A* Because of the postponement of the Davis-Bacon Act for Hurricane Katrina	No competition required under this threshold
Micro-purchases (Public Law 109-62, September 8, 2005)	\$2,500	\$250,000	Applicable only to those employees named in writing by agency heads	Subject to management control by the Office of Management and Budget's memos of September 13, 2005
Simplified Acquisitions (FAR 2.101)	\$100,000	\$250,000	N/A	Provides relief from the applicability of some laws, provisions, and clauses specified at FAR 13.005
Commercial Items for Test Program [FAR 13.500(e)]	\$5 million	\$10 million	N/A	As above

Note: N/A is used as abbreviation of "not applicable."

Source: Adopted from Catherine Poole and Bob Welch (2005).

Rehabilitation Act of 1973 (as amended) (Poole and Welch, 2005). It is important to note that the waiver did not suspend the application of the substantive provisions of the Acts; it suspended the paperwork associated with reporting compliance.

### **Emergency Procurement/Contracting under the Superfund Amendments and Reauthorization Act (SARA)**

In additions to the typical emergency authorities one associates with the world we live in today there are authorities to deal with other emergencies like those associated with environmental hazards. The Superfund Amendments and Reauthorization Act of 1986 (SARA) authorized the Environmental Protection Agency's (EPA) regional offices contracting authorities to provide five basic categories of services: (1) removal action, (2) remedial response, (3) support services, (4) technical enforcement support, and (5) policy, program, management and administrative services. By and large, most of these service categories are related to emergency contracting. The removal action services consist of three different subcategories of services, (i) emergency response technical assistance team contracts, (ii) emergency response cleanup services contracts, and (iii) site specific removal contracts. The remedial response contracts include five different subcategories of contracts, such as (i) hazardous site remedial contracts, (ii) remedial engineering management (REM) contracts for remedial planning activities, (iii) alternative remedial contracts strategy contracts, (iv) US army corps of engineers' engineering design and construction contracts, and (v) state procurement under cooperative agreements (US Environmental Protection Agency, 1989).

The support services under SARA focused on contracts to provide special technical support services to EPA regional and headquarters personnel that include safety and technical training, demonstration of new and novel technology, laboratory analysis and sample control, quality assurance, aerial survey and mapping, and remote sensing. The technical enforcement support embraced contracts to provide technical support to EPA headquarters and regional personnel to enforce the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA). The policy, program management and administrative services under the SARA emphasize contracts to

provide (i) technical support for superfund policy formulation, (ii) support of superfund implementation and evaluation, (iii) policy/analytical support for superfund implementation, and (iv) analytical, technical and managerial services for Office of Solid Waste and Emergency Response (OSWER) (US Environmental Protection Agency, 1989).

### **General Guidelines for Emergency Procurement/Contracting**

The Office of Federal Procurement Policy (OFPP) developed general guidelines for using emergency contracting flexibilities to meet the demands of dealing with urgent situations like fighting terrorism. The first part of the guidelines provides a common framework for responsive contracting including an overview of contracting authorities essential for emergency contracts, while the second part of the guidelines emphasizes the use of simplified acquisition procedures for obtaining goods and services on an emergency basis (OFPP, 2003).

#### ***A Framework for Responsive Contracting***

This framework for responsive contracting contains both existing flexibilities and augmented flexibilities for emergency contracting. The different components of existing flexibilities for emergency contracting include (1) simplified open market competition for commercial items; (2) competition among pre-qualified sources; (3) historically underutilized business zone (HUBZone)/small business contracts; (4) oral solicitations; (5) letter contracts; (6) limited source selections; and (7) innovative contracting. As provided by FAR Subpart 13.5, agencies are authorized to use simplified procedures, on a test basis through the end of calendar year 2006, for acquisition of commercial items in amounts above the simplified acquisition threshold (SAT), \$100,000, with certain exceptions but no more than \$5 million. Regarding competition among pre-qualified sources, multiple award schedule (MAS) contracts, and multiple award task and delivery order contracts each provide guidelines to efficiently apply competitive pressures to a small number of competent contractors before placing orders. The historically underutilized business zone (HUBZone)<sup>7</sup> contract programs authorize agencies to procure goods and services from qualified program participants on a sole source basis up to certain threshold, such as up to \$5 million for



manufacturing and up to \$3 million for everything other than manufacturing, for general applications.

