

**CITY OF NEW ORLEANS  
CHIEF ADMINISTRATIVE OFFICE**

**POLICY MEMORANUM NO. 119(R)**

**Date: June 28, 2013**

To: All Departments, Boards, Agencies and Commissions

From: Andrew D. Kopplin, First Deputy Mayor and Chief Administrative Office

Subject: **EMERGENCY PROCUREMENT PRACTICE**

**I. PURPOSE AND USE.**

- A. This policy memorandum states City administrative guidance for City procurement practice during declared emergencies. This policy does not apply to emergencies declared by the City Council pursuant to City Code Sections 70-428 and 70-429 (See Chief Administrative Office Policy Memorandum No. 42 (R)).

**II. AUTHORITY**

- A. The Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, et seq., confers upon the Mayor of the City of New Orleans emergency powers to deal with emergencies and disasters of unprecedented size and destructiveness resulting from terrorist events, enemy attack, sabotage, or other hostile action, or from fire, flood, earthquake, or other natural or manmade causes.
- B. The Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:727 (F) (1) confers upon the Mayor to suspend the provisions of any regulatory ordinance prescribing the procedures for conduct of local business, or the orders, rules, or regulations of any local agency, if strict compliance with the provisions of any ordinance, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency.
- C. Chapter 3, Section 4-302(5) of Home Rule Charter of the City of New Orleans provides that the Chief Administrative Officer shall, "Prescribe accepted standards of administrative practice, to be followed by all offices, departments, and boards."

**III. POLICY**

- A. The Mayor of the City of New Orleans makes the official declaration of a "State of Emergency" and issues an official Mayoral Proclamation identifying the effective date and cause of the emergency. The emergency period for procurement related matters begins at this point.
- B. This policy on emergency procurement ends when the NOHSEP Director reactivates normal procurement processes. However, if a procurement specifically related to the declared emergency is made after regular procurement processes are reactivated, approval by the NOHSEP is still required.
- C. Departments shall not order, request, lease or otherwise procure any goods or services during an emergency without the written approval of the NOHSEP Director, and the issuance of a purchase order by the Bureau of Purchasing. Only purchases related to the declared emergency can be made during the emergency period.

- D. Only the NOHSEP Director or the Mayor may sign resource requests for State or Federal assistance.
- E. The normal requirements for competitive procurement continue during emergencies:
  - a. State law and the City Charter allow competition to be waived only for movables, subject to approval by the NOHSEP Director and the CPO, or their corresponding designees<sup>1</sup>. For approved non-competitive procurements, the Bureau of Purchasing will contact or locate an available supplier or provider and complete the transaction by purchase order.
  - b. Departments should follow normal competitive procurement unless it can demonstrate that a "competitive market does not exist" or "extreme urgency exists."
- F. Professional services needs over \$15,000 allow for emergency procurements with as much competition as is practicable under the circumstances, under MJL 10-05, section 20, subject to approval by the Mayor or CPO and the City Attorney.
- G. Procurement specifications have the same requirements as under normal circumstances, and must allow for equivalent products.
- H. DBE requirements do not apply during emergencies, but DBE participation is encouraged.
- I. Departments are responsible for maintaining all records related to emergency procurements, including Resource Requests solicitations (attachment A), any non-competitive justifications, and vendor quote support<sup>2</sup>.
- J. Any purchases made related to the declared emergency that circumvent the policy outlined herein will not be considered reimbursable and the department, agency or board responsible for the purchase will bear full financial responsibility out of their yearly appropriation.

#### **IV. PROCEDURE**

##### **A. Before an Emergency**

- 1) Departments should proactively procure and enter into contracts for all foreseeable declared emergency related needs by following regular procurement processes.

