

Part IV Chapter 04 Emergency Procurements of Construction

A. Definitions.

1. Basis for the Emergency – the description of the emergency and cause of which created the emergency.
2. Contractor – a construction contractor that has entered into a contract with the agency.
3. Declaration of Emergency – the written determination signed by the Agency's Deputy Secretary, or designee, and includes the basis for the emergency and why the urgency of need does not permit using the regular Job Order Contracting process.
4. Emergency – the existence of a threat to public health, welfare, or safety or circumstance outside the control of an agency creating an urgency of need which does not permit the delay involved in using formal, competitive methods.
5. Emergency Construction – the process of building, altering, improving, or demolishing any public structure or building or other public improvements of any kind to any public real property to remove or correct the basis for the emergency.
6. Emergency Repair – work performed on existing equipment or systems (HVAC, plumbing, or electrical) in order to return the equipment or systems to working order by removing or correcting the basis for the emergency.

B. Scope.

1. The Job Order Contracting Program (JOC Program) is to be used to complete emergency construction or emergency repair which is urgently needed.
 - a. The agency must follow this Chapter regarding the Declaration of Emergency and then follow the Job Order Contracting Program.
 - i. The Declaration of Emergency will allow the agency to begin the emergency construction or emergency repair work and begin the JOC Consultant services prior to the Purchase Orders being issued (which is allowed by the JOC Program's Design Build Job Order Contracts) and, if applicable, exceed the \$400,000 maximum JOC Project cost.
2. Approval from DGS Public Works is not required.
3. Agencies will adhere to this Chapter to remove or correct the basis for the emergency.
4. **Agencies will refer to the Attachment A for any Commonwealth-owned property damaged by fire or other casualty.**

C. Requirements.

1. This procedure must be used by agencies to procure either emergency construction or emergency repair and JOC Consultant services which are urgently needed and the work needs to begin before the Job Order Purchase Orders are issued.
2. The agency will only authorize an emergency construction or emergency repair when:
 - a. There exists a threat to public health, welfare or safety; or
 - b. Circumstances outside the control of the agency create an urgency of need which does not permit the delay involved in using more formal, competitive methods.
3. If Requirement 2.a or 2.b is met, the agency must execute a Declaration of Emergency and include it with the Job Order and attach it to the JOC Contractor's Purchase Order and the JOC Consultant's Purchase Order. This Declaration allows the agency to begin the emergency construction or emergency repair work and begin the JOC Consulting services before the Job Order Purchase Orders are issued and, if applicable, exceed the \$400,000 maximum JOC Project cost limit.

D. General.

1. Prior approval from the agency's Deputy Secretary, or designee, in the form of a Declaration of Emergency must be obtained prior to work beginning unless:
 - a. The agency can establish that, because of the nature or time of the emergency, proper agency officials were not available to grant prior approval; or
 - i. Once time permits, the Declaration of Emergency will be obtained and included with the Job Order.
 - b. The emergency has been designated as a Governor-declared disaster.
2. The agency's Declaration of Emergency in regard to the basis for the emergency or the Governor's Proclamation of Emergency must be included in the agency's contract file and included with the Job Order.
3. The Declaration of Emergency must include, but is not limited to:
 - a. A signature line for the Deputy Secretary, or designee, with "Approved" and "Disapproved" written below the signature line.
 - b. Agency name;
 - c. Basis for the emergency;
 - d. Explanation why the urgency of need does not permit using the normal JOC process;

- e. If applicable, explanation why the emergency construction or emergency repair began prior to the approval of the Declaration of Emergency (refer to D.1.a);
- f. The JOC Contractor name and the Design Build Job Order Contract number; and
- g. The following:

"If Approved, [agency] will comply with all appropriate Federal, State, and local laws/regulations including but not limited to the PA Prevailing Wage Act, the Steel Products Procurement Act, Public Works Employment Verification Act, the Separations Act, and the Right to Know Law."

- 4. A record listing of all agency emergency procurements must be maintained by the agency for a minimum of three years from the date of final payment.

