



The real business vantage point

National Public Sector Supply Chain Management Process Audit Convention
Emergency Procurement vs Financial Discipline _Walking the tight rope
14 August 2025



The real business vantage point

Preamble

Importance of this topic in this SCM Oversight

The emergency procurement is contained in an instruction note aptly named: Enhancing compliance, transparency and accountability in supply chain management. After repealing Note 3 of 2016/1017 strongly worded: Preventing and Combating Abuse in the Supply Chain Management System.

Such instructions responding to the inherent risk of abuse and non-compliance in procurement during emergency Just a couple of years back there was an Instruction on Emergency procurement in response to National State of Disaster.

The extensively documented covid emergency procurement pandemonium and scandals SIU Proclamations numerous media are testament to the need for the topic

With the definition of Emergency procurement being quite stringent and specific in its nature, the temptation of procurement flexibility requires for agile responsiveness to an emergency situation increase chances of abuse and invalid use is quite high.

Auditor General: Flags number of deviations in procurement as an inherent risk due to invalid deviation (or procurement by other means) which often result in irregular expenditure.



The real business vantage point

Themes

- **Legal provisions for emergency procurement: PFMA and Instruction notes**
- **Test for legitimate deviation from normal procurement : It is not a procurement strategy**
- **Why “emergency” cannot be a recurring procurement strategy :**
Financial discipline – sound financial management
Inherent risks
- **Walking the tight rope: Audit pitfalls – practical examples audit findings**

Legal Provisions - PFMA

The PFMA, specifically sections 38(1)(a)(iii) and 51(1)(a)(iii), mandates that accounting officers ensure proper and fair procurement systems.

In terms of Section 51(1)(a) of the Public Finance Management Act No 1 of 1999 (“PFMA”) it is stated that:

“An accounting authority for a public entity must ensure that that public entity has and maintains—

- (i) effective, efficient and transparent systems of financial and risk management and internal control;*
- (III) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

In terms of Section 57(b) of the PFMA, it is stated that:

*“An official in a public entity –
(b) is responsible for the effective, efficient and transparent use of financial and other resources within that official’s area of responsibility.”*

Enhancing compliance, transparency and accountability in supply chain management

4 Deviation from Normal Bidding process (cont...)

4.4 The SCM Policy must at least provide for

- (a) procurement by other means that may be utilised
- (b) a plan to curtail reliance on procurement by other means
- (c) circumstances under which each procurement by other means may be utilised
- (d) process to be followed in respect of identifying prospective suppliers for and recording and approval of, procurement by other means
- (e) assessment of all instance that gave rise to procurement by other means

4.5 When procuring goods and services by emergency the AO/AA must ensure that the institution complies with other applicable SCM prescripts.

flexible procurement process, officials should still, as far as feasible, adhere to the procurement principles of being fair, equitable, transparent, competitive and cost-effective



The real business vantage point

Legal Provisions – PFMA Instruction No.3 OF 2021/22

Enhancing compliance, transparency and accountability in supply chain management

Definition:

emergency situation as a serious **and** unexpected situation that poses an immediate risk to health, life, property or environment which calls for urgent action **and** there is insufficient time to follow a competitive bidding process.

4 Deviation from Normal Bidding process

4.1 If it is impractical to invite competitive bid. The AO/AA may procure by other means provided reasons for inviting competitive bids must be recorded and approval by the AO/AA

4.2 In this instruction, procurement by other means includes

(a) limited bidding (Sole, single, multiple source)

(b) written price quotations not within the threshold determined by National Treasury Instructing

(c) and is included in “procurement by other means” procurement that occurs in emergency situation and urgent cases

4.3 The AO/AA must provide for procurement by emergency in SCM policy of Institution



The real business vantage point

Why “emergency” cannot be a recurring procurement strategy

Financial Discipline

Financial discipline in the public sector refers to the responsible management of public funds, ensuring they are used effectively, efficiently, and transparently to achieve government objectives while maintaining fiscal sustainability. It involves adhering to sound financial principles, promoting accountability.

