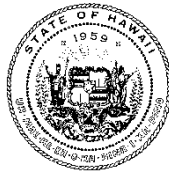


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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
LABOR & PUBLIC EMPLOYMENT
Tuesday, February 4, 2020, 9:10 a.m.

**HB2286
RELATING TO EMERGENCY PROCUREMENT**

Chair Johanson, Vice-Chair Eli, and members of the committee, thank you for the opportunity to submit testimony on HB2286. The State Procurement Office (SPO) offers the following comments:

1.0 Heads of Departments have the ability to manage their emergencies immediately.

The State Procurement Office emergency procurement procedure allows the requester to submit their package before or after the emergency (Refer to SPO Form 0002, Attachment 1). This allows Heads of Departments to take immediate action and process the paperwork later.

In an emergency procurement, the quantity or service to be purchased should only be what is necessary to meet the circumstance.¹ That is, the expectation is to conduct swift immediate action to negate any safety and life risks. It is a temporary measure that would require a full competitive procurement to deal with any longer-term needs, such as a design-bid-build construction requirement.

2.0 SPO Policy & Procedure for Approval of Emergency Procurements.

The SPO policy and procedure approves emergency procurement based on the following:

1. Is it an emergency based on the definition in Statute and Rules?
2. How long was the department aware of the problem before acting on it? Often-times, this is where we do the most disapprovals as departments tell us they knew about the repair need and did nothing about it. This does not fall into the definition of an emergency procurement.
3. What is the work that is being requested? If it is an immediate work completed to manage the emergency, that is acceptable. If the request is for years' long worth of design and construction, that is not acceptable, as it is a circumvention of the procurement code to exempt construction when that is not allowable.
4. Requests can be approved, disapproved or processed for no action. They are published on our Hawaii Awards Notices Database System (HANDS) for transparency.

¹ NASPO Emergency Procurements Best Practices, 2020

3.0 Limitations on the emergency exception.

In *Raynor v. Commissioners for Town of Louisburg*, 220 N.C. 348, 17 S.E.2d 495 (1941), the court held that the circumstances under which the Town of Louisburg purchased new diesel engines for its power plant did not constitute an “emergency” within the meaning of the exception to the bidding statutes. The town argued that the aging engines in its power plant needed replacement and failure of the engines would pose a threat to public health and safety. In disagreeing with the town’s assertion that these circumstances constituted an emergency, the court held that the emergency must be present, immediate, and existing, and cannot be a situation that is merely anticipated to arise in the future. The court noted that bids for the engines could have been advertised for just one week with replacement ensuing soon after. This means that if competitive bidding requirements can be followed without causing harm to public health and safety (or if that harm can be temporarily mitigated), the emergency exception cannot be used.²

In *Sloan v. Department of Transp.*, 666 S.E.2d 236, 379 S.C. 160 (Aug 25, 2008), DOT procured construction involved the widening of the road from two lanes to five lanes. Contractor consistently got behind on the project. DOT granted contractor time extensions, but ultimately terminated the contract for convenience. DOT chose a convenience termination, rather than for cause, to avoid having the contractor's bonding company taking over the project. Had the bonding company taken over, it would have been responsible for bringing in another contractor to complete the project for the originally contracted price. DOT estimated this process would have taken the bonding company six months. DOT estimated it would have taken four months if DOT had itself performed a competitive bidding process for a replacement contractor. So, approximately two weeks after the DOT terminated the contractor, one of the existing subcontractors began finishing the prime contractor's work under an emergency contract with DOT.

In justifying the emergency, DOT cited significant delays, enormous inconvenience to the public, public safety and convenience. DOT explained that a large number of residences and commercial businesses continued to be adversely impacted by the construction, that traffic control devices were in place throughout the majority of the project and at many high volume intersections, that these conditions created an ongoing safety concern and also cause significant inconvenience for residences and business owners, and that procurement of a replacement contract through the standard bidding procedures would cause an unacceptable delay and increase frustration among the already frustrated public that live and conduct business in the area. DOT explained that the emergency conditions were just the safety of the individuals getting in and out of their driveways; the businesses; the entrance and exits for the business; and just a general traveling through that work zone was a hazard.” DOT conceded there is “always a hazard in a work zone, from beginning to end.”

ANALYSIS:

The Court looked at Procurement Code's statute and regulations as persuasive authority. Court also relied on dictionary definitions.

"An emergency is, by its very nature, a sudden, unexpected onset of a serious condition. See The American Heritage Dictionary 448 (2nd College ed.1982) (emergency defined as “[a]n unexpected situation or sudden occurrence of a serious and urgent nature that demands immediate action”); Black's Law Dictionary 361 (6th ed.1991) (defining emergency as “[a] sudden unexpected happening; an unforeseen occurrence or condition; ... a sudden or unexpected occasion for action”)."

The Court observed:

- "safety concerns did not appear unexpectedly in September 2004 thereby suddenly creating a public safety risk"
- "any urgency felt by the DOT was, in large part, due to the delays on the project and the resultant frustration by the affected community"

² University of North Carolina School of Government, “Coates' Canons Blog: Emergency Procurement – When is an emergency really an emergency?” Norma Houston, Jun 2011.

- "These factual circumstances, however, do not constitute an emergency under section 57-5-1620, as that plain and ordinary term was likely intended by the Legislature."
- "Given the history of the contract with Eagle, the termination of the contract cannot reasonably be viewed as a sudden, unexpected occurrence."

In *Sloan v. School District of Greenville County*, No. 98-CP-23-2816 (Greenville, S.C., Ct. Comon Pleas, July 15, 2003), this District's rules regarding emergency procurements parallel the SC state code and regulations. On June 16, 1988, the District entered three contracts to procure construction of three middle schools. The District relied on its emergency procurement authority in awarding the contracts. The basis of the emergency was to "assure completion of construction prior to school opening in August of 1999, as required by the 'Long-Range Facilities Plan.'" Planning had begun in 1989, which the first written plan issued in 1993. The District's internal process resulted in delays and revised plans until February 1998, when the District confirmed the availability of funds. At that time, the District was informed it could not have the schools completed by August 1999 using its normal procurement methods. So, the District declared an emergency. To justify the emergency exception, the District argued that "these three middle schools were needed to alleviate critical overcrowding conditions in certain existing middle schools." The District had long been aware of the progressively worsening overcrowding.

ANALYSIS: "The common characteristic of the phrase 'floods, epidemics, riots, equipment failures, fire loss' is something that comes upon the District suddenly, which makes it impossible for the District to address the circumstance using normal procurement procedures. The District's Procurement Code requires that the emergency be 'an immediate threat.' An immediate threat is one that is at hand, not an anticipated threat, but one that arose suddenly, with no delay or lapse of time in its generation."

"This factual record shows a clear lack of immediacy and suddenness."

"Failure to start on time does not make an emergency. Poor planning does not create a valid emergency."

"As noted above the common characteristic is the suddenness and the lack of opportunity for planning that sets apart a true emergency."

"[T]he contracts procuring the construction are 'unquestionably void' for failure to strictly comply with the procurement statutes. *Pennell & Harley, Inc. v. Heron*, 169 S.C. 16, 168 S.E. 188, 191 (1933)"

In the *Protest of Homer L. Spires, Case No. 1988-6*, the USC solicited bids for the Roost. Metro gets the contract and begins work. Within about 6 weeks, USC learns Metro has provided fraudulent payment and performance bonds. USC also learns of a subcontractor bid shopping violation. Realizing problems will result in suspension of work, USC becomes concerned with safety of job site. excavation on the side had left steep nearly vertical slopes which bordered on city streets. Drain pipes had been removed, increasing the likelihood of erosion of the construction side and possible cave-ins. Finally, USC was concerned that federal funding might be withdrawn if Metro could not complete the job and a replacement contractor wasn't found quickly. So, USC declared an emergency relative to the drainage problems and contracted with a company to lay drain pipes at the construction site. In addition, USC decided to declare an emergency for the entire job of Metro couldn't cure the bonds, which is exactly what happened.

ANALYSIS: Panel concluded that the threat to safety and integrity of the construction site posed by poor drainage conditions constituted an emergency and justified contracting to have a company lay drain pipes at the construction site. Regarding the remainder of the project, the Panel rejected USC's justification that the "site needs immediate attention and time is a factor on the dormitory." The only remaining hazards posed by the job site were the vertical slopes and the absence of a fence or other security device.

"The Panel finds that, while an emergency may have existed on March 4 relative to the safety threat posed by the vertical slopes and lack of security, USC's procurement went well beyond that necessary to meet the emergency. The erection of a retaining wall or other supports would have removed the hazard posed by the vertical slopes. The installation of a fence would have alleviated the security problem. The emergency which existed on March 4 did not justify procurement without competition of a \$3.629 Million contract for completion of the entire project."

"Insofar as the possible loss of federal funds, the Panel does not find this to be a true emergency condition. USC found the threat to exist on its counsel's interpretation of a work stoppage clause contained in the loan agreement. (Record, Def.'s Ex. 5, p. 7, Sec. 15a.) There is no evidence that USC contacted its lender to negotiate or clarify this provision nor is there any evidence that the lender was threatening withdrawal of funds. USC simply assumed a worst-case scenario and used its assumption to bolster its declaration of an emergency."

4.0 Alternative relief for requesters in emergencies, specifically regarding repairs and maintenance.

4.1 Indefinite Delivery Indefinite Quantity (IDIQ) contracts – Heads of Departments may consider putting in place indefinite quantity contracts for a period of time through a formal competition in anticipation of certain emergency situations, with the understanding that the user agencies will purchase from the contract only if an emergency need exists. Most states and counties use pre-qualified contract lists for emergency repairs. The SPO has spent the last five years advising departments such as DOT, DLNR and HI-EMA to create these types of contracts. If a department creates their repair and maintenance IDIQs to cover the general repairs and maintenance as well as emergency on-call, this allows for the majority of needs to be handled expeditiously. It also substantiates the fact that if an emergency repair happens that is outside of the scope of the embedded contract, it is more likely to present as a real emergency versus general repairs and maintenance.

4.2 Sole Source Options. HARS 3-122-81(c) allows a sole source procurement for 'compatibility to existing equipment or for a public utility repair or construction that can only be provided by the utility company. In addition, the Procurement Policy Board maintains a list of procurements approved for sole source that may be procured without obtaining approval. Here are some of those listed that pertain to this subject:

- (3) Annual license renewal and maintenance for computer software. Criteria: When the license renewal and maintenance can be obtained from only a single source, normally the developer of the software.
- (4) Procurement of computer software conversions, modifications, and maintenance for existing programs from the manufacturer of the software. Criteria: When the conversion, modification, or maintenance can only be obtained from the manufacturer of the software.
- (6) Repair and maintenance services and supplies from the original equipment manufacturer or its designated representative; when the manufacturer or its designated representative is required to provide the services and supplies to retain the manufacturer's warranty or guarantee. Criteria: When the services or supplies can only be obtained from the manufacturer or its designated representative to retain the manufacturer's warranty or guarantee.
- (7) Procurement of equipment upgrades from the original manufacturer to existing equipment and information technology hardware, when the upgrades can only be obtained from the manufacturer. Criteria: When the upgrades are available only from the manufacturer.

4.3 Exempt Options. Per HARS 3-120-4(b), the Procurement Policy Board also maintains a list of goods and services that have determined to be exempt, and therefore, a competitive procurement is not required. Here are some of those listed that pertain to this subject:

- (2) Services of Printers; and
- (12) Procurement of repair services when dismantling is required to assess the extent of repairs.

It should be noted that current procurement statute does not allow for construction exemption of any kind. A recommendation would be to allow the Chief Procurement Officer the ability to exempt construction procurement when it is not practicable or advantageous to competitively procure. An example of this is when you already have a construction contractor working on an area and an additional need is found that was not originally in scope. If the supplemental work, is not material to the overall value of the construction project (30% or less), it would behoove State to allow incumbent contractor to take on the work, saving both time and money.

In order to achieve this flexibility, SPO recommends the following **statute change**:

AMEND section: §103D-102 Application of this chapter.

Amend §103D-102(b)(4) to “To procure the following goods ~~or~~ services, **or construction** which are available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State.”

Exemptions from 103D should not be limited to goods and services. Section (4) should mirror section (3), where the chapter does not apply to procurement of goods, services or *construction* from a governmental body other than the University of Hawaii bookstores, from federal government, or from another state or its political subdivision.

AMEND section:

§103D-102 Application of this chapter.

Amend §103D-102(b)(4)(L) to “Any other goods, ~~or~~ services, **or construction** which the policy board determines by rules or the chief procurement officer determines in writing is available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State;”

There may be instances when a construction procurement is in a situation where it is not practicable or advantageous to be competed.

5.0 Federal and other states’ management of emergency procurements and repairs and maintenance.

5.1 Federal Regulations.

The Federal Acquisition Regulations (FAR) on Emergency Acquisition only allows the following emergencies: FAR Chapter 18.001 Emergency Acquisition may be determined by the HOPA if:

- Supporting a contingency operation
- Defense or recovery from cyber, nuclear, biological, chemical, or radiological attack
- International disaster assistance, or
- Presidential declared disaster

Thus, no day-to-day emergencies are recognized, requiring the Federal Agencies to competitively procure for those, inclusive of any threats to public health and repairs and maintenance.

5.1.1 2CFR200 Federal Grants regulations apply to any federal monies received, mandate that procurement is conducted according to the State Procurement Code, and specifically require cost and price analysis. FEMA Declared Emergencies that would include FEMA-reimbursable procurements require states to use their procurement code to include price analysis to discourage price gouging. If HOPAs are managing their own emergency procurements (whether for declared or non-declared emergencies) with no oversight on these matters, there is a high risk that federal monies could be at risk.

