



ADDENDUM 8

WESTERN CAPE EDUCATION DEPARTMENT

SCM EMERGENCY SITUATION

and

URGENT CASE

PROCUREMENT POLICY

Issued in terms of section 38(1) (a) (iii) of the Public Finance Management Act, 1999 (Act 1 of 1999) and Provincial Treasury Instruction Chapter 16A.

INDEX

No.	Description	Page number
Part 1	Context	3
Part 2	Objectives	5
Part 3	Emergency Situation and Urgent Case Procurement Policy	6
Part 4	Emergency Situation and Urgent Case Procurement Process	10
Part 5	Reporting and Evaluation	11
Annexure A	Standard Operating Procedure for Predictable Emergency Situation and Urgent Case Procurement	12 - 17
Annexure B	Standard Operating Procedure for Ad-hoc Emergency and Urgent Procurement	18 - 23

Part 1

Context

- 1.1 The Provincial Treasury (PT) issued Provincial Treasury Instructions (PTI's) on 23 September 2019 to promote consistency and uniform application of SCM in accordance with the minimum standards set by the Provincial Treasury. The PTI 16A 5.5.5 provides for emergency procurement as a procurement solution. The National Treasury issued PFMA SCM Instruction No. 03 of 2021/2022 which states the requirements for the procurement of goods and services via an emergency or urgent procurement process. The Department's Accounting Officer's System (AOS) makes provision for the management and the process to be followed in terms of emergency and urgent procurement.
- 1.2 A Standard Operating Procedure for emergency and urgent procurement is inclusive in this policy and is issued to:
 - 1.2.1 ensure uniformity in the application of all emergency and urgent procurement procedures;
 - 1.2.2 prevent abuse of the AOS;
 - 1.2.3 establish credible audit evidence; and
 - 1.2.4 promote transparency.
- 1.3 An “**emergency situation**” means 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.
- 1.4 An “**urgent case**” means cases where early delivery is critical and the invitation of competitive bids is either impossible or impractical, not due to improper planning.
- 1.5 It is understood that not all circumstances can be determined and provided for pro-actively, especially in instances of major events or other emergency incidences and urgent cases.

- 1.6 When an emergency or an urgent case occurs, normal procurement practices could be impossible or impractical and therefore, suppliers with proven capability and ability may be approached to supply goods or services within a short-time-frame to avoid a serious and unexpected situation that poses an immediate risk to health, life, property or environment or where early delivery is critical and the invitation of competitive bids is either impossible or impractical, not due to improper planning.
- 1.7 It is therefore important to understand that during emergency and urgent procurement activities, the core values of the Constitution as contained in Section 217, need to be balanced and in some instances, may be compromised:
- (a) **Fairness** may be waived, and a limited number of suppliers may be approached as time is of the essence and proven capability and ability is more important than supplier support.
 - (b) **Transparency** may be waived as there may not be sufficient time available to follow an open and competitive bidding process. This may include dispensing with the need to advertise in the Government Tender Bulletin or other media.
 - (c) **Competition** may be waived as selection of expertise and ability may be required to resolve an emergency situation or urgent cases.
 - (d) **Cost-effectiveness** may be waived as proven expertise and ability may be more expensive than an open and competitive bidding process.
 - (e) **Equitability** may be waived as proven expertise and ability may be more important than equitable work distribution.
- 1.8 Taking the above into account, it is therefore imperative that emergency procurement incidences and urgent cases be limited to only such events as defined in paragraphs 1.3 and 1.4. It is important that such incidences are properly recorded for audit purposes and managed by the relevant Responsibility Manager.
- 1.9 Further, the Department will not utilise emergency situation or urgent cases for procurement to:
- (a) obtain goods or services to satisfy preferences/conveniences; or
 - (b) prevent funds from reverting at the end of a fiscal year; or
 - (c) for any reason that seems to circumvent regular procurement methods.

The Responsibility Managers must plan their needs for goods/services to avoid requesting emergency procurement as a result of inadequate forecasting, improper planning or overlooked circumstances.

