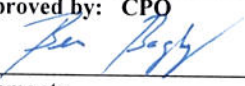


	STATE OF ILLINOIS CHIEF PROCUREMENT OFFICER - HIGHER EDUCATION	
	NOTICE--PROCUREMENT INFORMATION AND REQUIREMENTS	
	Topic: Emergency Purchase	Number: 2013-3
	Effective Date: April 19, 2013	Approved by: CPO 
	New ☒ Revises ☐ Replaces ☐ Supplements ☐	
Statute Cite: 30 ILCS 500/20-30 30 ILCS 500/15-25		Rule Cite: 44 Ill. Adm. Code 4-2030 44 Ill. Adm. Code 4-1525

The Illinois Procurement Code, Section 20-30, provides authority to make contracts in emergency situations without prior notice or competition. The sections of the Standard Procurement Rules referenced above implement and interpret the Code. This Notice provides further information and guidance and addresses matters raised in audit and other reviews.

All parties responsible for making and processing emergency procurements need to familiarize themselves with the laws and rules cited above and with this Notice.

1. SCOPE

These procedures apply to each emergency procurement by a university (reference to university includes the Illinois Math and Science Academy).

References to "university" mean the university purchasing staff unless the context indicates a broader usage.

2. EMERGENCY SITUATIONS / EXCLUSIONS

- a. Statutory emergencies (see Code section 20-30 and associated rule). A "statutory emergency" pertains to a situation involving a threat to public health or public safety or when immediate expenditure is needed for repairs to university property in order to protect against further loss or damage to university property, to prevent or minimize serious disruption in critical university services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of university records.

Not every situation of immediate need arises to the level of an emergency for purposes of the Procurement Code. For example, a disruption in services may be very inconvenient and very disruptive to normal services, but unless the services are critical AND affect health, safety or collection of substantial State revenue, an emergency procurement would not be appropriate.

Statutory Emergency procurements are limited to those supplies, services, construction, leases or other items that are necessary to meet an emergency need. The intent is to limit the scope of the emergency purchase to that which is sufficient to get by until a competitive bid can be let and awarded. While this may not cut down on the number of emergency purchases, this process will provide for more competition. In certain situations, the purchase to meet the immediate need (i.e. the temporary solution) may, by necessity, also be the permanent solution. In this event, the notice shall describe that circumstance.

- b. Quick Purchase (see Code section 20-30d and associated rule). A quick purchase is one that must be accomplished in a time frame in which use of a normal competitive process is not practical, but the benefits of going forward in this fashion outweigh the general policy of seeking competition. Quick purchase situations include but are not limited to purchases:

- to protect the health and safety of any person, or

- where items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price,
- for rare items such as the purchase of articles of historical value or art collections that are available for a limited time,
- for entertainment, speakers and athletic and other events or performances (not exempt under Section 1-13 of the Code) available for a limited time, or
- where immediate action is necessary to avoid lapsing or loss of federal or donated funds.

The university must consult with and receive authorization in writing from the SPO to proceed with a quick purchase. However, if the purchase is needed to protect the health or safety of a person, the university may proceed and justify the procurement to the SPO at the earliest opportunity. In all other respects, a quick purchase must conform to all procedural requirements of a "statutory emergency" as set forth in law and this procedure.

- c. Small purchases (Code Sections 20-20 and 35-35). A purchase under the small purchase amount, even if to meet an emergency-type need, may be processed under the small purchase section of the Code. These small purchases are not subject to emergency purchase requirements, including, but not limited to publication of notices and filing of an emergency purchase affidavit.

3. DETERMINATION

- a. The university shall determine whether it is necessary to make an emergency purchase.
- b. This determination shall be reduced to writing and shall include the basis for invoking the emergency purchase provision of the Code and why the particular vendor was selected.
- c. The university shall inform the SPO of the emergency need as soon as possible and in any event in sufficient time to publish notice within three business days after award.

4. VENDOR SOURCE SELECTION

- a. The university may select the vendor by any reasonable means obtaining as much competition as is practical under the circumstances. Use of normal competitive procedures is not required. However, when practical the university should:
 - attempt to obtain competitive quotes,
 - use existing university master or other contracts, and
 - obtain estimates in advance of authorizing the vendor to proceed.
- b. The university must confirm in writing to the vendor the emergency authorization to proceed and must obtain purchase orders or other contracts as soon as practical.

5. PUBLICATION OF EMERGENCY NOTICES

- a. The university shall create the Notice of the emergency procurement in the Procurement Bulletin as provided in Sections 15-25 (c) and 20-30 of the Code. The university will provide to the SPO the draft Notice with any attachments in form ready for publication. This must be submitted to the SPO in time to allow adequate review and to meet the publication deadline of three business days after the contract is awarded.
- b. The university shall attach a copy of the Emergency Purchase Affidavit to the Notice. If the affidavit is not available at the time of publication, the university shall attach it to the Notice *within 10 days after the emergency procurement*.
- c. The SPO shall publish this Notice *no later than 3 business days after the contract is awarded*.
- d. The Notice shall include the total cost of the emergency contract. When only an estimate of the total cost is known at the time of publication, the cost should be identified as an estimate. When the total cost is determined, it shall be published as an amendment to the Notice *within ten days after that determination*.

