



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

TO ALL: ACCOUNTING OFFICERS OF DEPARTMENTS AND CONSTITUTIONAL INSTITUTIONS
ACCOUNTING AUTHORITIES OF PUBLIC ENTITIES LISTED IN SCHEDULES 2 and 3 TO THE PFMA
HEAD OFFICIALS OF PROVINCIAL TREASURIES

NATIONAL TREASURY INSTRUCTION NO. 03 OF 2020/2021

COVID-19 DISASTER MANAGEMENT CENTRAL EMERGENCY PROCUREMENT STRATEGY FOR PFMA ORGANS OF STATE

1. PURPOSE

- 1.1. The purpose of this National Treasury Instruction is to provide for a disaster management central emergency procurement process for Personal Protective Equipment (PPE) that may be implemented by accounting officers of departments and constitutional institutions and accounting authorities of public entities listed in Schedules 2 and 3 to the Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999).

2. BACKGROUND

- 2.1. On 15 March 2020 the COVID-19 pandemic was declared a national state of disaster in terms of section 27(1) of the Disaster Management Act (DMA), 2002 (Act No. 57 of 2002). Consequently, on 18 March 2020, the Minister of Cooperative Governance and Traditional Affairs made regulations under section 27(2) of the DMA, which were amended (DMA Regulations).
- 2.2. Regulations 2(3) and (4) of the DMA Regulations provide that institutions within national, provincial and local government must-
- (a) make resources, other than funding, available;
 - (b) make funding available and, as far as possible, without affecting service delivery in relation to the realisation of the rights contemplated in sections 26 to 29 of the Constitution, shift funding, within its budget,
- to implement regulations and directives in terms of section 27(2) of the DMA regarding the national state of disaster.
- 2.3. Regulations 2(5) of the DMA Regulations requires National Treasury to take the necessary steps in terms of applicable legislation to implement regulations or directions issued in terms of section 27(2) of the DMA, regarding the national state of disaster.

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- 2.4. Regulation 9(a) of the DMA Regulations provides that emergency procurement for institutions are subject to the PFMA and the applicable emergency provisions in the regulations or instructions made under the PFMA.
- 2.5. In light of the lockdown, emergencies may occur where normal procurement practices are impractical and, moreover, where there is high demand within short a time frame for goods or services required, and therefore the need to make special arrangements with service providers with proven capability and capacity to assist thus mitigating against dangerous, perilous, or risky situation, misery or defect.
- 2.6. Government recognises the difficulty of sourcing critical and essential health products during the COVID-19 Emergency. Whilst some products are produced locally, many specialised products need to be imported. Current transversal contract suppliers are also finding it difficult to secure supplies and face extended lead times for delivery.
- 2.7. It is also acknowledged that all COVID-linked PPE products are experiencing unprecedented and global demand, resulting in massive price increases and global shortages. Whilst some of these products could be produced locally in South Africa, the Department of Trade, Industry and Competition (DTIC) is looking into the feasibility of such domestic production, which will take some time, and will possibly not be able to deliver most required products immediately, and certainly not within the lockdown stage where extreme measures to suppress the virus are being undertaken.
- 2.8. In trying to secure such imported PPE products like surgical and other masks, gloves, bodysuits, etc. many manufacturing countries have also imposed export bans, where the items are available, prices have risen sharply, made worse by the depreciation and volatility of the rand. Further, even where such products have been secured, immediate up-front payments are required, and suppliers face a huge challenge in arranging immediate delivery of such stock to SA. Hence the need to engage a central implementing agent to provide a system for the procuring, warehousing and distributing of such products.
- 2.9. As the pandemic impacts both the public and private sectors, it was imperative to collaborate and join forces to manage the national state of disaster. Thus, a decision for a public and private sector central procurement strategy was made at the National Joint Operational and Intelligence Structure (NATJOINTS). The NATJOINTS accepted voluntary support from Business South Africa (BSA) to provide the services of Imperial Health Sciences (IHS) as the Central Implementing Agent for the public and private sectors to utilise its logistical expertise and capabilities on a non-profit basis.
- 2.10. A procurement team, consisting of officials from National Department of Health (NDOH) and National Treasury's Office of the Chief Procurement Officer (NT-OCPO), was established to ensure that there is proper segregation of duties and no conflict of interest between government, IHS and other service providers.
- 2.11. In the last two weeks, as the number of virus infections has substantially increased globally, this has resulted in many countries competing with each other to secure the required commodities.
- 2.12. Given the above situation, it is clear that countries need to centralise their procurement for local and imported health products, not only to develop scale and prevent its regions