5.1.2 FTA-Federal Transit Administration Best Practices Procurement and Lessons Learned Manual, Oct. 2016, does not mention using emergency acquisition for repairs and maintenance as a practice of any kind. The premise and expectation is that repairs and maintenance needs are procured.³

5.2 Benchmarking Other State Regulations.

Per NASPO’s 2018 Survey Executive Summary and online Survey Report⁴, sixty percent of the jurisdictions responding to the survey indicated that they have adopted the provisions of the Model Code partially, or in its entirety. The Model Code defines emergency procurements as the following:

³ <https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/funding/procurement/8286/fta-best-practices-procurement-and-lessons-learned-manual-2016.pdf>

⁴ NASPO [2018 Survey Executive Summary](#) and [online Survey Report](#)

“§3-206 Emergency Procurements. Notwithstanding any other provision of this Code, the Chief Procurement Officer, the head of a Purchasing Agency, or a designee of either officer may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions as defined in regulations; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.”⁵

Please refer to Attachment 2, titled: NASPO Emergency Procurement Best Practices for more detail on how states manage emergency procurements.

5.2.1 Notable State Exceptions and Regulations

5.2.1.1 **South Carolina** exempts highways from procurement:

SECTION 11-35-710. Exemptions. (A) The board, upon the recommendation of the chief procurement officer, may exempt governmental bodies from purchasing certain items through the respective chief procurement officer's area of responsibility. The board may exempt specific supplies, services, information technology, or construction from the purchasing procedures required in this chapter and for just cause by unanimous written decision limit or may withdraw exemptions provided for in this section. The following exemptions are granted from this chapter:

(1) the construction, maintenance, and repair of bridges, highways, and roads; vehicle and road equipment maintenance and repair; and other emergency-type parts or equipment utilized by the Department of Transportation or the Department of Public Safety;⁶

Notwithstanding the above exemption, South Carolina's emergency procurement statute 19-445.2110 requires the following for Emergency Procurements:

1. Defines a qualifying emergency as a situation which creates a threat to public health, welfare, or safety¹ such as may arise by reason of floods, epidemics, riots, equipment failures, fire loss, or such other reason as may be proclaimed by either the Chief Procurement Officer or the head of a purchasing agency or a designee of either office. They have caveated this definition to note that “other reason as may be proclaimed” must be an “immediate and serious need”, “cannot be met through normal procurement methods”, the lack of which would seriously threaten: (1) the functioning of State government; (2) the preservation or protection of property; or (3) the health or safety of any person.”
2. Requires approval, written justifications, solicitation as much as is possible, and reporting.

5.2.1.2 **New Jersey** does not allow for the use of multi-year contracts for emergency procurements: “5:34-6.1 General requirements (a) The use of emergency purchasing pursuant to N.J.S.A. 40A:11-6 or 18A:18A-7 shall be subject to the following requirements:

⁵ NASPO Emergency Procurements Best Practices, 2020

⁶ <https://www.scstatehouse.gov/code/t11c035.php>

1. An actual or imminent emergency must exist requiring the immediate delivery of the goods or the performance of the service;
2. As soon as reasonably possible, but within three days of declaring the emergency, the chief school administrator of a board of education shall notify the superintendent of education for the county of the nature of the emergency and the estimated needs for goods and services necessary to respond to it;
3. The emergency purchasing procedure may not be used unless the need for the goods or services could not have been reasonably foreseen or the need for such goods or services has arisen notwithstanding a good faith effort on the part of the contracting unit to plan for the purchase of any goods or services required by the contracting unit;
4. The contract shall be of such limited duration as to meet only the immediate needs of the emergency; and
5. Under no circumstances shall the emergency purchasing procedure be used to enter into a multi-year contract.⁷ Note: A \$6M design-bid-build construction repair would be considered a multi-year contract.

- 5.2.1.3 **California** regulations give three options when dealing with repairs and maintenance: CA Regulation 12.13 states that repair and maintenance standard policies and procedures are to use the equipment warranty, if still under warranty. After warranty period is complete, to use existing repair and maintenance contracts (Refer to Para 4.1 above), and if there are none existing, go to your Procurement Officer to procure for it.⁸ CA Regulation 4.11.2/3 delineates the responsibility for review and approval to their Chief Procurement Office of emergency purchases not in response to a natural disaster.

CA offers the following examples: 4.11.3 Examples of Emergency Purchases PCC section 10340(a) (1) allows for emergency purchases of non-IT goods without competitive bidding when the goods and services are necessary for the immediate preservation or protection of the public health, welfare, or safety.

- ❖ Example of emergency: A mudslide, caused by a flood, occurs on a highway and the crew must make an immediate purchase for supplies to clean up the mud.
- ❖ Example of a non-emergency: A department wants to purchase three (3) used bulldozers for routine forestry maintenance at a cost of \$492,000.00. The purchase saves the department an estimated \$260,000.00 when prices are compared to new bulldozer prices. Although it may be in the State's best interest to purchase the used equipment, it does not meet the definition of an "emergency".

- 5.2.1.4 **Virginia.** Types of Emergency Procurements. The nature of the emergency will determine what pre-award action may be taken:
- a. For an emergency purchase required to protect personal safety or property, efforts should be directed to finding a source and directing the contractor to proceed; however, such procurement shall be made with such competition as is practicable under the circumstances (Code of Virginia, § 2.2-4303F). This does not relieve the agency from negotiating a fair and reasonable price and subsequently documenting the procurement action.
 - b. For other types of emergencies, competition should also be sought to the maximum extent practicable. Vendor's qualifications may be checked and verification of insurance coverage, if applicable, information on warranty offered, and any other data

⁷ https://www.nj.gov/dca/divisions/dlgs/programs/lpcl_docs/Full%204-14%20LPC-LNJAC%20Reference%20Handbook.pdf

⁸ <file:///C:/Users/allens/Downloads/FISCAL%20Financial%20Information%20System%20for%20California%20Procurement%20Manual.pdf>

pertinent to the procurement. An agency may procure materials, equipment or supplies above its delegated authority with the advance written approval of DGS/DPS without requisitioning through DGS/DPS.

6.0 Effects of removing the SPO from oversight of emergency procurements and give review responsibility to the Legislature.

Our benchmarking research on federal and state practices show All government agencies containing procurement oversight over emergency procurements by the Federal Contracting Officer or the State Chief Procurement Office, whichever applies. We were not able to find a single exception to this rule where emergency procurements are handed to Legislature for review.

Recommended best practices, and actual practices conducted across the nation as well as with the Federal Government all require strict oversight on any procurements that require an exception to competition. “Balancing the flexibility provided by exceptions to full competition with the need for proper administration requires central oversight, including the authority to establish strict conditions for the use of exceptions. That authority and oversight must reside solely with the Chief Procurement Officer. Central decision making by the Chief Procurement Officer means that there is a central repository for the documentation supporting the decision on the exception to competition. This, in turn, offers one place for auditors and others to find data about these types of procurements, including the justification for limiting or eliminating competition.”⁹

Transparency. Emergency procurements are posted onto the SPO’s Hawaii Award and Notices Database System. Removing the SPO authority of oversight over a specific procurement method, will also remove any transparency and access that the Hawaii community now has.

Legality question. Does this transfer of Executive authority to Legislature go beyond the enactment of enabling legislation and infringe upon the authority of the Executive branch to conduct fair and transparent procurements?

7.0 Historical Information

7.1 It’s been tried before. During the period of October 23, 2008 to December 6, 2010, the prior Administrator allowed Executive Departments to conduct emergency procurements without CPO review under the dollar threshold of \$50,000. After two years, the Administrator pulled back this allowance due to rampant abuse.

7.2 Metrics

⁹ NASPO Emergency Procurements Best Practices, 2020

Dept	FY17 Total EP Requests	FY17 Total \$ EP Requests	FY17 Total EP Requests Denied	FY17 Total \$ EP Requests Denied	% of EP Requests that include construction and Design	FY18 Total EP Requests	FY18 Total \$ EP Requests	FY18 Total EP Requests Denied	FY18 Total \$ EP Requests Denied	% of EP Requests that include construction and Design
DAGS	5	\$287,858.00	0	\$0.00	100%	9	\$7,782,918.00	0	0	100%
AGR	9	\$108,678.00	1	\$8,688.00	77%	1	\$2,025.00	0	0	100%
DBEDT	2	\$372,863.00	0	\$0.00	0	1	\$19,530.00	0	0	0%
DHS	2	\$133,680.00	1	\$80,000.00	100%	3	\$137,663.50	1	\$99,013.00	33%
Libraries	0	\$0.00	0	\$0.00	0%	1	\$150,000.00	1	\$150,000.00	100%
DHHL	2	\$11,554.00	1	\$5,500.00	50%	3	\$51,672.00	0	\$0.00	33%
DLNR	6	\$94,289.00	1	\$21,195.00	33%	9	\$223,993.67	1	\$5,945.00	44%
PSD	7	\$115,103.00	2	\$43,569.00	43%	0	\$0.00	0	\$0.00	0%
DOT	13	\$860,815.00	0	\$0.00	69%	10	\$813,155.46	5	\$298,711.88	80%
UH	2	\$55,000	0	\$0.00	100%	5	\$97,183.63	0	\$0.00	60%
TOTAL	48	\$ 2,039,840.00	6	\$ 158,952.00	78%	42	\$9,278,141.26	8	\$ 553,669.88	73%

7.3 **Examples** of requests that have been approved versus those that have been disapproved. For a full list, Attachment 4 shows all emergency procurement requests received by SPO over FY 2018 and FY 2019.

- A. Approved-EP20-020SO DOTH--On 12/25/19, trees, rocks and mud from the hillside above Pali Highway, Kailua bound, in between the two tunnels, fell onto the roadway. It was discovered that additional large trees and mud/rock sections remained perched about 60-80 feet above the travel lanes of the highway. \$30K
- B. Approved-EP20-0150 DOTH--On September 26, 2019 at 3:15 am Kauai Police Dispatch called to report an accident on Kaumualii Highway at Hokulei Village Intersection and one of the traffic signal poles was down on the ground. The traffic light was not working. Police were directing traffic. American Electric was called in to do the traffic signal repairs which included removal of the old pole base. Traffic signal required repair as soon as possible for public health and safety. Repair was complete about 10:00 a.m. Police Report: 19-20461. \$6K
- C. Approved-EP20-006SO DLNR--Response to a wildfire near DOFAW managed public hunting areas that burned approx. 2150 acres. Area of burn was located along HWY 552, which leads into Waimea Canyon State Park, Kokee State Park, and numerous Forest Reserves. Public areas are vital for visitors and residents. Public safety was compromised as the fire burned invasive trees, shrubs and grasses. Rapid control of wildfire was critically important to prevent spread into adjacent towns of Kekaha and Waimea, continued spread within Kekaha Game Management Area and Public Hunting Area Unit I. \$191,690
- D. Disapproved-EP19-018L DOTH --Large winter swells in Hanalei Bay caused severe shoreline erosion of Kuhio Highway (Route 560), undermining the shoulder and threatening to erode into the travel lane. **\$6.2M**
This request was disapproved as it was not an interim or temporary fix to address the immediate threat to public health, welfare, or safety. Rather, the scope included engineering design, construction, and construction engineering. This would result in a multi-year construction project that is essentially exempted from competitive procurement, which is not the intent or premise of emergency procurement.
- E. Approved: EP18-014K DAGS-PWD-- Civil Defense sirens-Oahu. \$2.1M
- F. Approved: EP18-015K DAGS-PWD-- Civil Defense sirens-Oahu. \$2.25M
- G. Approved: EP18-016K DAGS-PWD-- Civil Defense sirens-Oahu. \$750K

8.0 Hawaii Emergency Management Agency and Grants

Efforts to support the Hawaii Emergency Management Agency will be in full force and the SPO will remain as a resource to them for such issues as the 2CFR200, Federal Grants guidance for purposes of retaining FEMA reimbursement.

9.0 Attachments

Attachment 1: SPO-002 Emergency Form

Attachment 2: NASPO Emergency Procurements Best Practices, 2020

Attachment 3: University of North Carolina School of Government, “Coates' Canons Blog: Emergency Procurement – When is an emergency really an emergency?” Norma Houston, Jun 2011. <https://canons.sog.unc.edu/emergency-procurement-%E2%80%93-when-is-an-emergency-really-an-emergency/>

Attachment 4: Emergency Procurement Request Log (HANDS) for FY2018/19



ATTACHMENT 1

STATE PROCUREMENT OFFICE EMERGENCY PROCUREMENT

TO: Chief Procurement Officer

FROM: _____
Name of Requesting Department

Pursuant to HRS § 103D-307 and HAR chapter 3-122, Subchapter 10, the Department requests approval for the following:

1. Date or period of Emergency:	2. After-the-Fact: ☐ Yes ☐ No
---------------------------------	---

3. Describe in detail the emergency situation that created a threat to life, public health, welfare or safety.

4. Vendor/Contractor/Service Provider Name:

5. Amount of Request:
\$

6. Describe in detail the emergency goods, services, or construction and explain why it is necessary.

7. State the reason(s) the vendor/contractor/service provider was selected. Explain what competition, as is practicable, was conducted.

8. Identify the primary responsible staff person(s) conducting and managing this procurement. (Appropriate delegated procurement authority and completion of mandatory training required.)

*Point of contact (Place asterisk after name of person to contact for additional information.)

