

# SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors  
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**Agenda Number:**  
**Prepared on:** 1/3/06  
**Department Name:** Public Works  
**Department No.:** 054  
**Agenda Date:** 01/17/2006  
**Placement:** Administrative  
**Estimate Time:** None  
**Continued Item:** NO  
**If Yes, date from:**

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**TO:** Board of Supervisors

**FROM:** Phillip M. Demery, Director Public Works

**STAFF CONTACT:** David H Rickard, Public Works Project Manager, ext 8761  
Dace Morgan, Engineering Section Manager, ext 3047

**SUBJECT:** Public Works' Procurement Policy for Local, State and Federal Disasters

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## **Recommendation:**

That the Board of Supervisors:

1. Adopt the Public Works Department's Procurement Policy for Local, State and Federal Disasters regulated by the County of Santa Barbara, Governor's Office of Emergency Services (OES), Department of Homeland Security-Federal Emergency Management Agency (FEMA) and the Office of the Inspector General (OIG).

## **Alignment with Board Strategic Plan:**

The recommendation is primarily aligned with Goal No. 1. An Efficient Government Able to Anticipate and Respond Effectively to the Needs of the Community.

## **Executive Summary and Discussion:**

The County of Santa Barbara was inundated by winter storms in 1998 and 2005, with a majority of the damage sustained to County infrastructure such as roads and debris basins. During these winter storms, your Board followed standard protocol used during previous disasters and adopted a Board resolution proclaiming the existence of a Local Emergency (which was then followed by both a Gubernatorial and a Presidential proclamation declaring the storms a disaster). In an effort to ensure that the safety of County residents was not compromised, the resolution enabled departments to enter into emergency contracts with a relaxing of normal bid requirements. Since the costs of the disaster recovery efforts were eligible for federal reimbursement by the Federal Emergency Management Agency (FEMA), the procurement process used by the County during the disaster was scrutinized to ensure that the County received the most competitive bid possible during the disaster.

In an effort to learn from this experience, an Executive Committee composed of County staff was formed to develop a disaster procurement policy to address FEMA's concerns. The Executive Committee members included the County Executive Office, Office of Emergency Services, Public Works Department, Parks Department, Sheriff's Department, County Counsel, Auditor-Controller, General Services and the Committee received input from FEMA and the Office of the Inspector General (OIG) representatives. A procurement policy tailored to Public Works was created and accompanies this Board letter for approval.

The highlights of the procurement policy include:

- The establishment of blanket purchase orders in advance of a disaster with a list of eligible contractors (contractor list to be determined annually).
- During the first fourteen days of a proclaimed disaster, all necessary debris removal and emergency opening work shall be completed through the use of the established blanket purchase orders and/or Board contracts specifically for emergency response. All work must include a written scope of work and a "not-to-exceed-amount" agreed upon by the County and Contractor's representatives.
- After fourteen days of the declared emergency, construction work (debris removal, emergency opening and permanent restoration) shall be completed by the Santa Barbara County Procurement Process for informal bidding which involves the following steps: (1) telephone invitations to a minimum of 3 qualified contractors, (2) basic specifications and a written scope of work, (3) job walk with prospective bidders, (4) submitted sealed bids within 24 hours, and (5) immediate commencement of work.
- No permanent restoration work shall commence without a competitive bid, unless the situation warrants this to protect the health and safety of the public.

Given the various types of disaster scenarios and the differing contracting needs of various County departments during a disaster, there needs to be some flexibility in developing procurement policies. For example, while Public Work's procurement policy offers useful guidelines for other departments to follow, it is best suited for a department tasked with disaster recovery efforts related to infrastructure. Since the likelihood of another weather-related disaster is greater in the winter months, the Executive Committee has decided that Public Works' procurement policy should be adopted as expeditiously as possible while the Committee continues to work toward crafting additional procurement policies that would encompass the needs of the other County departments during a disaster.

**Mandates and Service Levels:**

While there is no direct impact to mandates and service levels, the Board's approval of Public Works' Procurement Policy for Local, State and Federal Disasters will enhance the department's ability to effectively respond to future disasters and to fully comply with external requirements pertaining to disaster recovery reimbursements.

**Concurrences:**

County Executive Office  
Purchasing Department  
County Counsel  
Auditor-Controller  
Office of Emergency Services

**Attachment:**

Public Works Procurement Policy

## **Public Works Department Procurement Policy for Disasters**

### **1. Selection of Contractors for Countywide Emergency Work:**

- a. A list of eligible contractors will be established once a year (usually in the fall) by soliciting interest from contractors. The interest will be established by sending out a letter to all contractors that have submitted bids to our projects in the past and also advertising in the local newspapers. The letter will inform contractors that the County is establishing a list of eligible contractors for Countywide Emergency Work for disasters.
- b. Contractors will be asked to submit a letter of interest that includes a list of equipment that they have available, and a desire to perform disaster related work in order to be considered for inclusion. Each County Department will be responsible for reviewing the Contractor's letters of interest and establishing blanket purchase orders with those contractors that meet the needs of each Department. There shall be no limit as to the number of blanket purchase orders each department can establish.
- c. Each County Department should respond to each Contractor's letter of interest with either a letter of acceptance or denial within a reasonable amount of time. As part of establishing blanket purchase orders, insurance certifications indicating Santa Barbara County as an additionally insured and for amounts equal to those for the County Standard construction contracts will be required. These insurance certifications can be requested as part of the letter of acceptance.
- d. Every two years the Flood Control District of Public Works competitively bids contracts for trucking and crane services. These agreements will provide trucking and crane services needed to assist in emergency response efforts. Rather than make several small contracts with various contractors on a case-by-case basis, the District determined that it would be more cost-effective to go through the competitive bid process and select service providers on that basis. All work will be provided at an hourly rate and on an as-needed basis.