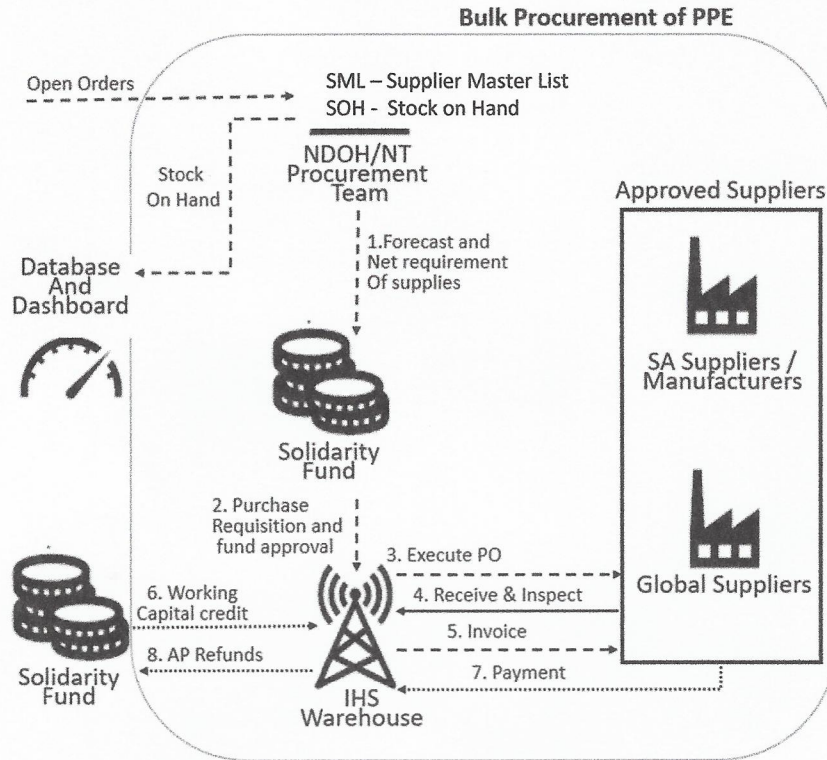
or provinces from competing with each other for limited supplies, but also to scale up their orders and to arrange transport logistics to ensure quick air transport and customs clearance for products that are to be imported.

- 2.13. The decentralised system of procurement in South Africa, where organs of state and private sector business each place their individual orders, has seriously impaired the ability of any entity or company to successfully order and receive critical health products required to fight COVID-19, including PPE products.
- 2.14. Orders from individual government institutions are also too small to be urgently manufactured and imported, hence the need for a country approach when ordering health products from local and global suppliers. More seriously, the small size of orders has crippled the process to place orders and procure products on the scale required to support mass testing and treatment initiatives, as recently pronounced by the President. This will, in turn, make it difficult for Government to make more informed decisions on the success of suppression and mitigation efforts like the lockdown, and how it can and should be extended, and rapidly targeting hotspots that may be identified.
- 2.15. It is also important that Government sets the maximum price per product it will pay. In the current disaster environment, which is more akin to a war situation with serious shortages and where rationing and price controls may be required, it is important that Government invokes the emergency procurement provisions.
- 2.16. In order to facilitate an efficient and effective delivery of goods and services to address COVID-19 requirements, whilst ensuring that the core values of fairness, transparency, competitiveness, cost-effectiveness and equitability, as enshrined in section 217 of the Constitution are adhered to, National Treasury, in terms of section 76(4)(c) of the PFMA has developed this instruction to determine a procurement and provisioning framework for COVID-19 related PPE that may be used.

3. PRINCIPLES FOR COVID-19 PROCUREMENT

The following principles apply to COVID-19 linked PPE products (Refer to Annexure D):

A BULK PROCUREMENT OF PPE FROM LOCAL AND INTERNATIONAL SUPPLIERS



3.1. **Principle One: All COVID-19 related PPE products to be centrally procured, warehoused and distributed for the public sector.** For this purpose a structure was established to ensure proper segregation of duties.