In order to cope with emergency situations, FAR 15.203(f) authorizes the use of oral solicitations; if a written solicitation would delay the acquisition of supplies and services to the detriment of the government and a synopsis is not required. FAR 16.603 authorizes agencies the use of "letter" contracts when the government's interests require that work on a requirement commence immediately and negotiating a definitive contract is not possible within sufficient time to fulfill the requirement. FAR Part 6 emphasizes that source selection may be limited for different reasons, such as when: "(1) there is only one responsible source, (2) unusual and compelling urgency exists, (3) disclosure of the agency's needs would compromise the national security, or (4) full and open competition is not in the public interest."

Regarding innovative contracting, agencies are allowed to innovate and use appropriate business judgment that is consistent with law and that does not go beyond the range of their authority. Subtitle F, Title VIII of the Homeland Security Act (HSA) provides new flexibilities for emergency procurement/contracting to help procurement agencies address new challenges related to the ongoing war against terrorism. Under the new law, the HSA authorities mainly augment existing flexibilities that permit contracting agencies to:

- Make expansive use of simplified acquisition procedures (§ 855 (b));
- Waive certain accounting, compliance and other statutory requirements when purchasing non-commercial items (§ 855 (b));
- Apply micro-purchase flexibilities to actions up to \$7,500, which would permit agencies to authorize use of purchase cards, following proper managerial actions, for buys ranging from \$2,500 and \$7,500.
- Apply flexibilities commonly available only under the simplified acquisition thresholds (i.e., \$100,000), while simultaneously expanding application of the small business reservation, to contracts in support of a humanitarian, peacekeeping, or contingency operation in amounts up to (i) \$200,000 when the contract is awarded and done inside the United States, and (ii)

\$300,000 when the contract is awarded and completed outside the United States (§853).

- Make awards to 8(a) and HUBZone small businesses on a sole source basis in any amount when an agency decides to use the following exceptions to full and open competition: (i) only one responsible source, (ii) unusual and compelling urgency, (iii) ensuring national security is not compromised, or (iv) full and open competition not in the public interest (§856(b)).

### ***Use of Simplified Acquisition/Contracting Procedures***

The general guidelines for uses of simplified acquisition procedures in federal emergency contracting highlight numerous stages leading to contract award that include (1) acquisition planning and market research, (2) solicitation and evaluation, (3) contract pricing, (4) competition, and (5) documentation. While acquisition planning allows the key disciplines that provoke acquisitions to develop a reconciled agency strategy, market research helps agency stakeholders to better understand the marketplace, including commercial term and conditions, factors affecting contract-price, and the range of contractor capabilities. The acquisition planning and market research emphasizes (i) anticipating needs for emergency situations whenever possible, (ii) considering the abilities of small and new entrants, and (iii) reducing risk when circumstances limit or preclude planning and market research (OFPP, 2003).

In order to effectively engage private sector companies, solicitation and evaluation process includes (i) identifying the problem that the agency seeks to address, (ii) establishing goals to be achieved, and/or (iii) providing a reasonable description of needs in performance terms. The solicitation and evaluation process also should ensure that the market can respond to the agency's requirement, and also should give a reasonable indication of what evaluation factors matter to the agency. To secure fair and reasonable contract prices, FAR 13-106-3(a)(1) anticipates that this responsibility will be carried out, whenever possible, by getting competitive quotes or offers. For this reason, agencies are usually needed to use competition to the maximum extent practicable for actions over \$25,000 that are conducted under FAR Part 13. The contract pricing process also focuses on the following steps: (i) to determine how best to ensure fair and reasonable pricing when

competition cannot be used, and (ii) to use firm fixed price contracts and fix-price contracts with economic price adjustments to the maximum extent possible (OFPP, 2003).

