**Enterprise Services Policy No. POL-DES-130-00**

Emergency Purchases Policy

**Applies to**: Any state office or activity of the executive branches of state government, including state agencies, departments, offices, divisions, boards, commissions, institutions of higher education as defined in [RCW](http://apps.leg.wa.gov/RCW/default.aspx?cite=28B.10.016) [28B.10.016](http://apps.leg.wa.gov/RCW/default.aspx?cite=28B.10.016) and correctional and other types of institutions.

## Authorizing sources:

* State Law [RCW 39.26.130](https://app.leg.wa.gov/RCW/default.aspx?cite=39.26.130)
* State Law [RCW 39.26.125(1)](https://app.leg.wa.gov/RCW/default.aspx?cite=39.26.125)

**Effective date**: TBD

**Last update**: January 8, 2015

**Sunset review date**: 5 years from effective date

**Approved by**: Chris Liu, Director

# Reason for Policy

This policy establishes criteria and qualifications, reporting requirements and timelines, and reporting exemptions related to emergency purchases. See RCW 39.26.130. These reporting requirements promote state agency transparency of emergency purchases which are excepted from competition. See RCW 39.36.125(1).

# POL-DES-130-00 Emergency Purchases

## Qualifying Criteria

1. To qualify as an emergency purchase, the emergency event must represent a set of unforeseen circumstances beyond the control of the agency that either:
	1. Presents a real, immediate, and extreme threat to the proper performance of essential functions; or
	2. May reasonably be expected to result in material loss or damage to property, bodily injury, or loss of life, if immediate action is not taken.

## Reporting Requirements

1. Emergency purchases are an exception to competition requirements and must be reported to DES.

If an agency concludes that an emergency purchase is justified and necessary, the agency head must submit written notification within three business days of the purchase to the Department of Enterprise Services (DES) director.

* 1. This notification must contain a description of the purchase, a description of the emergency and the circumstances leading up to the emergency, and an explanation of why the circumstances required an emergency purchase.
1. In addition to the requirement in section one above, all emergency purchases must be submitted to DES using the DES Sole Source Contracts Database (SSCD) within three business days following the commencement of work or execution of the contract, whichever occurs first.

The SSCD will prompt the agency to provide the following information:

1. An overview of the nature of the emergency including relevant circumstances.
2. A description of the threat to the health or safety of individuals, property, or essential state functions if immediate action is not taken to include an estimate of the potential material loss or damage.
3. An account of how the contractor alleviated or eliminated the emergency to include a description of what the consequences would have been if the emergency action had not been taken and the risks associated with inaction.
4. A summary of the contractor’s qualifications, experience and background to provide the emergency service and the basis on which this contractor was selected over other qualified firms.
5. Specify the costs, fees, or rates for the purchase.
6. An uploaded copy of an Emergency Memo that has been signed by the agency head.

## Transparency

RCW 39.26.130(2) requires that within three business days of commencing work or executing the emergency contract, whichever comes first, the contracting state agency must make the emergency contract available for public inspection.

The state agency may either post the emergency contract on the agency website or post summary information that that explains how to obtain a copy of the emergency contract.

## Compliance

Emergency purchases are not approved by DES. However, DES will review all agency records for compliance with emergency purchase requirements as part of the agency’s procurement risk assessment. Lack of compliance may influence an agency's delegated authority.

## Additional Requirements

1. When possible, Agencies are expected to use existing qualified master contracts except when the contract cannot justifiably satisfy “agency needs.” “Agency needs” include the ability to provide a timely response to an emergency.
* “Qualified master contracts” means:
	+ DES Master Contracts.
	+ DES approved cooperative contracts that conform to all applicable Washington State procurement laws, rules, policies and trade agreements. DES will maintain a list of cooperative contracts that meet state requirements.
1. When possible, Agencies are also expected to use the OMWBE Directory of Certified Firms and the Department of Veterans Affairs (DVA) certified veteran firms if a master contract cannot justifiably satisfy agency needs.
2. The duration of the emergency contract must not extend beyond the time needed to resolve the immediate threat.
3. Emergency purchases are only to be conducted for legitimate and qualified emergencies. Emergency purchases are not a substitute to avoid competition or mitigate for the time needed to competitively procure the goods or services.

## Exemptions

Agencies are not required to report to DES an emergency purchase that qualifies as a “Direct Buy” procurement. See POLICY # DES-125-03.

## Best Practice

Agencies are also encouraged to keep a detailed emergency contract file that may include pictures, video, receipts and other related information that may be useful in securing emergency financial aid, filing insurance claims or complying with Federal Emergency Management Agency requirements.

# History

Adopted

TBD

Replaces

DES-130-00 Emergency Procurements/Purchases (Rev. 01-08-15)