BUSINESS RULE

EMERGENCY PURCHASES

Institution employees may make emergency purchases of goods/services only when necessary to protect personal safety or property, and only if the purchase can’t be completed using normal purchasing procedures. The employees must perform such purchases according to the requirements of APSPM Chapter 9. Non-Technology purchases will be reviewed after-the-fact by the VCCS Chief Procurement Officer to determine whether the emergency method was justified.

<table>
<thead>
<tr>
<th>INSTITUTION RESPONSIBILITY</th>
<th>SSC RESPONSIBILITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>For any emergency purchase, the <strong>Institution</strong> will:</td>
<td>For any emergency purchase, SSC will:</td>
</tr>
<tr>
<td>• Seek competition to the extent practicable under the circumstances, select a vendor, and negotiate a fair and reasonable price with the selected vendor</td>
<td>• Handle the submitted purchase requisition in accord with rules and procedures pertaining to confirming orders</td>
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<tr>
<td>• Document the procurement actions:</td>
<td>• Ensure that all approved emergency documentation is included in the procurement file</td>
</tr>
<tr>
<td>o Actions performed to select a vendor</td>
<td>• Post any required notice of emergency award on eVA VBO</td>
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<tr>
<td>o Negotiation efforts with the selected vendor</td>
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<tr>
<td>o Terms of the final agreement reached with the selected vendor</td>
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<tr>
<td>• Instruct the selected vendor to proceed with supplying goods/services, to include only that which is necessary to cover the requirements of the emergency</td>
<td>• Send the partially-approved form to the VCCS CPO (or designee) for review</td>
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<tr>
<td>• Complete an Emergency Procurement Justification and Approval Form and present it to the Institution president or designee for review. The Institution is responsible for justifying the emergency procurement by explaining:</td>
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<tr>
<td>o The nature of the emergency</td>
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<tr>
<td>o The reason for selecting the vendor who provided goods/services</td>
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<tr>
<td>o The reasonableness of the price</td>
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</tbody>
</table>
• (President or designee) Review the Emergency Procurement Justification and determine whether it meets the criteria for an emergency
• As soon as practicable, submit a confirming purchase requisition that identifies the goods and/or services purchased and the terms of the agreement made with the vendor

AUTHORITIES

• Virginia Code §2.2-4303(F)
• APSPM Chapter 9
• VCCS Technology Procurement Guideline §6.5

PURPOSE

An emergency is an occurrence of a serious and urgent nature that demands immediate action. End-users may make purchases without adhering to standard procurement procedures when faced with an emergency where the purchase is necessary to protect personal safety or property.
Because emergency purchases circumvent the requirements and safeguards of standard procurement practices, the declaration of an emergency must be used with restraint, and must be reviewed after the fact to ensure that emergency declarations are not abused.

The following procedure ensures that emergency procurements are subjected to appropriate scrutiny after they have been performed.

REQUIREMENTS

An emergency purchase must be made with such competition as is practicable under the circumstances. The purchasing agency must negotiate a fair and reasonable price and document its actions. [APSPM §9.1; Technology Procurement Guideline §6.5.1]

A confirming contract or purchase order must be issued as soon as practicable after directing the vendor to proceed. [APSPM §9.2]
A written determination concerning the nature of the emergency and reason for selection of the vendor must be prepared and submitted for review and possible approval. Written determinations for non-IT procurements are reviewed by the Institution president or designee and by the VCCS Chief Procurement Officer or designee. [APSPM §9.3a]

Written determinations for IT Procurements are reviewed by the Chancellor or designee, the Institution president or designee, or the chief procurement official of the Institution or System Office. [Technology Procurement Guideline §6.5.2]

A notice of emergency award must be posted to eVA VBO. [APSPM §9.3b; Technology Procurement Guideline §6.5.3]

When an emergency purchase is not justifiable as an emergency, that decision must be clearly communicated to the person with responsibility for the procurement.