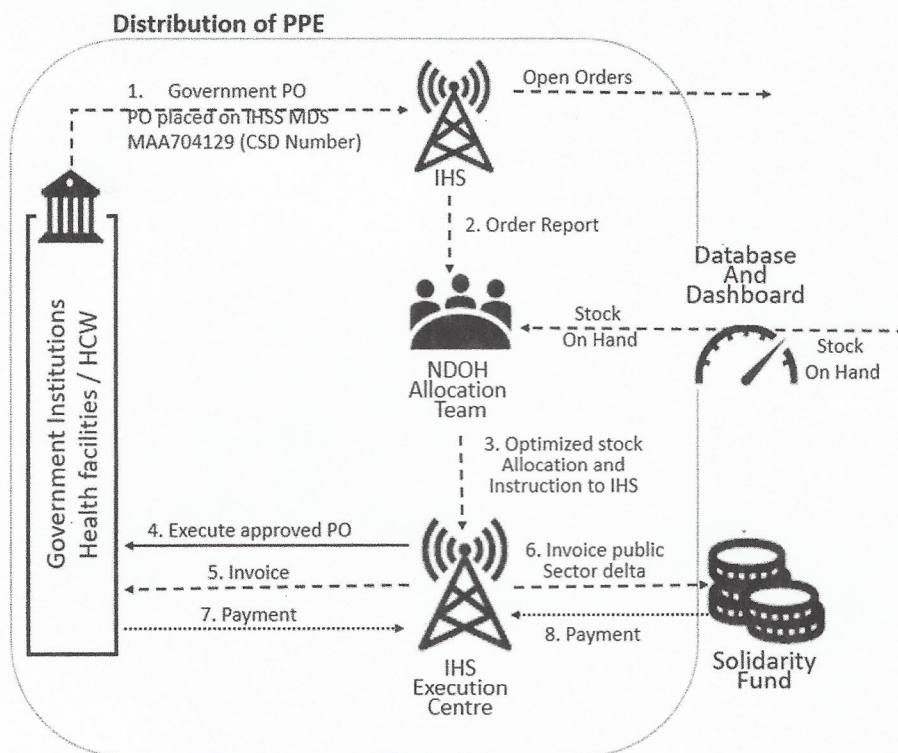
- (a) A Government Procurement Team made up of NDOH and NT will execute bulk procurement orders on behalf of the State from both local and global suppliers.
- (b) IHS, as the Central Implementing Agent, will only execute orders on instruction from the NDOH/NT Procurement Team. IHS merely acts as the executing agent and has no role in procurement decisions.

3.2. **Principle Two: All suppliers, locally and globally, are invited to offer their products.** All local suppliers have been invited through a National Treasury Media Statement, to provide their details and COVID-19 related health products, based on specifications provided by NDOH, to a central email address set up for this purpose (covid19supplies@businessresponsecovid19.co.za). Local suppliers and manufacturers will receive preference. This will include already contracted service providers that are on transversal contracts or any other departmental contracts. IHS, on instruction from the Government Procurement Team, will place orders on suppliers, for products identified, that meet the standards determined by NDOH.

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- 3.3. **Principle Three: Up-front credit provided by the Solidarity Fund.** Based on forecasts and government demand IHS will approach the Solidarity Fund to request working capital to pay suppliers for the bulk orders. Solidarity Fund will consider all applications, approve and provide the working capital credit to IHS. IHS to recover the cost (on a non-profit basis) from government institutions who had placed orders in order to refund the Solidarity Fund for the credit advanced.
- 3.4. **Principle Four: Inventory Management:** All incoming stock of PPE items are centrally warehoused at IHS and proper inventory management is maintained.
- 3.5. **Principle Five: Quality Control.** The NDOH, together with SABS, NRCS and SAHPRA will undertake quality assurance checks as and when required.

B ORDER PLACING AND DISTRIBUTION OF PPE TO GOVERNMENT INSTITUTIONS



- 3.6. **Principle Six: Order Placement and Allocation.** Government institutions may place orders on IHS (CSD No. MAA0704129) system, whereafter orders are daily consolidated, checked and prioritised by the NDOH Allocation Team. The NDOH Allocation Team will instruct IHS to execute the orders. This may mean that some orders will not be fulfilled 100% (e.g. the institution may have ordered 100 masks but will only be allocated 50 masks based on the allocation algorithm). In this case the “back order” system will keep track of orders not completed and complete these orders as stock becomes available. Government institutions will only be invoiced for products delivered.