With a view to ensuring competition for contracting FAR Part 13 stipulates that actions over \$25.00 be synopsisized through the government's one-stop point of access on the Internet to contracting opportunities, at <http://www.fedbizopps.gov> (FedBizOpps). Such notice need not be provided if an exception stated at FAR 5.200 applies, especially if an unusual and compelling urgent situation occurs (see FAR 5.203). FAR 13.501(a), provides that justifications and approvals (J&As) are required for a contract awarded on a sole-source basis. However, J&As are not required in other emergency or unusual circumstances. Regarding documentation, FAR 13.501(b) states that the contract file for simplified acquisitions must include "(a) a brief written description of procedures used in awarding the contract, (b) the number of offers received, and (c) an explanation, tailored to the size and complexity of the acquisition, of the basis for the contract award decision."

### **Contracts Available for Meeting Emergency Contracting Needs**

The US Federal government has a number of multiple award indefinite delivery indefinite quantity (MAIDIQ) type contracts that can be used to meet emergency contract requirements. For the purpose of this article they can be broken into two groups, the Multiple Award Schedule (MAS) program administered by the US General Services Administration and all other MAIDIQs. Each of these groups of contracts has specific rules that allow for placing orders under emergency circumstances. For the MAS Program the rules provide for use of procedures found in FAR Part 6 for urgent and compelling circumstances and for the MAIDIQs the rules in FAR Part 16 provide for an exception to the "fair opportunity" process for urgent and compelling circumstances.

Some notable MAIDIQs available for use worldwide for major recovery activities include contracts written in the Department of Defense. For example there is the Air Force Contract Augmentation Program (AFCAP), the Navy's CONCAP (Construction Capabilities), and Army's Logistic Civil Augmentation Program (LOGCAP) (Wolfe, 2005). The requirements under AFCAP include engineering and services for base sustenance; construction and supply support to expand

operational capability or replacement of war reserve material assets during extended military operations; base recovery operations as a result of natural disasters, accidents, or terrorist attacks; and backfill of base sustaining forces at any installations worldwide (Wolfe, 2005).

The potential construction tasks for emergency contracting services under the CONCAP include power plant and power distribution construction, water treatment plant, water well drilling; sewage treatment plant, dredging, airfield construction, pier construction, troop billeting facility, petroleum storage facility; and bridge and road construction. The broad categories for the LOGCAP emergency contracting services include force sustenance, retrograding equipment and supplies, construction support, general logistics services, augmentation engineer units, and facility engineer support (Wolfe, 2005).

#### **THE “COMPETITION VERSUS NON-COMPETITION” DEBATE**

In the recent natural disasters, Hurricanes Katrina and Wilma, debates arose over the use of competitive and non-competitive biddings in emergency contracting. While some groups of people advocated competitive biddings for emergency relief operations, others argued for the use of non-competitive processes. For instance, Congress and government oversight committees criticized FEMA for not using competitive biddings in some Katrina contracts. FEMA responded to the critique by arguing that the reason for not using competitive bidding in some Katrina contracts was that those contracts were issued on an emergency basis that did not require the use of competitive bidding procedures (Frisch, 2005).

Again, both media and congressional scrutiny spotlighted the award of four FEMA contracts, each valued at up to \$100 million, to site and erect temporary hurricane evacuee housing in Louisiana, Mississippi and Alabama. According to the critics, those contracts were made without competitive bidding, and in some cases were linked to influential lobbying. The critics, however, failed to recognize that the companies receiving the contracts were known for their ability to do this type of work and had resources available to them to mobilize immediately in response to the disasters. The then Acting Director of FEMA, who seriously criticized the former Director,

affirmed his support for competitive biddings in emergency contracting (Rubin, 2005).

