



ADMINISTRATIVE POLICIES

SECTION:	900 – Purchasing	POLICY #:	910
TITLE:	Emergency Procurement – Public Contracting Rules	PROCEDURE #:	N/A
		ORDER #:	20-110
DEPT:	Finance	PROGRAM:	Procurement
ADOPTED:	12/20	REVIEWED:	REVISED:

PURPOSE: The purpose of this policy is to amend regular procurement and contracting rules in order to implement emergency protective measures in the event of an incident that requires immediate and emergent response.

AUTHORITY: The Marion County Board of Commissioners may establish rules and regulations in reference to managing the interest and business of the county under ORS 203.010, 203.035 and 203.111.

The Marion County Board of Commissioners expresses the governing body’s official, organizational position on fundamental issues or specific repetitive situations through formally adopted, written policy statements. Policy statements serve to provide rules for public officials on the conduct of county business.

Marion County Administrative Policies and Procedures outline the methods through which the Board of Commissioners takes formal action on administrative policy. They are the official record of county administrative policy.

APPLICABILITY: All county departments.

GENERAL POLICY: In the event of an emergency, or exigent circumstances when Marion County declares a disaster or emergency, this policy modifies the county’s regular purchasing practices to ensure that the county is able to acquire the goods and services necessary to implement emergency protective measures to address immediate threats to life, public health and safety, or improved public or private property through cost-effective measures while still maintaining an effective purchasing process that complies with applicable local and state purchasing laws.

When the county is included in a major disaster or emergency declared by the President of the United States, this policy also

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assures that county procurements comply with Title 2 of the Code of Federal Regulations, Part 200. (2 CFR Part 200).

DEFINITIONS: For purposes of this Policy,

Declared disaster or emergency: Exists if the Marion County Board of Commissioners, Emergency Management Board Designee, or the next available position as identified in section 2.35.050 of the Marion County Code Succession of Authority, has declared an emergency in the county.

Emergencies: The existence of a threat to life, public health or safety, or improved property requiring immediate action to alleviate the threat

Emergency management board designee: (Marion County Code 2.35.030)

Annually, when the board of commissioners assigns its committee appointments, the board of commissioners shall appoint one of its members as an emergency management board designee (“the emergency management board designee”) who shall facilitate communication and coordinate emergency management planning and functions between the emergency management director, the board of commissioners, the sheriff, the health department, and other interested parties and groups both inside and outside Marion County.

Emergency protective measures: Measures taken before, during, and after a disaster to save lives, protect public health and safety, and protect improved public and private property. This includes: emergency operations center activation; warning devices (barricades, signs, and announcements); search and rescue; security forces (police and guards); temporary stabilization measures; sandbagging; bracing/shoring damaged structures; mass sheltering costs (when conducted by an eligible applicant); emergency temporary repairs; removal of health and safety hazards; and provision of food, water, and ice for distribution.

Exigencies: The existence of an immediate need to avoid, prevent, or alleviate serious harm or injury, financial or otherwise, to the county or its assets.

Exigent circumstances: Situations in which a disaster or emergency has been declared, and there is an urgent need for goods and services required to address an immediate threat to life, public health or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures will not permit competitive solicitation.

Purchase(s): The purchase(s), rental(s) or lease(s) of goods or services related to a declared emergency or disaster.

Simplified acquisition threshold: The dollar amount below which a non-federal entity may purchase property or services using small purchase methods, as set forth in Title 2 of the Code of Federal Regulations, Part 200, as it may be amended from time to time.

POLICY GUIDELINES:

1. RESPONSIBILITIES

1.1. Notwithstanding the terms of this policy, nothing contained herein shall conflict with federal procurement regulations as currently defined in 2 CFR Part 200.

1.2. Delegations of Purchasing Authority in an Emergency

1.2.1. In the event of an emergency, the Board of commissioners shall approve emergency incident related rentals or purchases, and grant agreements that are more than \$250,000.

1.2.2. In order to respond to an emergency incident, the chief administrative officer (CAO) has authority, subject to the limitations set forth in sub-sections 1.2.3 and 1.2.4, to approve the immediate rental or purchase of any equipment, supplies, services or other necessary items.

1.2.3. Limits of Single Purchase Authority.

1.2.3.1. On their signature alone, the CAO shall have the authority to approve response and recovery related rentals or purchases, and grant agreements that are not more than \$250,000.

1.2.4. Limits of Aggregate Purchase Authority.

1.2.4.1. The CAO shall have the authority on amendments that do not exceed 25% of the original contract price on his or her signature alone.

1.2.5. Sub-delegation to Chief Financial Officer (CFO).

1.2.5.1. The CFO shall be a designee of the CAO at any time that the CAO is not available to approve purchases as allowed in this section.

1.2.6. Sub-delegation of Purchasing Authority to Department Heads.

1.2.6.1. The county's department heads, elected officials, or their designees shall have authority to approve immediate rental or purchase of any equipment, supplies, services, or other items necessary to respond to an emergency, up to a maximum of \$100,000.

1.2.7. If neither the CAO nor CFO is available, the county's emergency management director shall have authority to approve immediate rental or purchase of any equipment, supplies, services, or other items necessary to respond to an emergency incident, up to a maximum of \$250,000.

1.2.8. Sub-delegation of Purchasing Authority to Contracts and Procurement Manager.

1.2.8.1. If neither the CAO nor the CFO is available, the contracts and procurement manager shall have authority to approve the immediate rental or purchase of any equipment, supplies, services, or other items

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necessary to respond to emergency incidents, up to a maximum of \$50,000.

