

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
3301 Gun Club Road
West Palm Beach, Florida**

IN THE MATTER OF:

SFWMD ORDER NO. 2022-064-DAO

**EMERGENCY AUTHORIZATION
FOR PROCUREMENT OF GOODS
AND SERVICES MADE NECESSARY
BY SUBTROPICAL STORM NICOLE**

**RECEIVED
DISTRICT CLERK'S OFFICE**

12:25 pm Nov 8, 2022

**SOUTH FLORIDA
WATER MANAGEMENT DISTRICT**



EMERGENCY FINAL ORDER

Under the authority of the State of Florida Executive Order No. 22-253, incorporated herein by reference, and section 120.569(2)(n), Florida Statutes, the South Florida Water Management District ("SFWMD"), enters this Order authorizing the emergency procurement of goods and services and suspending rules and policies requiring advertisement or competition, due to the impacts and time constraints caused by Subtropical Storm Nicole ("the Storm").

FINDINGS OF FACT

1. On November 7, 2022, the Governor of Florida issued Executive Order 22-253 ("the Executive Order") declaring a state of emergency based upon the serious threat to the public health, safety, and welfare posed by the Storm. The following areas within the SFWMD's jurisdiction are included in the Executive Order: Lee, Collier, Charlotte, Orange, Osceola, Polk, Highlands, Okeechobee, Glades, Hendry, St. Lucie, Martin, Palm Beach, Broward, and Miami-Dade counties ("Emergency Areas").

2. The Storm has the potential to cause widespread damage and poses an immediate danger to the lives and property of persons throughout the Emergency Areas.

3. The Executive Order found that the special duties and responsibilities of some agencies, including SFWMD, in responding to disasters may require them to deviate from the statutes and rules they administer. More specifically, the Executive Order gives each political subdivision of the State authority to waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:

- a. Performing public work and taking necessary action to ensure the health, safety, and welfare of the community;
- b. Entering into contracts;
- c. Incurring obligations;
- d. Employing permanent and temporary workers;
- e. Utilizing volunteer workers;
- f. Renting equipment;
- g. Acquiring and distributing, with or without compensation, supplies, materials, and facilities; and,
- h. Appropriating and expending public funds.

4. The Executive Director has determined that an immediate danger to the public health and safety or other substantial loss to the public exists because the Storm poses a serious and imminent threat to SFWMD canals, works, lands, equipment, and facilities within the SFWMD such that operational capability of the Big Cypress Basin, Central & Southern Florida Flood Control System, and other SFWMD functions may be jeopardized.

ULTIMATE FACTS AND CONCLUSIONS OF LAW

5. The SFWMD issues this Order to carry out the directives in the Executive Order. The SFWMD has authority to issue this Order under sections 120.569(2)(n), 252.46, 373.119(2), and 373.439, Florida Statutes.

6. The Executive Order permits agencies, including the SFWMD, to suspend the provisions of any regulatory statute prescribing the procedures for conducting state business or the orders or rules of the agency if strict compliance with the provisions of any such statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency. The Executive Order gives agencies the authority to take formal action by emergency rule or order to cope with the emergency.

7. Based on the above findings of fact, and to protect the public's immediate health, safety, and welfare, it is both reasonable and appropriate to waive any statute, including, but not limited to, chapters 255 and 287, Florida Statutes, and any SFWMD rule, policy, or order pertaining to the procurement of equipment, services, and commodities necessitated by this emergency.

ORDER

THEREFORE, IT IS ORDERED that:

1. Effective upon execution of this Order, all requirements for advertisement and competition for the procurement of equipment, services, and commodities set forth in any statute, including, but not limited to, chapters 255 and 287, Florida Statutes, and any SFWMD rule, policy, or order are hereby waived for the duration of this Order.

2. SFWMD staff may procure equipment, services, and commodities necessitated by this emergency without advertisement or competition as described below:

a. The procurement of all goods and services necessary to prepare, maintain, and restore SFWMD canals, works, lands, equipment, and facilities to full operational condition.

b. All such procurements shall be reported to the Governing Board prior to or at the next regularly scheduled Governing Board meeting.

c. This authorization shall expire on January 6, 2023, unless otherwise extended or terminated by the Executive Director or Governing Board.

DONE AND ORDERED on this 8th day of November, 2022, in West Palm Beach, Florida.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT

By:



Drew Bartlett
Executive Director

NOTICE OF RIGHTS

Any party substantially affected by this Order has the right to seek judicial review under section 120.68, Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the SFWMD at 3301 Gun Club Road, West Palm Beach, Florida 33406, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this Order is filed with the Clerk of the SFWMD.