<u>Name</u>	<u>Division/Agency</u>	<u>Phone Number</u>	<u>E-mail Address</u>

***All requirements/approvals and internal controls for this expenditure is the responsibility of the department.
I certify that the information provided is to the best of my knowledge, true and correct.***

Department Head Signature

Date

For Chief Procurement Officer Use Only

Chief Procurement Officer (CPO) Comments:

☐ Approved

☐ Disapproved

☐ No Action Required

Chief Procurement Officer Signature

Date



Emergency Procurements Best Practices

Source:

1. *NASPO Practical Guide: Chapter 8: Noncompetitive and Limited Competition Procurements* (page 127-135)
2. *NASPO Sole Source Procurement Guide*
<https://www.naspo.org/solesourceprocurement/index.html>

NASPO Practical Guide

Chapter 8 of the Practical Guide includes recommended practices for waivers of competition as well as a definition of Emergency Procurements.

RECOMMENDED BEST PRACTICES

- Balancing the flexibility provided by exceptions to full competition with the need for proper administration requires central oversight, including the authority to establish strict conditions for the use of exceptions. **That authority and oversight must reside solely with the Chief Procurement Officer.**
- Central decision making by the Chief Procurement Officer means that there is a **central repository for the documentation supporting the decision on the exception to competition**. This, in turn, offers one **place for auditors and others to find data** about these types of procurements, including the justification for limiting or eliminating competition.
- A request for an exception to competition should be in writing and meet the conditions that are spelled out in the laws, rules/regulations, or policies establishing the conditions and procedures for these types of procurements.
- The Chief Procurement Officer should provide some public notice of sole source procurements, as notice can provide an excellent method for testing the user agency's request for a sole source against the supplier community-at-large, who may have a different view.
- When conditions necessitating an emergency procurement arise and the Chief Procurement Office is unavailable to provide approval, procedures should permit user agencies to conduct those procurements and require them to report the circumstances to the Chief Procurement Officer within a short period of time to obtain approval after the fact.
- The Chief Procurement Officer should review and approve his or her public entity's purchase of another government's property, including the advisability of the purchase and its price, along with the terms and conditions in any written agreement.

Emergency Procurements

Another circumstance in which competition may be limited or not practical is in an emergency. The focus here is not on the rarity of the item or service sought, but on expediency instead. As noted for sole source procurements, there should be some authority in a state or local government's law to permit this type of procurement when that law otherwise requires procurements to be conducted through full competition. An *emergency* for procurement purposes is an unexpected and pressing situation requiring swift procurement action outside of normal procedures. **The NIGP defines the term as follows:**

Emergency purchase—A purchase made due to an unexpected and urgent request where health and safety or the conservation of public resources is at risk. Usually formal competitive bidding procedures are waived.

In addition to threats to life and property, an emergency may include circumstances such as an unexpected delay in delivery or an unanticipated volume of work. **It never includes a situation created by poor planning on the part of user agencies.**

The **Model Procurement Code** addresses the issue in its model statutory language and the commentary to it:

§3-206 Emergency Procurements.

*Notwithstanding any other provision of this Code, the Chief Procurement Officer, the head of a Purchasing Agency, or a designee of either officer may make or **authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions** as defined in regulations; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.*

COMMENTARY:

(1) This Section authorizes the procurement of supplies, services, or construction where the urgency of the need does not permit the delay involved in utilizing more formal competitive methods. This Code contemplates that the [Policy Office] [Chief Procurement Officer] will promulgate regulations establishing standards for making emergency procurements and controlling delegations of authority by the Chief Procurement Officer or the head of a Purchasing Agency. Such regulations may limit the authority of such officials to delegate the authority to make procurements above designated dollar amounts.

*(2) While in a particular emergency an award may be made without any competition, **the intent of this Code is to require as much competition as practicable in a given situation.** When the amount of the emergency procurement is within that adopted for Section 3-204 (Small Purchases), the competitive procedures prescribed under that Section should be used when feasible.*

(3) Use of this Section may be justified because all bids submitted under the competitive sealed bid method are unreasonable, and there is no time to re-solicit bids without endangering the public health, welfare, or safety. As with other emergency conditions, regulations will further define these circumstances, and any procurements conducted pursuant to this authority must be done so as to treat all bidders fairly and to promote such competition as is practicable under the circumstances.

It is a best practice for rules/regulations and procedures to address situations where prior approval of the Chief Procurement Officer is not feasible, such as when emergencies occur on weekends. In those cases, the rules/regulations and procedures should permit user agencies to conduct emergency procurements but require them to report the circumstances to the Chief Procurement Officer within a short period of time to obtain approval after the fact.

In an emergency procurement, the quantity to be purchased should only be that necessary to meet the circumstance. If time, the nature of the requirements, and other circumstances permit, verbal price quotations should be sought from more than one potential source. For certain commodity or service needs, the **Chief Procurement Officer may consider putting in place indefinite quantity contracts for a period of time (such as a year) through a formal competition in anticipation of certain emergency situations, with the understanding that the user agencies will purchase from the contract only if an emergency need exists.** For example, one emergency might be for helicopter services for forest firefighting work. Major disasters require prompt action and these types of contracts allow the procurement process to meet an urgent need in a competitive yet timely manner.

NASPO Sole Source Procurement Guide

<https://www.naspo.org/solesourceprocurement/index.html>

The online sole source guide includes specific examples and statutory definitions and criteria for allowing non-competitive procurements.

States use different definitions for non-competitive procurements, (including sole source procurements, waivers of competition, single source procurement, emergency procurements) however, they are generally prohibited with some exceptions. Sole source procurements are not permitted without justification in most states.

While competition is the preferred method of performing a procurement process, non-competitive procurements such as sole source procurements or emergency procurements may be the appropriate tool under certain circumstances, especially in unforeseen situations where a repair is necessary to protect life or property. Here are a few state examples per the Sole Source Guide:

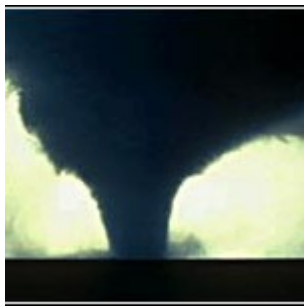
State	Definition of non-competitive procurement/sole source	Weblink/Citation
AR	Sole source procurements may include but shall not be limited to: (1) requirements of performance compatibility with existing commodities or services; or (2) repairs involving hidden damage.	http://www.dfa.arkansas.gov/offices/procurement/guidelines/Pages/default.aspx
LA	1597. Sole source procurements A contract may be awarded for a required supply, service, or major repair without competition when, under regulations, the chief procurement officer or his designee above the level of procurement officer determines in writing that there is only one source for the required supply, service, or major repair item.	Louisiana Administrative Code Title 34:1.905.
MI	The award of a contract to a vendor under circumstances which preclude competitive solicitation is prohibited except for under the following conditions: (a) Procurement of goods or services is necessary for the imminent protection of public health or safety or to mitigate an imminent threat to public health or safety, as determined by the director or his or her designated representative. (b) Procurement of goods or services is for emergency repair or construction caused by unforeseen circumstances when the repair or construction is necessary to protect life or property. (c) Procurement of goods or services is in response to a declared state of emergency or state of disaster under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421. (d) Procurement of goods or services is in response to a declared state of emergency under 1945 PA 302, MCL 10.31 to 10.33. (e) Procurement of goods or services is in response to a declared state of energy emergency under 1982 PA 191, MCL 10.81 to 10.89. (f) Procurement of goods or services is within a state agency's purchasing authority delegated under subsection (4), and the state agency has established policies or procedures approved by the department to ensure that goods or services are purchased by the state agency at fair and reasonable prices.	http://www.legislature.mi.gov/(S(owjnuwkjliipto144pvctyl4))/mi-leg.aspx?page=GetObject&objectname=mcl-18-1261

Coates' Canons Blog: Emergency Procurement – When is an emergency really an emergency?

By Norma Houston

Article: <https://canons.sog.unc.edu/emergency-procurement-%e2%80%93-when-is-an-emergency-really-an-emergency/>

This entry was posted on June 07, 2011 and is filed under Emergency Management, Emergency Ordinances, Emergency Restrictions, Purchasing / Purchase Contracts / Purchase Orders, Purchasing, Construction, Property Transactions, State Of Emergency



A tornado has ripped through Coatesville, damaging its water and sewer system, tearing the

roof off of town hall, destroying the police department's vehicles, and leaving tons of debris in its wake. The town declares a state of emergency and immediately begins mobilizing to recover from the disaster. Citizens are without water and sewer, town hall is virtually unusable, law enforcement has no patrol vehicles, and roadways are clogged with debris. Town leaders are anxious to begin repairs to critical infrastructure, get police back on the road, and hire contractors to start clearing debris. Surely if any situation warranted use of the emergency exception to state bidding laws, this is it. Is it? Not so fast.

Emergency exception to state competitive bidding requirements

Under normal circumstances, purchase or construction contracts costing over \$30,000 are subject to either informal or formal competitive bidding requirements. (G.S. 143-129 and G.S. 143-131) These requirements do not apply in "cases of special emergency involving the health and safety of the people or their property." (G.S. 143-129(e)(2)) This broad language would seem to cover all the calamities that Coatesville suffered, especially since the town declared a state of emergency. However, the North Carolina Supreme Court has interpreted the emergency exception to state bidding laws narrowly, thus limiting its application, perhaps even in situations involving natural disasters.

Limitations on the emergency exception

In *Raynor v. Commissioners for Town of Louisburg*, 220 N.C. 348, 17 S.E.2d 495 (1941), the court held that the circumstances under which the Town of Louisburg purchased new diesel engines for its power plant did not constitute an "emergency" within the meaning of the exception to the bidding statutes. The town argued that the aging engines in its power plant needed replacement and failure of the engines would pose a threat to public health and safety. In disagreeing with the town's assertion that these circumstances constituted an emergency, the court held that the emergency must be present, immediate, and existing, and cannot be a situation that is merely anticipated to arise in the future. The court noted that bids for the engines could have been advertised for just one week with replacement ensuing soon after. This means that if competitive bidding requirements can be followed without causing harm to public health and safety (or if that harm can be temporarily mitigated), the emergency exception cannot be used.

So, how do these limitations on the emergency exception impact Coatesville's ability to immediately respond to the tornado damage? Although no North Carolina court has interpreted this exception in the context of a natural disaster, some reasonable assumptions can be made in light of the *Raynor* decision. Let's take each challenge Coatesville faces one by one:

- Damaged water and sewer system – Access to water and sewer service is directly related to public health and safety. Making temporary repairs to the town's damaged water and sewer system would likely fall within the emergency exception. Depending on the extent of the damage, however, long-term repairs probably won't be considered an emergency if temporary measures have to be put in place in order to maintain service during the process of reconstruction.
- Town hall's missing roof – Although no doubt greatly inconvenient, it is not likely that the loss of a roof on town hall poses a threat to public health and safety unless some function performed within the town hall building fits that description (for example, a 911-communications dispatch center). Temporary repairs could be contract for without bidding to forestall further immediate damage. However, as with the water and sewer system repairs, there is no justification for avoiding the bidding requirements on a project that will take some time to complete. In other words, if there is time to complete the work, there is time to bid it. The contract for repairs to town hall should be let according to applicable statutory bidding procedures.
- New law enforcement vehicles – Law enforcement operations can be especially critical during the aftermath of a natural disaster to protect property from further damage and looting and ensure public safety under turbulent circumstances (such as enforcing curfews). However, given that the town could take temporary measures such as requesting law enforcement assistance from other jurisdictions under the state-wide mutual aid system operated by the NC Division of Emergency Management, it is questionable whether the emergency exception would apply to the purchase of new law enforcement vehicles. The town could use other exceptions to competitive bidding requirements to expedite the process of obtaining new vehicles, either through lease, purchase of used vehicles, or purchasing directly from another governmental unit at the federal, state, or local level anywhere in this country. (GS 143-129(e)(1)).
- Debris removal – Debris removal is considered a service contract and normally does not involve purchases or construction. Since service contracts are not subject to state competitive bidding requirements, the town could contract directly with debris haulers without having to utilize the emergency exception (*note: see discussion below about competitive procurement requirements that apply to FEMA funds*).

Suggested board procedures

If the town chooses to use the emergency exception, the town's governing board should adopt a resolution setting out those facts that constitute the emergency. If there isn't time to do this before the contract is made, the board can do it after the fact. Documenting the circumstances for using the emergency exception can be important in defending the board's action. If the board's failure to follow state competitive bidding requirements is challenged, the burden of proof would be on the unit of government to demonstrate that justification for using the emergency exception existed. Although the court in *Raynor* stated that such a declaration by a governing board would not be binding on a court, it does provide documentation of the facts that support the decision to use the emergency exception.

Following state bidding requirements may still be the better option

Local officials understandably want to respond to a disaster as quickly as possible. Drawing up specifications for building repairs or vehicle purchases can take time. However, the purpose of the emergency exception is not to circumvent competitive bidding requirements and speed up the procurement process for projects that will still take months to complete. And, for some types of contracts, complying with state competitive bidding requirements may be just as easy as proceeding under the emergency exception *and* critical to getting FEMA reimbursement.

Keep in mind the bid thresholds for purchase and construction contracts mentioned above. Formal bidding requirements only apply to purchase contracts costing \$90,000 or more and construction contracts costing \$500,000 or more. Purchase and construction contracts costing between \$30,000 and the applicable formal bidding threshold are only subject to informal bidding requirements. These requirements are less stringent than formal bidding requirements and, even in the aftermath of a natural disaster, might not be unduly burdensome to comply with (for example, there is no formal advertisement requirement, and cost quotes could be obtained as easily as by making a few phone calls). If the contract

for purchase or construction falls into the informal bidding range, it may prove just as easy to simply comply with informal bidding requirements than proceeding under the emergency exception (and, as discussed next, can help avoid violating federal competitive procurement requirements that apply to FEMA funds).

