



# **Emergency Contracting/Procurement Procedures**

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## **A. Purpose of the Manual**

The purpose of this manual is to provide quick guidance for the procurement process during an emergency when there is no time for normal contracting or procurement procedures. The manual contains step-by-step instructions on how to proceed during an emergency. It explains the contracting and documentation requirements. The manual also contains emergency contact information for those who are responsible during an emergency.

## **B. Emergency Contracts/Procurements Procedures**

### **Determine if Event is an Emergency**

The Chief Structural Engineer or the Region Director will investigate the event and determine if the event can be declared an emergency based on the following Utah code:

“When there exists a threat to public health, welfare, or safety under emergency conditions as defined in rules and regulations, the Chief Procurement Officer, the head of a purchasing agency, or a designee of either officer may make or authorize others to make emergency procurements; provided that emergency procurements shall be made with as much competition as practicable under the circumstances.

A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file." (Utah code Section 63G-6-411).

Use normal contracting methods if the event does not meet these requirements.

### **Declaration of Emergency**

The Chief Structural Engineer or the Region Director contracts the Deputy Director and requests that the event be declared an emergency if the situation meets the requirements in step one.

The Deputy Director has been granted the authority to obtain goods and services in an emergency without execution of a state contract. The Deputy Director may delegate that authority to the Chief Structural Engineer, Director of Operations, Director of Project Development, Engineer for Construction or other designee. Only the Deputy Director or one of the delegates may declare an emergency.

By declaring an emergency it is recognized by the State Controller, UDOT Comptroller, and UDOT upper management that time is of the essence.

The most cost effective procedure from a budget perspective may not be the most prudent course of action when time is critical. UDOT Management must first focus on alleviating the immediate threat to the public health, welfare, or safety; the functioning of state government; or the preservation or protection of property. The person assigned to oversee the emergency work must also make wise use of the state's resources.

### **Determine Limits, Scope and Budget**

The Chief Structural Engineer or the Region Director, along with the Emergency Project Authority, (Structures Inspector, Project Manager, District Engineer, Area Supervisor or other responsible person) will determine the limits, scope of work, and the estimated costs required to stabilize the emergency situation. This involves determining what work needs to be done, how much needs to be done, and how it will be paid. The rapid response required and the unknown details of the work will dictate that the work be done on a force account basis for many emergency responses. See Standard Specification 01282, Section 1.11, for force account procedures.

In an emergency, only those supplies, services, or construction items that are necessary to respond to the emergency may be acquired without the execution of a state contract. Once the emergency is ended and emergency repairs have been made as defined in 11-39-101 of the state code, conventional contracting techniques must be used for remaining work.

Emergency repairs are defined as follows:

A building improvement or public works project undertaken on an expedited basis to:

1. Eliminate an imminent risk of damage to or loss of public or private property
2. Remedy a condition that poses an immediate physical danger
3. Reduce a substantial, imminent risk of interruption of an essential public service. ([11-39-101 Definitions](#))

An event that meets the above requirements can be declared an emergency and federal funding may be used.

### **Select a Contractor**

Emergency contracts and procurements must be made with such competition as is practicable under the circumstances. The Chief Structural Engineer or the Region Director will select a contractor to do the emergency work by one of the following methods:

1. If procurement contracts have been established through the Structures Division, Central Construction, Central Procurement or Maintenance, select

a contract from the current listing and contact them according to the in-place procedure to do the work under the existing contract and according to the established methods of payment. Contact the Consultant Services Director or see Consultant Services Website for a list of Emergency contracts and contractors. <http://www.dot.state.ut.us/main/f?p=100:pg:0:::1:T,V:286> also see appendix Page 14-19.

2. If there is an active UDOT project near the site of the emergency and the contractor has the equipment, manpower, and ability to respond to the emergency, the Chief Structural Engineer or the Region Authority will negotiate a scope of work and method of payment with the contractor using the C-107 form found on the Construction Website. Estimate the total cost of the emergency work and get the required verbal approvals and follow up with the signatures and change order as specified on the C-107 form. See appendix pg 20-21.
3. If no contracts are in place for the needed services, bids may be solicited by phone or fax from at least three qualified contractors that can respond quickly. It is acceptable to solicit a bid from a contractor already working in the area. If the circumstances of the emergency such as time constraints, limited interest, or lack of qualification make it impractical to solicit three bids, document the reason and place in the contract file.

