



**Gary J. Lambert**  
Assistant Secretary for Operational Services

## Memorandum

**To:** Secretariat and Agency Chief Procurement Officers, General Counsels, Chief Financial Officers, and Chiefs of Staff  
**Cc:** Cabinet Secretaries, Agency Heads  
**From:** Gary Lambert, Assistant Secretary for Operational Services  
**Date:** August 10, 2023  
**Re:** **Emergency Contract Usage**

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The Operational Services Division (OSD) commends the work of Commonwealth agencies to secure critical supplies and services related to Governor Healey's August 8, 2023 emergency notification. The emergency stems from a rapid and unabating increase, in the number of families with children and pregnant people - many of them newly arriving migrants and refugees - living within the state but without the means to secure safe shelter in our communities. As the Commonwealth works to address the impacts of this emergency, OSD is hopeful that the future will lead to an alleviation of the current emergency. OSD therefore reminds Secretariat and Agency staff of emergency contracts guidance and reiterates that these contracting provisions are to be used only when absolutely necessary.

### Emergency Contract Authority

The regulatory authority for entering emergency contracts is found in OSD's procurement regulations, 801 CMR 21.00, Procurement of Commodities or Services, Including Health and Human Services. Per 801 CMR 21.05(3), "Emergency Contracts" are only appropriate when a Procuring Department Head determines that "an unforeseen crisis ... requires or mandates the immediate acquisition of Commodities or Services, or both, to avoid substantial harm to the functioning of government or the provision of necessary or mandated services or whenever the health, welfare or safety of Clients or other persons or serious damage to property is threatened."

### Utilization and Resources

Emergency contracts are limited to the period necessary to cure the emergency. Whenever possible, purchasers should make reasonable efforts to obtain competitive pricing. Furthermore, extending such contracts to include other items not related to the immediate resolution of the emergency is not permitted. Once the emergency has been alleviated, the emergency contract should be terminated, and a competitive procurement conducted if the commodities or services continue to be needed on an ongoing basis. When the Commonwealth approaches the end of the current emergency, Secretariats and Departments should inventory emergency contracts to evaluate and document the need for

continued emergency contract use.

Full OSD policy provisions for Emergency Contracts is found in the [Best Value Procurement Handbook](#). Secretariats and Agencies must consult the Handbook to ensure that all emergency contracting use, and future competitive procurement are in accordance with OSD policy.

### **Documentation in COMMBUYS**

Emergency contracts must be documented in COMMBUYS as Requests for Payment Authorizations (RPAs) as soon as possible after execution. Guidance for memorializing RPA transactions is available in our job aid, [How to Create an RPA Requisition](#). Questions about posting in COMMBUYS may be addressed to our Help Desk, which can be reached at [OSDHelpDesk@mass.gov](mailto:OSDHelpDesk@mass.gov), or by calling 1-888-627-8283 or 617-720-3197 during normal business hours (8am to 5pm ET Monday – Friday).