



STATE OF MARYLAND
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
DIVISION OF CORRECTION

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|  DIVISION OF CORRECTION DIRECTIVE | PROGRAM: | PROCUREMENT |
| | DCD #: | 65-2 |
| | TITLE: | USE OF EMERGENCY PROCUREMENT PROCEDURES |
| | ISSUED: | October 1, 1995 |
| | APPROVED: |  COMMISSIONER |

DCD CHANGE NOTICE 62-95 EFFECTIVE DATE October 1, 1995



CHANGE # 1 TO THIS DCD

1. The last two lines of section VI.C.1.e.(1) on page 5 were inadvertently omitted. The sentence shall read as follows:
 - (1) The chief procurement officer shall have the original copy of the completed documentation sent to the director.
2. Please ensure that this change is incorporated into all copies of the DCD.

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I. References:

- A. State Finance and Procurement Article, ACM
- B. COMAR, Title 21 - 21.01.02.36 and 21.05.06.01 & .02
- C. Delegation letter to the Commissioner of Correction from the Secretary of the Department of Public Safety and Correctional Services dated 11/5/86.
- D. DCDs 65-1 and 70-10

II. Applicable to: Headquarters, State Use Industries and all Institutions

III. Purpose: To establish policies and procedures regulating the use of emergency procurement procedures within the Division of Correction.

IV. Definitions:

- A. Authorizing Authority - A person who is permitted by this directive to authorize the use of emergency procurement procedures.
- B. Awarding Authority - A person designated by a managing officer to award an emergency contract after the authorizing authority has authorized the use of emergency procurement procedures.
- C. Award - The decision by an agency to execute a purchase order or contract after all necessary approvals have been obtained.

- D. Chief Procurement Officer - The chief procurement officer of the subunit making the emergency procurement.
- E. Contract - An oral or written agreement, such as a purchase order, between the State of Maryland and a provider of goods or services. The term "contract" includes purchase orders accepted by the vendor and modifications to existing agreements.
- F. Deputy Secretary - The Deputy Secretary of the Department of Public Safety and Correctional Services.
- G. Director - The director of procurement services for the Department of Public Safety and Correctional Services or designee.
- H. Director of Facilities Maintenance - The director of facilities maintenance for the Department of Public Safety and Correctional Services.
- I. Emergency - A sudden and unexpected occurrence or condition which agency management could not reasonably foresee that requires an action to avoid or to mitigate serious damage to public health, safety, or welfare. (COMAR 21.01.02.36)
- J. Procurement - The process of purchasing, leasing or renting goods or services.
- K. Report - The report of emergency procurement action, a form developed by the Board of Public Works for reporting the use of emergency procurement procedures.
- L. Secretary - The Secretary of the Department of Public Safety and Correctional Services.

V. Policy:

The Division of Correction shall comply with the State's laws and regulations governing the use of emergency procurement procedures. By adequately planning and executing those plans, managing officers will avoid situations from occurring which require the use of emergency procurement procedures.

VI. Procedure:

A. Authorizations

1. All authorizations in this DCD are subject to the following restrictions:

- a. The emergency procurement of mechanical or electronic information processing equipment and services may not be made without the prior approval of the Secretary of the Department of Budget and Fiscal Planning. (Finance and Procurement Article, Section 3-405, ACM)
 - b. The emergency procurement of motor vehicles may not be made without the prior approval of the Secretary of the Department of Budget and Fiscal Planning. (Finance and Procurement Article, Section 3-502, ACM)
 - c. The emergency procurement of plant maintenance, construction or repairs shall be reviewed and approved by the director of facilities maintenance or designee when the cost of such a procurement is reasonably expected to exceed \$5,000.
 - d. The use of critical maintenance funds shall have the prior approval of the Deputy Secretary.
2. Authorizing authorities may not delegate the authority to decide that emergency procurement procedures will be used in a particular instance.
3. Authorizing authorities shall ensure that funds are or will be made available before making an emergency procurement. An authorizing authority should not anticipate using critical maintenance funds for an emergency maintenance procurement until the Commissioner has obtained permission from the Deputy Secretary to use those funds for that particular procurement. In no event, however, should an authorizing authority anticipate using critical maintenance funds for an emergency maintenance procurement costing less than \$500.
4. Authorizing Authorities
 - a. Managing officers are authorized to use emergency procurement procedures for all purchases, except maintenance procurements, when the anticipated contract cost does not exceed \$5,000 and the procurement is not restricted.
 - b. Managing officers in the Baltimore, Eastern and Jessup regions are authorized to use emergency procurement procedures for maintenance procurements when the cost does not exceed \$5,000.
 - c. An individual shall be delegated to authorize use of emergency procurement procedures for maintenance procurements in the Hagerstown region when the cost does not exceed \$5,000.

