



Washington State  
DEPARTMENT OF  
ENTERPRISE SERVICES

# Emergency Projects

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Engineering & Architectural Services

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# OVERVIEW

## **Authority**

- RCW 43.19: DES contracts on behalf of state facilities.
- RCW 39.04.280: Waives competitive bidding for emergencies.

# RCW 39.04.280

**RCW 39.04.280 allows exemptions from competitive bidding requirements:**

- Purchases that are legitimately sole source
- Purchases involving special facilities or market conditions
- Purchases in the event of an emergency.
- Purchases of insurance and bonds
- **Public works in the event of an emergency**

# WHEN CAN WE INVOKE 39.04.280?



When there are unforeseen circumstances beyond the control of the client agency.



The situation presents a real, immediate threat to the proper performance of essential functions.



When the situation will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

# RCW 39.04.280

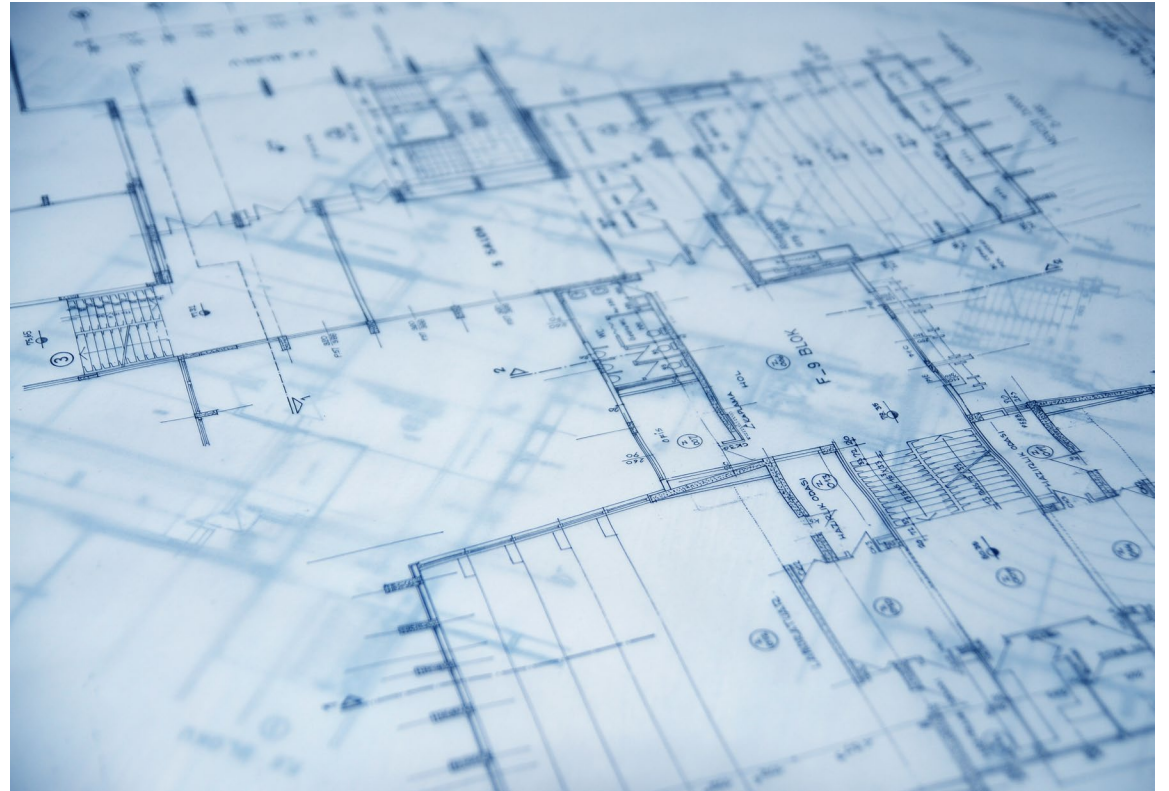
In the case of emergency public works, **all other public works requirements remain in effect** such as:

- Licensing, including general contractor license if subcontractors are used
- Bonding
- Prevailing wages
- Mandatory responsibility criteria

The standard general conditions apply and are included in the emergency contract language.

# EMERGENCY PUBLIC WORKS PROJECT PHASES

1. Request emergency declaration and receive DES approval.
2. Select contractor for time and material contract.
3. Manage contract to complete the repairs and restoration.



# STEP 1: DECLARATION PHASE

- Client agency presents emergency situation to DES project manager
- Project manager and agency assemble problem description, impact to operations, proposed solution, and cost estimate
- Agency declares emergency using DES template:  
<https://des.wa.gov/sites/default/files/2024-08/EmergencyDeclaration.docx>
- DES director approval

## STEP 2: CONTRACTOR SELECTION PHASE

- Client agency and DES project manager agree on a potential contractor.
- DES confirms contractor qualifications for scope.
- Contractor provides cost breakdown, agrees to work on time and material basis, pay prevailing wage, and can provide a performance bond. If not, move on to another contractor.
- DES project manager issues verbal and email notice to proceed (NTP).



## STEP 2: CONTRACTOR SELECTION PHASE

- Project name and number assigned; 'E' alpha designator.
- Apply for permits, if required.
- On-call consultant support, if needed.
- DES issues formal NTP and construction contract with time and material accounting.



# THE PAPERWORK WILL CATCH UP

- Competitive bidding is the ONLY exemption related to an emergency declaration
- Bond and insurance still required
- Usual contracting process
- GCs still applicable
- Executed contract with NTP

## Notice to proceed

- PM emails or verbal
- Provide to CS

## Cost breakdown

- Contractor to PM within five days
- CS publishes notice within seven days

## Contract

- Shows actual NTP
- Funding form from agency

# STEP 3: CONTRACT MANAGEMENT PHASE

- DES advertises emergency contract within seven days of start of work or within two weeks of contract award.
- Contractor provides signed contract, P&P bond, and insurance within two weeks of NTP.
- Contractor provides site specific safety plan prior to construction.
- DES project manager monitors construction progress and enforces daily timesheet and material invoice documentation.
- Complete the construction and close contract and project.

# FUNDING

- Washington State Board for Community and Technical Colleges (SBCTC) and Office of Financial Management manage a statewide appropriation for emergency funding.
- Emergency funding is separate from declaration.
- An emergency declaration is not required to receive emergency funding.



# SUCCESS DEPENDS ON COLLABORATION

- Client agency
- DES project manager and contract specialist
- Contractor
- Consultant, if needed





**QUESTIONS?**

# THANK YOU



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