Part 2

Objectives

2. The Emergency and Urgent Procurement Standard Operating Procedure aims to:
 - a) Appropriately define, classify and categorize emergency and urgent procurement situations for both predictable incidences based on past experience and *ad-hoc* events.
 - b) Instruct Responsibility Managers on applying the emergency procurement procedure.
 - c) Identify and assign roles and responsibilities to appropriate Responsibility Managers in relation to different categories of emergency procurement to ensure a coherent and structured approach for the Department's when managing and resolving an emergency situation or urgent cases.
 - d) Outline the Department's planning efforts to limit and/or improve responsiveness during an emergency or urgent case.
 - e) Indicate pre-requisites to consider when awarding and administering emergency procurement contracts.
 - f) Provide options available during emergencies.
 - g) Provide post execution assessment of the relevant emergency.
 - h) Provide for submission to the relevant SCM Committee for confirmation of the relevant procurement and minuting thereof.
 - i) Provide for processes to be followed in respect of the recording and approval of emergency and urgent case procurement.
 - j) Prevent the abuse of the SCM system.

Part 3

Emergency Situation and Urgent Case Procurement Policy

3.1 This part together with the AOS constitutes the Emergency and Urgent Procurement Policy of the Department. This Emergency and Urgent Procurement Policy is effective from the date approved by the Accounting Officer and together with the relevant SOPs will be reviewed on as and when required.

3.2 Policy Issue

3.2.1 Emergency and Urgent Procurement Policy of the Department.

3.3 Regulatory Framework

3.3.1 The Constitution,
Section 217 provides for the values in respect of procurement in the public sector and requires Government Departments to conclude contracts for goods/services in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.

3.3.2 PFMA, 1999
To give effect to the various provisions of the Constitution and in pursuance of introducing uniform norms and standards.

3.3.3 PFMA, section 76(4) (c)
In terms of the above section the National Treasury issued the Supply Chain Management Framework (SCMF) and included same in the National Treasury Regulations.

3.3.4 Treasury Regulation 16A 6.4
This allows the Accounting Officer to procure goods/services by other means in cases where it is impractical to invite competitive bids.

3.3.5 Provincial Treasury Instructions,

PTI 16A 5.5.5 allows the Accounting Officer to dispense with the invitation of competitive bids in cases of an emergency, subject thereto that the AOS provides for a policy in relation to the management and resolving of emergency procurement.

3.4 Policy provisions

The following policy provisions are incorporated into this policy:

a) Classification and Categorization of emergencies

- (i) The purpose is to identify the nature of emergencies the Department is exposed to, based on past trends, the strategic commodities required and the delivery standards.
- (ii) A distinction is drawn between those emergency occurrences that are predictable (based on past events) and ad-hoc incidents which are unforeseen, unavoidable and not within the control of the WCED. **The logic is that if a situation can be foreseen, it can be planned for.**

b) Procurement strategy per category (Response Plan)

- (i) The following procurement strategies are applicable.

Predictable emergency situation or urgent incidence		Ad-hoc emergency situation or urgent case incidence
1	Informal quotation system	Informal quotation system
2	Period appointment of service providers	Single/sole source bidding
3	Selected service provider (limited bidding)	Piggy-backing (Departmental or transversal contracts)
4	Multiple source bidding	
5	Framework agreement as defined in of the PTIs	
6	Piggy backing (Departmental or transversal contracts)	

c) Funding mechanisms

- (i) A clear distinction must be made between normal funding and funding specifically allocated to emergency situations or situations classified as disasters.

- (ii) The funding implications must be detailed as follows:
- Vote
 - Programme
 - Sub-programme
 - Interdepartmental arrangements
 - Grant funding
 - Other sources of funding
 - SCOA
- (iii) The Responsibility Manager must ensure that funds are available in the relevant programme/budget or that funds are requested and approved for the procurement of goods/services in the case of emergency or urgent case procurement.

d) Role definition

- (i) The relevant SCM unit will:
- Facilitate and advise on the classification and categorization of the emergency and urgent case procurement, obtain approval in terms of SCM processes, undertake the procurement and finalize the contract.
 - Report to Provincial Treasury and Auditor-General in compliance with 14 days after the finalization of the procurement by way of an emergency situation or urgent case.
 - Education District Offices must report instances, as prescribed, to the Head Office who will facilitate the report to the treasury.
 - The reporting format as prescribed by National Treasury in PFMA SCM Instruction no.3 of 2021/2022 must be utilized.

