



Memorandum to Presidents

DATE: March 11, 2020

TO: Presidents, State-operated Campuses

FROM: Office of General Counsel

SUBJECT: *New Executive Order No. 202 on the Disaster Declaration in Response to COVID-19*

On March 7, 2020, Governor Cuomo signed Executive Order Number 202 (“EO 202”), in which he declared a State disaster emergency across all of New York State in response to the threat posed by the spread of the COVID-19 virus, effective from March 7, 2020 through September 7, 2020.¹

EO 202’s issuance provides a number of temporary suspensions of existing laws in order to assist the State’s efforts to combat the transmission of the virus, which are described below. These temporary suspensions of existing laws last through April 6, 2020.²

Transportation:

The issuance of EO 202 satisfies procedural requirements contained in federal regulations that suspend federal motor carrier safety regulations so that vehicles used by response crews can operate commercial vehicles on New York State roads without first satisfying commercial vehicle standards.

EO 202 also grants the Governor the authority to supersede relevant laws governing transportation and vehicular movement for purposes of regulating traffic on general access roads, highways, and streets.

Procurement:

Now that Governor Cuomo has issued EO 202 declaring a State disaster emergency across all of New York State in response to the threat posed by the spread of the COVID-19 virus, effective from March 7, 2020 through September 7, 2020, here is what you can do regarding emergency contracts.

What this means for procurements directly related to dealing with COVID-19:

¹ Executive Law Section 28(3) provides that an Executive Order declaring a disaster emergency can remain in effect for up to six months, but the Governor may issue additional orders to extend the disaster emergency for up to an additional six months.

² Executive Law Section 29-a(2)(a) authorizes such temporary suspensions of existing law to last for 30 days, but the Governor may extend the suspensions for additional periods, not to exceed 30 days each.

- You **do not** need to advertise in the New York State Contract Reporter or complete a Contract Reporter Exemption Request.
- You **should** still make a reasonable attempt to obtain at least three verbal quotes; best practice is to secure written quotes via email.
- You **do not** need to get pre-approval from the Offices of the Attorney General and the State Comptroller for contracts valued \$250,000 or more.
- You **must** include in the procurement record documentation that justifies the emergency procurement in the event of an audit. The procurement record must specifically include an explanation why the procurement is critical in response to the emergency.

Public Health:

Additionally, EO 202 makes several changes to eliminate or reduce many of the regulatory requirements that have the potential to delay a hospital's ability to respond to the COVID-19 outbreak. SUNY campuses offering healthcare education and/or health services should consult the attached addendum concerning EO 202's changes to public health statutes and regulations.

Other Areas of Governance:

EO 202 activates the State Comprehensive Emergency Management Plan and authorizes all necessary State agencies to take appropriate action to assist local governments and individuals in responding to the state disaster emergency, to protect state and local property, and to provide such other assistance as is necessary to protect public health, welfare, and safety.

Resources:

OGS: [Emergency Preparedness & Response | Office of General Services](#)

- [Emergency Resources on Centralized Contracts](#), as well as NYS Emergency Response Partners & Resources
- [Construction Emergency Contracting](#)

If you are concerned about fair pricing and to protect against price gouging as prohibited by New York State's General Business Law § 396-r, contact the OGS Buy Desk at OGSBuyDesk@ogs.ny.gov or by calling the Business Services Center (BSC) at (518) 457-4272 and asking for the Buy Desk.

OSC GFO: [Making an Emergency Payment](#) This section informs how to process vouchers to vendors when an emergency procurement exists and the vendor cannot be added using the Vendor Add process prior to payment. Additionally, the Bureau of State Expenditures' Customer Service Help Desk at (518) 474-4868, or by email addressed to stexpend@osc.state.ny.us, may provide guidance in this area.

Your prompt attention to the enclosed Executive Order is appreciated. If you have any questions, please contact the Office of General Counsel or Thomas Hippchen at System-wide Procurement.

Enclosures