



State of Ohio Administrative Policy

Emergency Purchasing Procedures

No:

Procurement
PM-02

Effective:

February 1, 2019

Issued By:

Robert Blair, Director

1.0 Purpose

Occasionally, a situation may occur that requires the expedited ***purchase*** of ***supplies*** and/or ***services***. These situations may also make it difficult to follow general procurement laws established in Ohio Revised Code (R.C.) chapters 125 and 127 and standard procurement policies and procedures that have been established by the Department of Administrative Services (DAS), including Ohio Administrative Policy (OAP) PM-01 *Purchasing Procedures*.

The purpose of this policy is to provide ***State Agency*** officials with information regarding procurements during an ***emergency*** or ***state procurement emergency*** to facilitate fast and efficient procurement of supplies and services during these events pursuant to R.C. 125.061.

A glossary of terms found in this policy is located in Appendix A - Definitions. The first occurrence of a defined term is in ***bold italics***.

2.0 Policy

State Agencies that must buy supplies and/or services from suppliers during an emergency or state procurement emergency are expected to adhere to the following. Purchases shall be limited to those supplies and/or services necessary to respond to the emergency or state procurement emergency.

2.1 **Preparing for an Emergency or State Procurement Emergency:** State Agencies should prepare for emergencies and state procurement emergencies by adhering to the following guidelines:

2.1.1 Identify supplies and/or services that could be needed or may potentially be exhausted during an emergency or state procurement emergency.

- 2.1.2 Understand what current **state contracts** are available from DAS. If a current state contract may be of assistance during an emergency or state procurement emergency, State Agencies should ensure they are familiar with the contract and how to contact the supplier in the event of an emergency or state procurement emergency.
- 2.1.3 If there are no current state contracts available to fulfill a need for a potential procurement need during an emergency or state procurement emergency, carefully evaluate the need for a state contract to be established and if warranted, work with DAS to establish one in accordance with OAP PM-01 *Purchasing Procedures*. If DAS is unwilling or unable to set up the desired contract, the State Agency may set up the contract themselves if needed by following the standard procurement guidelines set forth in OAP PM-01 *Purchasing Procedures*.

2.2 **During an Emergency:** The following guidelines shall be followed:

- 2.2.1 Upon a request to the Governor or the President of the United States for the declaration of an emergency, the Director of Public Safety or the Executive Director of the Emergency Management Agency shall concurrently submit a request to DAS to suspend the purchasing and contracting requirements contained within R.C. Chapter 125 and any requirement of R.C. Chapter 153 that would otherwise apply to the State Agency.

Pursuant to R.C. 125.061(B), the Governor is required to include “language requesting the suspension of [purchasing] requirements during the period of the emergency” in the proclamation of an emergency.

- 2.2.2 Requests to DAS should be submitted to the Chief Procurement Officer or the Office of Procurement Services. The Office of Procurement Services can be reached at 614-466-5090 (during normal business hours) or 614-512-1080 (during or outside of normal business hours). The request submitted to DAS shall include the following information:

- The State Agencies for which the purchasing and contracting requirements should be suspended, due to their participation in **response** and **recovery** activities;
- Details of the emergency; and
- A description of the supplies or services to be purchased.

- 2.2.3 DAS will review the request and if approved, before any purchases are made under a suspension for an emergency (or state procurement emergency), the Director of DAS will send notice of the approved suspension to the Director of the Office of Budget and Management (OBM) and to the members of the **Controlling Board** pursuant to R.C. 125.061 (D). The outcome of DAS’ review will also be communicated to the State Agency requesting the suspension.

2.2.4 Upon DAS' approval of the request to suspend the purchasing and contracting requirements and notice being provided in accordance with section 2.2.3 of this policy, the State Agencies granted a suspension may acquire the supplies or services necessary to resolve the emergency. State Agencies shall obtain a release and permit from DAS under R.C. 125.035 and comply with OAP PM-01 to fulfill needs through normal procurement methods whenever practical. Guidance on the use of payment cards (Pcards) to make purchases during an emergency or state procurement emergency can be found at http://finsource.ohio.gov/#mergedProjects/safe_manual/welcome_to_the_safe_manual.htm.

2.2.5 Pursuant to R.C. 125.061, purchases made by State Agencies under a suspension of the purchasing and contracting requirements contained within R.C. Chapter 125 and/or R.C. Chapter 153 are exempt from R.C. 127.16 – which is explained in section 2.4 of OAP PM-01.

2.3 **During a State Procurement Emergency:** The following guidelines shall be followed when a state procurement emergency arises:

2.3.1 The director or administrative head of the State Agency where the state procurement emergency exists shall submit a request to DAS to suspend the purchasing and contracting requirements contained in R.C. Chapter 125. Requests should be submitted in the same manner as described in section 2.2.2 of this policy. The request shall include the following information:

- Details of the state procurement emergency, including a description of the immediacy of the state procurement emergency;
- A description of the supplies and/or services needed that cannot be acquired through normal procurement methods in a timely manner.

DAS will review the request and if approved, provide notice in accordance with section 2.2.3 of this policy. State Agencies shall make purchases in accordance with section 2.2.4 of this policy.

2.3.2 State Agencies should note that situations involving an injury or obstruction to any public works of the state may be considered a **public exigency**, as opposed to a state procurement emergency. Public exigencies require the involvement of the Ohio Facilities Construction Commission (OFCC) and involve different processes than those explained above that can be found R.C. 123.10. State Agencies encountering these situations should contact OFCC.