The relevant Responsibility Manager must certify the emergency or urgent case through the completion of an emergency or urgent procurement application form and submit all supporting documents to the relevant SCM unit. The following information must be included:

- (i) a clear indication of the circumstances which could not be foreseen;
- (ii) an outline of the specific dangerous or perilous condition or misery or defect that may

- (iii) occur as a result of the emergency/urgent case or the damage it may bring about if the emergency or urgency is not addressed;
 - (iv) a full draft specification of the goods or services required;
 - (v) what the aim is of the action (relieve, stem or prevent the condition);
 - (vi) whether the recommended action will yield better results than the normal procedure;
- (a) The Responsibility Manager will manage the contract that is concluded and report on the fulfillment thereof and the achievement of the objective.
 - (b) The relevant Departmental Bid Committee (DBC)/Quotation Committee will, where practicable and possible, consider the recommendations made by the relevant Supply Chain in relation to "predictable emergency or urgent case procurement".
 - (c) The Accounting Officer or Delegated Authority (DA) will consider the merits of the motivation submitted by the relevant SCM Unit, the recommendation(s) of the relevant SCM Committee and either approve the recommendation(s) made or indicate an alternative course of action to stem the consequences of the emergency situation or urgent case.

e) Reporting and Assessment

The Head Office Supply Chain, SCM Policy and Planning, and SCM Performance Management will undertake the reporting, monitoring, evaluation and assessment of the processes as documented in PTI 16A11.1 and 16A12.1.

Part 4

Emergency Situation and Urgent Case Procurement Process

- 4.1 In the event of emergency situations or urgent cases, officials will need flexibility in how they procure goods and services that are necessary for their response to an emergency/urgent case and it is accepted that it would be impossible or impractical to adhere to the competitive bidding procedures.
- 4.2 In adopting a more flexible procurement process, officials should still, as far as feasible, adhere to the procurement principles of being fair, equitable, transparent, competitive and cost-effective. Officials are to balance the need to act without delay against meeting the public sector obligations of being accountable and to act lawfully and with integrity.
- 4.3 In order to embark on an emergency situation or urgent case procurement process, the relevant delegated official needs to validate and approve the classification of emergency or urgent case as well as the category of procurement process to be adopted i.e. a “predictable emergency or urgent case incidence procurement process” or an “ad-hoc emergency or urgent case procurement process”.
- 4.4 Once approval as contemplated above, has been obtained, the procurement process as detailed in the relevant SOP must be adhered to.

Part 5
Reporting and Evaluation

- 5.1 The Performance Management Section in the SCM unit will execute its mandated compliance checks as per the following checklist:

Emergency or Urgent Case Procurement Compliance Checklist		Reference	Comments/ Remedial action
Acquisition Stage			
1	Was the need appropriately defined and categorized?		
2	Was the existence of sufficient funds identified by the Responsibility Manager when the request was submitted?		
3	Were the appropriate approvals obtained?		
4	Was the quote/s received sufficiently detailed?		
Award and Contract Management Stage			
5	Letter of acceptance on record?		
6	Contract on record?		
7	Contract Manager identified?		
Payment Stage			
8	Payment documentation complete?		
9	Substantiating proof on record?		
Reporting Stage			
10	Are all reporting requirements met?		

Annexure A

**STANDARD OPERATING PROCEDURE (SOP)
EMERGENCY OR URGENT CASE PROCUREMENT**

SOP	PREDICTABLE EMERGENCY OR URGENT CASE PROCUREMENT		
Process Scope	Ensure that emergency procurement procedures are undertaken when predictable events based on past events make it extremely urgent to obtain goods/services in time.		
Applicable legislation/policy	<ul style="list-style-type: none"> • The Constitution of the Republic of South Africa, Act 108 of 1996, section 217; • Public Finance Management Act (PFMA), 1999 (Act 1 of 1999); • Treasury Regulations – 16A6.4 and PTI 16A5.2.1.6 • Provincial Treasury Instructions, 2019 • Accounting Officer's System of the Department; • Emergency and Urgent Case Procurement Policy; • Institutional Instructions; and • Standard Operating Procedures 		
Process Beneficiary	Service/Goods are provided to the Responsibility Manager within the required timeframe.		
Task no.	Task	Sub-Task	Responsibility
Process Name	1. Demand Stage		
1.1	Identification of need.	<ul style="list-style-type: none"> • The requisition form (LOG 1), PGWC 002 form, detailed specification and application form for 	Responsibility Manager

