

	COUNTY OF SAN BERNARDINO STANDARD PRACTICE	No. 11-04 SP 4 PAGE 1 OF 2 EFFECTIVE DATE February 14, 2017
POLICY: PROCUREMENT OF GOODS, SUPPLIES, EQUIPMENT AND SERVICES	SP: Protocol for Emergencies Involving Construction	APPROVED GREGORY C. DEVEREAUX Chief Executive Officer
<u>PURPOSE</u>		
<p>To communicate the protocol for emergency situations involving construction or other publicly contracted work under the California Public Contract Code, which allows the County to procure necessary equipment, services and supplies without use of a competitive bidding process.</p>		
<u>DEPARTMENTS AFFECTED</u>		
All County agencies, departments, and Board-governed Special Districts.		
<u>EXCLUSIONS</u>		
<p>This Standard Practice does not address emergency procurement and repairs performed by the Department of Public Works and the San Bernardino County Flood District on County highways or flood control facilities. In general, for emergency situations involving Special Districts' facilities, the Real Estate Services - Project Management Division (PMD) will not be involved; however, the Special Districts Department must still follow the other steps outlined below.</p>		
<u>DEFINITIONS</u>		
<p><u>Emergency</u> - For purposes of this Standard Practice, an emergency is defined pursuant to California Public Contract Code Section 1102 as "an unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services."</p>		
<u>PROCEDURES</u>		
<p>When emergencies necessitating construction or other publicly contracted work occur, all County Agencies, departments and Board-governed Special Districts shall follow the steps listed below subject to the situations discussed in the Exclusions section. Following these steps will meet the County's legal obligations, protect assets, provide ongoing public service and communicate with employees affected during the unexpected occurrence.</p>		
<ol style="list-style-type: none"> 1. The department where the emergency occurs immediately notifies the the Real Estate Services Department - Facilities Management Division (FMD) so that mitigation can begin while the insurer is notified. 2. FMD notifies the Real Estate Services Department Director, PMD and Risk Management Department of the situation, and retains necessary services/remediation contractors to prevent further damage, conveying prevailing wage and certified payroll requirements. 3. Risk Management contacts the insurance company/handling adjuster for inspection of the loss to determine coverage. If the event is a covered loss, then steps 4-13 apply and Risk Management will notify the Purchasing Department regarding mitigation expenditures and insurance deductibles. If the event is not a covered loss, then the Real Estate Services Department and PMD assumes control over the project with assistance from Risk Management for safety and/or Americans with Disabilities Act (ADA) related concerns, and will notify the Purchasing Department regarding mitigation and rebuild expenditures. 4. Risk Management, Real Estate Services including FMDand , PMD, and the affected department will confer to determine if the incident warrants an emergency declaration. The Chief Executive Officer or designee will inform the Board of Supervisors (Board). The affected department will notify the Public Information Officer to determine if public notification is necessary. 		

5. Risk Management prepares the required agenda item for consideration by the Board of Supervisors. The agenda item will be carried jointly with the Purchasing Agent and Risk Management, with Risk Management as the Presenter. The agenda item must include such findings as may be required by statute in certain situations relating to public works and public contracts:
 - a. Public works that do not exceed \$45,000 in total (remediation and repairs) for a single occurrence may be performed under a negotiated contract. If the total damage exceeds \$45,000 then it is subject to competitive bidding unless exempted from a process under an approved emergency finding by the Board. An agenda item is needed if the total cost exceeds \$100,000, or if the competitive bidding process is not possible due to the need for immediate action.
 - b. The agenda item must include specific information and justification in support of the request for the Board to make a finding that an emergency exists and that conducting a competitive solicitation for bids would cause undue delay and potential loss to the County or interruption of services.
 - c. Once the emergency is declared, an agenda item must be calendared for each regularly scheduled Board meeting (or every 14 days per Public Contract Code Section 22050) to continue the emergency until all remediation and repairs are complete.
6. Risk Management negotiates the scope of loss with the insurance company and obtains replacement cost estimates and contractor pricing estimates from the adjuster. The insurance company may elect to pay directly for remediation/repair per its contract with the County.
7. If the Board does not declare an emergency and waives the competitive bidding requirement, Real Estate Services and PMD will solicit bids for the repair based upon the scope of loss. If the event is not declared an emergency, please refer to procedure No. 3 of this Standard Practice.
8. Real Estate Services and PMD assign a project manager for each emergency. The project manager inspects all work performed by contractors, and repairs are completed by contractors to the satisfaction of Real Estate Services, PMD and the affected department. If repairs are not to be done, Risk Management will negotiate cash value with the adjuster.
9. Risk Management requests purchase order(s) based upon the agreed scope of loss, including applicable deductible amounts. Purchasing reviews public bidding requirements for each emergency, and initiates purchase orders (no requisition required from department) in order to initiate immediate spending authority in an emergency. Purchase orders shall include language regarding prevailing wage and certified payroll requirements.
10. Risk Management obtains the Claim Measurement (Statement of Loss) from the adjuster.
11. Risk Management obtains a Proof of Loss from the adjuster, based upon the final Claim Measurement, which authorizes payment by the insurance company to the contractors and/or the County (Risk Management).
12. Risk Management will receive payments from insurance carriers and prepare Requests for Transfer to reimburse affected departments for costs incurred, if applicable.
13. Risk Management will prepare an agenda item to terminate the emergency and the claim is concluded.

LEAD DEPARTMENT(S)

Risk Management and Purchasing Departments