**PROCEDURE**

<table>
<thead>
<tr>
<th>STEP</th>
<th>ACTION</th>
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</table>
| 1    | A purchasing need that potentially qualifies as an emergency procurement is identified by a **VCCS SSC Customer**, including:  
  - **VCCS End-user**  
    - The **VCCS End-user** reviews the facts and circumstances that make the procurement necessary and determines that an emergency exists  
      - Go to step 5  
  - **SSC Buyer**  
    - The **SSC Buyer** receives a confirming requisition with an **Emergency Procurement Justification and Approval Form** signed by the Agency Head / designee  
      - Go to step 8  
    - The **SSC Buyer** receives a non-confirming requisition that is categorized as "E01 - Emergency" or contains the word "emergency" in either the title or the comments  
      - Go to step 2  
    - The **SSC Buyer** receives a confirming requisition that is categorized as "E01 - Emergency" but has no **Emergency Procurement Justification and Approval Form** attached |
• Go to step 4
  ▪ The **SSC Buyer** receives a rejected requisition from the **SSC Compliance Officer** for further proceedings
    • Go to step 14
      o **SSC Compliance Officer**
        ▪ The **SSC Compliance Officer** receives a confirming requisition that is categorized as "E01 - Emergency" but has no **Emergency Procurement Justification and Approval Form** attached
          • Go to step 13

• After the procurement has been identified as an emergency, participants begin at later steps of the process:
  o **VCCS End-user**
    ▪ The **VCCS End-user** receives a denied requisition with a request to recategorize the requisition with a non-emergency PO category
      • Go to step 20
  o **SSC Buyer**
    ▪ The **SSC Buyer** receives a change order
      • Go to step 18
  o **Institution Head/Designee** go to step 6
  o **SSC Contracts Inbox Manager** go to step 10
  o **VCCS Chief Procurement Officer (CPO) (or designee)** go to step 11
  o **SSC Compliance Officer** go to step 23
  o **SSC Compliance Manager** go to step 17
• The SSC Buyer will:
  o Determine if the procurement is justified as an emergency
    ▪ Review the proposed procurement and its accompanying justification
    ▪ Based on the information provided, determine whether the purchase is necessary to protect personal safety or property:
      • If YES, the SSC Buyer will:
        o Deny the requisition
        o Instruct End-user to purchase the necessary goods and/or services and resubmit the requisition when the purchase is complete
        o If no Emergency Procurement Justification and Approval Form was attached, instruct the End-user to complete the form and attach it to the resubmitted requisition

<table>
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<tr>
<th>If:</th>
<th>Then:</th>
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<tbody>
<tr>
<td>Requisition returns with signed form</td>
<td>Go to step 8</td>
</tr>
<tr>
<td>Requisition never returns or is returned using another procurement method</td>
<td>Go to step 27</td>
</tr>
</tbody>
</table>

• If NO, the SSC Buyer will:
  o Reject emergency justification
  o Add commentary explaining that the purchase is not justified as an emergency
  o Expedite requisition
  o Go to step 3
  (Note: Although the procurement will not be processed as an emergency, the SSC will interpret the "emergency" as a request to expedite. If the requisition is not already designated as one that should be expedited, add the associated indicator to the requisition.)

• The SSC Buyer will:
  o Process the requisition according to the applicable non-emergency procedure
  o Go to step 27
• The SSC Buyer will:
  o Review the requisition and all supporting documentation
    (Note: When no Emergency Procurement Justification and Approval Form has been provided, the procurement can possibly proceed as a non-emergency procurement)
  o Determine whether the procurement’s execution was **fully justified in all respects** under the regulations applicable to another procurement method

  ▪ If **YES**, the SSC Buyer will:
    • Deny the requisition
    • Inform the End-user that the emergency categorization is unnecessary
    • Advise the End-user to recategorize the requisition with a non-emergency PO category
    • If the End-user insists on classifying the purchase as an emergency, instruct them to complete an Emergency Procurement Justification and Approval Form, and to resubmit the requisition with the completed form attached
      • Go to step 27
  ▪ If **NO**, the SSC Buyer will:
    • Deny the requisition
    • Instruct the End-user to complete an Emergency Procurement Justification and Approval Form, and to resubmit the requisition with the completed form attached
      • Go to step 8
The End-user will:
- Identify the goods/services necessary to resolve the emergency situation
  (Note: Emergency procedures may be used to purchase only that which is necessary to cover the requirements of the emergency. Subsequent requirements shall be obtained using normal purchasing procedures. [APSPM §9.1])
- Seek competition to the maximum extent practicable under the circumstances
- If time allows, obtain other information pertinent to the procurement (e.g. vendor's qualifications, vendor's insurance coverage, warranty coverage). [APSPM §9.1]
- Select a Vendor to provide the goods/services
- Negotiate a fair and reasonable price, and record the results of the negotiation
- Instruct the Vendor to proceed with supplying the goods/services
- Complete an Emergency Procurement Justification and Approval Form. [APSPM §9.3a]
- Send the completed form to the Institution Head/Designee for review and potential approval
  - If the Institution president has designated a representative to review emergency procurements, send the completed form to that person instead
    (Note: In an emergency, payment by P-card is acceptable if such payment is otherwise appropriate)
  - After the Institution Head / Designee has performed the necessary review:
    | If:                                   | Then:                           |
    |---------------------------------------|---------------------------------|
    | Emergency justification is approved and the form signed by the agency head/designee | Go to step 7                    |
    | Emergency justification is not approved | Go to step 21                   |

