Chapter 17 – Emergency IT Procurements

Chapter highlights

- **Purpose**: This chapter defines emergency information technology (IT) procurements and outlines emergency procurement policies.

- **Key points**:
  - Any agency or institution can make emergency procurements when an urgent situation arises and the particular IT or telecommunications need cannot be met through normal procurement methods. The agency head must approve the emergency procurement in writing.
  - An emergency is a serious or urgent situation requiring immediate action to protect persons or property. An emergency can be a threat to public health, welfare or safety caused by floods, epidemics, riots, equipment failure, fire loss or such other reason.
  - The agency or institution should first search VITA's statewide contracts to determine if existing sources are available to fulfill the emergency procurement, since these have been competed and negotiated.

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17.0 Introduction

An agency or institution may make an emergency procurement when an urgent situation arises and the particular IT or telecommunications need cannot be met through normal procurement methods, as long as the agency head has approved the emergency procurement in writing. An emergency is a serious or urgent situation requiring immediate action to protect persons or property. An emergency can be a threat to public health, welfare or safety caused by floods, epidemics, riots, equipment failure, fire loss or such other reason. The existence of such conditions creates an immediate and serious need for supplies or services that cannot be met through normal procurement methods and schedules. Further, the lack of these supplies or services could seriously threaten government functioning, property preservation and/or the protection, health or safety of any person. Emergency procurements shall be limited to those supplies, services or items necessary to meet the emergency. The potential loss of funds by an agency or institution at the end of a fiscal year is not an emergency.

17.1 Competition requirements in emergency IT procurements

Agencies and institutions should solicit as much competition as practical for emergency procurements; however, emergency procurements may be conducted without competition. Generally, competition may be waived only in certain circumstances and only when in the best interest of the Commonwealth. The agency or institution should first search VITA's

statewide contracts (Contract Search) to determine if existing sources are available to fulfill the emergency procurement, since these have been competed and negotiated. When the estimated amount of an emergency technology purchase exceeds the agency's delegated purchase authority, a procurement request and an Emergency Procurement Notification Form, found in Appendix A of this chapter, should be completed, signed by the agency head or designee and submitted to VITA for approval prior to the agency taking any further action.

17.2 Emergency IT procurement requirements

The *Code of Virginia*, § 2.2-4303(F) details the following requirements for conducting emergency procurements:

- The procurement file shall include a written determination of the basis for the emergency and selection of the particular supplier in the procurement file. The written determination must be signed by the agency head or his or her designee
- The procuring agency may, in an emergency, authorize a supplier to commence performance or delivery in the event of an emergency prior to a contract or purchase order being prepared and should prepare a purchase order or contract as soon as practicable.
- The procuring agency shall post a notice stating that the contract is being awarded on an emergency basis and identifying that, which is being procured, the supplier selected and the date on which the contract was or will be awarded. The notice shall be posted in a designated public area or newspaper of general circulation on the day the public body awards or announces its decision to award the contract, or as soon as practicable. For procurement less than $50,000, public notice may be published in eVA.
- For procurements over $50,000, notices must be posted on eVA.

17.3 Determination of price reasonableness

The agency or institution should determine the price reasonableness of the emergency IT good or service being procured and document the findings. To substantiate price reasonableness, an established fair market price or justifiable verification must be provided. Detail regarding how the price reasonableness determination was made is required for completing the Emergency Procurement Notification Form found in Appendix A of this chapter and for the procurement file.

17.4 Documentation for the emergency IT procurement file

The procurement file should include the following documentation:

- Copy of the Emergency Procurement Notification Form located in Appendix A of this chapter to provide written explanation/justification of the emergency determination signed by the agency head stating the basis for the emergency and for the selection of the particular supplier.
- Certified documentation of quotes received and an explanation of why a particular IT or telecommunications supplier was selected.
- Written quote from the selected supplier.
- Purchase order and/or executed contract.
- Copy of the posted notice stating that the contract is being awarded on an emergency basis, identifying that which is being procured, the contractor selected and the date of contract award.
- Copy of eVA posting.

Copies of all documentation supporting the emergency procurement award for IT and telecommunications goods and services should be forwarded to VITA at scminfo@vita.virginia.gov within five days of the contract award.

Appendix A
Emergency Procurement Notification Form

Use this form to document that a procurement was awarded on the basis of an emergency. This form shall become part of the procurement file, which is subject to review.

If the IT goods or services available under the terms of a mandatory use contract cannot be used by a specific agency or institution, a request to purchase other goods or services of a similar nature shall be submitted to SCM.

Today's Date _____

Agency/Institution Name _____

Contact Name _____

Telephone Number _____

PROCUREMENT DETAILS:

Date of Award _____

Description of Product or Non-Professional Service _____

Cost of Procurement $ _____

Purchase Order # or Contract #_____

Supplier Name _____

JUSTIFICATION:

1. Why was this supplier selected for the procurement?

2. What is the nature of the emergency, and when did the emergency occur?

3. Did your agency post a notification of this emergency procurement in eVA?

AGENCY APPROVAL:

To the best of my knowledge, information and belief, the technology product or service sought by the agency meets all of the criteria for an emergency procurement. The records for this procurement are available for inspection upon request.

Add this documentation to your procurement file to demonstrate your agency's efforts to determine price reasonableness.

Today's Date _____

Agency/Institution Name _____

Contact Name _____

Telephone Number _____

Contract # _____

Why is no other source acceptable for the procurement?

Select one or more to identify how price reasonableness was determined.

Established Market Price: How market price was verified:

Comparison with prior purchase of same or similar product:
Contract #
Supplier
Contract Date
Quantity
Unit
Unit Price

Value Analysis (include documentation):

Other:

Signed _____
(Contracting Officer)

Signed _____
Agency Head (for non-infrastructure goods/services)
Local Area Coordinator/Regional Service Director (for infrastructure goods/services)