What if the cost of the purchase or construction contract is less than \$30,000? No bidding requirements apply to these contracts under state law. Like service contracts (regardless of cost), purchase and construction contracts costing less than \$30,000 can be awarded using whatever method the local government chooses and are not subject to state competitive bidding requirements. So, if a construction contract to repair a damaged roof costs less than \$30,000, there is no need to proceed under the emergency exception because there are no state competitive bidding requirements to become exempt from.

Caution: federal regulations may still apply

It is important to note that, even if the emergency exception to state competitive bidding requirements applies (or no competitive bidding requirements apply as is the case with service contracts of any cost and purchase and construction contracts costing less than \$30,000), other state and federal regulations still may require some form of competition in awarding a contract, even in disaster situations. For example, federal public assistance funding made available to local governments under a presidential disaster declaration is subject to the requirements of the federal Grants Management Common Rule (for more information about the GMCR, see the School of Government's Local Government Purchasing and Contracting website for "federal grant tools" under the "Tools" tab). The GMCR requires competitive procurement for most purchase and construction contracts as well as some service contracts. (44 CFR § 13.36) Although there is an exception when "a public exigency or emergency will not permit a delay" (44 CFR § 13.36(d)(4)(i)(B)), local governments should exercise caution in avoiding competitive procurement entirely because a violation of GMCR requirements could result in denial of reimbursement from FEMA for disaster-related expenses such as debris removal. To the extent feasible, local governments should pre-position competitively bid contracts for goods and services that it anticipates needing during a disaster event, such as debris hauling and emergency supplies. Having pre-positioned competitively bid contracts in place can not only expedite disaster recovery by having contractors ready to mobilize immediately after a disaster event, but also avoid potential FEMA reimbursement issues by satisfying the GMCR competitive procurement requirements.

What if the emergency isn't a natural disaster?

So far, our discussion of the emergency exception to competitive bidding requirements has focused on what most would consider a real emergency – a natural disaster. Questions sometimes arise about whether the emergency exception applies in situations that do not involve natural disasters. In those instances, the *Raynor* decision provides guidance on when an emergency is really an emergency. Remember the factors outlined by the court in *Raynor* – the emergency must be present, immediate, and existing, and cannot be a situation that is merely anticipated to arise in the future. So, if a town's water and sewer system suffered damage due to an unforeseen explosion that rendered the system totally inoperable, that situation would likely constitute an emergency for which the town could avoid state competitive bidding requirements to undertake immediate emergency repairs (as discussed above, long-term repairs more likely would not fall under the emergency exception). However, anticipating water and sewer system failure in the near future due to neglected maintenance would not constitute an emergency. In fact, this was the situation in the *Raynor* case, and the court specifically noted that local governments cannot take advantage of the emergency exception where the potential emergency has been caused by the local government's own delay in taking action that was foreseeable. And, even in the event of an unforeseen emergency, if the threat to public health and safety can be temporarily mitigated, or if complying with competitive bidding requirements (for example, 7-day advertisement for formal contracts and solicitation of quotes for informal contracts) would not pose a risk of injury to persons or property, then the emergency exception most likely cannot be used.

Perhaps a good rule of thumb is, "when in doubt, bid it out."

Links

- canons.sog.unc.edu/wp-content/uploads/2011/07/tornado.jpg
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-129

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- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-131
 - www.nccrimecontrol.org/Index2.cfm?a=000003,000010,001685
 - www.nccrimecontrol.org/index2.cfm?a=000003,000010
 - www.sog.unc.edu/resources/microsites/local-government-purchasing-and-contracting/tools
 - ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=769987c1880240f62eb9ea30b5630cf7&rgn=div5&view=text&node=44:1.0.1.1.14&idno=44#44:1.0.1.1.14.3.13.14

ATTACHMENT 4

REQUEST TYPE	RCVD DATE	SUSP DATE	REQUEST NO.	DEPT	DIV(S)	DESCRIPTION	DOLLAR AMT	VENDOR	CONTRACT TERM DATES	A/D/ NAR	CPO Comments
Emergency Procurement (EP)	7/1/2019	7/9/2019	EP20-001J	DLIR	DLIR	Cloud hosting services	\$33,953.00	DataHouse, Inc.	06/24/2019-12/31/2019	D	This request is disapproved as it does not meet the requirements of an emergency procurement. Emergency procurement is used when a situation is unanticipated, of an unusual or compelling urgency and creates a threat to life, public health, welfare, or safety by reason of major natural disaster, epidemic, riot or fire, and requires an immediate response. If there are any questions, please contact Jittima Laurita at 586-0766 or jittima.laurita@hawaii.gov.
Emergency Procurement (EP)	7/19/2019	7/26/2019	EP20-002L	DOT	DOT	Repair for Molokai Airport's terminal roof from wind and rain water	\$7,059.04	Tri-L Construction	4/11/2019-4/29/2019	A	Approval is granted based on the department's determination the damage to the terminal roof caused a threat to public health and safety which required immediate repair and on the condition Maria Honoria E. Castillo to retake SPO Workshops 001 Procurement Basics and SPO 110 Emergency and Sole Source Procurements prior to conducting and/or participating in any future procurements. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to provide proof of compliance and may use the Hawaii Compliance Express) for all contracts awarded. Copies of the compliance and the award posting are required to be documented in the procurement/contract file. The award is required to be posted on the Hawaii Awards and Notices Data System (HANDS) pursuant to Procurement Circular PC2019-05. If there are any questions, please contact Lori Cervantes at 587-3355 or
Emergency Procurement (EP)	8/1/2019	8/9/2019	EP20-003SC	AG	ASO	Avon Responder Kits	\$38,309.21	Lionheart Alliance	7/17/19-8/2/2019	A	Approval is granted based on the Department's determination that the masks were necessary to protect law enforcement personnel in the event that chemical crowd control devices are used. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use Hawaii Compliance Express) for all contracts awarded. The award is required to be posted on the Hawaii Awards & Notices Data Systems (HANDS). Copies of the HCE certificates and awards postings are required to be documented in the procurement/contract file. If there are any questions, please contact Shannon Ota at 586-0563, or shannon.j.ota@hawaii.gov.
Emergency Procurement (EP)	8/5/2019	8/12/2019	EP20-004J	DLNR	DOFAW	Wildland brush fire in the Waiko area of Central Maui.	\$30,000.00	Vares Contracting	7/11/2019 - 7/25/2019	A	Approval is granted based on the Department's determination that Maalea Power Plant needed to be protected from the brush fire as it provides electricity to much of Maui. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use Hawaii Compliance Express) for all contracts awarded. The award is required to be posted on the Hawaii Awards & Notices Data Systems (HANDS). Copies of the HCE certificates and awards postings are required to be documented in the procurement/contract file. If there are any questions, please contact Jittima Laurita at 586-0766 or jittima.laurita@hawaii.gov.
Emergency Procurement (EP)	8/14/2019	8/19/2019	EP20-005SC	DLNR	Boating & Sinking trimaran		\$24,500.00	Parker Marine Worldwide, Inc.	7/3/2019-7/3/2019	A	Approval is granted based on the Department's removal of the sinking trimaran was necessary due to the fact the vessel was leaning over heavily and could have possibly tipped over into the navigations channel blocking the access way and/or injuring passing ocean users. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use Hawaii Compliance Express) for all contracts awarded. The award is required to be posted on the Hawaii Awards & Notices Data Systems (HANDS). Copies of the HCE certificates and awards postings are required to be documented in the procurement/contract file. If there are any questions, please contact Shannon Ota at 586-0563, or shannon.j.ota@hawaii.gov.
Emergency Procurement (EP)	8/22/2019	8/27/2019	EP20-006SC	DLNR	DOFAW	Response to a wildfire near DOFAW managed public hunting areas that burned approx. 2150 acres. Area of burn was located along HWY 552, which leads into Waimea Canyon State Park, Kokee State Park, and numerous Forest Reserves. Public areas are vital for visitors and residents. Public safety was compromised as result of fire burned invasive trees, shrubs and grasses. Rapid control of wildfire was critically important to prevent spread into adjacent towns of Kekaha and Waimea, continued spread within Kekaha Game Management Area and Public Hunting Area until 1.	\$191,690.00	Cushnie Construction Co, Inc.	6/18/2019-6/24/2019	A	Approval is granted based on the Department's need to respond to a wildfire. The public's safety was compromised as the result of the fire burning invasive trees, shrubs, and grasses. Rapid control of the wildfire was critically important to prevent its spread into adjacent towns of Kekaha, Waimea, and within the Kekaha Game Management Area and Public Hunting Area until 1. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use Hawaii Compliance Express) for all contracts awarded. The award is required to be posted on the Hawaii Awards & Notices Data Systems (HANDS). Copies of the HCE certificates and awards postings are required to be documented in the procurement/contract file. If there are any questions, please contact Shannon Ota at 586-0563, or shannon.j.ota@hawaii.gov.
Emergency Procurement (EP)	9/12/2019	9/19/2019	EP20-007SK	DHHL		On June 20, 2019, Governor Ige announced notice to proceed with construction of the Thirty Meter Telescope (TMT) on Mauna Kea. To begin project, the State needed to ensure workers have safe access to the TMT site and safe working conditions. Thus the plan was to clear the Mauna Kea Access Road of four unpermitted structures, one of which was Hawaiian home lands. The concerted effort by multiple law enforcement agencies for the other activities allowed DHHL access to additional security resources to dismantle and clear the Mauna Kea Access Road for construction crews and TMT workers to safely proceed to the summit.	\$85,127.90	Elite Security Hawaii, LLC	6/20/2019-7/15/2019	A	Approval is granted based on the department's determination that the 24-hour security services off-of Mauna Kea Access Road was necessary so workers would have safe access to the Thirty Meter Telescope (TMT) site and safe working conditions. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to provide proof of compliance and may use the Hawaii Compliance Express) for all contracts awarded. Copies of the HCE certificate and awards posting are required to be documented in the procurement/contract file. The award is required to be posted on the Hawaii Awards & Notices Data System (HANDS) pursuant to Procurement Circular PC2019-05. If there are any questions, please contact Stacey Kauleinamoku at 586-0571, or stacey.j.kauleinamoku@hawaii.gov.
Emergency Procurement (EP)	9/26/2019	10/3/2019	EP20-008M	DHS		On 9/14, Saturday afternoon at approx. 3:30 pm, there was a 4th underground water main break near mauka side of building 12 at Mayor Wright Homes, a family designated property. The water main break caused flooding in the surrounding areas and required the water line to be shut off in order to stop the flooding and prevent damage to the buildings. The immediate repair was necessary to avoid the possibility of 364 units being without water through the weekend, which would leave residents unable to cook, bathe, or use the bathroom.	\$9,000.00	Mason's Plumbing	9/14/2019-9/14/2019	A	Approval is granted based on the department's determination that the water pipe break created a threat to the safety and welfare of the tenants at Mayor Wright Homes and needed to be repaired immediately. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e., vendor is required to show proof of compliance and may use the Hawaii Compliance Express) and the award is required to be posted on the Hawaii Awards & Notices Data System. Proof of compliance and the awards posting are required to be documented in the procurement/contract file. The award is required to be posted on the Hawaii Awards and Notices Data System (HANDS) pursuant to Procurement Circular PC2019-05. If there are any questions, please contact Matthew Chow at 586-0577 or matthew.m.chow@hawaii.gov.

