



NOTICE OF DETERMINATION
for
EMERGENCY PROCUREMENT

1/12/17

The City of Carlsbad's Excess Workers Compensation Insurance policy is due to expire on 1/16/17. The City has been exploring options in regards to this insurance policy and weighing the cost benefits of contracting with a private company vs. obtaining a policy through New Mexico Self Insurers Fund, which is exempt from procurement. However, there were substantial delays in obtaining price quotes from private providers making it impossible to determine if the option to utilize NM Self Insurer's Fund was cost effective for the City. By the time this information was made available to the City and it became apparent that NM Self Insurers Fund was not a viable and cost effective option, there was not adequate time to prepare and conduct an RFP for this procurement before the current policy would expire, leaving the City at risk for potential legal action, fines and penalties and putting our employees at risk if they were to be seriously injured on the job. The City as a self-insured entity is required to maintain excess workers compensation insurance and cannot by law have a lapse in coverage for any period of time.

The City is making the determination to proceed with this purchase as an Emergency Procurement as defined in (Section 1.4.1.58-64) of the New Mexico State Procurement Code.

1.4.1.59 DEFINITION OF EMERGENCY CONDITIONS: An emergency condition is a situation which creates a threat to public health, welfare, safety or property such as may arise by reason of floods, epidemics, riots, equipment failures or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten:

- A. the functioning of government;
- B. the preservation or protection of property; or
- C. the health or safety of any person.

The CPO opinion is that the emergency procurement is justified by meeting both condition A and C of Section 1.4.1.59. The State Purchasing Division was contacted to solicit a determination in regards to this matter and Emergency Procurement methods were recommended to alleviate the issue. The correspondence is attached as well as other supporting documentation.

Matthew Fletcher, CPO

Purchasing Manager

City of Carlsbad

Date: 1/12/17