The Institution Head/Designee will:
- Review the Emergency Procurement Justification and Approval Form, the associated confirming requisition, and any supporting documentation
- Determine whether the emergency described therein presents a threat to personal safety or property
  - If YES, the Institution Head/Designee will:
    - Sign the Emergency Procurement Justification and Approval Form and send it to the End-user [APSPM §9.3a]
    - Go to step 27
  - If NO, the Institution Head/Designee will:
    - Go to step 12
7. The End-user will:
   - Create a confirming requisition in eVA that reflects the details of the agreement with the selected Vendor
   - Ensure that the "Confirming order" checkbox is selected.
   - Attach the approved Emergency Procurement Justification and Approval Form to the requisition
   - Submit the requisition
   - Go to step 27

8. The SSC Buyer will:
   - Review the Emergency Procurement Justification and Approval Form and the associated confirming requisition and supporting documentation
   - Determine whether the procurement is for IT
     (Note: Emergency IT procurements do not need to be routed to the VCCS CPO (or designee) for review and approval if they’ve been approved by the Institution Head/Designee)
     - If YES, the SSC Buyer will:
       - Go to step 16
     - If NO, the SSC Buyer will:
       - Go to step 9

9. The SSC Buyer will:
   - Determine whether the emergency described therein presents a threat to personal safety or property
     - If YES, the SSC Buyer will:
       - Initiate Salesforce case requesting review of Emergency Procurement Justification and Approval Form
         | If:         | Then:          |
         | Approved    | Go to step 16  |
         | Rejected    | Go to step 19  |
     - If NO, the SSC Buyer will:
       - Go to step 19
• The **SSC Contracts Inbox Manager** will:
  o Review the *Emergency Procurement Justification and Approval Form* and, if necessary, the associated confirming requisition and supporting documentation
  o Determine whether the emergency described therein presents a threat to personal safety or property
    ▪ If **YES**, the **SSC Contracts Inbox Manager** will:
      • Send the completed *Emergency Procurement Justification and Approval Form* to the **VCCS Chief Procurement Officer (CPO)** (or designee) for review
      | If:       | Then:                  |
      | Approved  | *Go to step 15*        |
      | Rejected  | *Go to step 26*        |
    ▪ If **NO**, the **SSC Contracts Inbox Manager** will *go to step 26*

• The **VCCS CPO** (or designee) will:
  o Review the *Emergency Procurement Justification and Approval Form* and, if necessary, the associated confirming requisition and supporting documentation
  o Determine whether the emergency described therein presents a threat to personal safety or property
    ▪ If **YES**, the **VCCS CPO** (or designee) will:
      • Sign the *Emergency Justification and Approval Request Form*
      • Send the signed form to the **SSC** [APSPM §9.3a]
      • *Go to step 27*
    ▪ If **NO**, the **VCCS CPO** (or designee) will:
      • Reject the emergency justification
      • Explain to the **SSC** that the procurement is not justified as an emergency
      • Add commentary to **Salesforce** case explaining that the procurement is not justified as an emergency
      • Assign **Salesforce** case to the **SSC Buyer** who submitted it
      • *Go to step 27*

• The **Institution Head/Designee** will:
  o Determine how to best to resolve the executed purchase that is not justified as an emergency
  o Instruct the **End-user** on how to proceed
  o *Go to step 27*
• The SSC Compliance Officer will:
  o Review the requisition and all supporting documentation
    (Note: When no Emergency Procurement Justification and Approval Form has been provided, the procurement can possibly proceed as a non-emergency procurement)
  o Determine whether the procurement’s execution was fully justified under the regulations applicable to another procurement method
    ▪ If YES, the SSC Compliance Officer will:
      • Reject the requisition
      • Return the requisition to the SSC Buyer for further proceedings
      • Go to step 27
    ▪ If NO, the SSC Compliance Officer will:
      • Deny the requisition
      • Instruct the End-user to complete an Emergency Procurement Justification and Approval Form, and to resubmit the requisition with the completed form attached
      • Go to step 27