Emergency Procurement (EP)	9/27/2019	10/4/2019	EP20-0095C	DAGS		In EP18-014K, our deadline for issuing purchase orders or contracts was June 30, 2019. On June 6, 2019 the contractor submitted cost proposals for unanticipated work that was not part of their original work order. A supplemental purchase order for the cost proposals was not issued prior to the June 30, 2019 deadline. This request is to allow issuing a final purchase order for additional work done by the contractor 6/1/19-12/31/19.	\$36,165.00	Commercial Electric, Inc.	6/1/2019-12/31/2019	NAR	Request is returned with no action required as the department has decided to withdraw their request for emergency. If there are any questions, please contact Shannon Ota at 586-0563, or shannon.j.ota@hawaii.gov.
Emergency Procurement (EP)	10/21/2019	10/28/2019	EP20-0105C	DLNR	DOBOR	On July 12, 2019 at about 5:00 pm, Boating and Ocean Recreation Harbor Agent (BORHA) II, Joelle Aoki was notified there was a waterline leak at the Manele Small Boat Harbor. Water was shooting 20 feet into the air and inundating the north parking lot of the harbor and creating a safety hazard to the users of the facility as well as the general public that were waiting for that Maui-Lanai ferry. BORHA II Aoki contacted Keo Konstruktion, LLC. and they helped her located the shut off valve. This shut off water to the a comfort station, boat slips, commercial loading docks and piers, and to Manele-Lahaina ferry pier.	\$2,604.25	Keo Konstruktion, LLC	7/12/2019-7/12/2019	A	Approval is granted based on the Department's need to respond to the water leak which created a safety hazard to the users of the facility and the general public waiting for the Maui-Lanai ferry. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use Hawaii Compliance Express) for all contracts awarded. The award is required to be posted on the Hawaii Awards & Notices Data Systems (HANDS). Copies of the HCE certificates and awards postings are required to be documented in the procurement/contract file. If there are any questions, please contact Shannon Ota at 586-0563, or shannon.j.ota@hawaii.gov.
Emergency Procurement (EP)	10/21/2019	10/28/2019	EP20-0115C	DLNR	DOBOR	On Sunday, 9/29/2019, DOBOR received notification from the United States Coast Guard, an approximately 30' sailing vessel USCG Doc. No. 1258098, named "Keani Kai" ran aground at Magic Island just outside the Ala Wai harbor channel. The harbor channel is a heavily utilized area by recreational and commercial vessels. The vessel began to break up along the shoreline and large pieces of the vessel began to lodge against the shoreline as well as float into the Ala Wai channel. This created navigational hazards as well as fuel, oil and human waste. This resulted in an imminent threat to life public health, welfare, and safety. Attempts to reach the owner by phone and email were made by Sunday, 9/29/2019, with no response as of Monday, 09/30/2019.	\$13,890.00	Parker Marine Worldwide, Inc.	9/29/2019-10/2/2019	A	Approval is granted based on the department's determination that immediate action was necessary to remove the vessel and its debris which caused a threat to the public's health and safety. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to provide proof of compliance and may use the Hawaii Compliance Express) for all contracts awarded. Copies of the compliance and the awards posting are required to be documented in the procurement/contract file. The award is required to be posted on the Hawaii Awards and Notices Data System (HANDS) pursuant to Procurement Circular PC2019-05. If there are any questions, please contact Stacey Kauleinamoku at 586-0571, or stacey.j.kauleinamoku@hawaii.gov.
Emergency Procurement (EP)	10/23/2019	10/31/2019	EP20-012L	DLNR		Wildland brush fire started at 0830 on 10/2/19 east of Pohakea Gulch along the MECO service access road and strong tradewinds were causing the fire to spread rapidly towards the Kaheawa windfarm West Maui State Forest Reserve.	\$11,400.00	Pacific Helicopter Tours, Inc.	10/2/2019-10/4/2019	A	Approval is granted based on the department's need to respond to the wildland brush fire which created a threat to public health and safety which required immediate action and on the condition Lance De Silva takes the following SPO Workshops: -SPO 001 Procurement Basics -SPO 110 Emergency and Sole Source Procurements Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to provide proof of compliance and may use the Hawaii Compliance Express) for all contracts awarded. Copies of the compliance and the award posting are required to be documented in the procurement/contract file. The award is required to be posted on the Hawaii Awards and Notices Data System (HANDS) pursuant to Procurement Circular PC2019-05. If there are any questions, please contact Lori Cervantes at 587-3355 or lori.m.cervantes@hawaii.gov.
Emergency Procurement (EP)	10/30/2019	11/6/2019	EP20-0135K	DBEDT	Foreign-Tr	A warehouse user broke a fire riser pipe in the FTZ warehouse with a forklift, making our fire sprinkler system inoperable. This portion of the fire suppression system covers a significant portion of the FTZ's Makai offices and warehouse and needed to be repaired immediately. Any delay in fixing the broken system would have left these areas without the ability to contain a fire and would be in violation of city county fire regulations.	\$1,099.52	National Fire Protection Company, Inc	10/14/2019	A	Approval is granted based on the department's determination that the immediate repairs to the broken fire riser pipe in the FTZ warehouse, to make the fire sprinkler system operable, was necessary as it posed a threat to the FTZ Makai offices and warehouse staffs' health and safety. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to provide proof of compliance and may use the Hawaii Compliance Express) for all contracts awarded. Copies of the compliance and the awards posting are required to be documented in the procurement/contract file. The award is required to be posted on the Hawaii Awards and Notices Data System (HANDS) pursuant to Procurement Circular PC2019-05. If there are any questions, please contact Stacey Kauleinamoku at 586-0571, or stacey.j.kauleinamoku@hawaii.gov.
Emergency Procurement (EP)	10/30/2019	11/6/2019	EP20-014J	DOD		Chief of Staff office called at about 6:30 am on 10/15/19; water leak in front of their office building 1785. Upon inspection, steady volume of water was coming up from the ground near the sidewalk. Located water valves to try to isolate the water source. The plumbing in this area is in poor condition, most of the shut off valves are inoperable and will not shut off when turned. Pural Water Specialty Company was in the area working on another project so I consulted them to see if they could shut off the water. They informed me that the only way we can isolate the leak to shut off water to the entire compound which involves Bldgs 1788, 1784, 1785 1786 and 1787. Waialua Plumbing and Mechanical was called to investigate and they discovered multiple water lines had broken and could not repair without totally shutting off all the water sources. Presently, bldg 1786 which houses Youth Challenge students have no water in their building so they can not shower or use restroom facilities causing safety and health issues.	\$8,685.86	Waialua Plumbing and Mechanical Inc.	10/15/2019-10/15/2019	A	Approval is granted based on the Department's determination that repair was needed as the health and well-being of the public was at stake. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use Hawaii Compliance Express) for all contracts awarded. The award is required to be posted on the Hawaii Awards & Notices Data Systems (HANDS). Copies of the HCE certificates and awards postings are required to be documented in the procurement/contract file. If there are any questions, please contact Jittima Laurita at 586-0766 or jittima.laurita@hawaii.gov. LAN LOCATION: Y:\SPO-c\CPO Approvals\01-Emergency Procurement (EP)\EP-2020\EP20-014J_DOD
Emergency Procurement (EP)	11/4/2019	11/11/2019	EP20-015O	DOT	HWYS	On September 26, 2019 at 3:15 am Kauai Police Dispatch called to report an accident on Kaunalihi Highway at Hokualei Village Intersection and one of the traffic signal pole was down to the ground. The traffic light is not working. Police were directing traffic. American Electric were called in to do the traffic signal repairs which included removal of the old pole base. Traffic signal required repair as soon as possible for public health and safety. Repair was complete about 10:00 a.m. Police Report: 19-20461.	\$6,000.00	American Electric	9/26/2019-9/26/2019	A	Approval is granted based on the Department's repair and replacement of a traffic signal at Hokualei Village Intersection, Kaunalihi Highway, Kauai, was necessary because traffic signals need to be operational at all times for public health and safety for travelling motorists as well as pedestrians. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use Hawaii Compliance Express) for all contracts awarded. The award is required to be posted on the Hawaii Awards & Notices Data Systems (HANDS). Copies of the HCE certificates and awards postings are required to be documented in the procurement/contract file. If there are any questions, please contact Owen Kano at 587-4707 or owen.t.kano@hawaii.gov.

Emergency Procurement (EP)	11/5/2019	11/13/2019	EP20-016SK	DOT		On the morning of July 30, 2019 at 7:10 am a section of pavement on Runway 8L of the Daniel K. Inouye International Airport was deemed to be unsafe for aircraft traffic and runway was closed for use. On July 31, 2019, due to the advent of Hurricanes Erick and Flossie in the Pacific, repairs to the runway was deemed an emergency by Airport Manager Roy Sakata due to the need for the availability of all runways to service airplanes in the event of severe weather conditions predicted in the near future. During a storm event, closure of a runway will limit the aircrafts which can be serviced, which may create delays which may become a hazard in severe weather conditions. The Airport's pavement repair contract is in the process of award which prevents the work from being performed by the Airport's normal means of pavement repair.	\$24,194.75	Grace Pacific Corporation	7/30/2019-9/30/2019	A	Approval is granted based on the department's determination that the immediate repairs to the damaged 15'x30' area of asphalt concrete at Runway 8L was necessary, in order, for all runways to be available to service planes in the event of severe weather conditions from Hurricanes Erick and Flossie in the Pacific. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to provide proof of compliance and may use the Hawaii Compliance Express) for all contracts awarded. Copies of the compliance and the awards posting are required to be documented in the procurement/contract file. The award is required to be posted on the Hawaii Awards and Notices Data System (HANDS) pursuant to Procurement Circular PC2019-05. If there are any questions, please contact Stacey Kauleinamoku at 586-0571, or stacey.l.kauleinamoku@hawaii.gov.
Emergency Procurement (EP)	11/5/2019	11/7/2019	EP20-017J	DOT	Airports	On Tuesday, Oct. 7th at approximately 0830, a water leak from a 2 & 1/2' pipe, leading from the highway to the terminal access road was discovered. Water is seeping through the asphalt, along the access road all the way to the front of the terminal. Water pressure to the terminal is low and affecting the flushing of the toilets in the restrooms. The leak will only get larger and will affect the safety and health of users of the airport terminal if repairs are not done quickly. The leak will severely hamper the airport to provide quality drinking water and for sanitation uses.	\$38,286.00	Goodfellow Brothers	10/7/2019-11/30/2019	A	Approval is granted based on the Department's determination that repair was needed as the health and well-being of the public was at stake. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use Hawaii Compliance Express) for all contracts awarded. The award is required to be posted on the Hawaii Awards & Notices Data Systems (HANDS). Copies of the HCE certificates and awards postings are required to be documented in the procurement/contract file. If there are any questions, please contact Jittima Laurita at 586-0766 or jittima.laurita@hawaii.gov. LAN LOCATION: Y:\\$po-c\CPQ Approvals\01-Emergency Procurement (EP)\EP-2020\EP20-017J_DOT
Emergency Procurement (EP)	11/13/2019	11/20/2019	EP20-018L	DLNR	DOBOR	A sailing vessel, "Lani Akua" with HA 1245 K, grounded on waters off Olowalu on the west facing shore of Maui on Oct. 24, 2019.	\$5,208.35	D&D Towing, Inc.	10/24/2019-10/25/2019	A	Approval is granted based on the department's need to respond to the grounded vessel which created a threat to public health and safety which required immediate action. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to provide proof of compliance and may use the Hawaii Compliance Express) for all contracts awarded. Copies of the compliance and the award posting are required to be documented in the procurement/contract file. The award is required to be posted on the Hawaii Awards and Notices Data System (HANDS) pursuant to Procurement Circular PC2019-05. If there are any questions, please contact Lori Cervantes at 587-3355 or lori.m.cervantes@hawaii.gov.
Emergency Procurement (EP)	12/12/2019	12/20/2019	EP20-019SC	DOT	Airports	Center lobby (inside/outside) of airport sewage drain backed up. In 4 restrooms sewage was coming out of floor drains which effect the safety and health of users of the airport if repairs are not done.	\$628.27	Nokaoli Pipe & Restoration LLC (Nelson)	9/15/2019-9/15/2019	A	Approval is granted based on the Department's need to respond to the sewage drain back up which was a risk of safety and health to the users of the facility. If there are any questions, please contact Shannon Ota at 586-0563, or shannon.j.ota@hawaii.gov.
Emergency Procurement (EP)	1/10/2020	1/17/2020	EP20-020SC	DOT	HWYS	On 12/25/19, trees, rocks and mud from the hillside above Pali Highway, Kailua bound, in between the two tunnels, fell down onto the roadway. It was discovered that additional large trees and mud/rock sections remained perched about 60-80 feet above the travel lanes of the highway.	\$30,000.00	Prometheus Construction	12/25/2019-1/1/2020		