- e. The earlier of the date of final contract execution or the date the university (or the SPO in certain quick purchases situations) authorized the vendor to perform shall be considered the date of contract award for the purpose of calculating the last date for publishing the Notice.

6. AFFIDAVIT REQUIREMENTS

- a. The university shall prepare, sign and submit the Emergency Purchase Affidavit (affidavit) to the SPO, in scanned form (or original if the SPO is available at the procuring university). The SPO will provide written authorization to the university to file the affidavit with the Auditor General. The affidavit shall include the vendor's name, the amount and type of contract, a description of what the vendor will do or provide and the reasons for using the emergency method of source selection.
- b. The university shall mail the affidavit and a copy of the Bulletin Notice to the Auditor General by USPS *postmarked no later than 10 days after the procurement* to the following address. Any questions regarding the Auditor General's address should be directed to:

Office of the Auditor General
Iles Park Plaza
740 East Ash Street
Springfield, IL 62703-3154
Phone: (217) 782-6046

If you have reason to believe the mail will not be postmarked by the deadline, you should request authorization from the Auditor General to e-mail the affidavit (note, at this time they do not want electronic submissions).

- c. The university shall mail or email a copy of the affidavit and the Bulletin Notice to the CPO at the same time as mailing to the Auditor General. The CPO address is:

Chief Procurement Officer - Higher Education
522 Stratton Building
401 S. Spring St.
Springfield, IL 62706
217-558-5143
eec.cpo-he@illinois.gov

- d. The university shall notify the Procurement Policy Board by attaching a copy of the affidavit to the Bulletin Notice. This is the method requested by the PPB.
- e. When only an estimate of the total cost is known at the time of affidavit filing, the cost shall be identified as an estimate. When the total cost is determined, the university shall report the total cost to the Auditor General, the CPO and the PPB. The update may be in the form of a letter that identifies the emergency contract, the vendor, the Bulletin reference number, the initial cost estimate and the final amount. The update should be sent in the manner described above *no later than 10 days after determining the final cost*.
- f. The earlier of the date of final contract execution or the date the university (or the SPO in certain quick purchases situations) authorized the vendor to perform shall be considered the date of procurement for the purpose of calculating the last date for mailing (postmarking) the affidavit.

7. TERM OF EMERGENCY CONTRACT

The term of an emergency contract shall be limited to the time reasonably needed for a competitive procurement to replace the emergency contract, but *not to exceed to 90 days*.

The SPO will ask the university to report on the status of a replacement solicitation within 30 days of the effective date of the emergency contract.

8. TERM EXTENSION

The term may be extended beyond 90 days if the CPO determines additional time is necessary and the contract scope and duration are limited to meeting the original emergency need. Prior to execution of the extension, a public hearing shall be held at which the PPB and members of the public may present testimony.

- a. **Review of Emergency Contract Progress.** If an emergency contract is not complete *within 30 days of the start date*, the university shall review progress and determine *within 45 days of the start date* whether an extension may be needed. In order to have adequate time to prepare extension information, review and schedule and conduct a hearing and make a determination, the university must submit an extension request to the SPO *by day 60 of the 90 day term*. If the university does not contact the SPO by the 60th day, the SPO will contact the university to request a status update. If the university does not reply or the reply is ambiguous as to completion within the 90 day term, the SPO shall schedule an extension hearing and provide as much detail as is then available.
- b. **Extension Justification.** The university shall prepare an emergency extension justification form and forward it to the SPO along with supporting documentation. The SPO shall make an initial determination as to sufficiency of the justification and any necessary documentation, and discuss the matter with the university. The SPO will send to the CPO the justification and documentation (revised to include any agreed modifications) along with a recommendation.
- c. **Notice of Extension Hearing.** Notice of an extension hearing scheduled at the direction of the CPO must be published in the Bulletin *at least 14 days prior to the public hearing*. The Notice shall include a description of the need for the emergency extension, the vendor, and the date, time and location of the public hearing. The university shall contact the CPO office for a hearing date.
- d. **Hearing Determination and Notifications.** The CPO will consider the justification and any testimony presented at the hearing prior to making a determination. The CPO will endeavor to make a decision *within three business days after the hearing*.
- e. If the CPO determines it is in the best interest to proceed with the extension or if the extension is denied the CPO will inform the university. The university will attach the determination to the notice and the SPO will publish the determination in the Bulletin *within three business days of the determination*.
- f. The university will notify the Auditor General of an approved extension *within ten days after executing the extension*. The update may be in the form of a letter that identifies the emergency contract. A copy of the Emergency Extension Justification form may be included to better describe the situation.

9. DOCUMENTATION

The university shall maintain in the procurement file at a minimum: the initial determination to contract on an emergency basis, all Bulletin notices, the emergency affidavit including updates and any cover letters, extension documentation if applicable, the emergency contract, and any related written or electronic correspondence.

The university file shall be open to inspection. The university shall provide a copy of the file to the Office of the CPO immediately on request.