

INTERNAL AUDIT REPORT

Operational Audit
Emergency Procurement Audit

March 2020 – March 2022

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Report No. 2022-08

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Executive Summary

Internal Audit (IA) completed an audit of emergency procurements in response to the COVID-19 pandemic. The purpose of the audit was to broadly evaluate internal controls, including whether purchases were made within the delegation of authority framework, whether state procurement laws were followed, and whether the costs of purchases were reasonable given the circumstances. The audit covered the period from March 1, 2020, through March 31, 2022.

Procedures related to emergency COVID-19 construction costs are performed through the Capital Internal Audit function and were not included within the scope of this audit. As of May 3, 2022, approximately \$8.75 million was authorized for COVID-19 mitigation costs on major construction projects (see background section for additional information).

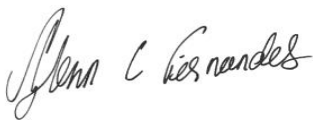
On March 16, 2020, the Port of Seattle's (Port's) Executive Director (ED) formally declared an emergency due to the COVID-19 outbreak. The intent of the declaration was to "minimize the impact of COVID-19 to Port of Seattle operations, its employees, contractors, and public health", by providing authorization from the ED to expedite the "award of any necessary contracts including those for goods and services, personal services, professional services, and public works in accordance with all applicable laws, regulations, and policies...".

Emergency purchase provisions are guided by the Revised Code of Washington (RCW). RCW 39.04.280 defines an emergency as "unforeseen circumstances beyond the control of the municipality." This RCW and other related RCWs broadly waive competitive bidding requirements to expediate the procurement process.

In addition to RCW provisions, the Port's procurement card policy (CPO-7) allows for routine purchases of goods and services up to \$25,000 for Central Procurement Office (CPO) employees and \$5,000 for other Port employees, and can be increased, when authorized in writing, to respond to an emergency. Finally, Attachment A of the Port's Delegation of Authority Schedule (EX-2), includes emergency spending limits based on role. Collectively, these requirements shaped procurement practices during the COVID-19 emergency.

We concluded that purchases were made within the Port's delegation limits and followed RCW requirements. We also validated that those costs appeared reasonable while acknowledging that the primary objective of management was to acquire emergency supplies and services quickly.

We extend our appreciation to management and staff of the Central Procurement Office for their assistance and cooperation during the audit.



Glenn Fernandes, CPA
Director, Internal Audit

Responsible Management Team

Nora Huey, Director, Central Procurement Office
Dave Soike, Chief Operating Officer

Background

On March 16, 2020, the Port’s Executive Director (ED) formally declared an emergency due to the COVID-19 outbreak. The intent of the declaration was to “minimize the impact of COVID-19 to Port of Seattle operations, its employees, contractors, and public health” by providing authorization from the ED to expedite the “award of any necessary contracts including those for goods and services, personal services, professional services, and public works in accordance with all applicable laws, regulations, and policies...” (See Appendix B for the Declaration of Emergency Memorandum).

The table below reflects the annual costs and type of purchase for the period beginning March 16, 2020 and ending March 31, 2022.

Period	Cleaning Service ¹	Masks	Sanitizer	Supplies ²	Total
2020 (March 16 - December 31)	\$ 915,378	\$ 239,323	\$ 274,488	\$ 1,178,337	\$ 2,607,526
2021	1,519,083	0	180,146	144,010	1,843,239
2022 (January 1 - March 31)	0	0	0	10,699	10,699
Total	\$ 2,434,461	\$ 239,323	\$ 454,634	\$ 1,333,046	\$ 4,461,464

The Port also reimburses Prime contractors for COVID-19 expense incurred on capital projects. The amount of reimbursement depends on the type of expense. For example, hand washing stations and hand tools are reimbursed at 50%, while the actual cost of a full-time COVID-19 site supervisor, plus the applicable markup is fully reimbursed. As discussed, these costs were not included within the scope of this audit, as they are audited through the Capital Internal Audit function. The table below reflects COVID-19 capital costs, as of May 3, 2022.

Division	Direct COVID-19 safety costs	Settlement of other COVID-19 related costs	Total
Aviation	\$ 7,348,378	\$ 1,112,371	\$ 8,460,749
Maritime	183,364	98,170	281,534
Economic Development	12,653	0	12,653
Total	\$ 7,544,395	\$ 1,210,541	\$ 8,754,936

Attachment A, of the Port’s Delegation of Authority Schedule (EX-2), includes emergency spending limits based on role. Additionally, the Revised Code of Washington (RCW) allows for exceptions to standard procurement laws during an emergency. RCW 39.04.280 Competitive Bidding Requirements – Exemptions defines emergency as “unforeseen circumstances beyond the control of the municipality that either:

- a) Present a real, immediate threat to the proper performance of essential functions; or
- b) Will likely result in material loss or damage to property, bodily injury, or loss of life, if immediate action is not taken.”

