

Rule No.: 941 - 7401 - 02000

Agency: Mississippi Department of Transportation

Agency Effective Date: May 15, 2005

Agency Issued Date: March 8, 2005

Secretary of State Authority Date: May 15, 2005

Supercedes Rule:

Division: Contract Administration

Rule Title: Emergency Contracts

The person to be contacted regarding the Proposed Rule is: Facility and Records Management Director

Name of person originating the proposed rule: Neal Dougherty

Name of supervisor or person who approved the proposed rule: B. B. House, P. E.

Purpose:

To establish rules concerning Emergency Projects/Contracts.

Summary:

Actual construction work shall be performed by contract awarded by competitive bidding; unless, the governing board or the executive head, or his designee shall determine that an emergency exists.

The full text of the proposed rule is:

All cites herein refer to the most current version of the cited document.

The rule conforms to Sections 31-7-13 (j) and 65-1-85 of the [Mississippi Code of 1972 as amended](#), Section 635.104 [Code of Federal Regulations as amended](#) and [The Federal Highway Administration Emergency Relief Manual as amended](#). The Mississippi Department of Transportation reserves the right to alter this process according to the severity of the emergency.

- 1) **Emergency** – emergencies must involve an accident or unforeseen occurrence requiring immediate action and/or represents a direct danger to the general public health and safety.
- 2) **Determination of Emergency** – the District Engineer will notify the Executive Director that an emergency condition exists.
- 3) **Declaration of Emergency** – the Executive Director may declare the project as an emergency, at his/her discretion.
- 4) **Preparation of Proposal** – once an emergency project is declared, a proposal will be prepared and such will be submitted to Contract Administration.
- 5) **Distribution of Proposal** – when an emergency project proposal is received in Contract Administration, the department will solicit bids from interested contractors. Proposals will be distributed to those contractors showing interest in the project.
- 6) **Receipt of Bids and Bid Opening** – the department will, on the date noted in the proposal, receive bids in the department and open such at the designated time. The normal bidding procedures will apply at this time.

- 7) **Letting Process** – the rule conforms to Sec. 102 *Mississippi Standard Specifications For Road and Bridge Construction as amended*, Sec. 31-3-21 and Sec. 65-1-85 of the *Mississippi Code of 1972 as amended*, Title 23 Sec. 635.113 *Code of Federal Regulation as amended* and Chapter VI Section M (1.b.) of *The Federal Highway Administration Emergency Relief Manual as amended*. Sealed proposals are received in accordance with the terminology noted in the advertisement/Notice to Contractors. Sealed proposals are opened and read in accordance with Section 635.113 *Code of Federal Regulations as amended*, however, irregularities (some noted in Sec. 102.07 *Mississippi Standard Specifications For Road and Bridge Construction, as amended* and Title 23 Sec. 635.113 *Code of Federal Regulations as amended* and as noted in the *Federal Highway Administrations Program Administration Contract Administration Core Curriculum Participant's Manual and Reference Guide Section III*) in the bid submitted by the contractor may result in the bid submission being rejected. To avoid irregular bids, contractors should comply with the Bidder Check List at the front of each proposal. Bid Bonds are required in accordance with Sec. 102.08 of the *Mississippi Standard Specifications for Road and Bridge Construction, as amended*.
- 8) **Award and Execution of Contract** – the basics of the rule conform to Sec. 103 of the *Mississippi Standard Specifications for Road and Bridge Construction as amended*, Sec. 31-7-13 of the *Mississippi Code as amended* and Title 23 Sec. 635.114 *Code of Federal Regulations*, and Title 23 Sec. 112 *United States Code as amended*, the *Federal Highway Administrations Program Administration Contract Administration Core Curriculum Participant's Manual and Reference Guide Section III-Part V* and as noted in *The Federal Highway Administration Emergency Relief Manual as amended*. Emergency jobs are awarded by the Executive Director with the Commission concurrence at their next meeting. Once the Commission makes the award and concurrence from Federal Highway Administration (if required) is obtained, the department will mail notification of award. The Contractor receiving the award will receive other documentation that is required to be executed and submitted back to the department to analyze for completeness before a Notice to Proceed with construction can be issued. If the documentation submitted back to the department is appropriate and accurate, the contract will be executed by the Executive Director, which is what actually makes a valid contract, and the Contractor will be issued a Notice to Proceed with construction. Section 103.08 and 108.02 of the *Mississippi Standard Specifications for Road and Bridge Construction as amended*, explains the consequences for the contractor failing to execute and return said documents.

Electronic links to all materials referenced (manuals, laws, regulations, etc.) relative to the Administrative Procedures Act Rules for the Contract Administration Division may be accessed via the department's internet website as follows:

<http://www.gomdot.com>