1.2.9. Administrative Procedures/Reporting Requirements.

- 1.2.9.1. As soon as possible after purchases are made under this section, the emergency operations center logistics chief or incident command center representative shall submit to the contracts and procurement manager a requisition and a notation that the commodity has been ordered on an emergency basis from the supplier designated.
- 1.2.9.2. The contracts and procurement manager will inform the chief administrative officer and the board of commissioners of any individual purchase under this section with a contract amount greater than \$50,000, and also whenever the aggregate of purchases under this section is greater than \$50,000.

1.3. Procurement Procedures in Exigent Circumstances.

1.3.1. Upon receipt of requisitions under section 1.2, the contracts and procurement manager or designee shall prepare contracts or purchase orders for the emergency equipment, supplies, services, or other items in accordance with the requirements of this section.

1.3.2. Amount Thresholds.

- 1.3.2.1. Simplified acquisition threshold is the amount up to \$250,000.
- 1.3.2.2. Small purchases are those greater than \$10,000 and less than \$250,000.
- 1.3.2.3. Micro purchases are purchases up to \$10,000.
- 1.3.2.4. These thresholds include any applicable amendments or change orders. For instance, if the change order amount would increase the total contract amount to more than \$250,000, a competitive bidding process is required in accordance with federal procurement regulations defined in 2 CFR Part 200 (when a declared disaster is in effect).

1.3.3. Exempt Purchases.

- 1.3.3.1. Purchases below \$250,000 shall not be required to be formally bid.

1.3.4. Justification of Sole Source or Noncompetitive Contracts.

- 1.3.4.1. Where exigent circumstances require immediate procurement from the nearest available source, the contracts and procurement manager shall justify the use of a noncompetitive procurement.
- 1.3.4.2. Procurement should be limited to that portion of the work that must be performed immediately, allowing subsequent procurement by competitive proposals of the remainder of the work.
- 1.3.4.3. Sole source or noncompetitive acquisitions shall be allowed only for the following reasons: placement of emergency protective measures; procurement of commodities, goods, or services; acquisition or rental of emergency equipment, emergency consulting services, emergency road clearance; and/or other emergency requirements.

1.3.5. Meals.

- 1.3.5.1. Upon activation of the incident command center, staff operating under the incident command structure may be provided up to two meals daily, for up to two weeks of the initial emergency operations.

1.4. Notification and Approval

1.4.1. Posting of Contract Awards.

- 1.4.1.1. Under this section, all contracts awarded and purchases made, that exceed \$250,000 shall be presented to the board of commissioners for approval and thereafter, shall be publicly posted within sixty (60) days of the award.

1.4.2. Authority to Cancel Emergency Procurements.

- 1.4.2.1. As a provision of this policy, the county has the absolute authority to rescind a contract for non-performance within 24 hours when a contractor or supplier, once awarded a contract, is unable to perform under the terms of the contract and the resulting delay or non-performance presents an emergency incident.

1.4.3. Requirements for Separate Invoicing.

- 1.4.3.1. All purchases or rentals made during declared emergency conditions shall require separate invoicing from routine (non-disaster related) purchases.
- 1.4.3.2. All invoices shall state the goods, services, or equipment provided and shall specify where the goods or services were delivered.
- 1.4.3.3. All invoices shall specify the locations where the good or services were used if at all possible.
- 1.4.3.4. Any invoice which fails to properly identify the emergency function of the purchase and provide details as to the dates and locations as appropriate shall not be paid until such errors are corrected by the contractor and resubmitted in correct form.
- 1.4.3.5. Any invoice which mixes emergency and non-emergency purchases on the same document shall not be paid until such errors are corrected and resubmitted.
- 1.4.3.6. All records of purchases and rentals shall be audited by the county prior to payment to the supplier.

1.4.4. Auditing of Invoices for Debris Clearance Prior to Payment.

- 1.4.4.1. All invoices for debris clearance and removal shall be audited by the county prior to payment to the supplier.
- 1.4.4.2. Suppliers shall be notified of this requirement prior to the awarding of any contract for debris clearance and/or removal.
- 1.4.4.3. Audits shall be in accordance with procedures for debris removal monitoring specified in FEMA's Publication 325, Debris Management Guide.

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1.4.5. Limitations of Disaster Purchasing Policy.

1.4.5.1. For the purposes of this section, purchases are only exempt from Marion County's Public Contracting Rules in the initial phase of an emergency incident (that has been declared) and there is an immediate threat to life, public health, or safety, or a need to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures.

1.4.5.2. Marion County emergency procurement shall remain in effect for 96 hours from the declaration of an emergency, however, the Marion County Board of Commissioners, Emergency Management Board Designee, or the next available position as identified in section 2.35.050 of the Marion County Code Succession of Authority, may extend emergency procurement rules beyond 96 hours in order to respond to exigent circumstances.

2. EXCEPTIONS

There are no exceptions to this policy.

3. IMPLEMENTATION

This policy shall be implemented during an emergency, or exigent circumstances caused by a declared disaster or emergency, that requires emergency protective measures to protect life, public health and safety, and public and private property.

4. PERIODIC REVIEW

This policy shall be reviewed by the Finance Department at least every three years, or more often if needed, and updated as necessary.

Adopted: 12/20

Reviewed:

Revised: