

Approved:


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EMERGENCY CONSTRUCTION PROJECT DEVELOPMENT AND ADMINISTRATION STANDARD PROCEDURE

PROCEDURAL STATEMENT:

This procedure establishes uniform processes and criteria for the development and administration of Ohio Department of Transportation (ODOT) Emergency Construction Projects. The Offices of Estimating and Contract Administration will ensure that the procedure is followed to avoid the sale of construction projects that are not “emergencies” as defined under the law, to keep ODOT’s twelve districts apprised of the proper emergency project letting procedures, and to make certain that emergency contracts are fairly distributed to the most competent and responsible bidders.

AUTHORITY:

Ohio Revised Code (ORC) Section 5517.02

Code of Federal Regulations Title 23-Section 668 23 U.S.C. 112(b) as amended

REFERENCES:

Construction and Material Specifications

Consultant Contract Administration Manual

Construction Administration Manual of Procedures

Environmental Programmatic Categorical Exclusion Agreement between ODOT and FHWA at the following website:

http://www.dot.state.oh.us/Divisions/Planning/Environment/NEPA_policy_issues/CategoricalExclusions/Documents/CE_PA.pdf

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Real Estate Manual, Sections 5301 Hardship Acquisitions, 5307 Right of Entry at the following website:

<http://www.dot.state.oh.us/Divisions/Engineering/RealEstate/Pages/Manuals.aspx>

Forms are available for download at the following website:

<http://portal.dot.state.oh.us/Divisions/Planning/estimating/PlanPackage/Emergency%20Project%20Assessment%20Form.doc>

SCOPE:

This procedure is for use by the District Offices, Central Office Construction Management, Chief Legal Counsel, and other offices that may be involved in the selection, development, or administration of ODOT emergency projects.

DEFINITIONS:

Type – A Emergency Contract: A state project to mitigate immediate public safety issues. The work is normally performed by a Contractor using force account payments and work can begin immediately after execution of the Emergency Declaration.

Type – B Emergency Contract: A state project to mitigate public safety issues that require action in less than 3 weeks. The work is bid based on a simplified plan by a short list of Contractors, or others deemed qualified by the Department, using standard bid items.

Type – C Emergency Contract: A state project to mitigate public safety issues that require action in less than 3 weeks. The work is bid based on a simplified plan by all qualified Contractors using standard bid items.

PE/PS: Project Engineer or Project Supervisor

BACKGROUND AND PURPOSE:

The Director of the Ohio Department of Transportation is authorized by ORC 5517.02 to declare an emergency and issue non-bid or limited bidder contracts. Emergency contracts are denoted as Type – A, Type – B, or Type – C contracts. Their use is limited to situations that require constructive action in a timeframe less than that required in the normal bidding process. The director may proceed by furnishing equipment, purchasing materials, and employing labor in the erection of temporary bridges or the making of temporary repairs to a highway or bridge rendered necessary by flood, landslide, or other extraordinary emergency. If the director determines inability to complete such emergency work by force account, the director may contract for any part of the work, with or without advertising for bids, as the director considers for the best interest of the department of transportation.

PROCEDURE:

I. Site Evaluation and Assessment

A. Each District shall establish an Emergency Contract Committee (ECC) to develop and implement a collaborative process whereby the Construction, Planning and Engineering, and Highway Management personnel reach consensus on the need for an emergency contract and the estimated cost.

B. The District will designate two Emergency Project Evaluators that are Ohio registered engineers that possess the required expertise from different Departments having sufficient knowledge of the emergency contracting requirements for the purpose of performing an initial site review and assessment.

C. The Emergency Project Evaluators will complete an *Emergency Project Assessment Form* with the appropriate recommendation regarding the need for an emergency project and submit this assessment to the Emergency Contract Committee (ECC).

D. The ECC will determine the need for the project based on the assessment by the Emergency Project Evaluators in accordance with ORC 5517.02.C.

E. If the ECC determines the need for an emergency contract, then the District completes the Emergency Project Request form and submits to the Central Office, Office of Estimating. The Office of Estimating will verify that proper preliminary project documentation has been provided and notify the Office of Contract Sales to proceed with obtaining Director authorization to proceed. (See Sections IV through VI for the applicable Emergency Project Guidelines and Contract Submission Requirements.)

II. Determination of Type of Emergency Contract

A. Type – A Emergency Contract is warranted if:

1. The necessary repairs cannot be suitably accomplished by ODOT's maintenance forces;
2. It is in the interest of public safety to perform the contract work as expeditiously as possible without advertising using the Construction and Material Specification force account methods, 109.05.C.

B. Type – B Emergency Contract is warranted if:

1. The necessary repairs involve specialized or technical expertise and experience and cannot be suitably accomplished by ODOT's maintenance forces;

2. The necessary work allows for the development of a simplified set of plans using standard bid items;
3. It is in the interest of public safety to perform the work by the contract method without full advertising time and with a minimum of three Department - selected, qualified contractors. Other contractors deemed qualified by the Department to perform the necessary repairs are eligible.