Clear link to KPIs in APP:
planned for = budgeted for =
in the procurement plan;
Monitored spending.

Unplanned?.

Likelihood no budget; no
accountability; Lack Financial
Discipline.

Sound Financial Management

Implementing robust systems for budgeting, accounting, auditing, and internal controls to prevent fraud, waste, and corruption.

Link to Procurement Planning: SCM Instruction Note 2 of 2016/17

It mandatory for departments and public entities to plan for their procurement.

2.3 Procurement plans are also used to monitor acquisition and spending of goods, services and works within an institution over the a financial year.

2.4 in order to improve service delivery the accounting officer or accounting audit must align procurement plan with the institution’s strategic objectives and priorities. The SCM strategy must therefore be focuses to meet business needs in order to ultimately satisfy the delivery of effective service to communities

Unexpected = unforeseen: logic is if it can be expected or foreseen, it can be planned for.

Lack of planning not a reason to deviate



The real business vantage point

Procurement in Emergency situation is not a procurement strategy

A procurement strategy is a comprehensive plan that outlines how a entity acquires goods and services to support its overall business objectives. It's a long-term plan designed to ensure that procurement activities are aligned with the organization's goals, budget, and timelines

It is procurement that **occurs** in emergency situation

- Emergency occurrence that are predictable – based on past events
- Adhoc, unpredictable, unforeseen, unavoidable and not within control of institution

Procurement methods/approach/ to be utilized;;

- Informal quote
- Framework agreement to call off
- Limited bidding – experience and skill
- Period appointments of SP
- Utilizing a contract procured by another institution

Legislation provide the framework for officials to do the right thing. Have systems and processes to support integrity in procurement during emergency situations

Requirements for use of the emergency procurement deviation include :

- obtaining evidence of the facts and circumstances that justify the exemption from open advertising before starting the procurement,
- documenting the rationale for using the exemption, and
- having a senior manager endorse that rationale.

The Rules explain that a procurement approach should be proportional to the size, complexity, and risks involved.



The real business vantage point

Test for legitimate deviation from normal procurement

Is it provided for in the institutions policy/procedures?

- a. Does the policy at least provide for the procurement during the occurrence in an emergency situation? ensure uniformity and prevent abuse of the system.
- b. Does the policy provide for a plan to curtail the occurrence of emergency situations that may require deviation from normal procurement?
- c. Does the policy detail circumstances under which emergency situations may be utilized?
- d. Does it provide for processes to be followed in response of identifying suppliers for, and recording and approval of procurement occurring in emergency situations?
- e. Does the policy provide for assessment of all instances that gave rise to procurement during emergency situation?

Has the emergency procurement followed the above mentioned processes? Is this properly documented?

An emergency situation might mean that public entity cannot document their procurement as it happens, but they should document it as soon as possible after the event. Ex-Post Facto approval

Test for legitimate deviation from normal procurement

Example of an Ex-Post Factor approval

The reasons for the emergency with evidence (e.g pictures)

Human life; Health ; Safety ; Environment ; Water [service] disruption
asset failure causing Misery

What triggered the emergency?

unpredicted natural or PPE failure incident) and briefly explain the impact of the emergency incident on operations

Damage report by engineer/consultant

Report by consultant/engineer detailing the damage and corrective action attached accordingly. If NO provide reasons why not

Is the damaged asset repaired or replaced to original or equal state/condition (refer to insurance)

If the asset was repaired or replaced to a quality or product better than the existing state or condition, what were the exceptional reasons to have done so?

Damage report by engineer/consultant

Report by consultant/engineer detailing the damage and corrective action attached accordingly. If NO provide reasons why not

Is the damaged asset repaired or replaced to original or equal state/condition (refer to insurance)

If the asset was repaired or replaced to a quality or product better than the existing state or condition, what were the exceptional reasons to have done so?

Were any assets removed, disposed of or acquired during the process

In the event of any asset being removed for repair and re-commissioned; ATTACH the testing and commissioning certificates provided by the consultant/engineer.

