



DEPARTMENT OF THE ARMY
US ARMY MEDICAL RESEARCH AND MATERIEL COMMAND
504 SCOTT STREET
FORT DETRICK, MD 21702-5012

MCMR-AAP-A

16 December 2004

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Procurement Advisory Notice PAN 05-01
Contractor Support During CONUS Emergencies

1. Introduction

a. The workforce structure of Government organizations engaged in national defense, and in particular this command, is in transformation. Today it is a distinct blend of military, civil service and contractor personnel. Contractor personnel perform a vast array of services for the Government, ranging from facility maintenance and administrative support, to the most sophisticated research, analysis, and technical advice. In many cases, these men and women are essential to accomplish the mission. This may be even more the case in situations involving emergencies.

b. This Procurement Advisory Notice establishes guidelines for obtaining additional contractor support, in CONUS, during contingencies requiring an unexpected increase in OPTEMPO in response to a "9/11" or other **catastrophic** event. The scenarios envisioned are therefore emergency, as well as exigent (i.e., not allowing time to effect formal changes and agreements for additional support). Furthermore, it envisions that the requested support will usually be from incumbent, on-site, contractors.

2. The Command and Its Contractors

a. Contractors are a key part of this Command. While differences in legal status must always be kept in mind because of the distinction between public service and contractual obligations, it is essential that the Command and its contractors meld into a team - at all times; not just emergencies. To this end, Command leadership continuously fosters a culture of cooperation and teamwork with its contractors.

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b. In case of an emergency, contractors may be requested, but not required, to provide additional or extraordinary support.

c. If the required support during an emergency is no more than the normal contract requirement, but is now to be performed under what the Contractor claims are unreasonably dangerous conditions to which it will not expose its workforce, Command leadership will refer the matter to the servicing Contracting Officer and make no attempt to order or compel Contractor performance.

d. Key contractors will be personally advised of this notice, and invited to submit comments, questions, and recommendations. They may also be invited to participate in the Working Group (¶6 below).

3. Command Leadership and Missions

a. Command leadership executes vital mission functions during emergencies. "Command leadership" refers to all MRMC personnel in positions of authority, and those who assume that responsibility because of the circumstances.

b. When, in its judgment, Command leadership determines that additional or extraordinary contractor support is needed to accomplish the mission during an emergency, it should pursue that support immediately.

c. The first course of action is always to obtain emergency contractor support through the Command's servicing Contracting Officer.

d. In extraordinary circumstances, Command leadership can request that support directly from contractor management or contractor personnel. Command leadership will advise the servicing Contracting Officer as soon as possible of any such action taken. Payment for these circumstances cannot be effected until Contracting Officer's approval of the action.

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e. Command leadership will provide for the security, safety, logistic support, and welfare of all persons assisting in the execution of missions during an emergency.

f. If necessary, Command leadership can direct and supervise contractor personnel during the emergency in a manner that would otherwise constitute an employer-employee relationship. The preferred scenario, however, is that contractor management supervise contractor employees, even during emergencies.

4. Contracting Staff Support

a. The preferred course of action in emergencies is to employ normal contract authority and procedures to obtain contractor support through the Changes Clause, bi-lateral modifications, or new awards.

b. In cases where an irregular contract action has been effected by Command leadership, Contracting Officers will expeditiously process requests to formalize those actions.

c. Nothing in this notice is intended to impinge upon the statutory authority and discretion Contracting Officers must exercise in contracting actions such as awards, modifications, ratifications, pricing changes or adjustments, or terminations.

5. Funding Emergencies. Command Resource Managers are expected to employ all conventional funding strategies to address emergencies. These include absorbing; working with Command leadership to re-prioritize and shift funding from less critical requirements; exceeding apportionment rates; and working with levels above the Command to request reprogramming, transfers, and emergency and supplemental appropriations.

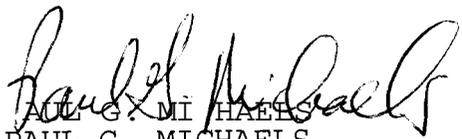
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6. **Working Group.** Operations during emergencies require exceptional coordination among, and planning by, Command components and supporting staffs. To this end, key Command organizations and staffs, to include Installation Management, Security, Acquisition, Resource Management, Civilian Personnel, and Legal, will form a Working Group, under the lead of the Principal Assistant Responsible for Contracting (PARC), or his designee, to anticipate and address issues and concerns regarding contractor support during emergencies.

7. This Procurement Advisory Notice will be incorporated into the next iteration of USAMRMC Reg. 715-1.

8. **POC.** Kenneth J. Allen, Command Counsel for Programs, Acquisition, and Litigation. Kenneth.Allen@amedd.army.mil
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