



Notice 2017.06

Capital Development Board

To: Jodi Golden, Executive Director Capital Development Board
CDB Procurement Staff
CPO-CDB State Purchasing Officers

From: Margaret van Dijk, Chief Procurement Officer for the Capital Development Board

Date: April 18, 2017

Subject: Emergency Purchases

This CPO Notice is effective immediately. This notice sets forth the process for conducting emergency purchases and rescinds and replaces CPO Notice 2011.03 (September 15, 2010) and SPO Notice #2 (January 23, 2012).

Emergency procurements are required to be conducted in accordance with [Section 20-30](#) of the Illinois Procurement Code (Code) and administrative rule [44 Ill. Admin. Code 8.2030](#). Emergency procurements may be made without a formal invitation for bids or prior notice when:

- 1) There exists a threat to public health or public safety,
- 2) Immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State property,
- 3) To prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues,
- 4) Necessary to ensure the integrity of State records.

After Hour Emergencies

When an emergency situation occurs after normal business hours, is critical in nature, and requires immediate corrective action, CDB or a Using Agency may provide verbal authorization to a contractor to begin work immediately to resolve the critical need. CDB or the Using Agency shall promptly notify the CPO the next business day of such circumstances so that the reporting requirements of the Code can be met.



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Non-After Hour Emergencies

For emergencies that do not occur after normal business hours or do not require immediate corrective action, CDB shall notify the CPO of the request for an emergency purchase immediately upon learning of the need.

In providing notification to the CPO of an emergency (whether it is an after hour or non-after hour emergency), CDB shall provide the CPO with a detailed written description of the basis for the emergency. CDB will advise of any actions taken by it or the Using Agency that have already occurred and whether discussions or site visits by a contractor or potential contractor have taken place. If a contractor was contacted prior to notification of the CPO, CDB shall provide the name of the contractor, the time the contractor was contacted, and any documentation or e-mail communications between the contractor and CDB.

Emergency Procurement Determinations

In general, emergency procurements are limited to the supplies, services, construction and other items necessary to meet the emergency need. The intent is to limit the scope of the emergency purchase to that which is sufficient to stabilize the emergency situation until a competitive bid can be pursued and awarded. Once the immediate threat of damage to property, disruption of services, or loss of revenue is averted, or the property is restored to a reasonable level of usage, the emergency situation no longer exists and any further repairs needed are to be procured by competitive sealed bid and not under emergency rules. CDB shall take the appropriate steps to initiate a competitive procurement to provide the services on a longer term basis.

In some instances, the emergency solution may be the permanent solution, when doing so is shown to be in the best interest of the State: in this event, the procurement file shall describe the circumstance why it was in the best interest of the State to proceed with the permanent solution as an emergency procurement.

In evaluating whether an emergency situation exists as defined by the Code and administrative rules, additional information may be needed, for example, CDB may determine it needs to conduct a site visit and inspection or engage the services of an Architect or Engineer (A/E) to evaluate the conditions in order to make recommendations on how best to proceed. CDB will provide to the CPO documentation of all efforts taken to verify the emergency situation exists as described by the Using Agency, including any photographs or reports from the A/E or CDB staff. The results from any investigative reports and recommendations from the A/E or CDB staff shall be considered in making a final determination on use of the emergency procurement method.

CDB shall include the CPO in all meetings related to the emergency procurement after the need has been identified. On the basis of all the information provided, the CPO's Office and CDB will determine whether the elements required for an emergency procurement are met. A detailed written description of the basis for the emergency, efforts to obtain competition, the reason(s) for the selection of the particular contractor or A/E, and the SPO's written determination of emergency and selection of a particular vendor is required to be maintained as part of the procurement file.



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Emergency procurements are required to be made with as much competition as is practicable under the circumstances and are limited to the time needed to conduct a competitive procurement, up to a maximum of 90 days. 30 ILCS 500/20-30(a). Consideration of whether the emergency situation may be remedied by using the small purchase selection method should first be considered. 44 Ill. Admin. Code 8.2030(a). When practicable, a minimum of three contractors approved by the SPO shall be evaluated for the award of an emergency contract. CDB shall make every effort to include certified BEP, VBE and Illinois small businesses when considering contractors for an emergency award. If there is sufficient time (14 calendar days) to allow contractors to review and bid on abbreviated or complete specifications, the CPO's Office, in consultation with CDB, will determine whether the procurement will be conducted using a competitive sealed bid process or whether there are facts to support the use of the emergency purchase method.

Notice Requirements

For purposes of the notice requirements contained in the Code, an emergency is considered awarded on the earlier of the date: 1) an agency communicates to a contractor to start work, 2) publication in the Bulletin identifying the contractor of the required goods or services, or 3) the contract is signed by both CDB and the contractor. Notice of all emergency procurements must be provided to the Procurement Policy Board (PPB) and published in the Illinois Procurement Bulletin for the Capital Development Board (Bulletin) no later than 5 calendar days after the contract is awarded.

The CPO is required to file an emergency purchase affidavit with the PPB and the Office of the Auditor General (OAG) within 10 calendar days after the emergency procurement setting forth the amount expended, the name of the contractor involved, and the conditions and circumstances requiring the emergency procurement. Whenever feasible, the affidavit should be published to the Bulletin with the notice of emergency procurement. When only an estimate of the cost is available within 10 calendar days after the procurement, the affidavit lists the costs as estimated and is reported to the OAG and posted to the Bulletin by the CPO. Upon completion of the emergency work, CDB will send the CPO a project close-out letter with the final actual cost affidavit of the project, with a breakdown for each contractor if multiple contractors were used. This information should be provided as soon as possible after the expiration of the emergency contract and will be posted to the Bulletin and reported to the OAG by the CPO.

Extensions of Emergency Contracts

An emergency contract may be extended beyond 90 days if the CPO determines additional time is necessary and the contract scope and duration are limited to the emergency. A public hearing is required for all extensions of emergency procurements beyond 90 days. Notice of intent to extend an emergency contract is required to be published in the Bulletin at least 14 calendar days before the public hearing. The SPO prepares the notice of intent to extend the emergency and the notice must include a description of the continuing need for the emergency purchase, a description of the efforts to address the emergency condition on a permanent basis, the name of the contractor, and the date, time, and location of the public hearing. In order to ensure that the 14 calendar day notice period is



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met, CDB should notify the CPO at least 30 days before the expiration of the emergency contract that an extension is being requested.

Members of the public may present testimony at the extension hearing. The CPO's approval or denial of the emergency extension request and all documents introduced as evidence at the hearing shall be posted to the Bulletin within 3 calendar days of the extension hearing.

For questions related to this notice, please contact the CPO's office at 217-558-2156.

cc: Procurement Policy Board
Procurement Compliance Monitors