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## Emergency Purchase Of Rock Salt (and similar commodities)

The Division has recently received inquiries from individual contracting units and members of cooperative purchasing systems, concerning problems with their rock salt contracts.

The problems occur because a contracting unit's stated contract quantity or estimated contract tonnage has been consumed. We have received reports that once contracted quantities have been met, contractors have been imposing seemingly arbitrary price increases from the original contract. We have heard of similar situations where local units piggy-backed on a county contract and did so without providing an estimated quantity, and the contractor is holding the county to the contracted estimates. It is likely, depending on the contract with the vendor, once estimated quantities are reached, there is no obligation for the contractor to maintain pricing or delivery guarantees.

To ensure salt (or other commodity) supplies to meet local needs, the first thing local officials should do is carefully read their contract to verify the contract tonnage and if unit prices or a price methodology may have been included in the original specifications and contract. If unit prices or a price methodology has been included, review the [change order procedure \(N.J.A.C. 5:30-11 et seq.\)](#). Lead agencies of competitive purchasing systems should do the same for their own needs as well as their members.

If the contract language does not meet the circumstances, the Local Public Contracts Law provides a procedure to resolve the situation through the declaration of an emergency pursuant to [N.J.S.A. 40A:11-6](#) and [N.J.A.C. 5:34-6](#). Click on the links, or visit the [Division Web site's Local Public Contracts Law page](#) to view the provisions of each section.

The declaration of an emergency permits the contracting unit to negotiate a price with any vendor. Once declared, a contracting unit could continue the contractual relationship with their originally awarded contract vendor, renegotiate it, or attempt to receive expedited quotations from vendors. The governing body must ultimately approve contracts with a value above the bid threshold or delegate emergency contracting authority to an official pursuant to N.J.A.C. 5:34-6.1(b).

If necessary, the governing body will also be required to take the necessary financial action (i.e., adopt an emergency resolution to appropriate funds) to provide for the payment of additional costs for a new or amended contract. Finally, the contracting unit's legal advisor should review all this advice and any action that may be taken.

If the Division of Local Government Services may be of any assistance, please do not hesitate to contact us at (609) 292-7842, by fax at (609) 633-6243 or by e-mail at [lpcl@dca.state.nj.us](mailto:lpcl@dca.state.nj.us)

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