C. Type – C Emergency Contract is warranted if:

1. The necessary repairs cannot be suitably accomplished by ODOT's maintenance forces;
2. The necessary work allows for the development of a simplified set of plans using standard bid items;
3. It is in the interest of public safety to perform the work by the contract method without full advertising time and open to all qualified contractors to bid

III. General Considerations:

A. Contractor selection considerations for Types A and B Emergency Contracts only:

1. Contractor is prequalified for the planned work type and has appropriate dollar qualification.
2. Contractor is available to begin work as determined by the Director.
3. Contractor performance on similar projects and Contractor C-95 Ratings.
4. Contractor's available resources and proximity to the work.

B. Environmental Considerations:

1. Consult with District and Central Offices of Environmental Services, for the required environmental documents.

C. Right-of-Way Considerations:

1. Consult with the District and Central Offices of Real Estate for the required Right-of-Way clearances.

D. Cost Considerations:

1. Type – A Emergency Contracts use force account record keeping or negotiated

pricing as set forth in the Construction and Material Specifications.

- a. A State Engineer's Estimate is not required.
 - b. Monitor costs no less than weekly using Electronic Force Account Template found on the Division of Construction Management website to ensure the amount originally authorized is not exceeded and to ensure that timely requests to extend the originally authorized amount are made.
2. Type – B and Type – C Emergency Contracts use standard bid items.
 - a. A State Engineer's Estimate is created by the Office of Estimating.
 3. Incentives / Disincentives may be used in special situations approved by the Division of Construction.
 4. District determines funding source and associated SAC code and seeks approval from the appropriate District or Central Office program fund manager.

IV. Emergency Contract Guidelines, Type – A

A. Emergency Contract Guidelines and Contract Submission Requirements:

1. **Project Eligibility:** The proposed project requires work to begin immediately. There are no plans, proposal, or bid document requirements. For projects with an overall scope of work which require a construction duration greater than 6 months, an emergency project should only be executed to eliminate the immediate emergency threat. In such cases, a follow-on construction project using traditional contracting processes as set forth in *ORC 5525.01* shall be executed to complete all necessary non-emergency work, if warranted.
2. District Office is required to submit the Emergency Project Request Form to the Central Office, Office of Estimating, for preliminary approval by the Director.
3. District must submit the Emergency Project Request Form that includes:
 - a. A clearly defined scope of work;
 - b. A Completion Date (not to exceed 6 months construction duration);
 - c. An estimate of the project amount;
 - d. The selected Contractors' information;
 - e. A thorough explanation of the emergency and possible results if no action

is taken;

- f. Other project information as required by the form.
4. If federal funding is to be used, ODOT must obtain a Waiver of Advertising/Competitive Bidding from FHWA.
5. Prior to beginning the work the Contractor must:
 - a. Be prequalified for the work;
 - b. Meet Department established requirements for Non-Highway work, but prequalification for Non-Highway work is not required;
 - c. Secure payment and performance bonds.
6. The District will prepare the Emergency Declaration for the Director's signature following preliminary approval of the Emergency Project Request.
7. Submit only the pertinent documents listed on the Project Plan Package Submittal Form that are necessary for this type of Emergency Project (including supporting documentation, etc.). The Project Plan Package Submittal Form is available at the following website:

<http://portal.dot.state.oh.us/Divisions/Planning/estimating/PlanPackage/Plan%20Package%20Submittal%20Form.dotx>

8. The District will enter the project information into Ellis.
9. The District shall submit all required assessment and preliminary approval documents required for project authorization to Central Office no later than 3 days following the Site Evaluation and Assessment.
10. The Contractor can begin work immediately after the execution of the Emergency Declaration.
11. Payment for contract work begins with the execution of the contract.

V. Emergency Contract Guidelines, Type – B

A. Emergency Contract guidelines and Contract Submission Requirements:

1. Project Eligibility: The proposed work has a well-defined scope permitting the

expeditious development of a simplified set of plan sheets. For projects with an overall scope of work which require a construction duration greater than 6 months, an emergency project should only be executed to eliminate the immediate emergency threat. In such cases, a follow-on construction project using traditional contracting processes as set forth in *ORC 5525.01* shall be executed to complete all necessary non-emergency work, if warranted.

2. District Office is required to submit the Emergency Project Request Form to the Central Office, Office of Estimating, for preliminary approval by the Director.
3. District must submit the Emergency Project Request Form that includes:
 - a. Identification of the planned work specifically identifying the specialized and/or technical nature of the work;
 - b. A Completion Date (not to exceed 6 months construction duration);
 - c. An estimate of the project amount;
 - d. The selected Contractors' (minimum of 3) information;
 - e. A thorough explanation of the emergency and possible results if no action is taken.
 - f. Other project information as required by the form.
4. If federal funding is to be used, ODOT must obtain a Waiver of Advertising from FHWA.
5. Prior to beginning the work the Contractor must:
 - a. Be prequalified for the work;
 - b. Meet Department established requirements for the work, but prequalification for Non-highway work is not required.
 - c. Secure payment and performance bonds.
6. Simplified Plans (sealed) with Plan Title sheet, estimated quantities, Proposal Notes, and Specifications.
7. The District will prepare the Emergency Declaration for the Director's Signature following preliminary approval of the Emergency Project Request.
8. Submit only the pertinent documents listed on the Project Plan Package