RCVD DATE	SUSP DATE	REQUEST NO.	DEPT	DIV(S)	DESCRIPTION	DOLLAR AMT	VENDOR	CONTRACT TERM DATES	A/D/ NAR	CPO Comments	RTN	Internal Notes
7/10/2018	7/17/2018	EP19-001C	DHS	HPHA	Leak underground water pipe near buildings	\$17,172.00	Alpha Omega Plumbing, Inc	06/20/2018-06/25/2018	A	Approval is granted based on the department's determination that the water pipe breaks created a threat to the safety and welfare of the tenants at Kaahumanu Homes and needed to be repaired immediately. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e., vendor is required to show proof of compliance and may use the Hawaii Compliance Express) and the award is required to be posted on the Hawaii Awards & Notices Data System. Proof of compliance and the awards posting are required to be documented in the procurement/contract file. If there are any questions, please contact Carey Ann Sasaki at 586-0575, or careyann.r.sasaki@hawaii.gov.	7/19/2018	skip BK 2 days before business trip
8/6/2018	8/13/2018	EP19-002S	DLNR	Land	Tree Trimming & Debris removal	\$16,500.00	TreeWorks	6/24/2018 - 8/29/2018	A	Approval is granted based on the Department's determination that the debris caused by fallen trees and potentially hazardous trees posed a health and safety hazards to the public. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use Hawaii Compliance Express) for all contracts awarded, and the award is required to be posted on the Hawaii Awards & Notices Data Systems (HANDS). Copies of the HCE certificates and awards postings are required to be documented in the procurement/contract file. If there are any questions, please contact Shannon Ota at 586-0563, or shannon.j.ota@hawaii.gov.	8/8/2018	
8/9/2018	8/10/2018	EP19-003K	DOA	ARM	Severe rainstorms in Waimanalo caused debris and silt preventing the culvert from efficiently passing water and caused the stream to overtop its banks and flood the adjacent area	\$151,000	Royal Contracting Co., Ltd.	08/14/2018-08/13/2019	NAR	No action is required by the CPO as HRS Chapter 103D has been suspended through Governor Ige's emergency proclamation. If there are any questions, please contact Kevin Takeasu, or email kevin.s.takeasu@hawaii.gov.	8/23/2018	
9/14/2018	9/21/2018	EP19-004L	DOT	Harbors	Repair of leak or break in the pipeline.	\$7,637.00	Rojac Construction	07/02/2018-07/05/2018	A	Approval is granted in the amount of \$7,637.45, based on the department's determination that the under pier pipe damage could create a health hazard due to contamination to potable water. The Department is reminded that a written determination (SPO-002) must be prepared in a timely manner, pursuant to HAR section 3-122-90. Pursuant to HRS section 103D-310(c) HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use Hawaii Compliance Express) for all contracts awarded, and the award is required to be posted on the Hawaii Awards & Notices Data Systems (HANDS). Copies of the HCE certificates and awards postings are required to be documented in the procurement/contract file. If there are any questions, please contact Lori Cervantes at 587-3355 or lori.m.cervantes@hawaii.gov.	11/15/2018	
9/25/2018	10/2/2018	EP19-005SO	DLNR	Dobor	The 26 ft. vessel ran onto the shoreline and lodged upside down and was in danger of breaking up in the shore break.	\$19,900.00	Parker Marine Worldwide	06/09/2018-09/14/2018	A	Approval is granted based on the Department's determination that the capsized vessel, "Blue Laser", posed a health and safety hazards to the public. The Department is reminded to prepare a written determination as soon as practicable thereafter and pursuant to HAR section 3-122-90. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use Hawaii Compliance Express) for all contracts awarded, and the award is required to be posted on the Hawaii Awards & Notices Data Systems (HANDS). Copies of the HCE certificates and awards postings are required to be documented in the procurement/contract file. If there are any questions, please contact Shannon Ota at 586-0563, or shannon.j.ota@hawaii.gov.	10/5/2018	
9/27/2018	10/1/2018	EP19-006L	DOD	HIENG	A small leak was reported, at the HIARNG Building. Contractors were contacted to cap the leaking Fire Riser	\$10,000.00	Rural Water Specialty	10/02/2018-10/20/2018	D	This request is disapproved as it does not meet the requirements of an emergency procurement. Emergency procurement is used when a situation is unanticipated, of an unusual or compelling urgency and creates a threat to life, public health, welfare, or safety by reason of major natural disaster, epidemic, riot or fire, and requires an immediate response. Based on the conversations via phone and email, the department did attempt to respond to the situation, which has been ongoing. Additionally, the department ordered the fittings to perform the line stop from Pural Water Specialty Co., Inc. and the minimum number of quotes were not received prior to purchase. Therefore, the department is advised to submit form SPO-016, Report of Procurement Violation: Findings and Corrective Action, to request after-the- fact payment for the vendor and provide corrective action(s) for approval. If there are any questions, please contact Lori Cervantes at 587-3355 or lori.m.cervantes@hawaii.gov.	10/5/2018	
10/3/2018	10/5/2018	EP19-007K	DOT	Airports	Vendor is currently under contract with the DOTA to provide sewer maintenance services	\$553,880.67	Eckard Brandes Inc	04/03/2018-12/03/2018	A	Approval is granted based on the Department's determination that the backup sewage caused by a collapsed pipe near the existing Keeli Place Pump station posed a health and safety hazards to the public. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use Hawaii Compliance Express) for all contracts awarded, and the award is required to be posted on the Hawaii Awards & Notices Data Systems (HANDS). Copies of the HCE certificates and awards postings are required to be documented in the procurement/contract file. If there are any questions, please contact Kevin Takeasu at 586-0568, or kevin.s.takeasu@hawaii.gov	10/16/18	
10/15/2018	10/22/2018	EP19-008K	DOT	Airports	Electrical Power	\$19,900.00	Barber's Point Aviation	08/01/2018-09/30/2018	D	This request is disapproved as it does not meet the requirements of an emergency procurement. Emergency procurement is used when a situation is unanticipated, of an unusual or compelling urgency and creates a threat to life, public health, welfare, or safety by reason of major natural disaster, epidemic, riot or fire, and requires an immediate response. Additionally, the department knew that the transformer was in need of repair or replacement (3 incidents within a year, the transformer went down), and that the backup 450KW generator was not operational for some time prior to the reported incident. Therefore, the department is advised to submit form SPO-016, Report of Procurement Violation: Findings and Corrective Action, to request after-the- fact payment for the vendor and provide corrective action(s) for approval. If there are any questions, please contact Kevin Takeasu at 586-0568, or kevin.s.takeasu@hawaii.gov	10/26/2018	

10/18/2018	10/25/2018	EP19-009J	DOT	Harbors	The emergency work was to repair the main 6" potable water line. The repairs were necessary to ensure that oil does not flow into the potable water lines	\$15,000.00	Rojac Construction	10/02/2018-10/04/2018	A	Approval is granted in the amount of \$11,880.52, based on the department's determination that the leak could create a health hazard due to contamination to potable water. Pursuant to HRS section 103D-310(c) HAR section 3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to be compliant on the Hawaii Compliance Express) and the award is required to be posted on the Hawaii Awards and Notices Data System. Copies of the compliance and awards posting are required to be documented in the procurement/contract file. If there are any questions, please contact Jitima Laurita at 586-0766 or jitima.laurita@hawaii.gov.	11/2/2018	
10/30/2018	11/7/2018	EP19-010O	DLNR	DOFAW	Wildland fire near Waikoloa containment	\$68,607.88	Isemoto contracting	8/3/2018 - 8/7/2018	A	Approval is based on the department's determination that the fire posed a threat to public safety. HRS section 103D-310(c) HAR section 3-122-112, shall apply (i.e. vendor is required to be compliant on the Hawaii Compliance Express) and award is required to be posted on the Awards Reporting System. Copies of the HCE certificate and awards posting are required to be documented in the procurement/contract file. When processing payment to vendor the department shall attach a current compliant HCE certificate with the invoice for payment. If there are any questions, please contact Owen Kano at 587-4707, or email owen.t.kano@hawaii.gov.	11/21/2018	
11/27/2018	12/4/2018	EP19-011O	DOH	HRA	Multi-drug resistant (MDR) tuberculosis disease	\$91,343.00	Metro Medical Supply	04/16/2018-04/16/2018	A	Approval is based on the department's determination that without treatment, the patients' lives would be adversely affected. HRS section 103D-310(c) HAR section 3-122-112, shall apply (i.e. vendor is required to be compliant on the Hawaii Compliance Express) and award is required to be posted on the Awards Reporting System. Copies of the HCE certificate and awards posting are required to be documented in the procurement/contract file. When processing payment to vendor the department shall attach a current compliant HCE certificate with the invoice for payment. If there are any questions, please contact Owen Kano at 587-4707, or email owen.t.kano@hawaii.gov.	1/3/2019	
11/27/2018	12/4/2018	EP19-012SO	DLNR	DLNR	A wildland fire occurred in Keauhou Ranch and quickly spread to the Hawaii Volcanoes National Park and DOFAW Nene cabin	\$7,863.00	Johansen Contracting INC	08/08/2018-08/10/2018	A	Approval is granted based on the Department's determination that the wildland fire posed a health and safety hazards to the public. However, the Department is reminded to prepare a written determination as soon as practicable thereafter and that HAR section 3-122-90 shall apply. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use Hawaii Compliance Express) for all contracts awarded, and the award is required to be posted on the Hawaii Awards & Notices Data Systems (HANDS). Copies of the HCE certificates and awards postings are required to be documented in the procurement/contract file. If there are any questions, please contact Shannon Ota at 586-0563, or shannon.j.ota@hawaii.gov.	12/17/2018	
12/18/2018	12/26/2018	EP19-013SK	DLNR	DOBOR	Large water line break buried under the road that connects one part of the harbor to the other	\$13,870.00	Ideal Construction, Inc.	07/25/18 - 07/26/18	A	Approval is granted based on the Department's determination that the repairs to the water line break buried under the road that connects one part of Haleiwa boat harbor the other was necessary as it posed a hazard to the public's health and safety. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to be compliant on the Hawaii Compliance Express) for all contracts awarded, and award is required to be posted on the Hawaii Awards & Notices Data System. Copies of the HCE certificate and awards posting are required to be documented in the procurement/contract file. If there are any questions, please contact Stacey Kauleinamoku at 586-0571, or stacey.l.kauleinamoku@hawaii.gov.	1/17/2019	
12/18/2018	12/26/2018	EP19-014SK	DLNR	DOBOR	2nd break in the water line from the boat fire.	\$24,311.00	Ideal Construction, Inc.	08/23/2018-08/26/2018	A	Approval is granted based on the Department's determination that the repairs to the water line break at the Ala Wai Harbor on the 800 row was necessary as it posed a hazard to the public's health and safety. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to be compliant on the Hawaii Compliance Express) for all contracts awarded, and award is required to be posted on the Hawaii Awards & Notices Data System. Copies of the HCE certificate and awards posting are required to be documented in the procurement/contract file. If there are any questions, please contact Stacey Kauleinamoku at 586-0571, or stacey.l.kauleinamoku@hawaii.gov.	2/25/2019	skip SK next round (1 round)
12/19/2018	12/27/2018	EP19-015C	DLNR	Dobor	Debris that collected in the watershed that drains into the Ala Wai Cana since last major rain event	\$18,270.00	The H.E. Johnson Company	7/28/2018 to 7/30/2018	A	Approval is granted based on the department's determination that storm debris in the Ala Wai Canal and Ala Wai Small Boat Harbor created a threat to the safety and welfare of the public and needed to be removed immediately. This request is submitted almost four months after the situation occurred. In accordance with the Hawaii Administrative Rules (HAR) Chapter 3-122-90(a), the Agency is advised that the request for Chief Procurement Officer approval of emergency procurements is required prior to the procurement or if time does not permit, as soon as practicable thereafter. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use the Hawaii Compliance Express) and the award is required to be posted on the Hawaii Awards & Notices Data System. Proof of compliance and the awards posting are required to be documented in the procurement/contract file. If there are any questions, please contact Carey Ann Sasaki at 586-0575, or careyann.r.sasaki@hawaii.gov.	1/29/2019	
12/27/2018	1/4/2018	EP19-016C	DOH	HRA	Hale Mohalu Care Home (HMCH)experienced flooding in their 2nd floor facilities in Leahi Hospital.	\$82,000.00	MD Restoration, Belfor Property Restoration, Leahi Hospital	09/26/2018-06/30/2019	A	Approval is granted based on the department's determination that the flooding at the Hale Mohalu Care Home created a threat to public health and safety which required immediate water extraction and remediation services and repair to the facility. HRS section 103D-310(c) and HAR section 3-122-112 shall apply (i.e., vendor is required to show proof of compliance and may use the Hawaii Compliance Express) and the award is required to be posted on the Hawaii Awards & Notices Data System. Proof of compliance and the awards posting are required to be documented in the procurement/contract file. If there are any questions, please contact Carey Ann Sasaki at 586-0575, or careyann.r.sasaki@hawaii.gov.	1/17/2019	