- d. The director of facilities maintenance is authorized to use emergency procurement procedures for maintenance procurements in the Hagerstown region.
- 5. Only the Commissioner or the Deputy Commissioner, when the Commissioner is not available, may authorize the use of emergency procurement procedures when the anticipated contract cost is more than \$5,000 or the procurement is restricted. If a managing officer has reason to believe that an emergency contract may cost more than \$5,000 or if the use of emergency contract procedures is restricted, the managing officer shall take the following actions prior to allowing a contract to be awarded:
 - a. Obtain authorization from the Commissioner;
 - b. If the use of emergency procurement procedures is restricted, obtain authorization from:
 - (1) The director of facilities maintenance or designee in the case of emergency procurements for plant maintenance, construction or repairs; or,
 - (2) The appropriate State agency for other types of restrictions.
- 6. In each instance when the use of emergency procurement procedures has been authorized, the authorizing authority shall designate a person who may award the emergency contract.

B. Procurement

- 1. The goods or services being procured shall be limited to the amounts necessary to abate the emergency situation.
- 2. Staff shall obtain as much price competition as is practical, given the nature of the emergency. In particular, if minority business enterprises are available, they shall be contacted for bids.
- 3. The person who solicits the bids shall record, in the manner determined by the chief procurement officer, the following solicitation information:
 - a. The name of each firm solicited
 - b. The name of the person contacted at each firm
 - c. The price quoted by each firm
 - d. Other information which will be used to select a vendor, such as the time necessary to complete the work from the date of contract award.

4. Every contract made using emergency procurement procedures shall be awarded to the vendor with the lowest price unless the person making the award states in writing the reason for using a basis other than the lowest price.
5. The chief procurement officer shall document all oral contracts costing more than \$500 by preparing and having executed a written contract such as a purchase order.
 - a. Such written contracts shall be marked "Confirmation Only; Do Not Duplicate."
 - b. In the case of purchase orders, the awarding authority shall sign as the procurement officer.
6. Institutional personnel should use the Division's contract documents rather than a contract prepared by a vendor. In the event that a vendor requires that the institution sign the vendor's contract, a managing officer may sign the contract only after it has been reviewed and approved by an assistant attorney general and the director of procurement services or the director's designee.

C. Reports

1. The managing officer shall have completed, within 7 calendar days of the award of an emergency contract, reports and other documentation as the institution's chief procurement officer determines are necessary to comply with COMAR, Title 21; regulations, directives and instructions of the Division of Correction; the Department of Public Safety and Correctional Services; the Department of Budget and Fiscal Planning; the Department of General Services; and, the Board of Public Works.
 - a. A report of emergency procurement action shall be completed for all emergency procurements which are estimated to exceed \$1,000.
 - b. A report of emergency procurement action shall be sent to the director of procurement services for all emergency procurements which are estimated to exceed \$5,000.
 - c. If the estimated cost of the emergency procurement is \$5,000 or less and the chief procurement officer determines that the report need not be sent to the director of procurement services,
 - (1) The awarding authority shall sign the report as the procurement officer.
 - (2) The authorizing authority shall sign the report as the agency head.

- d. If the estimated cost of the emergency procurement is not more than \$10,000 and the chief procurement officer determines that the report shall be sent to the director of procurement services,
 - (1) The managing officer shall sign the report as the procurement officer.
 - (2) The chief procurement officer shall have the original copy of the completed report sent to the director so that the director may arrange for the Commissioner to sign the report as the agency head.
- e. When the estimated cost of the emergency procurement is more than \$10,000,
 - (1) The chief procurement officer shall have the original copy of the completed documentation sent to the director.
 - (2) The director shall review the documentation for completeness and shall send it to the Commissioner who shall sign the report as the procurement officer.
 - (3) The director shall, after the Deputy Commissioner has signed, send the documentation to the Deputy Secretary. The Deputy Secretary shall sign the report as the agency head.
- 2. The chief fiscal officer or the managing officer for the institution making an emergency procurement shall make funds certifications required by the report before any other signatures are obtained.
- 3. The chief procurement officer shall maintain a separate file containing a legible copy of all documents relating to each emergency contract including, but not limited to, any solicitation information, reports and statements concerning awards made on a basis other than the lowest price.
- 4. Unless the Secretary otherwise permits, the Commissioner may not delegate the signing of reports.

D. No institutional directive is required.

VII. Attachments: None

VIII. Rescission: DCD 65-2, dated August 15, 1990

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