**The Chief Structural Engineer or Region Director will:**

1. Verbally give an approval to procure a contractor and commence work prior to execution of a contract.
2. Designate an Emergency Project Authority (Structures Inspector, Project Manager, District Engineer, Area Supervisor or other responsible person) who is the UDOT employee authorized to acquire the resources necessary to prudently respond to the emergency. This person is also responsible to oversee the contractor's activities.
3. Issue a written approval to procure a contractor and commence work prior to execution of a contract no later than the end of the next business day after the emergency occurs.

**The Designated Emergency Project Authority will:**

1. Determine the best action to be taken, develop the scope of the emergency work, and develop a cost estimate. Procure a contractor to deal with the emergency utilizing a process for the procurement that is as competitive as is practical.
2. Give written authorization to proceed to the Contractor performing the emergency work **prior to** the commencement of work. The Contractor must sign and return the authorization before proceeding. The written authorization must include the following:
  - Scope of work and project limits
  - The required time to start work
  - Expected duration of the work

- Estimated quantities
  - Method of measurement
  - Basis of payment
  - Estimated total cost of the work
3. Contact the Chief Structural Engineer or the Region Director periodically to provide progress updates.
  4. Submit a written request for emergency contracting to the Chief Structural Engineer or the Region Director no later than the end of the next business day after the emergency occurs.
  5. Submit a written report to the Comptroller no later than the end of the next business day after the emergency occurs.
  6. Submit the following information to either the Central Construction or Central Procurement Division for the preparation and execution of the emergency contract by the end of the next business day following selection of a Contractor:
    - a. Description and Justification: Submit a detailed description of the nature of the emergency and justification for the emergency procurement.
    - b. Procurement Documentation: Submit all required procurement documentation and a description of the method used to select the Contractor, including any reasons for deviating from Department policy.
    - c. Basis of Payment:
      - 1) Agreed Unit Price or Lump Sum. Submit the agreed prices, units, and estimated quantities including justification for using the agreed unit price or lump sum basis.
      - 2) Force Account. Submit justification for payment according to subsection 01282, 1.11, of the Standard Specifications and the agreed hourly rates for labor and equipment when force account is used. Also submit justification for exceeding those rates if the hourly rates exceed those that would be paid according to subsection 01282 1.11.
    - d. Approval: Submit the signature approval of the Deputy Director or authorized delegate to procure a contractor to perform the emergency work and contracting information to Central Construction or the Central Procurement Office as soon as practical and as appropriate.
  7. In the event it is determined that Federal Funding is going to be requested to be used for the immediate repairs of the identified emergency, the Designated Emergency Project Authority will also prepare and submit a request to the Federal Highway Administration (FHWA) Division Administrator which includes the following [23CFR635.204(b)]:
    - a. Identification and description of the project
    - b. The kinds of work to be performed
    - c. Method (force account or negotiated contract)

- d. Estimated costs
- e. Amount of federal funds requested
- f. Reason for the emergency

The local FHWA division will notify the department in writing of their determination to use the requested federal funds.

Central Procurement will execute contracts with construction estimates of \$100,000.00 or less. Central Construction will execute contracts with estimates over \$100,000.00. The contracts will be prepared and executed as soon as practical after the emergency occurrence. The Contract date will correspond to the written authorization to proceed, and the UDOT Comptroller will provide written justification for this date to the State Comptroller.

### **Written Approval**

The Chief Structural Engineer or the Region Director will forward the written request for emergency contracting to the Deputy Director for approval signature. Together they will determine the limits of the emergency work and the contracting method to be used for any work subsequent to the emergency. The request will go to the Director of Operations or the Director of Project Development if the Deputy Director is not available.

### **Payment Prior to Contract Signing**

Disbursement may be made upon receipt of invoices, receipts or other statements describing the goods or services utilized and the amount to be paid. A Contract must be executed as soon as possible in conformance with the sections below to define future performance obligations.

### **Report to Comptroller**

Within 24 hours the Emergency Project Authority must make a written report of the circumstances and the nature and value of the commitments to the UDOT Comptroller. Such report may be made via e-mail.