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- 3.7. **Principle Seven: Prices paid by government institutions.** NDOH/NT Procurement Team determines the prices that Government will pay for the products (Annexure A). Products are made available to government institutions at the determined prices. If items are procured at prices below the prices on Annexure A, the Government will receive the benefit of this positive margin. If the products are procured above the prices on Annexure A, the Solidarity Fund will absorb the negative margin.
- 3.8. **Principle Eight: Delivery and receipt of orders.** Ordering government institutions will receive products at specified delivery addresses, check goods against the order and sign the "Proof of Delivery" note.
- 3.9. **Principle Nine: Payment.** Ordering government institutions to pay IHS as soon as reasonably possible but in any event within 10 days according to the invoiced amounts, in order for IHS to recover the working capital advanced and refund the Solidarity Fund.

4 PROCESS FOR PLACING ORDERS, RECEIVING GOODS AND PAYMENT BY GOVERNMENT INSTITUTIONS

4.1 Requisitions and order placing

- 4.1.1 If an institution decides to implement this disaster management central emergency procurement process for PPE, it must create IHS (CSD No. MAA0704129) as a supplier as well as the items listed in its ordering system with the prices indicated on **Annexure A**.
- 4.1.2 Institutions must first generate their requisitions and orders using their own order books (face value books) or system-generated purchase orders if on an ERP system. Thereafter the information must be transferred onto the template order provided as **Annexure A**. This process will ensure that a commitment on the institution's system is generated which will authorise the payment of these orders.
- 4.1.3 Internal approvals to be done as per the institution's delegation of authority.
- 4.1.4 Once requisitions are approved, the purchase orders must be generated and approved. Once approved, the order to be emailed on the Order Template provided as **Annexure A** to covid19requests@businessresponsecovid19.co.za. The institution to attach a copy of the internal approved order form to the template order form.
- 4.1.5 When placing the first order, the institution must fill in the Customer Master Information template (**Annexure B**) and email it together with the first order.
- 4.1.6 Institutions are requested to place smaller orders for the immediate need for two weeks ahead. Big orders may result in many "back orders" to be managed.
- 4.1.7 The Order Template must clearly indicate the delivery address, the official responsible for receiving the order at the delivery point and that official's contact details.
- 4.1.8 An institutions must put proper governance structure in place to carefully manage and sign-off on purchase orders. Proper record must be kept of all orders placed.

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4.2 Order consolidation and allocation prioritisation

- 4.2.1 Orders will be consolidated by the NDOH Allocation Team daily at 18h00.
- 4.2.2 The orders will be subjected to an allocation algorithm managed by the NDOH Allocation Team. The algorithm assumptions will be based on epidemiological data and current government priorities as to where the need is the greatest.
- 4.2.3 The NDOH Allocation Team will submit an approved/partially approved order form to the IHS system with instructions to execute the order.
- 4.2.4 The institution will be notified of the status of its order and when delivery will take place.

4.3 Execution and distribution of orders

- 4.3.1 An order will be packed as per the instructions on the order.
- 4.3.2 A delivery note will be generated.
- 4.3.3 Distribution will be done of all processed orders.
- 4.3.4 Upon receipt of the order, institutions must check the delivery against the order and sign the Proof of Delivery.
- 4.3.5 The Proof of Delivery will be retained in the IHS system.

4.4 Invoicing and payment of orders

- 4.4.1 The IHS system will generate an invoice, based on the executed order.
- 4.4.2 Invoices will be sent to the institutions.
- 4.4.3 Invoices to be settled by the ordering institution within 10 working days.

5 PROCUREMENT OF COVID-19 RELATED ITEMS AND SERVICES NOT COVERED BY THIS INSTRUCTION

- 5.1 If an item or service is not covered in this instruction, and is considered to be a specific requirement for the institution to combat COVID-19, the emergency procurement prescripts may be followed:
 - i. Accounting officers of national and provincial departments and accounting authorities of national and provincial public entities may deviate from inviting competitive bidding in cases of emergency – paragraphs 8.1 and 8.2 of National Treasury SCM Instruction 3 of 2016/17 (Prevention and combating abuse in SCM). This does not require National Treasury's approval.
 - ii. Accounting officers /authorities are required to report within 10 working days to the relevant treasury and the Auditor-General all cases where goods and services above the value of R1 million (VAT inclusive) were procured in terms of Treasury Regulation 16A6.4. The report must include the description of the goods or services, the name/s of the supplier/s, the amount/s involved and the reasons for dispensing with the prescribed competitive bidding process.