While the critics of “no-bid” awards emphasized the need for competitive awards for emergency relief operations, many FEMA employees also criticized the agency’s over-dependence on private contractors. Those FEMA insiders were against both “competitive” and “no-bid” contract awards. They believed that FEMA’s over-dependence on private contractors and the replacement of the agency’s experienced and skilled civil servants by political novices had eroded FEMA’s strength and capacity in tackling problems of national emergency crises like the Katrina and Wilma. They also raised questions regarding the skills of emergency operation inspectors hired by the agency’s contractors citing that they lacked training or oversight (Witte and Babcock, 2005). As this article is submitted for review, a committee of the US Senate has recommended for these and other reasons that FEMA be eliminated and a new agency be created in its place.

#### **PROBLEMS OF EMERGENCY CONTRACTING AGENCIES**

Emergency contracting agencies have been facing a variety of difficulties and challenges to handle national emergencies emerging from natural disasters and terrorist activities. Various weakness/problems of emergency contracting agencies include lack of appropriate initiative to expedite emergency services, problems of manpower, unclear agency missions and goals (Schneider, 2005), and anomalies in awarding contracts (Center for Public Integrity, 2003). However, Treaster (2005) stated that public agencies had been incapable of normalizing local conditions or mobilizing resources to provide immediate assistance to disaster victims caused by Hurricane Katrina, which produced anomic conditions and a general breakdown of social order. Schneider (2005) mentioned that the delays, hesitation and confusion displayed by government officials at all levels worsened the pain, suffering and frustrations of disaster victims.

Schneider (2005) raises questions about the skills and qualifications of top-level government officials to handle emergency crises caused by natural disasters like hurricane Katrina. She believes that top-level officials in the government’s crisis management system are neither efficient nor qualified enough to

handle key natural disasters. Bumiller (2005) stated that both the former and current director of FEMA lacked prior experience in crisis management or disaster relief (also see Schneider, 2005), which supports earlier statements by agency employees that FEMA's over-dependence on private contractors, and the replacement of its experienced and skilled civil servants by political novices has reduced its strength and capacity in handling national emergency crises.

Schneider (2005) expounds FEMA, as an agency for emergency contracts has very unclear goals and missions, and that it lacks clear focus in effectively and efficiently handling natural disasters and antiterrorism capabilities. She argues that FEMA's fuzzy mission can be best understood from the statement of former director Albaugh that "disaster victims should rely on "faith-based organizations" rather than the government for help" (Schneider, 2005, p. 516; Lipton & Shane, 2005). She also mentions that Albaugh actively worked to reduce the federal government's involvement in natural disaster (Schneider, 2005), which also manifested itself in the agency's cloudy mission and lack of focus on handling natural disasters or emergency crises.

### **Questions about Transparency and Fairness**

Although emergency contracts are being awarded to help solve national emergency problems, there are questions about transparency and fairness in awarding contracts, because emergency contracts are often awarded either by passing competitive biddings, or using political influence or family ties. In this respect, the Center for Policy Integrity (CPI), a nonprofit, nonpartisan, watchdog organization reports that a handful of companies and individuals (70 American companies and individuals) won up to \$8 billion in contracts in postwar Iraq and Afghanistan between 2001 and 2003. These companies contributed more money to President Bush's presidential campaign. According to CPI (2003), Kellogg, Brown & Root, the subsidiary of Halliburton, that was led by Vice President Dick Cheney prior to being selected as President Bush's running mate in August 2000—was the highest recipient of federal contracts for both Afghanistan and Iraq. This company was awarded more than \$2.3 billion, while Bechtel Group, a key government contractor with similarly high ranking ties, was the second highest recipient being awarded almost \$1.03 billion. The CPI also alleges that 60% of the

companies that were awarded contracts in Iraq and Afghanistan had employees or board members who either served in, or had close ties to, the executive branch during Republican and Democratic administrations, members of Congress of both parties, or at the highest levels of the military (CPI, 2003).

According to CPI (2003), most of the companies that won contracts in Iraq and Afghanistan were political players; those companies having political action committees and their employees contributed a total of around \$49 million to national political campaigns and parties since 1990. The CPI's investigation revealed that 14 of the contractors who were awarded US government work in both Iraq and Afghanistan gave nearly \$23 million in political contributions since 1990. Furthermore, 13 of 14 companies employed former government officials or had close ties to numerous agencies and departments (CPI, 2003). Referring to an Afghanistan contractor, the CPI also reports that efficiency and qualifications were secondary to parties in the process of selecting companies and organizations to work, while ties to the Administration, USAID, and State Department were the key to getting a contract.