### **Immediate Response**

This procedure is to be used for immediate response to an Emergency Situation. Once the situation no longer constitutes an immediate threat to public health, welfare, or safety, the functioning of state government, or preservation or protection of property, it is no longer an emergency. Continuing work after dealing with the emergency requires evaluation of the situation and a determination of the contracting method to use for work subsequent to the emergency.

## C. Appendix

*ABA American Bar Associations Model Procurement Manual  
Regulation 3-206 Emergency Procurements*

### **CODE PROVISION:**

#### **§3-206 Emergency Procurements.**

Notwithstanding any other provision of this Code, the Chief Procurement Officer, the head of a Purchasing Agency, or a designee of either officer may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions as defined in regulations; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

### **COMMENTARY:**

(1) This Section authorizes the procurement of supplies, services, or construction where the urgency of the need does not permit the delay involved in utilizing more formal competitive methods. This Code contemplates that the [Policy Office] [Chief Procurement Officer] will promulgate regulations establishing standards for making emergency procurements and controlling delegations of authority by the Chief Procurement Officer or the head of a Purchasing Agency. Such regulations may limit the authority of such officials to delegate the authority to make procurements above designated dollar amounts.

(2) While in a particular emergency an award may be made without any competition, the intent of this Code is to require as much competition as practicable in a given situation. When the amount of the emergency procurement is within that adopted for Section 3-204 (Small Purchases), the competitive procedures prescribed under that Section should be used when feasible.

(3) Use of this Section may be justified because all bids submitted under the competitive sealed bid method are unreasonable, and there is no time to re-solicit bids without endangering the public health, welfare, or safety. As with other emergency conditions, regulations will further define these circumstances, and any procurements conducted pursuant to this authority must be done so as to treat all bidders fairly and to promote such competition as is practicable under the circumstances.

#### **R3-206.01 Definition of Emergency Conditions.**

An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, or such other reason as may be proclaimed by the [Policy Office] [Governor]. The existence of such condition creates an immediate and serious need for supplies, services, or construction that cannot be met through normal procurement methods and the lack of which would seriously threaten:

- (a) the functioning of [State] government;
- (b) the preservation or protection of property; or
- (c) the health or safety of any person.

**R3-206.02 Scope of Emergency Procurements.**

Emergency procurement shall be limited to those supplies, services, or construction items necessary to meet the emergency.

**R3-206.03 Authority to Make Emergency Procurements.**

Any [State] agency may make emergency procurements of up to [\$25,000] when an emergency condition arises and the need cannot be met through normal procurement methods, provided that whenever practical, approval by the Procurement Officer of the [State] agency or the Chief Procurement Officer shall be obtained prior to the procurement. Prior to all such emergency procurements of [\$25,000] or more, the Chief Procurement Officer, the head of a [State] agency, or either officer's designee shall approve the procurement.

## Emergency Contact Phone Numbers

### Complex

Position	Name	Phone	Mobile
Executive Director	John Njord	801-965-4027	N/A
Deputy Director	Carlos Braceras	801-965-4030	N/A
Director of Project Development	Randy Park	801-965-4022	801-633-6220
Chief Structural Engineer	Carmen Swanwick	801-965-4981	801-633-6216
Director for Construction and Materials	Bryan Adams	801-965-4111	801-360-4451
Engineer for Construction	Kevin Griffin	801-965-4869	801-710-5215
Director of Operations	Ahmad Jaber	801-965-4895	801-870-8245
UDOT Maintenance Engineer	Richard Clarke	801-965-4120	801-558-6841
Director of Consultant Services	Gaye Hettrick	801-965-4639	801-633-6213
Director of Procurement	Tracie Montano	801-964-4534	801-824-2385
Purchasing Coordinator	Paul Kikuchi	801-965-4071	801-232-0416
Bridge Inspector	Mike Ellis	801-964-4457	801-633-6224

### Region 1

Position	Name	Phone	Mobile
Region Director	Kris Peterson	801-620-1640	801-791-1499
Program Manager	Brad Humphrys	801-620-1683	801-710-5215
District Engineer	Kelly Barrett	801-620-1650	801-510-1954
District Engineer	Brent DeYoung	801-620-1609	801-710-5214
Area Supervisor	Bill Smith	801-620-1611	801-791-5028
Area Supervisor	Kelly Andrew	801-620-1610	435-230-0069
Area Supervisor	Val Stoker	801-620-1612	801-791-1674
Risk Management	Keith Bladen	801-620-1603	801-791-2912

