Emergency Procurements

Office of State Procurement
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
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.
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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
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
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.