

## Chapter 10

# SECRETARY DECLARED EMERGENCY PURCHASES

**Note:** This Chapter does not cover Governor Declared emergencies or emergencies determined by the Agency head in accordance with **Section 337.11(6)(a), F.S.**, regarding the repair or restoration of state transportation facilities (roads, bridges, etc.). Governor Declared emergency purchases for commodities and contractual services are to be handled in accordance with **Procedure No. 375-040-130, Emergency Procurement During Governor Declared Emergencies**.

**10.1** A District Secretary or Assistant Secretary will prepare a **Declaration of Emergency** and forward to the Central Office for approval by the Secretary or authorized designee. The **Declaration of Emergency** will certify that an immediate danger to the public health, safety, welfare, or other substantial loss to the state requires an emergency purchase of commodities or contractual services in excess of \$35,000.00. The description of the circumstances surrounding the unexpected event will include complete details of the conditions that created the emergency and provide adequate written determination and justification that an emergency exists.

**10.2** The **Declaration of Emergency** will be sent to the Central Office General Counsel who will review, sign, and forward to an Assistant Secretary for approval and execution and forwarding to the Secretary, or authorized designee, for final approval and execution in compliance with **Section 287.057(3)(a), F.S.**

**10.3** When an emergency is declared by the Secretary for a project for which FHWA funds are to be requested, the FHWA will be notified immediately by the Procurement Unit or Project Manager that the Department intends to deviate from its normal procurement process for emergency repairs. FHWA will be provided a copy of the emergency declaration and the preliminary scope of services. During a declared emergency, FHWA's prior approval (i.e., an executed ESD) will not be required for emergency repairs to restore traffic flow, but will be required for FHWA financial participation for work classified as permanent repairs.

**10.4** Upon the Secretary's or authorized designee's approval, the Department may proceed with the procurement necessitated by the immediate danger and execute a contract document without formal competition. In accordance with **Section 287.057(3)(a), F.S.**, such emergency procurement will be made by obtaining pricing information from at least two prospective vendors, unless the agency determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the state.

**10.5** After execution of the ***Declaration of Emergency***, the District/Central Office personnel requesting the emergency declaration should submit a request for fund approval no later than the next business day. If extenuating circumstances prevent receiving next business day funds approval, the Comptroller's Office will work with the Requester on a case by case basis. Under no circumstances should the encumbrance process hold up executing an agreement/contract document that is intended to resolve a safety hazard or meets a critical need of the traveling public.

**10.6** The original ***Declaration of Emergency*** will be forwarded to the Central Office or District Procurement Unit. The Procurement Unit will prepare and complete **PUR Form 7800, Notice of Emergency Purchase**, for submission to DMS State Purchasing. The Department is required to file **Form PUR 7800** (original), with a transmittal memorandum, a copy of the contracting document, copies of all written determinations and any other documents relating to the emergency action with DMS, State Purchasing within thirty (30) days after execution of the contracting document. The supporting documentation for the emergency declaration will be maintained in the purchasing file.

**10.7** The originator of the request for a ***Declaration of Emergency*** is responsible for submitting a copy of the declaration and transmittal memorandum to the Disbursement Operations Office or District Financial Services Office when the invoices are submitted. The Disbursement Operations Office or District Financial Services Office will submit these copies to the Department of Financial Services with the copies of the contract and the invoice.

**10.8** Contract Renewal – In accordance with **Section 287.057(13), F.S.**, contracts initially procured as an emergency cannot be renewed.