### Region 2

Position	Name	Phone	Mobile
Region Director	Jason Davis	801-975-4884	801-910-2000
Deputy Region Director	Tim Rose	801-975-4806	801-910-2001
Program Manager	George Lukes	801-887-3435	801-910-2005
District Engineer	Lee Nitchman	801-975-4951	801-910-2090
District Engineer	Rob Wight	801-975-4851	801-910-2500
Area Supervisor	Jack Mason jr.	801-975-4963	801-910-2120
Area Supervisor	Todd Richins	801-975-4964	801-910-2130
Area Supervisor	Kevon Ogden	801-975-4952	801-910-2100
Area Supervisor	Rick Debban	801-975-4953	801-910-2110
Risk Management	Dottie Weese	801-975-4902	801-910-2030

## Region 3

Position	Name	Phone	Mobile
Region Director	Shane Marshall	801-227-8001	801-930-9501
Program Manager	Brent Schvaneveldt	801-830-9506	801-830-9506
District Engineer	Bob Westover	801-227-8011	801-830-9511
District Engineer	Greg Searl	801-227-8029	801-830-9560
Area Supervisor	Glen Wahlberg	435-433-6911	435-376-9087
Area Supervisor	Steve Acerson	801-227-8051	801-830-9516
Area Supervisor	Ervan Rhoades	435-738-5732	435-722-1897
Risk Management	Steve Bonner	801-227-8015	801-830-9505

## Region 4

Position	Name	Phone	Mobile
Region Director	Nathan Lee	435-893-4700	435-896-0700
Program Manager	Rick Torgerson	435-893-4781	435-201-1844
Program Engineer	Dana Meier	435-627-8125	435-703-3651
District Engineer	Steve Ogden	435-636-1400	435-650-1478
Area Engineer	Kim Manwill	435-896-1300	435-896-0733
Area Supervisor	AJ Rogers	435-285-2281	435-259-9543
Area Supervisor	Pat McGann	435-259-7492	435-260-2537
Area Supervisor	Dave Roberts	435-896-1310	435-979-9039
District Engineer	Jim McConnell	435-865-5505	435-691-1869
Area Engineer	Bret Sorenson	435-896-1301	435-201-9969
Area Supervisor	Ryan Orton	435-865-5507	435-590-0265
Area Supervisor	Layne Slack	435-865-5510	435-691-1800
Area Supervisor	Ree Schena	435-864-2183	435-559-5612
Operations Engineer	Robert Dowell	435-893-4760	435-896-0712
Safety Loss Coordinator	Carl Johnson	435-896-1303	435-979-4552
Safety Loss Coordinator (Price)	George Leighton	435-636-1403	435-650-1479
Safety Loss Coordinator (Cedar)	Teri Peterson	435-865-5503	435-590-1285

**UDOT Consultant Services  
Bridge Collision & Emergency Repair Pools  
May 28, 2009**

Contact Information:

Chris Potter, P.E.  
UDOT Structural Engineer  
801-964-4463

Gaye Hetrick, CPM  
Consultant Services Manager  
801-965-4639

Period July 1, 2009 Through June 30, 2011

Bridge Collision and Emergency Repairs Pool					
Contractor	Contact Person	Office Phone Number	Cell Phone Number	E-mail	Address
Ames Construction Inc.	Don Brummel	801-977-8012	801-891-3722	<a href="mailto:dbrummel@amesco.com">dbrummel@amesco.com</a>	3737 W. 2100 S. West Valley City, UT 84120
Dan R Dalton, Inc.	Dan Dalton	509-447-3528	509-993-3588	<a href="mailto:ddalton@povn.com">ddalton@povn.com</a>	912 W. Calispell Rd. Usk, WA 99180
Gerber Construction Inc.	Allen Gerber	801-407-2000	801-380-9011	<a href="mailto:ag@1gerber.com">ag@1gerber.com</a>	815 E. 675 S. Lehi, UT 84043
Granite Construction Co.	Eric Wells	801-526-6068	801-831-6068	<a href="mailto:eric.wells@gcinc.com">eric.wells@gcinc.com</a>	1000 N.Warm Springs Rd Salt Lake City, UT84116 (Physical) P.O. Box 30429 Salt Lake City, UT 84130 (Mailing)
Ralph L. Wadsworth Construction Co., Inc.	Kip Wadsworth	801-553-1661	801-718-6538	<a href="mailto:kip@wadsco.com">kip@wadsco.com</a>	166 E. 14999 S. Ste200 Draper, UT 84020
Wadsworth Brothers Construction	Guy Wadsworth	801-576-1453	801-580-1398	<a href="mailto:guy@wadsbro.com">guy@wadsbro.com</a>	1350 E. Draper Parkway Draper, UT 84020

