



NORTH CAROLINA
Department of Transportation

Contracting In a Crisis

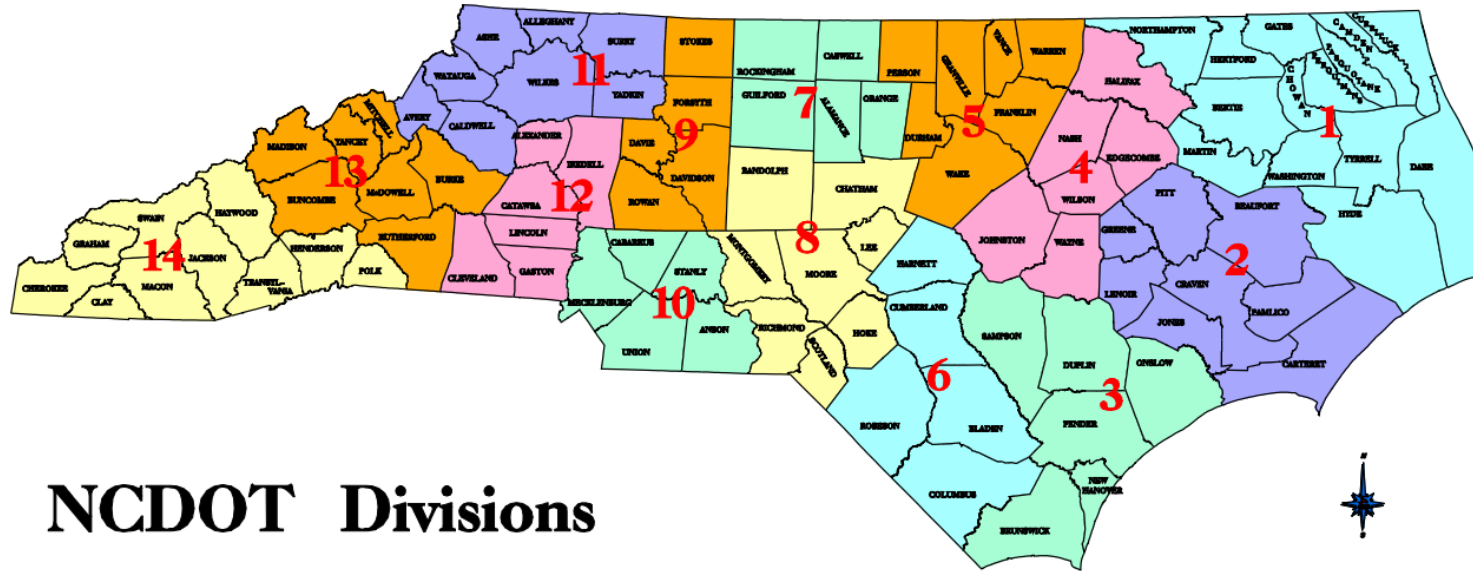
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Connecting people, products and places safely and efficiently with customer focus, accountability and environmental sensitivity to enhance the economy and vitality of North Carolina

Introduction to NCDOT

- 9,000+ employees
- 14 Division of Highways Division



NCDOT Divisions

- Aviation, Rail, Ferry, Bike and Pedestrian

OUR MISSION

Connecting people, products and places safely and efficiently with customer focus, accountability and environmental sensitivity to enhance the economy and vitality of North Carolina



What is an emergency?

Emergencies under G.S. 143

01 NCAC 05B .1602 (a) - An agency may make purchases of commodities, printing or services in the open market in cases of emergency or pressing need. For this purpose, a pressing need is one arising from unforeseen causes including, but not limited to, delay by contractors, delay in transportation, breakdown in machinery, or unanticipated volume of work while emergencies are defined as situations which endanger lives, property or the continuation of a vital program and which can be rectified only by immediate, on-the-spot purchases or rental of commodities, printing or services.

Emergencies under G.S. 136 (NCDOT Specific)

G.S. 136-28.1(e) - The Department of Transportation may enter into contracts for construction, maintenance, or repair without complying with the bidding requirements of this section upon a determination of the Secretary of Transportation or the Secretary's designee that an emergency exists and that it is not feasible or not in the public interest for the Department of Transportation to comply with the bidding requirements. For purposes of this section, the term "emergency" includes any of the following that is unanticipated, results in detours or deters the free movement of goods and services, and requires an estimated expenditure of ten million dollars (\$10,000,000) or less in construction, maintenance, or repair costs:

- (1) A bridge closure.
- (2) A road closure.
- (3) A weight restriction.

What is an emergency?

Raynor vs. Town of Louisburg

- NC Courts found that an emergency has to be present, immediate and existing to be acted upon, not merely anticipated.

Federal Reimbursement

- For some Federal funding (or reimbursement) there is a requirement through the Uniform Guidance that competition be sought, which can be waived, but Federal interpretation of if there was truly an emergency that would not permit a delay may be different and result in denial.

[Emergency Procurement – When is an emergency really an emergency?](#) By Norma Houston, UNC-SOG

Preparing for a Crisis

- Know the types of emergencies you'll likely have occur
- NCDOT proactive contracting
 - Snow and Ice
 - Cut and Shove
 - Salt
 - Multiple vendors, primary and secondary, NCDOT storage capacity

Hurricane Helene

Estimated \$5B in damages to the state-maintained infrastructure:

- 837 Bridges damaged or washout out
- 86 Large culverts damaged
- 902 small culverts damaged
- 1,483 total road closures



Hurricane Helene

Damaged Bridges



Hurricane Helene

Damaged Roads



When preparations fail

NCDOT spent \$1.4 billion on all declared disaster events from 2004-2024.

A disaster of the scale of Hurricane Helene amplified normal challenges in responding to storm events as well as created unique problems.

- Contractors not having fuel
- Infrastructure to resources blocked or gone
- Communication services down

Pivoting

- Utilize relationships established with Vendors and other agencies
 - Other State DOTs assisting
 - Amend existing contracts to account for current situation
 - Shifting NCDOT assets and personnel from the eastern Divisions
- Get the best contracts in place that you can
 - Emails with core SOW, specifications
 - Handwritten agreements

Hurricane Helene - Now

- Twenty-six temporary bridges installed in Division 13 in the first 90 days
- 85% of the roads were reopened within the first 100 days



Lessons Learned

- Have more emergency contracts in place than you think you need
- Consider impacts to your vendors based on the scale of the emergency and work on addressing as many issues as possible up front
- Identify non-negotiables and business risks ahead of time so emergency contracts can be tailored as necessary to address the situation at hand

Questions?

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Thank you!