The selection of contractors to be offered blanket purchase orders shall follow 44CFR 13:36 (b)(8) and 13:36 (c)(4). In future years, Contractors will be selected for inclusion on the County's Disaster list bases on their performance on similar contract work for previous disasters.

Only contractors with blanket purchase orders shall be used to perform Emergency Work for declared disasters. Only exception are contractors performing specialty work as such as pile driving, tieback and soil nail installation, fences, erosion control, demolition, etc.

### **2. Assignment of Contractors**

- a. The assignments for contractors shall be initially based on the proximity of contractor's equipment and personnel to the required emergency work that is necessary for the health and safety of the public. Each County Department will be responsible for assignment of contractors to meet their needs.
- b. Because the size of Santa Barbara County and the limited number of general contractors in this area, it is likely that there will be more emergency work to be completed than contractors to perform the work. During the first 2 weeks of the declared disaster, all debris removal and emergency opening work that is necessary to provide for the health and safety of the public shall be completed through the use of the established blanket purchase orders and Board contracts specifically for emergency response, this work shall not proceed without a

- c. written scope of work and a not to exceed amount agreed upon by the County and Contractor's representatives. For the first 2 weeks of a declared disaster, contractors will be allowed to move from one project location to the next within the County with an approved written scope of work and not to exceed amount for each separate location. No permanent restoration work, that has not already begun, shall be started without a competitive bid (informal (Santa Barbara County Process) or formal), unless the situation warrants this to protect the health and safety of the public. The situation must be properly documented and approved prior to proceeding with the work. It is imperative that work does not progress from Emergency Opening to Permanent Restoration without a competitive bid.
- d. After 2 weeks of the declared emergency, construction work (debris removal, emergency opening and permanent restoration) shall be completed by the Santa Barbara County Procurement Process for informal bidding which is defined as consisting of telephone invitations to a minimum of 3 qualified contractors, basic specifications and a written scope of work for the work to be completed, a job walk with prospective bidders, submitted sealed bids within 24 hours, and immediate commencement of work. There shall be no monetary limits on this policy. Telephone calls to qualified contractors will be documented, if more than two contractors indicate on the telephone that they are not interested or not available in competing for the project, a maximum of two additional contractors will be called. In other words, a maximum of 5 contractors for any one location will be called and the telephone calls will be documented.
- e. If after 2 weeks a situation arises where a scope of work and a not to exceed amount cannot be accurately defined and the situation is a threat to the health and safety of the public as determined by the Board of Supervisors (or their designee), then a time and materials contract (Force Account) with a chosen contractor shall be used. As allowed by 44CFR 13:36 (b)(10)(i)(ii).
- f. After 180 days of the declared emergency, all debris removal and emergency opening category work shall be bid according to standard California Public Contract Code process, unless Paragraph (d) is enacted.
- g. After 8 weeks, or the end of the declared incident period (whichever is longer) of the declared emergency, all permanent restoration work shall be formally bid according to the California Public Contract Code.

### **3. Emergency Contracts**

- a. Contractor will be compensated for labor, equipment and materials as specified in the establish blanket purchase orders. If it becomes necessary for a contractor to utilize a piece of equipment that does not have an agreed upon rate prior to the start of work, the rate for the piece of equipment (including overtime and standby time) shall be agreed upon by the County and Contractor's representative in writing prior to the equipment being brought to the job site.
- b. A detailed scope of work and a not to exceed amount for the work will be prepared and agreed to by the County representative and the Contractor's representative in writing prior to beginning any work as defined above. The scope of work should include a sketch of the repair (if appropriate), itemized components of work, units of the components with a unit cost (if possible), and a total cost for the repair work. If this is not possible, then the repair can proceed based on Force Account, but must have a not to exceed amount and must be competitively bid.

- c. If project costs increase to the point that they will exceed the original monetary cap limit or the damage situation changes as to require a modification to the scope of work, a contract change order authorizing the additional work and cost must be completed. The contract change order shall be fully executed by the County and Contractor's representative in writing prior to the work commencing.
  - d. A County representative shall insure that the work is being done in conformance with the agreed upon scope of work on a daily basis. There shall be daily review, agreement and signoff of Daily Extra Work Reports by the County representative and the Contractor's representative regarding wages, time, and material.
4. **Audit Requirements:** The letter soliciting interest from the contractors shall inform them that there are local, federal and state audit requirements which will require them keep their disaster specific contracts and support documentation for a period to be determined by the County. The County is responsible to ensure compliance for awards received by the County. To ensure compliance, audits of the County and the contractor's files may be conducted prior to the award; during the contract term of the award, and/or after the award has been received by the County. Compliance audits of the County or the contractors will be designed to ensure that the procurement, receipt, and payment for goods and services comply with laws, regulations, and the provisions of contracts or grant agreements. Specific audit steps may include a review of the contractor's transactions and records to confirm necessary compliance provisions.