## Forms

**RECORD OF AUTHORIZATION TO PROCEED WITH  
EXTRA WORK OR REVISION OF CONTRACT  
(For Major Changes and Emergency Work)**

<b>Project No:</b>	<b>Location:</b>	<b>Contractor:</b>		
<b>Type Revision:</b> <input type="checkbox"/> Change Order <input type="checkbox"/> Specification Change <input type="checkbox"/> Time Extension <input type="checkbox"/> Other				
<b>Requested by:</b>		<b>Date:</b>		
<b>Nature of and Reason for Proposed Revision (Brief explanation, if additional space is needed, use reverse side)</b>    				
<b>Estimated</b> <table style="display: inline-table; vertical-align: middle;"> <tr><td style="text-align: center;">In</td></tr> <tr><td style="text-align: center;">Decrease</td></tr> </table> <b>Cost</b> <b>\$</b>	In	Decrease	<b>Method of Payment</b> <input type="checkbox"/> Original Contract Unit <input type="checkbox"/> Agreed Unit Price <input type="checkbox"/> Force Account	
In				
Decrease				
<b>The work covered by the Proposed Revision as described above is hereby authorized subject to the conditions marked below:</b>				
<input type="checkbox"/> Evaluation of cost data.	<input type="checkbox"/> Other (brief explanation):			
<input type="checkbox"/> Adequate submittal of written supporting data.				
<input type="checkbox"/> Determination of satisfactory time adjustment.				
<input type="checkbox"/> Final approval by Approving Authority.				
<b><u>Authorization to Proceed (signatures Required)</u></b>				
<b>PROJECT MANAGER</b>	<b>FHWA/DISTRICT ENGINEER</b>			
Verbal approval ___/___/___ (For Emergency Work Only) _____ Date: ___/___/___	Verbal approval ___/___/___ (For Emergency Work Only) _____ Date: ___/___/___			
<b>RESIDENT ENGINEER</b>	<b>CONTRACTOR</b>			
_____ Date: ___/___/___	_____ Date: ___/___/___			

## Instructions

Form C107, Authorization to Proceed, is used for emergency situations and major changes as defined in the UDOT Construction Manual of Instruction. Whenever a major change is necessary and the time necessary to prepare, submit and obtain approval of a change order will delay the orderly progress of work, the Resident Engineer prepares Form C107 specifying the extra work to be completed, the reason for the change, and the total estimated cost of performing the work.

The Resident Engineer obtains verbal approval in an emergency situation prior to starting additional work by contacting the Project Manager, District Engineer, FHWA, and Local Governments when applicable. Note that verbal approval only applies to emergency situations.

The Resident Engineer obtains written approval prior to the start of additional work when a major change is required.

After Form C107 is completed the Contractor can be authorized to proceed with the work.

Complete form C100 (Change Order) within two weeks and attach a copy of the approved C107.

Refer to policy and procedure 08B-10 for additional information.

## Links

### **Consultant Services, Pool Contracting**

<http://www.dot.state.ut.us/main/f?p=100:pg:0:::1:T,V:286>

### **Construction Web Site, Construction Forms**

<http://www.dot.state.ut.us/main/f?p=100:pg:0:::1:T,V:322>

Procurement Services Web-Site

UDOT Contracts:

<https://app.udot.utah.gov/procurement/contracts>

Statewide Contracts:

[www.purchasing.state.ut.us](http://www.purchasing.state.ut.us)

## References

1. **The 2000 Model Procurement Code for State and Local governments**, 2000
2. **Colorado DOT Emergency Procurement Procedures Document**
3. **Emergency Relief Manual**, (Federal-Aid Highways) Interim Update August 2003
4. **Emergency Relief Procedures Manual**, Washington State DOT February 2007
5. **Legal Research Digest 49**, December 2007
6. **Emergency Procurement Flexibilities**, Executive Office of the President, May 2003