



DENTON COUNTY DEPARTMENT OF EMERGENCY SERVICES

Fire Marshal • Homeland Security • Emergency Management



Eric M. Gildersleeve

Assistant Emergency Management/Homeland Security Coordinator

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To: Scott Arledge, Director of Purchasing
From: Eric Gildersleeve, Assistant Emergency Management Coordinator
CC: Shannon Joski, Director of Admin – County Judge,
Jody Gonzalez, Director of Development and Emergency Services
Date: May 26, 2020
RE: Novel Coronavirus SARS-CoV2 (COVID-19) Exigent Circumstances for Large Procurement

This memorandum is a justification of Exigent Circumstances for a non-competitive procurement of items related to the Novel Coronavirus (COVID-19). These items will provide the most benefit to the residents of Denton County if purchased and delivered without having to wait for a multi-week/month procurement process. The justifications below are the recommended elements from the Federal Emergency Management Agency (FEMA).

1. Identify which of the four circumstances listed in 2 C.F.R. § 200.320(f) justify a noncompetitive procurement:

- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.

2. Provide a brief description of the product or service being procured, including the expected amount of the procurement.

- The items being procured are a transportable “Fold Out Rigid Temporary Structure” along with interconnection vestibules and light duty vehicle trailer transporters. The expected amount of the procurement including delivery is: \$1,244,440.00.

3. Explain why a noncompetitive procurement is necessary. If utilizing the exigency/emergency exception, the justification should explain the nature of the public exigency or emergency, including specific conditions and circumstances that clearly illustrate why procurement other than through noncompetitive proposals would cause unacceptable delay in addressing the public exigency or emergency. (Failure to plan for transition to competitive procurement cannot be the basis for continued use of noncompetitive procurement based on public exigency or emergency).

- This procurement is requested under “exigent” circumstances due to the Novel Coronavirus (COVID-19) a globally declared pandemic by the World Health Organization, the President of the United States, the Governor of Texas, and the Denton County Judge and Commissioner’s Court.

- The purchase of the “Fold Out Rigid Temporary Structure” and associated equipment will aid in multiple facets to the Denton County response of COVID-19. The units could be deployed to support Public Health operations through mobile testing clinics, drive through inoculations, or as non-congregate sheltering in the event of an outbreak or isolation need. In addition, deployment of equipment during the 2020 election will aid elections staff by maintaining mandated social distancing requirements.

4. State how long the noncompetitively procured contract will be used for the defined scope of work and the impact on that scope of work should the noncompetitively procured contract not be available for that amount of time (e.g., how long do you anticipate the exigency or emergency circumstances will continue; how long will it take to identify your requirements and award a contract that complies with all procurement requirements; or how long would it take another contractor to reach the same level of competence).

- The noncompetitively procured contract will be used for a single purchase. The scope of work is to procure equipment that will aid in our response to COVID-19, the normal procurement process will prevent obtaining the equipment within a reasonable amount of time during a period where it is needed. We anticipate the exigent circumstances to continue until rescinded by the President of the United States.

5. Describe the specific steps taken to determine that full and open competition could not have been used, or was not used, for the scope of work (e.g., research conducted to determine that there were limited qualified resources available that could meet the contract provisions).

- Discussions with manufacturer about availability of product and delivery during the timeline specified would prevent the use of a competitive procurement. The normal open procurement process used by Denton County would take a minimum of six weeks, in which time the manufacturer would not be manufacturing the equipment. Product is not available off-the-shelf to allow normal process to be conducted.

6. Describe any known conflicts of interest and any efforts that were made to identify possible conflicts of interest before the noncompetitive procurement occurred. If no efforts were made, explain why. If a conflict of interest is unavoidable, such as due to exigent/emergency circumstances, explain how it was unavoidable and any steps taken to address the impact of that conflict of interest.

- There are no conflicts of interest with the product requested. Other vendors are able to provide the basic functionality but not in a manner that can be completed using available equipment. The use of other manufacturers would require obtaining heavy equipment including very large forklifts and cranes which would further increase costs. This is the only product that meets the immediate need and can be handled rapidly. While the vendor also claims they are sole-source we have determined they have multiple resale partners which procure the products at the same pricing as we would and charge a markup.

7. Include any other information justifying the use of noncompetitive procurement in the specific instance.

- Chapter 418.020 of the Texas Local Government Code contains information regarding the purchase of Temporary Housing and Emergency Shelter. Section (d) Any political subdivision may temporarily or permanently acquire by lease, purchase, or other means sites required for installation of temporary housing units or emergency shelters for disaster victims and may enter in arrangements necessary to prepare or equip the sites to



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use the housing units or shelters, including arrangements for the purchase of temporary housing units or shelters and the payment of transportation charges.

- The above referenced section of the Texas Local Government Code allows the purchase of temporary structures and the transportation costs as it relates to the disaster.
- Additionally, on March 17, 2020 FEMA released a memorandum titled “Procurement Under Grants Conducted under Emergency or Exigent Circumstances for COVID-19” and it states; “The President’s unprecedented Nationwide Emergency Declaration, and the Secretary of Health and Human Services’ (HHS) declaration of a Public Health Emergency for COVID-19 establish that exigent and emergency circumstances currently exist. For the duration of the Public Health Emergency, which began January 27, 2020 as determined by HHS, local governments, tribal governments, nonprofits, and other non-state entities may proceed with new and existing noncompetitively procured contracts in order to protect property and public health and safety, or to lessen or avert the threats created by emergency situations for 1) Emergency protective measures under FEMA’s Public Assistance Program and 2) Use of FEMA non-disaster grant funds by non-state recipients and sub-recipients to respond to or address COVID-19.”

This memorandum serves to justify the Denton County procurement of the “Fold Out Temporary Rigid Structure” and ancillary equipment as it relates to an exigent circumstance.

Respectfully,

A handwritten signature in black ink that reads "Eric M. Gildersleeve".

Eric M. Gildersleeve