Submittal Form that are necessary for this type of Emergency Project (including supporting documentation, etc.). The Project Plan Package Submittal Form is available at the following website:

<http://portal.dot.state.oh.us/Divisions/Planning/estimating/PlanPackage/Plan%20Package%20Submittal%20Form.dotx>

9. A State estimate by the Office of Estimating for the planned work.
10. The District will enter the project information into Ellis.
11. The District shall submit all required assessment and preliminary approval documents required for project authorization to Central Office no later than 3 days following the Site Evaluation and Assessment.
12. A pre-bid meeting may be held prior to the letting date.
13. The contractor can begin work immediately after the award of the contract.
14. Payment for contract work begins with the execution of the contract.

VI. Emergency Contract Guidelines, Type – C

A. Emergency Contract guidelines and Contract Submission Requirements:

1. **Project Eligibility:** The proposed work has a well-defined scope permitting expeditious development of a simplified set of plan sheets. For projects with an overall scope of work which require a construction duration greater than 6 months, an emergency project should only be executed to eliminate the immediate emergency threat. In such cases, a follow-on construction project using traditional contracting processes as set forth in *ORC 5525.01* shall be executed to complete all necessary non-emergency work, if warranted.
2. District Office is required to submit the Emergency Project Request Form to the Central Office, Office of Estimating, for preliminary approval by the Director.
3. District must submit the Project Request Form that includes:
 - a. Identification of the planned work;
 - b. A Completion Date (not to exceed 6 months construction duration);
 - c. An estimate of the project amount;

- d. A thorough explanation of the emergency and possible results if no action is taken.
 - e. Other project information as required by the form.
4. If federal funding is to be used, ODOT must obtain a Waiver of Advertising from FHWA.
5. Prior to beginning the work the Contractor must:
 - a. Be prequalified for the work;
 - b. Meet Department established requirements for the work, but prequalification for Non-highway work is not required.
 - c. Secure payment and performance bonds.
6. The District will prepare the Emergency Declaration for the Director's Signature following preliminary approval of the Emergency Project Request.
7. Submit Simplified Plans (sealed) with Plan Title sheet, estimated quantities, Proposal Notes, and Specifications.
8. Submit only the pertinent documents listed on the Project Plan Package Submittal Form that are necessary for this type of Emergency Project (including supporting documentation, etc.). The Project Plan Package Submittal Form is available at the following website:

<http://portal.dot.state.oh.us/Divisions/Planning/estimating/PlanPackage/Plan%20Package%20Submittal%20Form.dotx>

9. A State estimate by the Office of Estimating for the planned work.
10. The District will enter the project information into Ellis.
11. The District shall submit all required assessment and preliminary approval documents required for project authorization to Central Office no later than 3 days following the Site Evaluation and Assessment.
12. A pre-bid meeting may be held prior to the letting date.
13. The Contractor can begin work immediately after the award of the contract.
14. Payment for contract work begins with the execution of the contract.

VII. Federal Highway Administration (FHWA) Consultation and Concurrence

A. Obtain FHWA waiver of advertising and competitive bid for federal-aid projects based on the Emergency Project Type using the applicable form.

B. Adjustments to the scope of work that result in an increase to the project cost on all federal oversight emergency projects are subject to the procedural requirements of the Construction Administration Manual of Procedures, 109.05.

VIII. Change Orders

A. Increases in project cost above the initial estimate for Type A Emergency Projects will be authorized under the Director's authority to declare an emergency pursuant to ORC 5517.02 and will require approval as set forth in the Construction Administration Manual of Procedures, 109.05, Controlling Board (ORC 127.16 and 5525.14) does not apply.

B. Change Orders for Type B & C Emergency Projects will be authorized under the Director's authority to declare an emergency pursuant to ORC 5517.02 and will require approval as set forth in the Construction Administration Manual of Procedures, 109.05, Controlling Board (ORC 127.16 and 5525.14) does not apply.

TRAINING:

The Division of Construction Management will provide training and consultation on the administration of this procedure.

Reviews will be conducted by the Division of Construction Management as necessary to ensure compliance with this policy.

FISCAL ANALYSIS:

This procedure may impact the capital construction program or associated maintenance fund in the likely event that non-programmed work is required under a Type A or B Emergency Project. These conditions are unpredictable and a fiscal analysis will be required at the time of occurrence to determine and prioritize changes to the funding program and identify any resultant system condition impacts. However, projects that are developed under a Type C Emergency Contract may have minimal or no fiscal impact providing the projects are programmed and simply advanced to an earlier sale date. Otherwise, a non-programmed Type C Emergency Project would have a similar fiscal impact as a Type A or B Emergency Project.