1/11/2019	1/18/2019	EP19-0170	DHHL	DHHL	Underground water line break at the Lanikeha Hoolehua Community Center	\$5,000.00	Tri-L Construction	01/11/2019-01/31/2019	A	Approval is based on the department's determination that without repair, the tenants at the Community Center would be adversely affected because they would not have access to water. HRS section 103D-310(c) HAR section 3-122-112, shall apply (i.e. vendor is required to be compliant on the Hawaii Compliance Express) and award is required to be posted on the Awards Reporting System. Copies of the HCE certificate and awards posting are required to be documented in the procurement/contract file. When processing payment to vendor the department shall attach a current compliant HCE certificate with the invoice for payment. If there are any questions, please contact Owen Kano at 587-4707, or email owen.t.kano@hawaii.gov.	2/12/2019	
2/4/2019	2/11/2019	EP19-018L	DOT	HWYS	Large winter swells in Hanalei Bay caused severe shoreline erosion of Kuhio Highway (Route 560), undermining the shoulder and threatening to erode into the travel lane.	\$6,250,000.00	Consultant-KSF, Inc; Contractor-TBD	02/01/2019-10/31/2019	D	This request is disapproved as it does not meet the requirement for an emergency procurement. Emergency procurement is to address an unanticipated or unusual situation of compelling urgency that creates a threat to life, public health, welfare, or safety that requires immediate response, per HRS 103D-307. The Department will need to conduct their own applicable method of procurement to repair the shoreline erosion of Kuhio Highway. If there are any questions, please contact Lori Cervantes at 587-3355 or	3/5/2019	
2/4/2019	2/11/2019	EP19-0190	DOT	DOT	On 08/13/18, a 30' wide section of the hillside above Pali Highway fell from a portion of the mountain roughly 300' above Pali Highway.	\$103,805.72	Prometheus Construction	08/21/2018-08/2018	NAR	No action is required by the CPD as HRS Chapter 103D has been suspended through Governor Ige's emergency proclamation. If there are any questions, please contact Owen Kano at 587-4707, or email owen.t.kano@hawaii.gov.	3/14/2019	
2/14/2019	2/22/2019	EP19-0200	DOT	Harbors	The derelict vessel, the Fall of Clyde, is berthed at Pier 7 (Ewa) approx. 90-feet from the active Star of Honolulu day and dinner tour vessel	\$21,000.00	Pacific Environmental Corporation (PENCO)	01/30/2019-02/05/2019	A	Approval is based on the department's determination that without repair, the Falls of Clyde would be a danger to vessels and individuals nearby and to the shipment of goods to the State. HRS section 103D-310(c) HAR section 3-122-112, shall apply (i.e. vendor is required to be compliant on the Hawaii Compliance Express) and award is required to be posted on the Awards Reporting System. Copies of the HCE certificate and awards posting are required to be documented in the procurement/contract file. When processing payment to vendor the department shall attach a current compliant HCE certificate with the invoice for payment. If there are any questions, please contact Owen Kano at 587-4707, or email owen.t.kano@hawaii.gov	3/14/2019	
2/15/2019	2/20/2019	EP19-0215K	DHHL	DHHL	On February 5 a fire started on the DHHL TMK parcel; the fire was in a remote area of Mauna Kea and the use of Bulldozers to create fire breaks was essential to limit the extent of the fire.	\$40,000.00	Isemoto contracting	02/05/2019-02/11/2019	A	Approval is granted based on the Department's determination that renting the 275 and 375 bulldozers as well as renting the Lowboy truck and trailer to assist with the fire suppression operations on DHHL's TMK parcel 3-8-01:003 was necessary as it posed a hazard to the public's health and safety. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to be compliant on the Hawaii Compliance Express) for all contracts awarded, and award is required to be posted on the Hawaii Awards & Notices Data System. Copies of the HCE certificate and awards posting are required to be documented in the procurement/contract file. If there are any questions, please contact Stacey Kauleinamoku at 586-0571, or stacey.l.kauleinamoku@hawaii.gov.	4/4/2019	
3/4/2019	3/11/2019	EP19-022L	DHS	HPHA	Cracked underground main sewer line resulting in raw sewage spillage at the foot of Ho'olulu (Building B)	\$9,278.00	Western Pacific Mechanical, Inc.	10/30/2018	A	Approval is granted in the amount of \$9,277.89, based on the department's determination that the cracked underground main sewer line resulting in raw sewage created a health hazard to the public. The Department is reminded to complete an IDIQ type contract for plumbing, electrical, janitorial and similar type work. The Department is also reminded a written determination (SPO-002) must be prepared in a timely manner, pursuant to HAR section 3-122-90. Pursuant to HRS section 103D-310(c) HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use Hawaii Compliance Express) for all contracts awarded, and the award is required to be posted on the Hawaii Awards & Notices Data Systems (HANDS). Copies of the HCE certificates and awards postings are required to be documented in the procurement/contract file. If there are any questions, please contact Lori Cervantes at 587-3355 or lori.m.cervantes@hawaii.gov.	4/8/2019	
3/13/2019	3/20/2019	EP19-023L	HSPLS	HSPLS	A large water pipe located in the ceiling of the Kapolei Public Library bust and flooded an area inside the library	\$7,714.00	Interstate Restoration Hawaii LLC	10/23/2018-10-27/2018	A	Approval is based on the department's determination the burst in the water pipe created a threat to the safety and welfare of the public and the leaked water needed to be extracted. This request is submitted almost five months after the situation occurred. In accordance with the Hawaii Administrative Rules (HAR) Chapter 3-122-90(a), the Agency is advised that the request for Chief Procurement Officer approval of emergency procurements is required prior to the procurement or if time does not permit, as soon as practicable thereafter. Pursuant to HRS section 103D-310(c) HAR section 3-122-112 shall apply (i.e. vendor is required to show proof of compliance and may use Hawaii Compliance Express) for all contracts awarded, and the award is required to be posted on the Hawaii Awards & Notices Data Systems (HANDS). Copies of the HCE certificates and awards postings are required to be documented in the procurement/contract file. If there are any questions, please contact Lori Cervantes at 587-3355 or lori.m.cervantes@hawaii.gov.	3/19/2019	
3/15/2019	3/22/2019	EP19-0245K	DLNR	DLNR	broken door at 12 Pookela Street, Hilo	\$671.00	Fujiyama Construction Inc.	02/22/2019-02-22/2019	D	This request is disapproved as it does not meet the requirements for an emergency procurement. Emergency procurement is used when a situation is unanticipated, of an unusual or compelling urgency and creates a threat to life, public health, welfare, or safety by reason of major natural disaster, epidemic, riot or fire, and requires an immediate response. If there are any questions, please contact Stacey Kauleinamoku at 586-0571, or stacey.l.kauleinamoku@hawaii.gov.	4/9/2019	OK,SO - skipped, resume next round
3/21/2019	3/29/2019	EP19-025C	PSD	PSD	A disturbances occurred at the Maui Community Correctional Center (MCCC) on March 11, 2019, where the inmates damaged fixtures, cell doors, equipment and supplies within the module	\$17,551.50	Robinson Enterprises, Inc.	03/11/2019-03/31/2019	D	This request is disapproved as it does not meet the requirements of an emergency procurement. Emergency procurement can only be utilized to address the immediate needs and not to replace inventory supplies. Department is advised to submit form SPO-016, Report of Procurement Violation: Findings and Corrective Action, to request after-the-fact payment for the vendor and provide corrective action(s) for approval. Department shall use applicable procurement method to procure for additional goods. It is noted that Shari Kimoto does not have procurement delegation to conduct an emergency procurement. Department is reminded that, pursuant to Procurement Delegation 2014-01 employees must have written delegated authority (via SPO-036) and are required to attend applicable training. If there are any questions, please contact Carey Ann Sasaki at 586-0575, or careyann.r.sasaki@hawaii.gov.	4/22/2019	

3/21/2019	3/29/2019	EP19-026J	DOT	Airports	Main waterline cracked under roadway and required immediate repair.	\$28,873.00	KFP Enterprises (Kaua'i Fire Protection)	01/02/2019-01/02/2019	A	Approval is granted in the amount of \$28,872.75, based on the department's determination that the leak required immediate repair to avoid undermining which could cause a large sink hole. Pursuant to HRS section 103D-310(c) HAR section 3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to be compliant on the Hawaii Compliance Express) and the award is required to be posted on the Hawaii Awards and Notices Data System. Copies of the compliance and awards posting are required to be documented in the procurement/contract file. If there are any questions, please contact Jittima Laurita at 586-0766 or jittima.laurita@hawaii.gov.	4/18/2019	
4/3/2019	4/5/2019	EP19-027O	PSD	PSD	On 03/11/19, a disturbance in one of the Maui Correctional Center (MCCC) living units occurred. Inmates broke fire sprinklers, which leaked water into the common areas. Then inmates started a small fire in the common area and smoke filled the housing unit and drifted to an adjacent living unit (module) where inmates started a lesser disturbance.	\$4,500,000.00	F&H Construction	03/11/2019-03/20/2019	D	This request is disapproved as it does not meet the requirements of an emergency procurement, as the immediate threat to health and safety of the inmates has been abated by moving them out of the housing module that was damaged by the inmate instigated riot. If there are any questions, please contact Owen Kano at 587-4707, or owen.t.kano@hawaii.gov	4/9/2019	
4/22/2019	4/29/2019	EP19-028O	DLNR	DOFAW	This was a response to wildfire between Division of Forestry and Wildlife managed public hunting areas that burned approximately 31 acres.	\$18,642.00	various	03/10/2019-03/12/2019	A	Approval is granted based on the department's determination that the land-based fire suppression services to control the wildfire along HWY 552 nearing Waimea Canyon State Park was necessary as the fire posed a threat to the public's health and safety. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to be compliant on the Hawaii Compliance Express) for all contracts awarded. Copies of the compliance and the award posting are required to be documented in the procurement/contract file. When processing payment to vendor the department shall attach a current compliant HCE certificate with the invoice for payment. The award is required to be posted on the Hawaii Awards and Notices Data System (HANDS) pursuant to Procurement Circular PC2019-05. If there are any questions, please contact Owen Kano at 587-4707, or email owen.t.kano@hawaii.gov.	5/23/2019	
5/6/2019	5/13/2019	EP19-029C	DLNR	Division of State parks	Due to waterline being broken within the State Park, water containment tank completely drained and therefore there was no water in the park for several days	\$4,859.00	Keola L. Yasso-dba: Accurate Plumbing	03/17/2019-03/22/2019	A	Approval is granted based on the department's determination that the broken waterline at the park created a threat to public health and safety and required immediate repair. This approval is for the solicitation process only. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to provide proof of compliance and may use the Hawaii Compliance Express) for all contracts awarded. Copies of the compliance and the award posting are required to be documented in the procurement/contract file. The award is required to be posted on the Hawaii Awards and Notices Data System (HANDS) pursuant to Procurement Circular PC2019-05. If there are any questions, please contact Carey Ann Sasaki at 586-0575, or careyann.r.sasaki@hawaii.gov.	5/16/2019	
5/6/2019	5/13/2019	EP19-030J	DLNR	Dobor	At Heeia Kea Small Boat Harbor people are being shocked from touching a large pipe that is on the main dock; burnt out street lights at the Ala Wai; no working lights in a several of the Ala Wai Small Boat harbor restrooms	\$28,678.00	Ekolu Enterprises Inc.	05/01/2019-05/31/2019	A	Approval is granted in the amount of \$28,678 based on the department's determination that the repairs are needed to prevent threats to the safety of the general public. Pursuant to HRS section 103D-310(c) HAR section 3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to be compliant on the Hawaii Compliance Express) and the award is required to be posted on the Hawaii Awards and Notices Data System. Copies of the compliance and awards posting are required to be documented in the procurement/contract file. If there are any questions, please contact Jittima Laurita at 586-0766 or jittima.laurita@hawaii.gov.	5/14/2019	
5/14/2019	5/21/2019	EP19-031J	DOT	Harbors	Loud "hissing" sound at P1A reported by the fuel barge NOA tanker men while inspecting dock; If emergency repairs were not completed ASAP, then thousands of people would be without domestic water, and thus creating a threat to life, public health, welfare and safety.	\$2,698.00	T&K Plumbers LLC	04/19/19-04/20/2019	A	Approval is granted in the amount of \$2,697.90 based on the department's determination that immediate repair was needed to prevent threats to public health and welfare. Pursuant to HRS section 103D-310(c) HAR section 3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to be compliant on the Hawaii Compliance Express) and the award is required to be posted on the Hawaii Awards and Notices Data System. Copies of the compliance and awards posting are required to be documented in the procurement/contract file. If there are any questions, please contact Jittima Laurita at 586-0766 or jittima.laurita@hawaii.gov.	6/3/2019	
5/28/2019	6/4/2019	EP19-032L	DAGS	CSD	Director's restroom toilet overflowed and caused water to flood the floor and leak down; It was crucial to remove the after immediately to prevent further damage to the property and prevent mold growth in the office spaces and comon areas	\$4,472.00	PuroClean	04/20/2019-04/20/2019	A	Approval is granted based on the department's determination the water leak posed a threat to public health and safety which required immediate water extraction. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to provide proof of compliance and may use the Hawaii Compliance Express) for all contracts awarded. Copies of the compliance and the award posting are required to be documented in the procurement/contract file. The award is required to be posted on the Hawaii Awards and Notices Data System (HANDS) pursuant to Procurement Circular PC2019-05. If there are any questions, please contact Lori Cervantes at 587-3355 or lori.m.cervantes@hawaii.gov.	6/5/2019	
5/29/2019	6/5/2019	EP19-033O	DLNR	Dobor	The Division needed to immediately address the sinking trimaran due to the fact the vessel was leaning over heavily	\$35,000.00	Stacy D. Akana dba Xarbin Industries	05/13/2019-05/13/2019	A	Approval is granted based on the department's determination that the work to remove the sinking vessel was necessary as it posed a threat to public safety by becoming a navigational hazard to other boaters. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to be compliant on the Hawaii Compliance Express) for all contracts awarded. Copies of the compliance and the award posting are required to be documented in the procurement/contract file. When processing payment to vendor the department shall attach a current compliant HCE certificate with the invoice for payment. The award is required to be posted on the Hawaii Awards and Notices Data System (HANDS) pursuant to Procurement Circular PC2019-05. If there are any questions, please contact Owen Kano at 587-4707, or email owen.t.kano@hawaii.gov.	7/1/2019	

5/31/2019	6/7/2019	EP19-0345K	DLNR	Dobor	The HFD fought a boat fire at the Ala Wai harbor on the 800 row; Failure to immediately address the water line break would result in the undermining of the existing roadway and further damage to the road bed as well as the main water line.	\$37,012.00	Ideal Construction, Inc.	08/14/2018-08/16/2018	A	Approval is granted based on the department's determination that the repairs to the water line break at the Ala Wai Harbor on the 800 row was necessary as it posed a hazard to the public's health and safety. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to provide proof of compliance and may use the Hawaii Compliance Express) for all contracts awarded. Copies of the compliance and award posting are required to be documented in the procurement/contract file. The department is also advised that this agency should consider establishing a maintenance/repair program and contract(s) for future water main breaks to avoid similar "emergency" situations. The award is required to be posted on the Hawaii Awards & Notices Data System (HANDS) pursuant to Procurement Circular 2019-05. If there are any questions, please contact Stacey Kauleinamoku at 586-0571, or stacey.l.kauleinamoku@hawaii.gov.	6/20/2019	
6/4/2019	6/11/2019	EP19-035C	DLIR	DLIR	Chairman of an administratively attached agency filed a complaint with HR of a hostile work environment. Expedient investigation into the situation was deemed necessary due to the nature of the complaint and ensure the safety of the individual	\$23,915.00	The Hawaii Investigator Group, LLC	04/15/2019-05/23/2019	A	Approval is granted based on the department's determination that a complaint about a hostile work environment required immediate investigation due to the nature of the complaint and to ensure the safety of the individual. This approval is for the solicitation process only. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to provide proof of compliance and may use the Hawaii Compliance Express) for all contracts awarded. Copies of the compliance and the award posting are required to be documented in the procurement/contract file. The award is required to be posted on the Hawaii Awards & Notices Data System (HANDS) pursuant to Procurement Circular PC2019-05. If there are any questions, please contact Carey Ann Sasaki at 586-0575, or careyann.r.sasaki@hawaii.gov.	7/1/2019	
6/7/2019	6/17/2019	EP19-0365K	DAGS	DAGS	Substantial sewer drain pipe leaks in Module 1 at Halawa Correctional Facility that is flowing out into day room area of the Module 1 which houses approx. 248 inmates.	\$500,000.00	Western Pacific Mechanical, Inc.	05/29/2019-12/31/2019	A	Approval is granted based on the department's determination that the repairs to the sewer drain pipe leaks in Module 1 at the Halawa Correctional Facility was necessary as it posed a hazard to the public's health and safety. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to provide proof of compliance and may use the Hawaii Compliance Express) for all contracts awarded. Copies of the compliance and award posting are required to be documented in the procurement/contract file. The department is reminded to submit another form SPO-002, Emergency Procurement, once the repairs to the sewer drain pipe leaks in Module 1 are completed and that the approved amount for this entire emergency construction project shall not exceed \$500,000. The department is also reminded that non-competitive procurement exceeding \$100,000 require the submission of certified cost and pricing data. The award is required to be posted on the Hawaii Awards & Notices Data System (HANDS) pursuant to Procurement Circular 2019-05. If there are any questions, please contact Stacey Kauleinamoku at 586-0571, or stacey.l.kauleinamoku@hawaii.gov.	7/11/2019	
6/7/2019	6/17/2019	EP19-0375K	DAGS	DAGS	Vendor will provide observations on what is being done and to assist DAGS in determining whether the invoice amount being charged is fair and reasonable.	\$10,000.00	Katayama & Associates, Inc.	05/29/2019-12/31/2019	A	Approval is granted based on the department's determination that the consultant A/E services for the repairs to the sewer drain pipe leaks in Module 1 at the Halawa Correctional Facility was necessary as it posed a hazard to the public's health and safety. Pursuant to HRS §103D-310(c) and HAR §3-122-112, the procuring officer shall verify compliance (i.e. vendor is required to provide proof of compliance and may use the Hawaii Compliance Express) for all contracts awarded. Copies of the compliance and award posting are required to be documented in the procurement/contract file. The department is also reminded that the approved amount for this emergency request shall not exceed \$10,000. The award is required to be posted on the Hawaii Awards & Notices Data System (HANDS) pursuant to Procurement Circular 2019-05. If there are any questions, please contact Stacey Kauleinamoku at 586-0571, or stacey.l.kauleinamoku@hawaii.gov.	7/10/2019	skip Sknext round

