



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 2159

PRINTERS NO. 3046

PRIME SPONSOR: Ortitay

### COST / (SAVINGS)

FUND	FY 2021/22	FY 2022/23
General Fund	\$0	\$0

**SUMMARY:** Amends the Commonwealth Procurement Code to establish a new emergency procurement process.

**ANALYSIS:** HB 2159 amends Titles 35 (Health and Safety) and 62 (Procurement) by repealing the existing emergency procurement process and replacing it. Under the bill, a purchasing agency may make an emergency procurement for supply, service, or construction when all of the following criteria are met:

- There exists a threat to the safety, health or welfare of the Commonwealth; or
- There exist circumstances outside the control of the purchasing agency that threaten substantial harm to the operations of the Commonwealth.

When making an emergency procurement, the head of a purchasing agency must make the following written determinations and must include the written determinations in the procurement file:

- The basis for the emergency based on the emergency procurement criteria.
- If the emergency procurement relates to a disaster emergency subject to a declaration of disaster emergency under 35 Pa.C.S. § 7301(c) (relating to general authority of Governor) in effect at the time the head of the purchasing agency makes the written determinations under this subsection, which declaration of disaster emergency is applicable and how the disaster emergency requires the use of emergency procurement.
- How the identified emergency creates an urgency of need which does not permit the delay involved in using an alternate and otherwise applicable competitive method.
- The basis for the selection of the contractor.
- If applicable, a written determination of the solicitation of quotes.
- If applicable, a written determination of the authorization of invoices.

Quotes - The head of the purchasing agency must solicit at least two quotes for an emergency procurement unless the head of the purchasing agency determines, in writing, that the circumstances of the emergency make the solicitation of at least two quotes impractical.

Invoices - The head of the purchasing agency may authorize the payment of the consideration for the supply, service, or construction for an emergency procurement based on an approved invoice if the head of the purchasing agency determines, in writing, that the circumstances of the emergency make the use of a contract impractical.

For emergency procurements in which the Department of General Services (DGS) acts as an agent for a Commonwealth agency, the Secretary of General Services may only make an emergency procurement upon written request of the head of the Commonwealth agency or a single deputy of the head of the Commonwealth agency designated in writing to act on behalf of the head of the Commonwealth agency.

Additionally, the bill clarifies that contracts for emergency procurements that are not required to be filed with the Treasury Department under the Right to Know Law shall be posted on an agency's publicly accessible internet website as soon as practicable upon its full execution.

Effective date: 60 days

**FISCAL IMPACT:** The enactment of this legislation should have no adverse impact on Commonwealth funds.

**PREPARED BY:** Thomas Gwinn  
House Appropriations Committee (R)

**DATE:** April 27, 2022

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*