

	<b>STATE OF ILLINOIS</b> <b>CHIEF PROCUREMENT OFFICER - HIGHER EDUCATION</b>	
	<b>Topic: Emergency Purchases</b>	<b>Number: 2023.01</b> <b>Replaces: CPO Policy 2018-02</b>
	<b>Effective Date: April 7, 2023</b>	<b>Approved by: John Donato, CPO</b>
	<b>Statute Cite: 30 ILCS 500/20-30</b> <b>30 ILCS 500/15-25</b>	<b>Rule Cite: 44 ILAC 4.2030</b> <b>44 ILAC 4.1525</b>

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 Mathematics 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(a) and associated Rule 4.2030). A "statutory emergency" pertains to a situation involving:

- a threat to public health or public safety;
- when immediate expenditure is needed for repairs to university property 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 issued and awarded. 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 the circumstances and justification in detail.

b. Quick Purchase (see Code section 20-30(d) and associated rule 4.2030). 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 using an Invitation for Bid (IFB) or Request for Proposal (RFP) to seek competition. Quick purchase situations include, but are not limited to, purchases:

- to protect the health and safety of any person;

- 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 State Purchasing Officer (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). An emergency purchase under the small purchase amount 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 Statement.

### **3. DETERMINATION**

- a. The university shall determine whether it is necessary to make an emergency purchase based on the criteria described in 2a above.
- b. The university shall make a written determination on the "Emergency Purchase Statement" form stating the basis for an emergency procurement, showing that the situation meets criteria for an emergency and providing the reason for selecting the vendor. This form must be signed by an appropriate university representative.
- c. The university shall inform the SPO of the emergency before an emergency contract or order is placed whenever possible. The university must inform the SPO of the emergency in sufficient time to publish the Notice within five calendar days after the contract is awarded.

### **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. The university shall use best efforts to include vendors certified under the Business Enterprise program in the university's emergency procurement process. Use of normal competitive procedures is not required. However, when practical the university should:
  - obtain competitive quotes;
  - use existing university master or other contract; 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 a draft 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 the “Emergency Purchase Statement” form attached as a public document along with any other relevant information, in a form ready for publication. This must be submitted to the SPO in time to allow adequate review and to meet the publication deadline of five calendar days after the contract is awarded.

- b. The university shall attach a copy of the “Emergency Purchase Statement” form to the Notice.
- c. The SPO shall publish this Notice no later than five calendar 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 before the tenth day of the next succeeding month.
- e. For purposes of an emergency contract, the contract award date is the earliest date:
  - a university communicates to a vendor to start work;
  - when the Notice is published to the Bulletin; or
  - the date the contract is signed by both parties.

## **6. STATEMENT REQUIREMENTS**

- a. The university shall prepare, sign and attach the “Emergency Purchase Statement” form to the Bulletin Notice. This must be done in time to allow adequate review by the SPO and to meet the publication deadline of five calendar days after the contract is awarded
- b. The SPO will review the Notice and provide approval by publishing the Notice to the Bulletin.
- c. Notification to the Procurement Policy Board (PPB) and the Commission on Equity and Inclusion (CEI) will be via the “Emergency Purchase Statement” form attached to the Bulletin Notice.
- d. Filing with the Auditor General and Chief Procurement Office for Higher Education office will occur via the Bulletin. Once published, the Bulletin will send an email to the Auditor General with the “Emergency Purchase Statement” form attached. No hardcopy filing is necessary.
- e. When only an estimate of the total cost is known at the time of initial publication, the cost shall be identified as an estimate. When the total cost is determined, the university shall publish the final amount by completing the “Emergency Purchase Final Cost and Term” form and attaching it to the original Bulletin Notice immediately after the final cost is determined. This form must be signed by an appropriate university representative. Once published by the SPO, the Bulletin will send an email with the “Emergency Purchase Final Cost and Term” form attached to the Auditor General, PPB, and CEI.

## **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 calendar 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. This does not apply where the initial emergency was the permanent solution.

## 8. TERM EXTENSION

The term may be extended beyond 90 calendar days with the approval of the Chief Procurement Officer for Higher Education (CPO-HE). The duration of the extension shall be limited to the scope of the emergency.

- 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. To have adequate time to review and make a determination on approval, the university must submit an "Emergency Purchase Extension" form signed by an appropriate university representative to the SPO. The university shall use best efforts to submit the signed form to the SPO within 30 days prior to the expiration of the initial emergency term. The SPO will then forward the signed form to the CPO-HE for determination.
- b. Extension Justification. Prior to the execution of the extension, the university shall provide the completed and signed "Emergency Purchase Extension" form and forward it to the SPO along with supporting documentation. The SPO will review the form and then send it to the CPO for approval. The CPO will consider the justification when making a determination on whether to approve or not approve the extension. Once a determination is made, the CPO-HE will return the form to the university and copy the SPO.
- c. Notice of Extension. Notice of an extension of an emergency contract must be published in the Bulletin no later than 7 calendar days after the extension is executed. The Notice shall include at least a description of the need for the emergency extension and the vendor. The university will provide to the SPO the draft Notice, with the completed and signed "Emergency Purchase Extension" form attached as a public document. This must be submitted to the SPO in time to meet the publication deadline of no later than 7 calendar days after the extension is executed.
- d. Notification of the Emergency Extension will be provided to the Auditor General, PPB, CEI, and the CPO-HE via an automatic email that will be sent from the Bulletin upon publication of the extension.

## 9. DOCUMENTATION

The university shall maintain documentation in the procurement file which includes, but is not limited to:

- the determination to contract on an emergency basis;
- Record of attempts to obtain competition and a copy of the quotes obtained;
- all Bulletin Notices; the "Emergency Purchase Statement" form, "Emergency Purchase Extension" form (if applicable), "Emergency Purchase Final Cost and Term" form (if applicable) and any other updates as necessary;
- the emergency contract; and
- any related written or electronic correspondence.

The procurement file shall be open to public inspection. The university shall provide a copy of the file to the Office of the CPO-HE immediately upon request.