

Administrative Code Chapter 21 Enhancements: Strengthening Emergency Procurement Capabilities & Simplifying Purchasing

Presented to the Budget & Finance Committee



CITY & COUNTY OF SAN FRANCISCO

Office of the City Administrator

Government Operations Contracting Reform Team (Gov Ops)
and Office of Contract Administration

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Critical Procurement Challenges

- **Emergency Procurement:** Protection of essential services and the safety of our citizens are paramount in the event of an emergency. To guarantee the City's ability to swiftly and effectively respond in such a situation, emergency procurement language must address:
 - The **breadth of emergency situations** that can disrupt critical operations;
 - **Use of different procurement approaches** to nimbly address various forms of emergencies.

- **Inefficient Requirements:** The City must be able to efficiently handle changes to departments operational needs via procurement.

Procurement language must allow for flexibility to **use existing contracts** and benefit from competitive processes.

Emergency Procurement (Admin. Code §21.15)

The City learned in the midst of the pandemic and during recovery that existing §21.15 provisions did not meet all emergency situations and needs.

- **Issue 1:** Narrow definition of “emergency”
- **Issue 2:** Lack of clarity on application of Municipal Code provisions
- **Issue 3:** Only addresses new purchases, not modifications to existing agreements

The proposed revision to §21.15 addresses these three issue areas, as well as clarifies and refines other requirements and procedures.

Definition of Emergency

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Current Law

- Emergency exists only under "extraordinary conditions" of war, epidemic, weather, fire, flood, earthquake, or other catastrophes, or due to the breakdown of equipment or public work.
 - Narrow definition and interpretation does not allow for prevention of imminent harm or ensuring continuity of operations in other situations.
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Proposed Law

- Emergency definition expanded to include situations affecting continuity of operations and prevention of harm.
 - Global or national **supply shortages**
 - **Exceptional market conditions** such as inflationary surges and sustained market disruptions (e.g., tariffs)
 - **Cyber threats**

Municipal Code Provisions

Current Law

- Waivers of Municipal Code requirements from the enforcing agencies are available, depending on the Code. However, departments must request and receive approval for such waivers *before* the procurement can be completed.

Proposed Law

- **Exempts purchases from Municipal Code** provisions (Administrative, Labor, Environment, Police) in an emergency to allow City to move as quickly as possible to remedy harm.

New Purchase vs. Existing Contract

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Current Law

- Authorizes purchase of new goods or services when an emergency exists.
 - Does not address modification of exiting contract terms to ensure continuity of operations.
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Proposed Law

- Authorizes purchase of new goods or services when an emergency exists and adds language around emergency contract duration.
- Authorizes **re-negotiation of commercial terms and conditions** on existing contracts (e.g. price) to address supply shortages and market disruptions.
- Authorizes **extension of expiring contracts** that cannot be re-solicited during an emergency to ensure continuity of operations.

Approval Process, Reporting, Rules & Regulations

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Current Law

- Departments, if emergency permits, must seek approval to declare emergency, and in all instances must obtain BOS approval for purchases over **\$100K**.
 - No explicit reporting requirements.
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Proposed Law

- Departments, if emergency permits, must seek approval to declare emergency, and in all instances must obtain BOS approval for purchases over the **Minimum Competitive Amount**.
- All emergency contracts must be **reported annually** (by 7/31 of following fiscal year) to Board of Supervisors.
- Requires Purchaser to develop **regulations** regarding emergency contract modification provisions within 60 days of enactment.

Other Revisions to Chapter 21: Procurement Simplification

Context

- OCA and departments cannot reasonably identify every single need at the time of solicitation. Conducting a new solicitation for goods or services where a substantially related contract exists is neither efficient nor practical.
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Proposed Law

- Expands **§21.3(g) - Additional Purchases** to add greater flexibility for the Purchaser to procure more quantity of a good or service under a low-bid solicitation, and to grant the ability to replace obsolete or discontinued items on a contract.
- Creates new **§ 21.3(h) and § 21.4(g) - Substantially Related Purchases** to add goods or services to an existing contract that were not specifically itemized in the original low-bid or RFP solicitation, but that are substantially related in nature.

Thank you