



City of Fitchburg, Massachusetts Procurement Department

POLICY FOR EMERGENCY PROCUREMENTS

OBJECTIVE

The goal of this policy is to provide a reference tool for emergency procurements.

SUPPLIES AND SERVICES

The Chief Procurement Officer may approve an emergency procurement when the situation would “endanger the health or safety of the people or property.” In an emergency situation, a procurement must comply with the law to the greatest extent possible while attending to the emergency.

Any department head having an emergency procurement must document the situation and submit in writing to the CPO within one business day of the event. The document must contain:

- The basis for the emergency procurement
- The name(s) of the vendor/contractors used
- The dollar amount committed to the emergency
- List of supplies and/or services procured

BUILDING CONSTRUCTION

Prior approval of DCAMM is required on any emergency purchase under the provisions of c. 149. The provision states that an emergency is to “preserve the health or safety of persons or property, or to alleviate an imminent security threat.”

Any department head having an emergency procurement must document the situation and submit in writing to the CPO immediately in order for a DCAMM waiver to be submitted in a timely manner.

DCAMM approval may waive public notice or bidding requirements for the work necessary. If the nature of the emergency precludes prior approval, the city may contract for only the work that is absolutely necessary, and seek subsequent approval from DCAMM. Although formal bidding may be waived, the city should solicit more than one source if at all possible in the time constraint.

Emergency procurements are also subject to the Prevailing Wage Law; therefore the CPO will apply for prevailing wages as soon as notification of the emergency work is received.

Note: If DCAMM denies the city’s request, work must stop immediately.

You may not artificially create an emergency simply by putting off normal maintenance and repair work. If you knew or should have known that a repair was warranted and you had time to correct it using normal bidding procedures, DCAMM will not allow you to justify the use of emergency procedures.

PUBLIC WORKS CONSTRUCTION

Prior approval of DCAMM is required on any emergency purchase under the provisions of c. 39, 39M. The provision states that an emergency is defined as “extreme emergency caused by enemy attack, sabotage or other such hostile actions or resulting from an imminent security threat explosion, fire, flood, earthquake, hurricane, tornado or other such catastrophe.”

Any department head having an emergency procurement must document the situation and submit in writing to the CPO immediately in order for a DCAMM waiver to be submitted in a timely manner.

DCAMM approval may waive public notice or bidding requirements for the work necessary. If the nature of the emergency precludes prior approval, the City may contract for only the work that is absolutely necessary, and seek subsequent approval from DCAMM. Although formal bidding may be waived, the City should solicit more than one source if at all possible in the time constraint.

Emergency procurements are also subject to the Prevailing Wage Law; therefore the CPO will apply for prevailing wages as soon as notification of the emergency work is received.

Note: If DCAMM denies the City's request, work must stop immediately.

Only work absolutely necessary to temporarily repair and restore service, or to preserve the health and safety of persons or property is allowed to be performed without a procurement; however, no permanent reconstruction, alteration, remodeling or repair of any public work is allowed. And similar to building construction emergencies under MCL c. 149, you cannot artificially create an emergency by putting off normal maintenance and repair work.

Documentation Required for Request of Procurement Waiver for Public Construction Emergencies

The procurement team requires all items on the list below to comply with DCAMM regulations for an emergency request of both public works construction and building construction categories. The request is sent to the Commissioner of DCAMM by the Chief Procurement Officer. Please use the following checklist to determine what supporting information you should provide to the CPO:

1. Do you need a waiver of the bidding requirements, advertising requirements, or both?
2. Describe the nature of the extreme emergency and how it creates an immediate threat to the health or safety of people or property:
3. How and when did you become aware of the emergency situation?
4. What is the scope of work necessary to preserve the health or safety of persons or property for which you need an emergency waiver?
5. Why will time requirements involved in the standard bidding process not suffice?
6. Is there a way maximize competition by using another competitive process? If not, explain why.
7. What is the estimated dollar value of the emergency scope of work?

Please attach relevant information such as letters, reports, orders, or other supportive documentation from expert consultants and local or state officials, if any. Note that when Emergency Waivers are granted, we must still comply with prevailing wage, bonding and DCAMM contractor certification requirements.