

Quick Reference Guide: Emergency Contracting

I. All Contracts > \$10,000.00 (see Bulletin 3.5, Section VIII(D)(1)(c)):

A Department may enter into a sole source Contract for Services or Contract for Commodities valued at more than \$10,000.00 in an emergency situation as follows (subject to BGS's exclusive authority over commodities purchases):

1. Consult with Appointing Authority or designee regarding potential emergency need.
[Note: If the need (even if non-emergency) can be addressed through a pre-existing BGS Contract for Commodities, a Department may proceed directly to I(5)(A) below].
2. If an emergency need exists, notify the assigned Finance and Management budget analyst of emergency need.
3. Review (and comply with) any Department-specific contracting protocols (including Waiver Plans), and any program-specific statute/regulation having a bearing on contracting.
4. If a Contract for Services:
 - (A) draft, and offer the vendor, the State's standard contract, or short form contract if applicable, including the required sole source contract self-certification re: campaign finance restrictions;
 - (B) complete an AA-14 form and secure Appointing Authority or designee signature; the Department should identify "emergency contract" on the form;
 - (C) on the Contract, secure vendor signature and then Appointment Authority (or designee) signature; and
 - (D) within ten (10) business days of Contract execution, draft and forward a justification memo and a copy of the executed Contract to the Secretary of Administration and assigned AAG.
5. If a Contract for Commodities:
 - (A) make purchase via a pre-existing BGS Contract for Commodities, if applicable [Note: such a purchase can be made immediately after consultation with Appointing Authority or designee. For list of BGS Contracts for Commodities, please see <https://bgs.vermont.gov/purchasing-contracting/contract-info>.];
 - (B) proceed pursuant to I(4)(B)-(D) above, utilizing a BGS-approved commodities contract form under a pre-existing BGS blanket delegation of authority (BDA), if applicable; or

(C) consult immediately with BGS related to the emergency need.

[*Note:* In the absence of any pre-existing BGS Contract for Commodities, pre-existing BDA, a Department must work directly with BGS to secure a new BGS Contract for Commodities.]

[*Note:* Contracts for Commodities do not require a sole source contract self-certification re: campaign finance restrictions.]

II. Contracts for Services ≤ \$10,000.00 (see Bulletin 3.5, Section VIII(D)(1)(a)):

A Department may enter into a sole source Contract for Services valued at \$10,000.00 or less in an emergency situation, provided:

1. sole source justification exists (demonstrated emergency);
2. justification is documented in the Contract file;
3. AA-14 form is completed with Appointing Authority or designee signature, preferably with an “emergency contract” designation;
4. the Contract follows the State’s standard contract or standard short form contract if applicable;
5. the Contract includes the required sole source contract self-certification re: campaign finance restrictions; and
6. contracting complies with all other aspects of Bulletin 3.5.

III. Contracts for Commodities ≤ \$10,000.00 (see Bulletin 3.5, Section VIII(D)(1)(a)):

A Department may enter into a sole source Contract for Commodities valued at \$10,000.00 or less in an emergency situation provided (subject to BGS’s exclusive authority over commodities purchases):

1. the conditions at II(1), (2), (3), (6) above are met; and
2. the Department utilizes a BGS-approved commodities contract form under a pre-existing BDA.

[*Note:* If the need (even if non-emergency) can be addressed through a pre-existing BGS Contract for Commodities, a Department may make the purchase under such Contract immediately after consultation with Appointing Authority or designee.]

[*Note:* In the absence of any existing BDA, the Department must work directly with BGS to secure a new BGS Contract for Commodities.]

[Note: Contracts for Commodities do not require a sole source contract self-certification re: campaign finance restrictions.]

IV. Executive Order Re: COVID-19:

The condition at I(3) above may be modified during emergency contracting related to the COVID-19 pandemic event as follows:

1. “In preparing for and responding to COVID-19, all agencies of the state shall use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of VDH and the Department of Public Safety (DPS)/VEM in accordance with the State Emergency Management Plan.” Executive Order No. 01-20, § 7.
2. “Relevant rules governing medical services shall be suspended to the extent necessary to permit such personnel to provide paramedicine, transportation to destinations including hospitals and places other than hospitals or health care facilities, telemedicine to facilitate treatment of patients in place, and such other services as may be approved by the Commissioner of Health.” Executive Order No. 01-20, § 15.
3. “Relevant rules governing nursing services shall be suspended to the extent necessary to permit such personnel to provide medical care, including but not limited to administration of medicine, prescribing of medication, telemedicine to facilitate treatment of patients in place, and such other services as may be approved by the Secretary of State in consultation with the Commissioner of Health.” Executive Order No. 01-20, § 16.

Caveat re: Federal Funding (M. Anderson, 3/24/20)

Most Federal agencies are very adverse to sole sourced contracts and may not reimburse costs associated with them in some cases where they otherwise would have. Due to this, emergency sole sourced contracts should still be avoided wherever possible if there is a chance for Federal reimbursement, and in this emergency there is a great chance of that for many contracts- especially those that fit into the broad category of “emergency protective measures.” If a contract must be sole sourced due to urgency, this should be supported with documentation as to why a competition can’t be held (don’t assume this is obvious) and contract duration should be limited to the actual emergency period. Follow on contract using competition should be utilized as soon as possible.