• The SSC Buyer will:
  o Deny the requisition
  o Inform the End-user that the emergency categorization is unnecessary
  o Advise the End-user to recategorize the requisition with a non-emergency PO category
  o If the End-user insists on classifying the purchase as an emergency, instruct them to complete an Emergency Procurement Justification and Approval Form, and to resubmit the requisition with the completed form attached
  o Go to step 27

• The SSC Contracts Inbox Manager will:
  o Notify the SSC Buyer who submitted the form for review that the form has been fully approved
  o Go to step 27
16  • The SSC Buyer will:
   o Attach the fully approved Emergency Procurement Justification and Approval Form to the emergency requisition
   o Review and process the requisition according to the procedure for a confirming order
   o Go to step 27

17  • The SSC Compliance Manager will:
   o Review the procurement and determine whether a fully approved Emergency Procurement Justification and Approval Form is present in the Procurement file
     ▪ If YES, the SSC Compliance Manager will:
       • Go to step 24
     ▪ If NO, the SSC Compliance Manager will:
       • Perform a change order to modify the purchase category from E01 – Emergency to its correct value
       • Notify the SSC Compliance Officer that no VBO posting is required for the purchase
       • Go to step 27

18  • The SSC Buyer will:
   o Process the change order
   o Go to step 27
19 • The SSC Buyer will:
  o Inspect the “Confirming order” checkbox and determine whether it’s selected
    ▪ If YES, the SSC Buyer will:
      • Add commentary to the requisition explaining that the procurement is not justified as an emergency
      • Process the requisition according to the procedure for a noncompliant confirming order
      • Go to step 27
    ▪ If NO, the SSC Buyer will:
      • Add commentary to the requisition explaining that the procurement is not justified as an emergency
      • Process the requisition according to the applicable non-emergency procedure.
      • Go to step 27

20 • The End-user will:
  o Recategorize the requisition with a non-emergency PO category
  o Alternatively, complete an Emergency Procurement Justification and Approval Form and resubmit the requisition with the completed form attached
  o Go to step 27

21 • The End-user will:
  o Process procurement in accord with instructions
  o Go to step 27

22 • The automated E01/S01 Report generates and sends to SSC Compliance a report of all purchase orders issued in category E01 – Emergency
The SSC Compliance Officer will:
- Create a Notice of Emergency Award for the procurement
- Print the Notice and hand deliver to the SSC Compliance Manager (or designee)
- Go to step 25

The SSC Compliance Manager will:
- Review and sign the Notice of Emergency Award
- Return signed Notice to the SSC Compliance Officer
- Go to step 27

The SSC Compliance Officer will:
- Scan the signed Notice of Emergency Award
- Create and post a new VBO entry for an Emergency award, attaching the signed Notice of Emergency Award
- Go to step 27

The SSC Contracts Inbox Manager will:
- Reject the emergency justification
- Add commentary to the Salesforce case explaining that the procurement is not justified as an emergency
- Assign Salesforce case to the SSC Buyer who submitted it
- Go to step 27

The process is complete.
END
### Definitions

- **SSC customers are defined as:**
  - Any internal or external stakeholder
  - VCCS staff and employees (college, System Office, and SSC)
  - Vendors

- **VCCS** - Virginia’s Community Colleges System
- **SSC** - Shared Services Center
- **Salesforce** - The Customer Engagement Team ticketing (case) system
- **VBO** - Virginia Business Opportunities

### Participant Focus

- **End-user**
  - Focus on steps 5, 7, 20, 21

- **Institution Head/Designee**
  - Focus on steps 6, 12

- **SSC Buyer**
  - Focus on steps 2, 3, 4, 8, 9, 14, 16, 18, 19

- **SSC Contracts Inbox Manager**
  - Focus on steps 10, 15, 26

- **VCCS CPO (or designee)**
  - Focus on step 11

- **SSC Compliance Officer**
  - Focus on steps 13, 23, 25

- **SSC Compliance Manager**
  - Focus on steps 17, 24

### Links

- [Emergency Procurement Justification and Approval Form](#)
<table>
<thead>
<tr>
<th>Version</th>
<th>Author/Editor</th>
<th>Change</th>
<th>Approvals</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0</td>
<td>Kara Stewart</td>
<td>Published</td>
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<td>December 20, 2019</td>
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<tr>
<td>1.1</td>
<td>Aaron Stevenson</td>
<td>Designees can take some actions</td>
<td>Ken Kapko</td>
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<td>Michele Johnson</td>
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