##### **B. During the Emergency**

- 1) CAO (ITI) will: 1) back up and then shutdown procurement and contract related systems (currently BuySpeed, AFIN, ECMS) after a disaster is declared by the Mayor, 2) establish an emergency procurement tracking system, and 3) reactivate regular procurement related systems when the NOHSEP Director reactivates normal procurement processes.
- 2) Departments that have emergency needs during a declared event should request these needs using:
  - a) Resource Request Forms for all purchases (attachment A), detailing specific needs,
  - b) Information regarding justification for non-competitive procurement, if applicable (See section III subsection E above),

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<sup>1</sup> (RS 38:221D and 2212.1K exempt all bid requirements during declared emergencies, and City Charter allows movables to not have competition, if state law allows, during emergencies)

<sup>2</sup> Emergency phone bid quote forms (attachment C), if applicable

- c) Vendor quotes,
- d) Emergency Contract Expediency Form (attachment B), if needed. See contracting section (4) below regarding contract requirements.

Once approval is granted, departments shall obtain a Purchase Order from the Bureau of Purchasing, prepare a contract unless waived by the Law Department and submit the contract for approval, and complete the transaction with the vendor. If an active contract not originally procured for declared emergency needs is utilized to resolve any issues directly arising from a declared emergency, the department seeking the resources shall submit a Resource Request Form for approval of the NOHSEP Director describing the additional needs.

- 3) **Request Response, Decision and Referral** – The NOHESP Director or his designee will approve Resource Requests. The EOC will refer validated Resource Requests for internal (City) or external (state, federal or other) response according to need and availability. If practicable, the EOC will apply stocked City materials, equipment and supplies, City personnel and serviceable contracts to satisfy emergency needs. The EOC has the authority to transfer resources from one department to another or to an outside agency if the NOHSEP Director deems this necessary to accomplish the objective.
  - a) Request Response, External Routing - The EOC will use Web EOC as the primary source to request external response to validated resource requests and for documentation purposes.
  - b) Request Response, Internal Routing -For all internal responses, the EOC will route all validated Resource Requests to the City's Bureau of Purchasing for procurement.
- 4) **Contracting**
  - a) The City will obtain written contracts for emergency needs in the same manner it obtains contracts for general needs: contracts shall be obtained according to the complexity, duration and other circumstances, not limited to dollar value. Services procurements (professional or non-professional) generally require contracts regardless of value. One-time, simple purchases generally do not require contracts, unless there are ancillary services provided as part of the purchase (i.e., servicing, maintenance, licensing, etc.). All leases, equipment rentals, and "requirements" or "price protection" procurements generally require contracts. The Law Department shall determine whether a contract is required in any given circumstance.<sup>3</sup>
  - b) When new contracts are needed during a declared emergency, such contracts shall only address emergency needs and shall only remain active for the period of time needed to respond to that particular declared emergency. Emergency procurements and/or contracts shall not be used to obtain non-emergency goods and services.
  - c) The originating departments will obtain contractor signatures and submit the contracts to Law Department for manual approvals routing and execution by using the emergency contract expediency form (Attachment B). Contracts for emergency require approval by the Department, NOHSEP Director/Delegate,

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<sup>3</sup> See also CAO Policy Memoranda 8(R) for professional services and 24 (R) for movable property and non-professional services.

Finance Department and Law Department before execution.

- d) **Signature Authority**: Only the Mayor, or under the Mayor's authorization, the Director of Finance or the Director of Property Management may sign City contracts (City Charter Section 6-308 [1]).

### **C. After an Emergency**

1) Departments must:

- a) Enter all declared emergency related contracts into ECMS for formal posting
- b) Maintain all documentation including POs, Resource Request, quotes, contracts and invoices related to the declared emergency
- c) Review and corroborate that all invoiced amounts are correct and process invoices for payment
- d) Ensure all FEMA documentation is properly gathered and completed in a timely manner.

### **V. INQUIRIES**

Questions regarding this memorandum should be forwarded to the First Deputy Mayor-Chief Administrative Officer Andrew D. Kopplin at (504) 658-8900.

Andrew D. Kopplin

First Deputy Mayor and

Chief Administrative Officer