6 GENERAL COMPLIANCE MEASURES

- 6.1 Where an institution already have a contract(s) in place, or orders placed in terms of National Treasury Instruction No. 08 of 2019/2020 for the same items listed in this Treasury Instruction, the institution must honour these contract or orders.
- 6.2 In the event that the supplier cannot fulfil its obligation due to the high demand, it must notify the institution in writing. The institution may, only then, cancel the order. Institutions should act with caution when agreeing to lead and delivery times with suppliers, thus making it difficult for suppliers to deliver on the orders placed.
- 6.3 Where items are included in existing Facilities Management Contracts, institutions may negotiate with the Facilities Management Service Provider to provide these items. Contracts may be expanded or varied in terms of paragraph 9.2 of National Treasury Instruction 3 of 2016/2017 (Prevention and combating abuse in SCM), but only for items that will aid the prevention of the spread of the virus. Institutions must not pay prices in excess of the prices provided for in **Annexure A**.
- 6.4 Institutions may approach any other supplier to obtain quotes and may procure from such suppliers on condition that-
- i. the items are to the specifications as determined by the National Department of Health;
 - ii. the prices are equal or lower than the prices in **Annexure A**; and
 - iii. the supplier is registered in the Central Supplier Database.
- 6.5 Where institutions already procured items, prior to the issue of this Instruction, under the emergency procurement procedures as stipulated in paragraphs 8.1 and 8.2 of National Treasury SCM Instruction 3 of 2016/17 (Prevention and combating abuse in SCM), such procurement must be reported within 10 days to the relevant treasury.

7 REPORTING

- 7.1 For audit purposes, institutions are required to keep record of:
- i. ALL orders placed with IHS through this mechanism;
 - ii. Proof of delivery notes;
 - iii. Invoices paid to IHS;
 - iv. All orders placed under paragraph 6.4 above; and
 - v. Consolidated record of the above.

8 APPLICABILITY

This National Treasury Instruction applies to all departments, constitutional institutions and public entities listed in Schedules 2 and 3 to the PFMA.

9 EFFECTIVE DATE

This National Treasury Instruction takes effect on the date of signature.

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10 REPEAL OF NATIONAL TREASURY INSTRUCTION NO. 08 OF 2019/2020

National Treasury Instruction No. 08 of 2019/2020: Emergency Procurement in Response to National State of Disaster is hereby repealed.

11 DISSEMINATION OF INFORMATION CONTAINED IN THIS INSTRUCTION

11.1 Accounting officers of national departments are requested to bring the contents of this Treasury Instruction to the attention of all –

(a) accounting officers of constitutional institutions that are funded through their respective departmental votes; and

(b) accounting authorities of public entities reporting to their executive authorities.

11.2 Head officials of provincial treasuries are requested to bring the contents of this Treasury Instruction to the attention of all accounting officers of departments and accounting authorities of public entities in their respective provinces.

12 AUTHORITY FOR THIS INSTRUCTION

This National Treasury Instruction is issued in terms of section 76(4)(b), (c) and (g) of the PFMA.

13 CONTACT INFORMATION

13.1 Accounting officers and accounting authorities of departments, constitutional institutions and public entities may submit formal enquires regarding this National Treasury Instruction to:

**The Director-General
National Treasury
Private Bag X115
PRETORIA
0001**

For attention: The Chief Procurement Officer

12.2 Queries related to this National Treasury Instruction may be submitted to:

cpo@treasury.gov.za



**DONDO MOGAJANE
DIRECTOR-GENERAL: NATIONAL TREASURY
Date: 15-04-2020**

ATTACHMENTS

ANNEXURE A: ITEM LIST AND ORDER FORM

ANNEXURE B: CUSTOMER MASTER INFORMATION

ANNEXURE C: PPE PROCUREMENT AND DISTRIBUTION PROCESS FLOW