

**EMERGENCY EXECUTIVE POWERS AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Andrew Stoddard**

Senate Sponsor: Michael K. McKell

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**LONG TITLE**

**General Description:**

This bill makes changes to the epidemic emergency procurement process.

**Highlighted Provisions:**

This bill:

- ▶ reduces the amount the governor may spend for an emergency procurement during an epidemic or pandemic;
- ▶ details the notice requirements after an emergency procurement; and
- ▶ requires that a copy of the contract shall be made available to legislators.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53-2a-217**, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 7

**63G-6a-803**, as last amended by Laws of Utah 2020, Chapter 365

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **53-2a-217** is amended to read:

**53-2a-217. Procurement process during an epidemic or pandemic emergency.**



28 (1) As used in this section, "epidemic or pandemic disease" means the same as that  
29 term is defined in Section 53-2a-215.

30 (2) (a) During a state of emergency declared as described in Section 53-2a-206 that is  
31 in response or related to an epidemic or pandemic disease emergency, or during a national  
32 epidemic or pandemic emergency, the governor shall provide notice to the Legislature within  
33 24 hours after an expenditure or procurement, if the expenditure or procurement:

- 34 (i) uses federal funds received as described in Subsection 53-2a-204(1)(m);
- 35 (ii) totals more than [~~\$2,000,000~~] \$1,000,000 or includes a line item of more than  
36 [~~\$2,000,000~~] \$1,000,000; and
- 37 (iii) is made using emergency procurement processes as described in Section  
38 63G-6a-803.

39 (b) The governor may not divide an expenditure or procurement into multiple  
40 expenditures or procurements to fall below the [~~\$2,000,000~~] \$1,000,000 threshold described in  
41 Subsection (2)(a)(ii).

42 (3) The notice in Subsection (2)(a) shall contain the following information:

- 43 (a) an accounting of items purchased or funded;
- 44 (b) who payment was or is to be made to;
- 45 (c) when payment was or is to be made; and
- 46 (d) how much was or is to be paid.

47 (4) A copy of the contract or contracts shall be provided to a legislator upon request.

48 Section 2. Section 63G-6a-803 is amended to read:

49 **63G-6a-803. Emergency procurement.**

50 (1) Notwithstanding any other provision of this chapter, a procurement official may  
51 authorize a procurement unit to engage in an emergency procurement without using a standard  
52 procurement process if the procurement is necessary to:

- 53 (a) avoid a lapse in a critical government service;
- 54 (b) mitigate a circumstance that is likely to [~~have a negative impact on~~] cause  
55 irreparable harm to public health, safety, welfare, or property; or
- 56 (c) protect the legal interests of a public entity.

57 (2) A procurement unit conducting an emergency procurement under Subsection (1)  
58 shall:

- 59           (a) ensure that the procurement is made with as much competition as reasonably  
60 practicable while:
- 61           (i) avoiding a lapse in a critical government service;
- 62           (ii) avoiding irreparable harm~~[, or a risk of harm, to the]~~ to public health, safety,  
63 welfare, or property; or
- 64           (iii) protecting the legal interests of a public entity; and
- 65           (b) after the emergency has abated, prepare a written document explaining the  
66 emergency condition that necessitated the emergency procurement under Subsection (1).