According to the RCW, “If an emergency situation exists, the person or persons designated by the governing body of the municipality to act in the event of an emergency may declare an emergency situation

¹ Includes enhanced cleaning and sanitation for TSA checkpoints and baggage screening requested by TSA valued at \$2,149,017.
² Includes installation of screening camera, cruise industry consulting services related to COVID-19, installation of UV sterilization device, and customer service support for elevated body temperature screening.

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exists, waive competitive bidding requirements, and award all necessary contracts on behalf of the municipality to address the emergency situation.”

State procurement and contracting laws promote open competition and transparency for goods and services, unless specifically exempted due to an emergency. Listed below are three emergency procurement provisions:

RCW 39.04.280 Competitive Bidding Requirements

Waives the competitive bidding requirements of public works contracts in the event of an emergency.

RCW 39.80.060 Architectural and Engineering Services

Permits an agency an exemption from following regularly required contract negotiation requirements for architectural and engineering services at a fair and reasonable price.

RCW 53.19.020 Personal Service Contracts

Gives an agency an exemption from competitive solicitation when an emergency exists.

Audit Scope and Methodology

We conducted the engagement in accordance with Generally Accepted Government Auditing Standards and the International Standards for the Professional Practice of Internal Auditing. Those standards require that we plan and conduct an engagement to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our engagement objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our engagement objectives.

In some cases, we used a judgmental method to determine the samples selected for our audit test work. In those cases, the results of the work cannot be projected to the population as a whole, as we did not select a statistical sample.

The period audited was March 2020 through March 2022, and included the following procedures:

Evaluation of Internal Controls

- Reviewed policy and procedural documentation, most notably, the Port of Seattle's Delegation of Authority Schedules (EX-2).
- Validated that the ED declared an emergency and provided his consent to expedite procurement of contracts (good and services, personal services, professional services, and public works) to mitigate the impact of COVID-19.
- Obtained an understanding of emergency RCW statutes, including 39.04.280 (Competitive Bidding), 39.26.130 (Emergency Purchases), 39.80.060 (Architectural and Engineering Services), and 53.19.020 (Personal Services Contracts).
- Validated through discussions with management and review of documentation that requirements were adhered to.

Substantive Procurement Testing

- Selected a sample of procurements and validated that the emergency purchase was made by an individual who had proper authority (within limits contained in the EX-2 schedules).
- Analyzed emergency procurements between March 2020 and March 2022. These purchases were coded to program code 8100, using either a purchase order or procurement card.
- Discussed with management how and if they determined whether purchases were reasonable, prior to procurement.
- Assessed the reasonableness of the amount paid for emergency goods and services by comparing the amount paid to third party sources.

The audit did not include COVID-19 construction change orders for job site safety. Procedures related to construction costs, including COVID-19, are performed through the Capital Internal Audit function.

Appendix A: Risk Ratings

Findings identified during the audit are assigned a risk rating, as outlined in the table below. Only one of the criteria needs to be met for a finding to be rated High, Medium, or Low. Findings rated Low will be evaluated and may or may not be reflected in the final report.

Rating	Financial Stewardship	Internal Controls	Compliance	Public	Commission/ Management
High	Significant	Missing or not followed	Non-compliance with Laws, Port Policies, Contracts	High probability for external audit issues and / or negative public perception	Requires immediate attention
Medium	Moderate	Partial controls Not functioning effectively	Partial compliance with Laws, Port Policies Contracts	Potential for external audit issues and / or negative public perception	Requires attention
Low	Minimal	Functioning as intended but could be enhanced to improve efficiency	Mostly complies with Laws, Port Policies, Contracts	Low probability for external audit issues and/or negative public perception	Does not require immediate attention

Appendix B: Port of Seattle Memorandum



PORT OF SEATTLE
MEMORANDUM

DATE: March 16, 2020
TO: Stephen P. Metruck, Executive Director
FROM: Nora Huey, Director, Central Procurement Office
SUBJECT: Declaration of Emergency - COVID-19 outbreak

REQUEST:

On February 29, 2020 Washington state Governor Jay Inslee declared a state of emergency as a result of the COVID-19 outbreak. On March 11, 2020 the World Health Organization declared the COVID-19 outbreak a global pandemic. The virus continues to spread quickly both locally and globally. In order to timely and efficiently mitigate the proliferation of the virus and respond to the outbreak as necessary, it may become imperative that certain immediate actions be taken to remedy this unstable condition.

It is requested that the Executive Director make a finding that an emergency exists related to all Port of Seattle operations and interests and at all Port of Seattle properties, and that the Executive Director authorize expedited award of any necessary contracts including those for goods and services, personal services, professional services, and public works in accordance with all applicable laws, regulations and policies, including, but not limited to, RCWs 39.04.020, 39.04.280, 39.80.060 and 53.19.020, in order to address and mitigate the impact of COVID-19 to Port of Seattle operations, its employees, contractors, and public health.


REQUESTED BY:



Nora Huey, Director, Central Procurement Office

3-16-2020
Date

DECLARED:



Stephen P. Metruck, Executive Director

3/16/2020
Date