2.4 **After an Emergency or State Procurement Emergency:** State Agencies making purchases under a suspension of the purchasing and contracting requirements contained within R.C. Chapter 125 and/or R.C. Chapter 153 must file a report with the President of the Controlling Board within 90 days after the declaration or state procurement emergency condition expires. The report shall describe all purchases made by the State Agency pursuant to the suspension of the purchasing and contracting requirements (i.e., all

purchases made to resolve the emergency or state procurement emergency). The report shall be in the same format as shown in Attachment 1 - *R.C. 125.061 Report – Purchases Made Under Suspended Purchasing and Contracting Requirements During a Declared Emergency*.

3.0 Authority

R.C. 123.10, 125.061, 5502.21; OAC 123:5-1-01-123:5-1-03

4.0 Revision History

Date	Description of Change
02/01/2019	Original policy.
02/01/2020	Scheduled policy review.

5.0 Inquiries

Direct inquiries about this policy to:

Kelly Sanders, Chief Procurement Officer
Office of Procurement Services
General Services Division
Ohio Department of Administrative Services
4200 Surface Road, Columbus, Ohio 43228

614-752-5259 (Office) | 614-512-1080 (Cell) | Kelly.Sanders@das.ohio.gov

Direct inquiries about public exigencies to:

Ohio Facilities Construction Commission
30 West Spring Street, 4th Floor, Columbus, Ohio 43215
Phone: 614-466-6290 | info@ofcc.ohio.gov

State of Ohio Administrative Policies may be found online at
<http://das.ohio.gov/Divisions/AdministrativeSupport/StateAdministrativePolicy.aspx>

6.0 Attachments

Attachment 1: R.C. 125.061 Report – Purchases Made Under Suspended Purchasing and Contracting Requirements During a Declared Emergency

R.C. 125.061 Report - Purchases Made Under Suspended Purchasing and Contracting Requirements During a Declared Emergency <i>(Due to the Controlling Board President within 90 days after the declaration of emergency expires, pursuant to R.C. 125.061(C))</i>								
Agency (3 digit id)	Supplier ID	Supplier Name	Purchase Order No.	Voucher ID	Items Purchased	Units	Cost Per Unit	Total Paid
							Total Spent	\$-

Appendix A - Definitions

- a. Controlling Board. A seven-member public body consisting of three members of the Ohio House of Representatives, three members of the Ohio Senate, and chaired by the Director of Budget and Management or the Director's designee. The Board is authorized by law to make certain necessary budget adjustments and approve specified agency purchases or requested exceptions from otherwise required purchasing processes.
- b. Emergency. As defined in R.C. 5502.21, any period during which the congress of the United States or a chief executive (e.g., the President of the United States or the Governor) has declared or proclaimed that an emergency exists.
- c. Public exigency. As defined in R.C. 123.10, an injury or obstruction that occurs in any public works of the state and that materially impairs its immediate use or places in jeopardy property adjacent to it; an immediate danger of such an injury or obstruction; or an injury or obstruction, or an immediate danger of an injury or obstruction, that occurs in any public works of the state and that materially impairs its immediate use or places in jeopardy property adjacent to it.
- d. Purchase. As defined in R.C. 125.01, means to buy, rent, lease, lease purchase, or otherwise acquire supplies or services. "Purchase" also includes all functions that pertain to the obtaining of supplies or services, including description of requirements, selection and solicitation of sources, preparation and award of contracts, all phases of contract administration, and receipt and acceptance of the supplies and services and payment for them.
- e. Recovery. As defined in R.C. 5502.21, all those activities required and necessary to return an area to its former condition to the extent possible following the occurrence of any hazard.
- f. Response. As defined in R.C. 5502.21, all those activities that occur subsequent to any hazard and that provide emergency assistance from the effects of any such hazard, reduce the probability of further injury, damage, or destruction, and are designed or undertaken to speed recovery operations.
- g. Services. As defined in R.C. 125.01, means the furnishing of labor, time, or effort by a person, not involving the delivery of a specific end product other than a report which, if provided, is merely incidental to the required performance. "Services" does not include services furnished pursuant to employment agreements or collective bargaining agreements.
- h. State Agencies. Includes every DAS superintended organized body, office (including boards and commissions), or agency established by the laws of the State for the exercise of any function of state government. This does not include those bodies, offices, or agencies listed in R.C. 125.02 (A) (1) through (6).
- i. State Procurement Emergency. As defined in R.C. 125.061, a situation that creates all of the following: (1) a threat to public health, safety, or welfare; (2) an immediate and serious need for supplies or services that cannot be met through normal procurement methods required

by state law; and (3) a serious threat of harm to the functioning of state government, the preservation or protection of property, or the health or safety of any person.

- j. Supplies. As defined in R.C. 125.01, means all property, including, but not limited to, equipment, materials, other tangible assets, and insurance, but excluding real property or an interest in real property.

Appendix B - Resources

Document Name
<i>Ohio Administrative Policy PM-01, "Purchasing Procedures"</i> ; Ohio Department of Administrative Services, 2019. https://das.ohio.gov/Portals/0/DASDivisions/CollectiveBargaining/pdf/PM-01%20Purchasing%20Procedures%20signed.pdf?ver=2018-12-28-163741-617
<i>State of Ohio Procurement Handbook for Supplies and Services</i> ; Ohio Department of Administrative Services, 2014. http://procure.ohio.gov/pdf/PUR_ProcManual.pdf .
<i>State of Ohio Procurement website</i> ; Ohio Department of Administrative Services. http://procure.ohio.gov/proc/index.asp .