REQUEST TYPE	RCVD DATE	SUSP DATE	REQUEST NO.	DEPT	DIV(S)	DESCRIPTION	DOLLAR AMT	VENDOR	CONTRACT TERM DATES	A/D/ NAR	CPO Comments
Emergency Procurement (EP)	7/25/2017	8/1/2017	EP18-003S	DOT	SH	Kamehameha V Highway MP20.0. The narrow one lane road was undermined by the high surf and developed a hole in the pavement surface.	\$35,880.00	HI-BUILT, LLC	5/17/2017	D	This request is disapproved as it does not meet the requirement for an emergency procurement. Emergency procurement is to address an unanticipated or unusual situation of compelling urgency that creates a threat to life, public health, welfare, or safety that requires immediate response. The department is advised to submit form SPO-016, Report of Procurement Violation: Findings and Correction Action, to request after-the fact payment for the vendor and provide corrective action(s) for approval. If there are any questions, please contact Stanton Mato at 586-0566, or stanton.d.mato@hawaii.gov.
Emergency Procurement (EP)	2/14/2018	2/16/2018	EP18-025O	DLNR	Dofaw	Emergency bulk water delivery	\$5,945.00	Pineridge Farms Inc.	07/08-2017-08/26/2017	D	This request is disapproved as it does not meet the requirements of an emergency procurement. Emergency procurement is used when a situation is unanticipated, of an unusual or compelling urgency and creates a threat to life, public health, welfare, or safety by reason of major natural disaster, epidemic, riot or fire, and requires immediate response. In the future, SPO recommends procuring for these services using the Small Purchases method of procurement. The department also is advised to submit form SPO-016, Report of Procurement Violation: Findings and Corrective Action, to request after-the-fact payment for the vendor and provide corrective action(s) for approval. If there are any questions, please contact Owen Kano at 587-4707, or email owen.t.kano@hawaii.gov.
Emergency Procurement (EP)	3/8/2018	3/12/2018	EP18-027K	DOT	Highway Division	Landslide at Kuhio Highway Route 560 required rock scaling of slope left exposed after the landslide to remove loose debris threatening the highway.	\$10,000.00	Access Limited Construction	2/24/2018 to 2/24/2018	D	The request is disapproved, the department can resubmit when they are able to provide the corrected invoice or submit form SPO-016, Report of Procurement Violation. If there are any questions, please contact Kevin Takaesu at 586-0568 or kevin.s.takaesu@hawaii.gov.
Emergency Procurement (EP)	4/18/2018	4/20/2018	EP18-029B	HSPLS	HSPLS	To obtain services to remove and replace damaged carpeting and flooring	\$150,000.00	Not yet selected	04/24/2018-05/15/2018	D	This request is disapproved as it does not meet the requirements for an emergency procurement. Emergency procurement can only be utilized to address the immediate needs and not subsequent non-emergency requirements. Department shall use applicable procurement method to procure required goods and services. It is noted that Sonia Mejes does not have procurement delegation to conduct an emergency procurement. Department is reminded that, pursuant to Procurement Directive 2010-01, amendment 1 employees must have written delegated authority (via SPO-036) and are required to attend applicable training. If you should have any questions, please contact Bonnie Kahakui at (808) 587-
Emergency Procurement (EP)	5/16/2018	5/23/2018	EP18-033B	DOT	Airports Division	TSA Inspection of Security Threat Assessment (STA)	\$150,000.00	Blackhawk Security LLC	04/30/2018-05/31/2018	D	This request is disapproved as it does not meet the requirement for an emergency procurement. Emergency procurement is to address an unanticipated or unusual situation of compelling urgency that creates a threat to life, public health, welfare, or safety that requires immediate response. The department is advised to submit form SPO-016, Report of Procurement Violation: Findings and Correction Action, to request after-the fact payment for the vendor and provide corrective action(s) for approval. If there are any questions, please contact Bonnie Kahakui at 587-4702, or bonnie.a.kahakui@hawaii.gov.
Emergency Procurement (EP)	5/24/2018	5/29/2018	EP18-034K	DOT	Maui District	two motors that supply power to pump waste water and sewage to a higher holding tank failed. This failure would resulted in waste water or sewage backing up into the airport terminal.	\$93,240.00	Aqua Engineer, Inc.	03/21/2018-05/24/2018	D	This request is disapproved as it does not meet the requirements of an emergency procurement. Emergency procurement is used when a situation is unanticipated, of an unusual or compelling urgency and creates a threat to life, public health, welfare, or safety by reason of major natural disaster, epidemic, riot or fire, and requires immediate response. The department is advised to submit form SPO-016, Report of Procurement Violation: Findings and Corrective Action, to request after-the-fact payment for the vendor. If there are any questions, please contact Kevin Takaesu at 586-0568 or kevin.s.takaesu@hawaii.gov.
Emergency Procurement (EP)	6/7/2018	6/15/2018	EP18-039S	DOT	Lihue Baseyard	crack was detected in LIH Baseyard Ust Bucket causing the potential for a release to the environment.	\$9,584.00	Wayne K Matsushima	03/27/2018-07/27/2018	D	This request is disapproved as it does not meet the requirement for an emergency procurement. Emergency procurement is to address an unanticipated or unusual situation of compelling urgency that creates a threat to life, public health, welfare, or safety that requires immediate response If there are any questions, please contact Stanton Mato at 586-0566, or stanton.d.mato@hawaii.gov.
Emergency Procurement (EP)	6/14/2018	6/21/2018	EP18-042SK	DHS	HPHA	Raw sewage flooded two (2) public housing units at Wahiawa Terrace	\$1,992.00	MD Cleaners LLC dba MD Restoration	04/27/2018-05/02/2018	D	This request is disapproved as it does not meet the requirements for an emergency procurement. Emergency procurement is used when a situation is unanticipated, of an unusual or compelling urgency and creates a threat to life, public health, welfare, or safety that requires immediate response. The department is advised to submit form SPO-016, Report of Procurement Violation: Findings and Corrective Action, to request after-the-fact payment for the vendor and provide corrective action(s) for approval. If there are any questions, please contact Stacey Kauleinamoku at 586-0571, or stacey.l.kauleinamoku@hawaii.gov.



STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
CURT T. OTAGURO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE HOUSE COMMITTEE ON
LABOR AND PUBLIC EMPLOYMENT

TUESDAY, FEBRUARY 4, 2020, 9:10 A.M.
CONFERENCE ROOM 309, STATE CAPITOL

H.B. 2286

RELATING TO EMERGENCY PROCUREMENT.

Chair Johanson, Vice Chair Eli, and members of the Committee, thank you for the opportunity to submit testimony on H.B. 2286. The Department of Accounting and General Services (DAGS) supports this bill. The DAGS recommends adding the following amendments:

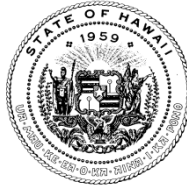
- 1) SECTION 1. (1)(c) Amend lines 19-22 and 1-7: life or significant impact to ensure public access, caused by any unexpected public health, welfare, or safety by reason of major natural disaster, epidemic, riot, fire, or similar events and to a lesser extent, equipment failures, repairs to public property in order to protect against further loss of, or damage to, public property, to prevent or minimize serious disruption in continued functioning of government services, shall account for the details of the emergency, response and money spent in making the procurement and report on that accounting to the legislature within sixty days after the end of the event in fiscal year for which the procurement was made.”
- 2) SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

3) SECTION 3. This Act shall take effect upon its approval.

In addition, the State Procurement Office makes a good recommendation that could add flexibility for H.B. 2286 amending section 103D-102(b)(4) to “To procure the following goods ~~or~~ services, or construction which are available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State.”

Thank you for the opportunity to submit testimony on this matter.

The Following
Testimony is
Marked Late



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 4, 2020
9:10 am
State Capitol, Room 309

H.B. 2286
RELATING TO EMERGENCY PROCUREMENT

House Committee on Labor & Public Employment

The Department of Transportation (DOT) **supports** the proposed revision to Hawaii Revised Statutes (HRS) § 103D-307 which revises Emergency Procurements to add equipment failures, repairs to public property to protect against further loss of, or damage to public property, to prevent or minimize serious disruption in continued functioning of government services. To replace chief procurement officer approval with an accounting report to the legislature within sixty days after the end of the fiscal year in which the procurement was made.

The DOT has conducted nineteen (19) emergency procurements in the last two years¹. The total cost at \$7,296,545. The DOT assesses whether the procurement is an emergency by threat to life, public health, welfare, or safety, as provided for in the current statute. The proposed language aligns with and expands the current statute to add situations of an unusual or compelling urgency such that without the continued functioning of government service, there would be a threat to life, public health, welfare, or safety. The following are impacts to the DOT from the current process: a recent bridge culvert required immediate repairs of an emergency nature, when we conducted our competitive due diligence in selecting a contractor, the contractor did not think we would be timely with payment (based on prior experience waiting for payment) and ended up refusing to do the work. Instead of providing continued service to all, we placed signage reducing the load rating. This limited the vehicle load weight allowed.

The proposed revision would allow greater flexibility and efficiency by key subject matter experts, having intimate knowledge of the respective situation, to directly address the need, determine and perform appropriate action, and close out financial obligations as timely as possible to restore the given situation and operation back to a point that no longer creates an adverse environment.

¹ Exclusive of emergency procurements as authorized by Emergency Proclamation.

The expansion of defined categories enables the DOT to promptly and appropriately respond to and rectify a wider range of emergency events, so to minimize further risks, liabilities, and costs to operations and the public. The revision of the accounting report requirement at the end of the fiscal year will help to address and support timely payments to responding partners (namely contractors and vendors) for their collaborative efforts by replacing the approvals required in the current process which impact delays. The timely payments will also help to support the availability and willingness of the contractor and vendor community to assist and respond on future events. The revised statute will continue to ensure appropriate levels of accountability with an enhanced level of trust in the decision efforts of the subject matter experts that are front and center to the situation and appropriately qualified to assess the respective event.

Of the nineteen (19) emergency procurements, the chief procurement officer (CPO) approved thirteen (13) and disapproved six (6). While the contractor is paid for the work performed both with CPO approval as well as CPO disapproval, the time it takes between the submission of the Emergency approval request to decision by the CPO may take a month or longer, causing contractor payment delays. As an alternative, an accounting of the emergency procurement money spent to be reported to the legislature serves as a check on the decision-making of the head of the purchasing agency.

Thank you for the opportunity to provide testimony.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

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TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

FEBRUARY 4, 2020
9:10 A.M.
CONFERENCE ROOM 309

HOUSE BILL NO. 2286
RELATING TO EMERGENCY PROCUREMENT

Chairperson Johanson and Members of the Committee:

Thank you for the opportunity to testify on House Bill 2286 relating to emergency procurement. This bill revises the Hawaii Revised Statutes 103D-307, Emergency Procurements to add equipment failures, repairs to public property to protect against the further loss of, or damage to public property, to prevent or minimize serious disruption in continued functioning of government services. The bill also replaces chief procurement office approval with an accounting report to the legislature within sixty days at the end of the fiscal year in which the procurement was made. The Department supports this measure.

This bill will allow the Department to respond to disruptions in service on a more timely basis. Several times a year, irrigation water service to our customers can be disrupted due to equipment failure, broken pipes and weather-related damage. Restoring service to our customers can take months when using the standard procurement process. This bill could significantly shorten the time the Department takes to repair disruptions in service.

Thank you for the opportunity to testify on this measure.

