

Facility Professional Services Policy No. 9.1

Public Works Emergency Contracts

Applies To:	Division of Facility Professional Services Staff and Clients
Authorizing Sources:	State law - RCW 39.04 State law - RCW 39.28 State law - RCW 39.80 State law - RCW 43.19
Information Contact:	Facility Professional Services
Effective Date:	October 1, 2018
Last Update:	September 2018
Approved By:	<div style="text-align: center;">_____ /s/ William Frare Assistant Director, Facility Professional Services</div>

Purpose

The purpose of this policy is to clarify the requirements for declaring an emergency and awarding an Emergency Public Works Contract.

This policy applies to the Emergency Public Works Contracting process only and does not apply to the use of emergency funds for Emergency Public Works Contracts.

Definitions

Contract means a contract in writing for the execution of public work for a fixed or determinable amount duly awarded after advertisement and competitive bid

E&AS PM means Engineering and Architectural Services (E&AS) Project Manager, Dept. of Corrections (DOC) Team Project Manager, and/or Dept. of Social and Health Services (DSHS) Team Project Manager.

Emergency means unforeseen circumstances beyond the control of the public agency 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.

Public Works means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state.

State Facilities means all state buildings, related structures, and appurtenances constructed for any elected state officials, institutions, departments, boards, commissions, colleges, community

colleges, except the state universities, The Evergreen State College and regional universities. "State facilities" does not include facilities owned by or used for operational purposes and constructed for the Department of Transportation, Department of Fish and Wildlife, Department of Natural Resources, or State Parks and Recreation Commission.

Policy Statement

When an emergency exists, the DES Director is authorized by RCW 39.04.280 to waive the competitive bidding requirements for public works contracts to expedite services required to mitigate the circumstances resulting from the emergency.

Policy

A. Contract Authority

Through RCW 43.19, the DES Director is authorized to enter into contracts on behalf of the state; including Public Works contracts for state facilities. The supervisor of Engineering and Architecture, the Assistant Director for Facility Professional Services (FPS), contracts for professional services and provides contract administration for the repair of state facilities.

When an emergency (as defined by RCW 39.04.280 (3) or as declared by the Governor) exists, the DES Director is authorized by RCW 39.04.280 to waive the competitive bidding requirements for public works contracts.

B. Emergency Determination Requirements

When an emergency impacts a state facility, the Director, Secretary, or designated representative of the affected public agency may file an emergency declaration and request DES approval for an Emergency Public Works contract to repair the state facility(s).

Requests for Emergency Public Works Contract and DES approval should be sent to the Assistant Director for Facility Professional Services (FPS) for review. After review, the Assistant Director for FPS will coordinate the request with the DES Deputy Director prior to making a recommendation for the DES Director's approval to award an emergency contract.

The DES Director may disapprove the request to award an Emergency Public Works contract should the public agency's declaration not meet the requirements as identified in RCW 39.04.280.

C. Reporting Requirements

The E&AS PM will work with the public agency to gather the scope of work and cost estimate and provide to the Contracts Specialist within three (3) days of an emergency declaration. The Contracts Specialist will publish the information within seven (7) days of the commencement of the work and within fourteen (14) days following the award of the contract.

D. Contract Requirements

Emergency Public Works Contracts will be based on Time and Materials and managed by an E&AS PM. While the competitive bidding requirements are waived for Emergency Public Works Contracts, all other requirements, such as prevailing wage, General Conditions, bonding, insurance, diversity compliance reporting, etc. apply to Emergency Public Works Contracts.

E&AS PMs may select consultants for professional services to resolve the emergency. Agreements for these services will be based on Time and Materials and managed by an E&AS PM.

E. Scope of Work

The scope of the Emergency Public Works Contract shall be limited to correcting the emergency situation and shall not include work that is unrelated to the emergency.

Procedures and required forms

- **Forms:**
 - [Emergency Public Works Contract Request template](#)

Responsibilities

Authorizing representative for DES:
William Frare, Assistant Director, Facility Professional Services

History

Amended:

- September 2018 – New Policy

Need a copy of a prior version of this policy? E-mail jack.zeigler@des.wa.gov