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Hurricane Katrina Recovery: Contracts Awarded by the Federal Government

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Summary

Information about contracts and other types of government procurements made in support of hurricane recovery efforts may be obtained online from the Federal Procurement Data System (FPDS), the Department of Homeland Security, the U.S. Army Corps of Engineers, and the U.S. Navy's Military Sealift Command websites. The government-wide database, FPDS, provides the most comprehensive and detailed information, but the other three websites include contracts not currently listed in FPDS. Available information about government procurements includes, among other things, the type of award (for example, a contract or a delivery order), the type of contract, and the extent of competition.

Sources of Information about Contracts and Other Types of Awards

Information about contracts and other award types related to Hurricanes Katrina and Rita is available from several sources, including:¹

- Federal Procurement Data System (FPDS), at [<https://www.fpds.gov>].
- Department of Homeland Security (DHS), at [http://www.dhs.gov/dhspublic/interapp/editorial/editorial_0729.xml]. (Information about contracts awarded by the Federal Emergency Management Agency (FEMA) is available at this website.)

¹ Other types of awards, or procurement vehicles, are delivery orders, task orders, purchase orders, and blanket purchase agreements. See below for more information. For information about contracting opportunities, see CRS Report RS22280, *Hurricane Katrina Recovery: Contracting Opportunities*, by L. Elaine Halchin.

- U.S. Army Corps of Engineers (USACE), at [<http://www.usace.army.mil>].
- U.S. Navy, Military Sealift Command (MSC), at [<http://www.procurement.msc.navy.mil/Contract/Welcome.jsp>]. (The Military Sealift Command is the agency that awarded four contracts for four cruise ships to house evacuees in the Gulf Region.²)

The Federal Procurement Data System is a government database that contains detailed information about contracts that have been awarded; task, delivery, and purchase orders that have been issued; and purchases that have been made under blanket purchase agreements (BPAs). Three spreadsheets are available on the FPDS website: Hurricane Katrina contract information, Hurricane Rita contract information, and contract information for other disasters that occurred in 2005. Although agencies are required to submit information to FPDS about contracts and other types of awards that exceed \$2,500 in value, it is likely, as noted at the beginning of the three spreadsheets available on the FPDS website, that not all contracting actions have been entered into FPDS yet.³ Nevertheless, with more than 2,500 contracting actions listed by late October from many different agencies, and the use of 50 FPDS data elements to describe the contracting actions, FPDS spreadsheets offer the most comprehensive picture of emergency contracting.⁴

Contracting information available from the other three sources — FEMA (via the DHS website), USACE, and MSC — is not included in the FPDS spreadsheets. As noted on the FPDS spreadsheets, some contracting officials may not have access to the necessary computer systems or may not have time to submit information to FPDS. This caveat may also apply to FEMA. In the case of USACE and MSC, the Department of Defense (DOD) has not completed its connections to FPDS, though it expects to do so sometime in FY2006.⁵ Thus, very few DOD contracting actions are listed on the Hurricane Katrina spreadsheet.

² Federal Emergency Management Agency, “Temporary Housing for Hurricane Katrina Evacuees Includes Cruise Ships, FEMA Reports,” news release HQ-05-204, Sept. 4, 2005, available at [http://www.fema.gov/news/newsrelease_print.fema?id=18606].

³ FAR § 4.602. “FAR” refers to the *Federal Acquisition Regulation*, which is Title 48, parts 1-53 of the *Code of Federal Regulations*.

⁴ FPDS supports 160 data elements, which are described in the *GSA Federal Procurement Data System-Next Generation (FPDS-NG) Data Element Dictionary*, available at [<http://www.fpds-ng.com/downloads.html>]. Examples of data elements are vendor name, type of contract, extent competed, and principal place of performance.

⁵ Katherine V. Schinasi, Managing Director, Acquisition and Sourcing Management, U.S. Government Accountability Office, letter to Joshua B. Bolten, Director, Office of Management and Budget, *Improvements Needed to the Federal Procurement Data System-Next Generation*, GAO-05-960R, Sept. 27, 2005, pp. 2-3, available at [<http://www.gao.gov/new.items/d05960r.pdf>].

Basic Information about Procurements

While the information presented here applies to government procurements generally, the information is provided to aid specifically in understanding the FPDS spreadsheets.