### **Strategic Components of Emergency Contracting**

Criss (2006) identifies a number of components of strategic sourcing in an emergency contracting environment that include government\_involvement, use of government and government-ready contractors and the involvement of local communities by creating opportunities for local businesses. Moreover, the essential ingredients of the preparation of an emergency contracting operation as identified by Criss include (i) planning, (ii) company composition, (iii) positioning, (iv) teaming, and (v) kitting. According to Criss, planning is centered on the mental and logical aspects of preparation which focuses on developing source lists for the most essential supplies and services in the most urgent locations. Other issues required for planning include: considering insurance, bonding (or letters of credit), proof of financial responsibility, control of government property, and payment terms.

Company composition is viewed by Criss (2006) as the structure or organization of the company. It includes whether the company preparing for emergency operations is large or small or whether a company has a global sourcing or not as a part of its composition.

Positioning is viewed as the extension of planning that reflects the strategic steps a company takes to put itself in a position to successfully solve problems in emergency situations. Criss views teaming as a combination of planning and company composition. In this respect, Criss believes that teaming with other contractors who have complementary skills and/or experience can also benefit for preparation of an emergency contracting operation. Finally, kitting is comparable to the negative entropy in that it allows a contractor to prepare a set of resources that can be stored and implemented in time of crisis situation (Criss, 2006).

### CONCLUDING COMMENTS

Emergency contracting practices are different to some extent from general contracting procedures, although they share some commonalities. While generally contracts are awarded by government agencies through competitive biddings, emergency contracts are being awarded through both competitive and non-competitive biddings. Consequently, the main purpose of emergency contracting is to solve the crisis situation on a most urgent basis in which there may not be sufficient time for competitive biddings. The best strategy for government agencies under these circumstances is to focus on getting the goods and services necessary to respond to the emergency in a timely manner for best value while maximizing competition and transparency. Furthermore, emergency contracting agencies such as FEMA need to be well equipped with skilled and experienced manpower in order to efficiently and effectively handle natural disasters like hurricanes Katrina and Wilma and to plan for the logistic systems necessary to get the goods and services purchased to the citizens that need them.

### NOTES

1. In the US Federal government acquisition and contracting are terms of art that have specific meanings see Federal Acquisition Regulation (FAR) Part 2. Acquisition, which is synonymous in definition with procurement, means the entire process beginning with the definition of requirements and concludes with the disposal of the item or service purchased. Contracting may take place multiple times during the course of an acquisition. This article will focus on contracting.



2. These oversight bodies include the Inspector Generals (IGs) of the various agencies and departments, the Government Accountability Office (GAO) and various Congressional investigative staffs.
3. The use of DoD for non-defense related activities also poses other threats to the US system of government. Since the end of reconstruction, the government has strictly limited the employment of US Armed Forces in domestic issues. Numerous articles have been written over the years at the Service Colleges about the implications of integrating the military into civil responses and the potential threats posed to our form of government by involving the military in civil affairs in the US.
4. ASPA replaced the War Powers Acts of World War II with an intricately designed acquisition, including contracting, system codified in Title 10 of the United States code.
5. FPASA created a single agency designated to purchase personal and real property and services on behalf of civilian agencies replacing the function previously performed by the Department of the Treasury. It also created an acquisition system, including contracting, for the civilian agencies, codified in Title 41 of the United States code.
6. Authority in this context can be statutory (laws passed by Congress), executive orders (policy issued by the President), and regulatory (regulations enacted by agencies in accordance with established government-wide and agency procedures). The authority for federal contracting, with very few exceptions is available to the public for review at [www.acqnet.gov](http://www.acqnet.gov).
7. A HUBZone is a geographic area within the US that is designated as economically depressed, small companies within these geographic areas or that satisfy certain other criteria are certified by the US Small Business Administration as HUBZone contractors.

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