



# *Emergency Procurements*

**Office of State Procurement**



# Emergency Procurements

## 1. Core Aspect of OSP Mission

- OSP EOC personnel activated since March 2020
- All OSP staff "essential personnel" as condition of employment
- Something planned for year-round, not just Hurricane Season
- "All hazards" preparation and approach, not just gulf storms

## 2. Two 'Types' of Emergencies

- "Usual" Emergencies (e.g.: OJJ facility water line burst)
- Catastrophic Emergencies (e.g.: hurricane)
- Some obvious differences, but basic approach the same



# Emergency Procurements

## 3. Authority for Emergency Procurements

- R.S. 39:1598: "The chief procurement officer or his designee above the level of procurement officer may make or authorize others to make emergency procurements when there exists an imminent threat to the public health, welfare, safety, or public property under emergency conditions as defined in accordance with regulations."
- Governor's Proclamation(s) / Executive Orders
  - Especially useful re. relaxation of administrative logistics and formalities (e.g. suspension of requirement to have in-person bid openings)
  - Existing statutory authorization makes procurement less reliant than some processes of government on executive proclamations and orders.



# Emergency Procurements

## 4. How are emergency procurements different?

- Faster Pace – need to respond immediately, not 21+ days later
- Stakes – life, health, and/or property is at immediate risk
- Fragmented Info – full picture not always clear in crisis
- Fewer Suppliers – many businesses closed or inaccessible
- Logistics – road closures, weather impacts, loss of power
- Funding Source – federal funds mostly, instead of state funds
- Funding Rules – federal rules take precedence over state rules

## 5. Despite these challenges, procurement still a must

- Equip GOHSEP, LDH, DCFS, etc. with vital goods and services
- Bring together supplier community with end users in need
- Ensure compliance with state and federal regulations
- Maximize chance of reimbursements without disallowances



# Emergency Procurements

## 6. Need for Flexibility

- Relying on partial information for urgent, high-stakes, actions
- FEMA rules require compliance with the more stringent of federal or state procurement regulations (typically state) in effect at time
- Partial relaxation of state regulations brings us into alignment
- Reduced chance for disallowances caused by unrealistic standards
- Flexibility must be applied to immediate needs only, not regular

## 7. Trade-Offs

- There is a clear trade-off in using shortened/informal mechanisms
- OSP strives to go beyond minimum requirements where possible
- We never want to overuse (or appear to) discretionary authority
- OSP consistently aims to sustain maximum reasonable competition



# Methods

## 8. Emergency Contingency Contracts

- Over 100 emergency-contingency contracts available to activate
- Special purpose goods and services (MREs, bulk ice, refrig. trucks)
- Bid in advance of hurricane season, long before needed
- Ready and available with pre-negotiated pricing and priority access
- Contracts updated after each emergency based on lessons learned
- Pros: lower pricing; don't have to scramble to establish at landfall
- Cons: bid during the off-season so some vendors aren't watching

## 9. Existing Statewide Contracts

- No need to reinvent the wheel if the regular contractor can provide
- Many emergency goods and services also have regular use needs
- Pros: pricing, better compliance documentation, familiar vendors
- Cons: minimal. Some emergency needs not on regular contracts.



# Methods

## 10. Request for Quotations (RFQ)

- Abbreviated invitation-to-bid (ITB) process introduced for COVID
- Sent to all LaPac-registered vendors, not just selected vendors
- Balancing act between regular ITB and Three Quotes process, in terms of medium speed, more transparency, and more competition
- Leverages existing LaPac registrations and allows public viewing
- OSP continually adds known/introduced providers to resource lists
- Event duration tailored to meet the need's urgency / complexity

## 11. Three Quotes

- Minimum level of competition – built for speed over transparency
- Three vendors contacted individually (not posted globally) and asked for their pricing. Award can then be made immediately.
- Narrowed visibility and timeline can exclude eligible providers
- HCR 31 by Rep. Lyons asks agencies to use RFQ process instead



# Considerations

## 12. Prohibition on Geographic Preferences

- Greater role of federal funding reinforces need for compliance with federal procurement regulations on sub-grantees
- 2 CFR 200.319: "The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals"
- Non-compliant procurements are ineligible for Federal funding
  
- Reciprocal Geographic Preferences: R.S. 39:1604.5(C)
- Intentionally reducing competition by excluding non-local companies will increase costs, not only because there are fewer bidders, but also because those remaining bidders know there's less incentive to sharpen their pencils.