



EMERGENCY PURCHASE EXPLANATION
 OFFICE OF MANAGEMENT AND BUDGET
 CENTRAL SERVICES - STATE PROCUREMENT OFFICE
 SFN 51627 (07-2021)

You must complete an Emergency Purchase Explanation form, SFN 51627 when making an emergency purchase. After the purchase has been made, promptly forward the completed form to the Office of Management and Budget (OMB), State Procurement Office (SPO) using the [SPO Work Request System](#). State agencies and institutions that do not have access to the SPO Work Request System must email the Emergency Purchase Explanation and supporting documentation to infospo@nd.gov. Contact the State Procurement Office at (701) 328-2740 for assistance.

Emergency purchases must follow the requirements found in N.D.C.C. § 54-44.4-02 (07) and N.D.A.C. § 4-12-09-04 (detailed on page 2 of this form).

Agency Name	Business Unit Number	Procurement Officer
Date of Purchase	Total Purchase Cost	Contractor Name
Describe the Needed Commodity or Service		
Explain the Emergency Circumstance		
If the emergency circumstances warrant a noncompetitive purchase, the Office of Management and Budget or the purchasing agency shall document within the procurement file a written determination of the basis for the noncompetitive purchase, including the circumstances that justified the noncompetitive purchase. Describe the determination and justification for the noncompetitive purchase below.		
If the emergency purchase is subject to federal funding reimbursement, the Office of Management and Budget or the purchasing agency acknowledges that it has ensured that the procurement procedures and documentation are adequate to satisfy requirements for federal reimbursement. <input type="checkbox"/> N/A <input type="checkbox"/> Yes		

Contractor	Product/Service Offered	Unit Price	Total Price

ACKNOWLEDGEMENT - OMB STATE PROCUREMENT OFFICE ONLY

Comments		
State Procurement Office Representative	Signature	Date

LAWS/RULES FOR EMERGENCY PURCHASES

The law related to emergency purchases is N.D.C.C. § 54-44.4-02 (7):

Emergency purchases that OMB or a purchasing agency cannot make within the required time and which involve public health or public safety, or when immediate expenditures are necessary for repairs of state property to protect it against further loss or damage, or to prevent or minimize serious disruption in state services

- a. Emergency purchases made under this subsection must treat all bidders fairly and promote competition as is practicable under the circumstances.
- b. The procurement file must contain a written determination of the basis for the emergency, and the basis for the selection of the particular contractor.
- c. If the emergency circumstances warrant a noncompetitive purchase, the Office of Management and Budget or the purchasing agency shall document within the procurement file a written determination of the basis for the noncompetitive purchase, including the circumstances that justified the noncompetitive purchase.
- d. If the emergency purchase is subject to federal funding reimbursement, the Office of Management and Budget or the purchasing agency shall ensure the procurement procedures and documentation are adequate to satisfy requirements for federal reimbursement.
- e. If time allows emergency purchases for commodities under this subsection may require a sample for use in determining whether an offered product meets specifications

The rule related to emergency purchases is N.D.A.C. § 4-12-09-04

- 1. Procurements may be made under emergency conditions in a circumstance when there is insufficient time for usual competitive procurement methods and which involve public health, public safety, or when immediate expenditures are necessary pursuant to North Dakota Century Code section 54-44.4-02. If the circumstance does not meet the provisions of North Dakota Century Code section 54-44.4-02, a determination to limit or waive competition must be made.
- 2. An emergency procurement need not be made through competitive sealed bidding or competitive sealed proposals but must be made with competition that is practicable under the circumstances.
- 3. The purchasing agency shall limit the quantity of commodities or services being purchased to that necessary to meet the emergency circumstance.
- 4. The purchasing agency shall prepare a written determination for the use of emergency procurement procedures, including an explanation as to why emergency conditions exist, a description of the required commodities or services, and evidence necessary for the independent examination and determination of the material facts of the procurement.
- 5. The responsible agency official shall promptly forward the emergency determination to the state procurement office after the procurement.
- 6. The procurement officer shall conduct negotiations, as appropriate, regarding price, delivery, and terms. Such negotiations must be conducted in accordance with chapter 4-12-12.
- 7. The procurement officer responsible for the emergency procurement shall prepare and retain in the procurement file a record of the emergency procurement that includes the emergency determination, description of the commodities or services procured, and basis for the selection of the vendor.