

Legislative Audit Office Report Overview

Department of Administrative Services: Analysis of State Agency Emergency Contracting



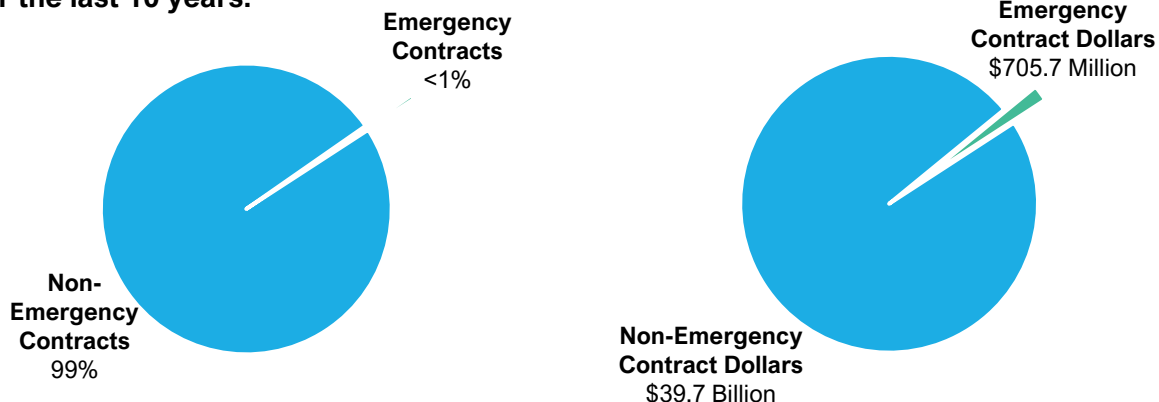
The Legislative Audit Office is part of a nonpartisan division of the Legislature, directed by the Legislative Oversight Committee. The Committee selects topics for the Office to audit, details the scope of such audits, and makes recommendations as to how the Legislature should proceed after the Office completes its audit report.

Audit Overview

In Nebraska, agencies entering into emergency contracts are not required to follow the mandatory formal bidding process for contracts with a value of \$50,000 or more. Nebraska law defines an emergency as a situation where a contract is “necessary to meet an urgent or unexpected requirement or when health and public safety or the conservation of public resources is at risk.” This audit examines the use of emergency contracts by all state agencies between January 2014 and December 2024.

The audit found no evidence of excessive statewide use of emergency contracting. Agencies reported entering into 266 emergency contracts totaling \$705.7 million in state and federal funds during the review period. Emergency contracts were 0.5% of all contracts and 1.7% of total contract dollars.

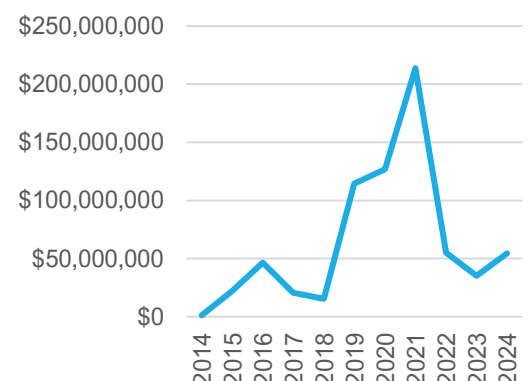
Emergency contracts were a small portion of all contracts and total dollars spent on contracts over the last 10 years.



All emergency contracts between 2014 and 2024 were services contracts; there were no emergency goods contracts entered into during that time. Twelve agencies entered into emergency contracts during that time. The five agencies with the most emergency contracts were: DHHS (160), NDOT (45), Game & Parks (17), Labor (13), and DAS (11). The other agencies entered into fewer than 10 emergency contracts each.

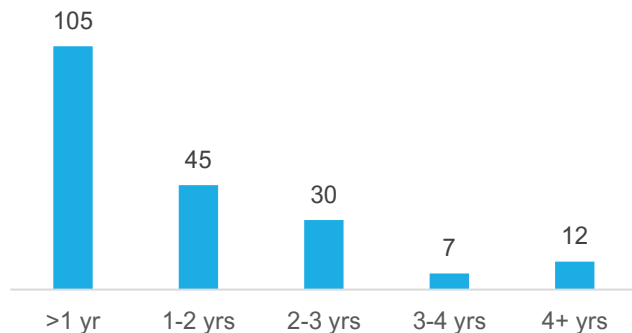
The total number of emergency contracts in any given year varied, from as few as 2 in 2014 to as many as 66 in 2019. The amount spent on emergency contracts grew from \$1.2 million in 2014 to a 2021 peak of \$213.8 million. Major increases in the total number of contracts and total spending occurred during the 2019 flooding event and the COVID-19 pandemic.

Total emergency contract spending was highest during the 2019 flood and the COVID-19 pandemic.



A total of 186 vendors entered into emergency contracts with state agencies during the review period. Most vendors (75%) had only one emergency contract with an agency. The vendor with the most emergency contracts entered into nine contracts with various agencies during the review period.

Over half of all emergency contracts were for a year or less.



Just over half of all emergency contracts were entered into for a year or less, including extensions. Seventy-seven emergency contracts were extended past their original term. The audit found one contract was extended in a manner inconsistent with the law; the agency extended the contract via multiple amendments which is not allowed. Another contract was found to contain language allowing the contract to be renewed indefinitely, which is also not allowed by law. However, that contract was terminated at the end of its original term.

The audit examined documentation for all 266 emergency contracts from 2014 to 2024, including emergency justifications for the 199 contracts where justifications were required. The audit found that the majority of those contracts reviewed appeared to be emergencies, but questioned whether 18% met the definition of an emergency.

Auditors also made several observations about the emergency contract justifications, concluding that a number of emergency contracts may have been more appropriately sole source contracts and raising issues with technology contracts using the emergency contract procedure where the agency wanted or needed to keep the current vendor.

The audit made several findings related to contract documentation, including:

- The Department of Administrative Services could not provide a stand-alone list of emergency contracts for the period between 2014 to 2024, one had to be solicited from individual agencies.
- Twenty-seven emergency contracts from eight agencies were not uploaded to the State Contract Database as required by law.
- Three Department of Economic Development emergency contracts and 45 Department of Transportation emergency contracts were not uploaded into the EnterpriseOne platform as required by DAS policy.
- The Department of Administrative Services entered into emergency contract #108957 without the completion of a justification form as required by law.
- From December 2013 to December 2024, the Department of Economic Development did not enter any information into EnterpriseOne for more than 80 contracts (including emergency contracts) as is required by law. The contracts were also not entered into the State Contract Database as is required by law.
- The Department of Economic Development submitted, and the Department of Administrative Services accepted, documentation for emergency contracts #24-01-495, #23-01-155, and #23-01-225 where no information justifying the emergency was provided in the justification form.