Information listed on the FPDS spreadsheets includes the date that a transaction was signed; the date that the parties (that is, the government and a company) agreed would be the starting date for the contract's requirements, which may be the same as the date signed; the current completion date, which is the completion date of the base contract plus any options that have been exercised; the dollar value of the contract or other award; and the name and location of the vendor.⁶ Although the definition of "current completion date" does not mention, for example, delivery orders (DOs), it seems likely that completion date entries for DOs indicate the date by which deliveries are to be completed.

Types of Awards

The type of award an agency makes for a particular procurement depends, at a minimum, on whether the required items or services are available from an existing contract, a federal supply schedule, or a blanket purchase agreement.

- A blanket purchase agreement (BPA) is a "charge account" with qualified sources of supply. Generally, BPAs are used by agencies to fill anticipated repetitive needs for supplies or services.⁷
- A contract is a mutually binding legal relationship which obligates a vendor to provide goods or services and the government to pay for them.⁸
- A delivery order or a task order (TO) is used to purchase supplies or services, respectively, from an established government contract or with government sources.⁹ When this procurement vehicle is used, it is said that the agency "placed a task (or delivery) order against a contract."
- A purchase order (PO) is an offer by the government to buy supplies or services, under specified terms and conditions and using simplified acquisition procedures, from a vendor.¹⁰

⁶ Global Computer Enterprises, Inc., *GSA Federal Procurement Data System-Next Generation (FPDS-NG) Data Element Dictionary*, pp. 21-23. If an agency exercises a (contract) option, it is permitted "an increase in the quantity of supplies beyond that originally stipulated or an extension in the time for which services on a time basis may be required." (Defense Acquisition University, "DAU Glossary, Version 11, plus Updates," available at [<http://akss.dau.mil/jsp/Glossary.jsp>].)

⁷ FAR § 13.303-1.

⁸ FAR § 2.101.

⁹ FAR § 2.101.

¹⁰ *Ibid.* Generally, agencies are to use simplified acquisition procedures (SAP) for purchases of goods or services valued at more than \$2,500 but less than \$100,000. (FAR § 13.003.)

Types of Contracts

Several different types of contracts are available to contracting officers and contractors, and contracting officers have many factors to consider when selecting which type of contract to use for a particular procurement. Factors include type and complexity of the agency's requirement, urgency of the requirement, performance period, and the extent and nature of proposed subcontracting.¹¹ The following contracts have different pricing arrangements:

- Fixed-price contracts “provide for a firm price or, in appropriate cases, an adjustable price A fixed-price contract with economic price adjustment provides for upward or downward revision of the stated contract price upon the occurrence of specified contingencies.”¹²
- Cost-reimbursement contracts “provide for payment of allowable incurred costs, to the extent prescribed in the contract.”¹³
- Time-and-materials contracts provide “for acquiring supplies or services on the basis of — (1) Direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and (2) Materials at cost, including, if appropriate, material handling costs as part of material costs.”¹⁴ Labor-hour contracts are “a variation of the time-and-materials contract, differing only in that materials are not supplied by the contractor.”¹⁵

A fixed price or cost-reimbursement contract that includes an incentive may be referred to as an “incentive contract.” Incentive contracts “are appropriate when ... the required supplies or services can be acquired at lower costs and, in certain instances, with improved delivery or technical performance, by relating the amount of profit or fee payable under the contract to the contractor's performance.”¹⁶ Another variation is called the “indefinite-delivery contract,” which is “used to acquire supplies and/or services when the exact times and/or exact quantities of future deliveries are not known at the time of contract award,” and which is sometimes referred to as an “indefinite-delivery/indefinite-quantity (IDIQ) contract.”¹⁷

¹¹ FAR § 16.104.

¹² FAR §§ 16.201 and 16.203-1(a).

¹³ FAR § 16.301-1.

¹⁴ FAR § 16.601(a).

¹⁵ FAR § 16.602.

¹⁶ FAR 16.401(a).

¹⁷ FAR § 16.501-2(a). It is possible that yet another type of contract, called the “letter contract,” was used by federal agencies to procure goods and services urgently needed during the immediate aftermath of Hurricanes Katrina and Rita. Letter contracts are “written preliminary contractual instrument[s] that authorize the contractor to begin immediately manufacturing supplies or performing services” (FAR § 16.603-1).