Planned and preventative measures

- Could this incident have been prevented by planned and preventative maintenance
- DATE: When the asset was last inspected?
- DATE: When the asset was last subjected to maintenance?
- DATE: When the asset's future maintenance is scheduled to take place? (Attach proof)

Procurement

Was early delivery of critical importance and invitation of competitive bids/ 3 quotations impossible or impractical

Provide the reasons why it was impossible or impractical to obtain a minimum of 3 quotations/ competitive bid.

Explain what criteria was applied in selecting the particular supplier.

Attach proof if the supplier selected and appointed holds "sole supplier" status.

Insurance

Is this a Potential Insurance Claim

If YES; was it reported to the Risk Specialist within 24 hrs of incident



The real business vantage point

Risks Inherent Procurement in “emergency”

The risks of fraud and corruption increase in emergencies.

Prices of goods and services might also be inflated. comparing the prices of similar goods and services delivered through direct negotiations versus those paid pursuant to an apparently competitive bidding process.

Reduced quality of goods and services

supply chain issues ; biased allocation of goods and services, in their prioritization of procurement projects. likely to exaggerate spending in certain products or services, or projects at the expense of other needs

Risk of creating / fabricating emergencies

- Infrastructure sabotage
- Emergency maintenance
- Water tankers
- Diesel supply

The expedited nature of emergency procurement can make it challenging to maintain transparency and accountability, potentially leading to misuse of funds and inefficient resource allocation.

flexible procurement process may lead to corrupt procurement officers biased in their choice of suppliers

Walking the tight rope: Audit pitfalls – Practical examples audit findings

Balance the need to act without delay against meeting the public sector obligations of being accountable and to act lawfully and with integrity

Plan to curtail emergency incident

Reporting to Internal Audit/ risk and/ compliance function: to determine:

- Compliance with policy and procedures
- No abuse of process – analysis of incidents type, division, number of incidents. Time/period
- Rotation of suppliers / correct use of supplier selection
- Conflict of interest - declarations

Proper project planning and contract management

Balancing responding to legitimate emergency situations in compliance, eliminating possible abuse of emergency deviations

AG findings unsupported deviations

AG Audit first the Institutional Policy and procedure's alignment to legislated prescripts.

- Reasons for emergency situation aligns to definition of NT emergency
- Correct distinction between emergency and urgent keep it separate with separate procedures. It is not used interchangeable

Clear, detailed policies and procedures

Implementation of deviation not in alignment to own

Proper demand and procurement plan and plan implementation monitoring and oversight eliminates need for emergency procurement



The real business vantage point

The Audit Finding Walking the tight rope: Audit pitfalls – Practical examples audit findings

AG Audit Finding Conclusion: Invalid Deviation

From the timeline above, it took x working days to conclude the procurement process and start implementing the project. Therefore, there was sufficient time to follow competitive bidding process. Furthermore, it was also possible to follow competitive bidding for the procurement of professional services provider to do construction monitoring as there was an existing panel for which professional service provider to do monitoring could have been procured from. Consequently, this deviation could not be considered a valid emergency and the expenditure is regarded as irregular expenditure.

AG Audit Finding Conclusion: Invalid Deviation

In terms of the Section 41(1) of the Water Service Act No. 108 of 1997, it stated that the Minister may, to the extent that it is reasonable, issue directives to the water board. It is not reasonable to expect of the water board to procure event management services without providing adequate time for the procurement process to unfold. Ministerial visits are not of such a nature that it could not be planned in advance and the lack of issuing a directive with available budget in advance to allow for adequate procurement processes, is in substance a lack of proper planning. Water Board policy does not allow urgent procurements as a result of improper planning and accordingly the directive cannot be seen as reasonable

THANK YOU



The real business vantage point

☎ 079 894 2020 ✉ Phetsile.magagula@theethicsplatform.co.za

🌐 www.theethicsplatform.co.za 🐦 @EthicsPlatform

The real business vantage point