

EMERGENCY PROCUREMENT GUIDANCE

Non-Competitive Emergency Procurement provides flexibility to School Food Authorities (SFAs) when an urgent need or emergency circumstances arise. Please refer to the following guidance for assistance when emergency purchases are necessary:

Emergency Purchases may be considered if the following conditions are met:

- There is a valid and documented emergency
- Events that led to the emergency were unforeseeable (not due to poor planning)
 - *(i.e., Vendor/Food Service Management Company unexpectedly discontinued services)*
- Other procurement options are unavailable or unfeasible
 - *(Ex: State-Wide Contract for milk currently unavailable for Region 3)*

For each Emergency Purchase, SFAs should:

- Consider if micro-purchasing or small purchasing procurement options are feasible
- Maintain documentation for justification of the non-competitive award and/or purchases
- Limit purchases to only what is necessary and reasonable
- Use good judgement when utilizing emergency purchases *(ex: If prices are higher than the normal market, ensure that you can secure decreased pricing later on)*
- Assess whether conditions for emergency events are still met before conducting subsequent procurements
- Plan to re-solicit contracts when the emergency has ended *(or reinstate the current suspended contract due to vendor's temporary inability to fulfill orders or due to force majeure)*

Recommended documentation for Emergency Purchases (at a minimum):

- Written justification for emergency purchase
 - *(ex: Due to the COVID-19 pandemic, vendors are experiencing unexpected supply chain complications. The SFA has an urgent need to replace missing foods or paper goods with alternative sources or products quickly.)*
- Supporting documentation for justification when applicable
 - *(ex: Email communication, letters from manufacturers and vendors, invoices, emergency purchase logs, etc.)*
- Good(s) or Service(s) required or purchased
- Unit Price for good(s)/service(s)- Extended price for good(s) or services(s)
- Vendor Name and address
- Date of purchase
- Approval/Signature of designated authorities

Please note that an “emergency” is a situation that calls for immediate action that does not justify the time needed to procure through a competitive solicitation. Lack of advanced planning does not constitute a valid justification for an emergency purchase. Emergency non-competitive procurement methods are a standing flexibility and **do not require a waiver**. Use of the emergency exception is only permissible during actual emergency circumstances, and when possible, all procurement should be as competitive as time permits. Once the emergency circumstances cease to exist, the SFA is expected to transition to a more appropriate method of contracting using full and open competition. SFAs are encouraged to consult their legal counsel for additional insight on contract terms and conditions.

For additional information from USDA, please visit: [Planning for a Dynamic School Environment During School Year 2021-2022: Summary of Flexibilities | USDA-FNS](#)