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# Deputy Directive

*Number:* DD-26-R2

*Refer to  
Director's Policy:* DP-02  
Ethics  
DP-03  
Safety and Health

*Effective Date:* July 2009

*Supersedes:* DD-26-R1 (05-01-99)

**TITLE** Use of Director's Orders

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**POLICY**

The California Department of Transportation (Department) may implement exceptions to the formal advertising, bidding, and award requirements of the State Contract Act by using Director's Orders to authorize contracts or Day Labor for emergency projects when any of the following conditions exists:

- An emergency exists due to failure or threat of failure of any bridge, other highway facility, any dam, or other water facility.
- An emergency exists due to damage to a State-owned building, real property, or improvements located on the property.
- The Director deems, at any time after the approval of plans, specifications, and estimates of cost, that following State Contract Act requirements is not in the best interest of the State.

Director's Orders are used judiciously. Their use does not waive environmental, permit, and right-of-way requirements, business enterprise considerations, or the right to audit costs or procedures.

When a Governor's Executive Order relieves the Department of laws and procedures, the Department continues to use Director's Orders to document the deliberate decision to use an emergency contract or Day Labor.

**DEFINITION/BACKGROUND**

Director's Order is a formal document approving the waiver of normal procedures for advertising, bidding, and awarding certain contracts when an emergency or other extenuating circumstance exists. Emergency contracts include: Force Account, Emergency Limited Bid, Informal Bid, Lump Sum or Agreed Price bidding methods, Emergency Equipment Rental, and Day Labor. Public Contract Code section 10122 grants the Director the authority to expedite emergency work under contract.

Guidance associated with the use of Director's Orders and emergency contract work includes:

- Director's Orders Guidelines published by the Division of Maintenance (April 1999 and future updates) provides definitions related to and procedures for requesting and processing Director's Orders.
- Emergency Contract Guidelines published by the Division of Procurement and Contracts (revised June 25, 2008, and future updates) provides requirements for letting emergency contracts.
- Ready To List Guide section 12, Informal Bids Projects, published by the Division of Engineering Services provides requirements for emergency Informal Bid projects.
- Guidelines section 5-5, "Emergency Contract Administration," of the Construction Manual (August 2005) and the "Emergency Contract Set-Up Procedures for Contract Administration System (CAS)," published by the Division of Construction, provides guidance to resident engineers on administering emergency construction contracts.

## *RESPONSIBILITIES*

### Director:

- Accounts for the judicious use of Director's Orders consistent with Public Contract Code sections 1102, 10122, and 10122.6.
- Approves or denies the use of Director's Orders. The Director may delegate approval authority to the Chief Deputy Director, the Deputy Director for Maintenance and Operations, and the Deputy Director for Project Delivery.

### Chief Deputy Director, Deputy Director of the Maintenance and Operations Program, Deputy Director of Project Delivery:

- Approve or deny Director's Order requests, upon written delegation from the Director. This delegation cannot be subdelegated.

### District Directors:

- Evaluate emergency conditions and determine if a Director's Order request is needed. The request proposes the type of emergency contract needed, as well as the cost, scope, and schedule. Requests for Director's Orders are made consistent with Director's Orders Guidelines and Emergency Contract Guidelines.

Consistent with their Delegation Authority from the Director, District Directors may authorize emergency work up to the dollar value established for a "project" as defined by Public Contract Code section 10105 and the current Department of Finance Management Memorandum referenced in the statute. Day Labor may be authorized up to the dollar value in Public Contract Code section 10122.6.

Only in the case of absence due to illness, vacation, or resignation may responsibility for signing Director's Orders requests and District Directors Orders be temporarily delegated to the Acting District Director.

Chief, Division of Maintenance:

- Receives Director's Orders requests from the District Directors, coordinates reviewing and processing, and recommends approval or denial to the Director or delegated Deputy Director.
- Determines the appropriate type of contract, bidding method, and funding.
- Develops, publishes, maintains, and oversees administration of the Director's Orders Guidelines.
- Coordinates with the Office of Federal Resources, Division of Budgets, to maximize federal reimbursement.

Chief Counsel:

- Reviews Director's Order requests to concur in the application of the State Contract Act.

Chief, Division of Programming:

- Reviews Director's Order Requests when the use of capital funding is proposed, and determines whether a vote of the California Transportation Commission (CTC) is required or the use of CTC delegated authority may be used, and ensures the inclusion of Director's Order projects in the appropriate programming documents.

Chief, Division of Construction:

- Develops, publishes, maintains, and oversees the administration of Guidelines section 5-5, "Emergency Contract Administration," of the Construction Manual and the "Emergency Contract Set-Up Procedures for CAS."

Chief, Office of Office Engineer:

- Ensures that the appropriate documents are prepared and approved.
- Coordinates and conducts the advertising, bidding, award execution, and approval of Informal Bid Director's Order projects.
- Provides guidance on the selection of bidding methods when requested.
- Develops, publishes, maintains, and oversees the administration of the Plans, Specifications and Estimates Guide, and the Ready to List Guide.

Chief, Division of Procurement and Contracts:

- Develops, publishes, maintains, and oversees the administration of the Emergency Contract Guidelines.
- Processes and executes all contracts authorized by Director's Order, excluding emergency Informal Bid projects.

Region/District Division Chiefs, Division of Construction:

- Administer contracts for emergency projects.
- Administer emergency projects, upon initiation of the work, within the approved scope and cost authorized by the Director's Orders, or by Supplemental Director's Orders.
- Provide guidance on contractor selection.

*APPLICABILITY*

All departmental employees involved in the preparation, execution, and administration of emergency work.



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RANDELL H. IWASAKI  
Chief Deputy Director



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Date Signed