**Section 500.350 Emergency Procurements**

a) Application

The provisions of this Section apply to every procurement over the small purchase limit set in Section 500.330 (Small Purchases) of this Part and that is not a sole source procurement under Section 500.340 made under emergency, including quick purchase, conditions.

b) Definition of Emergency Conditions

Procurements may be made under this Section 500.350 in the following circumstances:

1) Traditional circumstances include but are not limited to:

A) public health or safety, including the health or safety of any particular person, is threatened;

B) immediate repairs are needed to OAG property to protect against further loss or damage to OAG property, or to prevent loss or damage to OAG property;

C) immediate action is needed to prevent or minimize serious disruption in critical OAG services that affect health, safety or collection of substantial State revenues;

D) action is needed to ensure the integrity of State records;

E) equipment or services are necessary in the furtherance of covert activities (including the conduct of audits and investigations) lawfully conducted by the OAG. Any required disclosures may be postponed or shall be made so as not to jeopardize those covert activities;

F) immediate action is necessary to avoid lapsing or loss of federal or donated funds; or

G) the need for items to protect or further State interests is immediate and use of other competitive source selection procedures under this Part cannot be accomplished without significant risk of causing serious disadvantage to the State.

2) After Unsuccessful Competitive Sealed Bidding or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or non-competitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding or competitive sealed proposals, an emergency procurement may be made.

3) Extension to Allow Competition. Extending an existing contract for such period of time as is needed to conduct a competitive method of source selection when terminating or allowing the contract to terminate would not be advantageous to the OAG.

4) Quick Purchase

A) A supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is more advantageous to the OAG than instituting a competitive procurement under the provisions of this Part for the supplies or services;

B) 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;

C) availability of rare items, such as books of historical value;

D) the procurement is for entertainment.

c) Scope and Duration of Emergency Conditions

Emergency procurements shall be limited to those supplies, services or construction items necessary to meet the emergency. Except as otherwise provided in Section 500.320(c)(3), the term of the emergency purchase shall be limited to the time reasonably needed for a competitive procurement, not to exceed 90 calendar days. A contract may be extended beyond 90 calendar days if the Procurement Officer determines additional time is necessary and the contract scope and duration are limited to the emergency. Prior to execution of the extension, the Procurement Officer must hold a public hearing and provide written justification for all emergency contracts. Members of the public may present testimony.

d) Source Selection Methods

Any method of source selection, whether or not identified in this Part, may be used to conduct the procurement in emergency situations. The procedure used shall be selected to assure that the required items are procured in time to meet the emergency. Such competition as is practicable shall be obtained.

e) Determination and Record of Emergency Procurement

1) Determination. The Procurement Officer shall make a written determination stating the basis for an emergency procurement and for the selection of the particular contractor. These determinations shall be kept in the contract file.

2) Record. A statement of each emergency procurement shall be filed with the Auditor General within 10 calendar days after the procurement and shall include the following information:

A) the vendor's name;

B) the amount and type of the contract, provided that if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known;

C) a description of what the vendor will do or provide; and

D) the reasons for using the emergency method of source selection.

3) Notice of the Emergency Procurement. Notice of the emergency procurement shall be published in the Auditor General Bulletin no later than 5 calendar days after the contract is awarded and shall include a description of the procurement, the reasons for the emergency procurement and the total cost. When only an estimate of the total cost is known at the time of publication, the estimate shall be identified as an estimate and published. When the actual total cost is determined, it shall also be published in like manner before the 10th day of the next succeeding month.

4) Notice of Extension. Notice of intent to extend an emergency contract shall be published in the Auditor General Bulletin no later than 14 calendar days prior to a public hearing. Notice shall include at least a description of the need for the emergency purchase, the contractor and, if applicable, the date, time and location of the public hearing. Any hearing shall be conducted in accordance with the procedures set forth in Section 500.1340.

(Source: Amended at 42 Ill. Reg. 3193, effective February 16, 2018)