Procurement Instrument Identifier (PIID)

For every contracting action reported to FPDS, the procuring agency must assign a unique identifier — a procurement instrument identifier (PIID). Agencies are responsible for developing their own PIID coding schemes, but they must use alphabetical characters in the first positions to indicate the agency; assign alphanumeric characters to identify the appropriate office or administrative subdivision; and, similar to the assignment of numbers sequentially to public laws, assign numbers sequentially to contracting actions. Agencies may add other information, such as fiscal year, to their PIIDs. The Federal Procurement Data Center is required to maintain a registry of agencies' coding schemes and validate their use in all transactions.¹⁸

Competition

Full and open competition, which “means that all responsible sources are permitted to compete,” is the policy of the federal government.¹⁹ However, exceptions are permitted. One category of exceptions provides for full and open competition after exclusion of sources. Procurements that are set aside for certain types of small businesses belong to this category, because large businesses are excluded from competition.²⁰

Other than full and open competition, which is popularly referred to as “no bid” or “sole source” contracting, is permitted under seven circumstances: only one responsible source exists, and no other supplies or services will satisfy agency requirements; an unusual and compelling urgency for supplies or services exists; the government needs to achieve industrial mobilization, establish or maintain an essential engineering or research and development capability, or obtain expert services; an international agreement or treaty precludes full and open competition; a statute authorizes or requires that supplies or services be procured through another agency or from a specified source; disclosure of an agency's needs could compromise national security; and it is in the public interest not to conduct a full and open competition.²¹

Two columns on the FPDS spreadsheets — “Extent Competed” and “Reason Not Competed” — provide competition information about each procurement. While some spreadsheet entries include the phrase “other than full and open competition” or “full and open after exclusion of sources” for the former column, and the appropriate reason why there was no or limited competition, other entries refer to other types of limitations on procurements. For example, an agency might indicate that a particular procurement was “not available for competition,” and then, as the reason, cite the Javits-Wagner-O’Day (JWOD) Act, which mandates that organizations that employ individuals who are blind or severely disabled are a required source of supplies and services for federal agencies.²²

¹⁸ FAR § 4.602(e).

¹⁹ FAR §§ 2.101 and 6.101.

²⁰ FAR Subpart 6.2.

²¹ FAR § 6.302.

²² 41 U.S.C. §§ 46-48c.

The FPDS data dictionary provides descriptions for the different entries permitted in these two columns.

Interagency Contracting

The term “interagency contracting” has several meanings. Perhaps the best known example is when agencies purchase goods and services from a federal supply schedule that has been established and is maintained by another federal agency, such as the General Services Administration (GSA).²³

Another type of interagency contracting occurs when agency A purchases goods or services on behalf of agency B, which funds the purchase. An examination of the FPDS spreadsheets indicate that numerous purchases were made using this method. The purchasing department, and agency or office, if applicable, are listed in columns A and B, respectively. The funding agency code is located in column M.²⁴ Apparently, if there is no entry in column M for a particular procurement, the department identified in column A funded the procurement. Conversely, there are many procurements for which the entry in column M does not match the department and agency identified in columns A and B. For example, GSA purchased goods and services that were paid for by the Air Force, the Army, DHS, FEMA, the Navy, and an office within the Department of Health and Human Services.

Type of Business or Organization

A useful feature of FPDS is that it allows agencies to identify a contractor by type of organization or business, such as tribal government, small disadvantaged business, educational institution, woman-owned business, veteran-owned business, and nonprofit organization.²⁵ The three hurricane-related spreadsheets available at FPDS use this information to show what type of organization was involved in each procurement.

Conclusion

The data provided through the FPDS website and the other websites listed above provide a degree of transparency in what is often a murky process and can be used to analyze hurricane-related recovery procurements.

²³ Access to GSA’s schedules is available at [http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=8106&contentType=GSA_OVERVIEW].

²⁴ Funding agency codes are available from the FPDS website.

²⁵ Global Computer Enterprises, Inc., *GSA Federal Procurement Data System-Next Generation (FPDS-NG) Data Element Dictionary*, pp. 115-140.