E. Agency Procedure.

- 1. **Agency Notice.** When an emergency occurs in the field:
 - a. Contacts the agency procurement officer and explains, in detail, the basis for the emergency.
 - b. Requests that the agency procurement officer contact the Deputy Secretary, or designee, for approval of an emergency procurement and to obtain a Declaration of Emergency.
- 2. **Agency Procurement Officer.** Contacts their Deputy Secretary, or designee, and provides the agency's Declaration of Emergency for signature and explains the basis for the emergency and requests approval to make an emergency procurement.
- 3. **Agency Deputy Secretary or designee.**
 - a. Approves or disapproves the request for emergency procurement by indicating such on the agency's Declaration of Emergency.
 - i. If disapproved, indicates this on the Declaration of Emergency and sends it to the agency which signifies the agency must procure construction in accordance with formal competitive methods (if more than \$400,000) or the normal JOC process.
 - ii. If approved, indicates this on the Declaration of Emergency and sends it to the agency thereby delegating authority to the agency for the emergency construction or emergency repair and JOC Consulting services through Job Order Contracting.
- 4. **Agency.**
 - a. Follows Part IV Chapter 15 to issue a Job Order to commence the emergency construction or emergency repair and JOC Consulting services

and include the Declaration of Emergency or the Governor's Proclamation of Emergency. Do NOT issue the Job Order as an EPO.

- b. Maintains a record listing of all emergency procurements.

References:

1. [Public Works Employment Verification Form](#)

ATTACHMENT A

**BUREAU OF RISK AND INSURANCE MANAGEMENT
Property Claims**

All Commonwealth-owned property, when damaged or destroyed by fire or other casualty, is the subject of claims against The State Insurance Fund (SIF) created by Act 22 (1915 P.L. 524, approved May 14, 1915, as amended). The term "property" includes all buildings, equipment, furniture or supplies purchased with Commonwealth funds.

Agencies that suffer a property loss should adhere to the following guidelines:

- A loss must be \$1,000, or greater, in order to be eligible for the Fund.
- The loss must be a covered peril, such as fire, flood, vandalism, theft, lightning, wind, earthquake, etc.
- The State Insurance Fund (SIF) will pay for damages to Commonwealth-owned property and contents from \$1 to \$1 Million.
- There are no deductibles under the SIF, with the exception of theft, which has a \$5,000 deductible.
- Claims over \$1 Million are covered through the Commonwealth's Excess Property Policy.
 - The Excess Policy has a deductible of \$1 Million, payable from the State Insurance Fund.
 - The Excess Property Policy has policy limits of \$500 Million.
- The SIF follows the claim guidelines of repair, replace or restore to like condition at the time of the loss. The SIF does not cover improvements or betterments.
- SIF losses should be reported to BRIM within 24 hours of the incident. Claims not reported within 1 year of the loss incident date will not be eligible for the SIF.

For additional information on filing a claim, please contact BRIM at 717-705-2873

- Losses not covered:
 - Leased buildings

- Leased equipment such as copiers, computers, printers, etc. owned by others
- Environmental Issues
- Commonwealth-owned vehicles, or privately-owned vehicles, are not covered.
- Maintenance issues. (Ex. If a pipe breaks due to age, and water leaks on office equipment the SIF will not pay for the repairs to the pipe, but will cover the contents that were damaged due to water damage.)
- If Commonwealth employees do the remediation work, any regular time pay or salary is not covered. If overtime is required, The SIF will reimburse for OT expenses.
- If an outside contractor is used for remediation, labor and OT incurred by that contractor are recoverable.
- In the event of a loss you will be required to submit to the Bureau a statement of the event outlining the extent of the property damage. We would request all your purchase orders, receipts, quotes, OT, etc. for all losses under \$1 million.
- Once the Bureau receives your claim packet, the information will be reviewed by the Bureau Director. If the loss is deemed a covered peril, the Office of Budget will be notified to set aside the monies for the claim.
- The claim then goes before The Board of Public Grounds and Buildings for their review. They will make the final determination whether the claim is approved or denied. Note: The Board meets on a bi-monthly basis.
- The entire process takes approximately 45-60 days from the time the claim is submitted to our Bureau.