		<p>Limited Bidding Process received from the Responsibility Manager (RM).</p> <ul style="list-style-type: none"> • Motivation with reasons for the emergency situation or urgent case procurement. • Existence of sufficient funds confirmed on PGWC002 and/or within motivated request. • Business Case, if above R100 000. • Change Request form if item is not included on the Approved Procurement Plan. (only if goods/service is above R100 000) 	<p>SCM Champion</p> <p>Project Manager</p>
1.2	Motivate applicable acquisition management process.	<ul style="list-style-type: none"> • Identify and consider the classification and categorisation according to the emergency or urgent case as categorised in paragraph 3.4 (a) and (b) of Addendum 8 of the AOS. • Assess the motivation for the predictable emergency situation or urgent case procurement criteria. 	<p>Responsibility Manager</p> <p>Administrative Officer – SCM</p>
1.3	Consider, validate and recommend the emergency situation or urgent case procurement need.	<ul style="list-style-type: none"> • Research the policy provisions. • Assess the motivation for the predictable emergency situation or urgent case procurement criteria. • Draft a submission to the relevant delegated official via the relevant Bid Committee or Quotation Committee (in a district environment and if practical and possible) for the authority to proceed in inviting and accepting a quotation(s) to address the need in accordance with the Emergency and Urgent Case Procurement Policy. 	<p>Administrative Officer</p>
1.4	Compile bid documents	Prepare bid documentation pack.	<p>Administrative Officer -SCM</p>

Process Name	2. Acquisition Stage		
2.1	Invite bid response/s	Invite bidders registered on the Western Cape Supplier Evidence Bank (WCSEB) and Central Supplier Database (CSD) to respond as per the emergency or urgent case category.	Administrative Officer -SCM
2.2	Evaluate bid response/s	<ul style="list-style-type: none"> Evaluate bidder/s response/s and adhere to the minimum functional and legislative requirements. Compile submission for the recommendation of the award to the relevant Departmental Bid Committee/Quotation Committee (where practical and possible) and the approval of the delegated official after following all required verification procedures. At this stage, the cost of the remedial action must have been weighed up against the funds availed by the Responsibility Manager and if insufficient, consultation must have taken place with the Responsibility Manager to get additional funds. In the case of Education District offices, if the acceptable quotation exceeds the threshold of R300 000.00, the relevant Director in the district environment can accept the limited bidding quotation if the quotation amount does not exceed more than 10% of the procurement threshold value. In the event that the quotation amount is indeed above the acceptable 10% excess, the necessary approval must be sought from the Deputy Director-General: Corporate Services via email. 	Administrative Officer and/or Administrative Clerk in consultation with Responsibility Manager

Process Name	3. Award Stage		
3.1	Award bid	Compile Letter of Acceptance and the WCBD 7.1 Contract form which must be signed by the delegated official	Administrative Officer
Process Name	4. Contract Management Stage		
4.1	Contract conclusion	Conclude a contract through the signing of the WCBD 7.1 Contract Form and acceptance of such award by the service provider	Assistant Director or Deputy Director: Corporate Services (where applicable) or Deputy Director: SCM Operations (where applicable) or Deputy Director: LTSM (where applicable)
4.2	Manage contract	Execute contract management and administration activities for the emergency or urgent case procurement award.	Responsibility Manager
4.3	Order	Issue official order form for predictable emergency or urgent case procurement incidences as per approved acquisition management process.	Administrative Officer

Process Name	5. Reporting Stage (Policy and Planning section with inputs from the relevant Education District Offices)		
5.1	Departmental Reporting	<ul style="list-style-type: none"> Report on the application/award of the predictable emergency or urgent procurement incident by 'other means' via the monthly reporting procedure for SCM procurement transactions (Annexure C) and NT PFMA Instruction Reporting Template (Annexure B), including all transactions for emergency or urgent case procurement conducted by the Education District Offices. Compile commitment Compile procurement statistics on all awards above R100 000.00 including the Education District Offices. Report to Provincial Treasury and Auditor-General. 	Deputy Director Assistant Director Administrative Officer
Process Name	6. Record Management Stage (Payments Section – Contracts Management)		
6.1	Records attached to payment advice	<ul style="list-style-type: none"> Upon receipt of the invoice, prepare and process payment in accordance with the receipt of invoice and payment procedures. 	Administrative Clerk Administrative Officer
Process Name	7. Monitoring and Evaluation Stage (Performance Management Section – SCM Head Office)		
7.1	Compliance review	<ul style="list-style-type: none"> Complete the Compliance Review 	Administrative Officer Section: Performance Management. Assistant Director
7.2	Post execution assessment	<ul style="list-style-type: none"> Report quarterly in the Assessment Report to the Chief Financial Officer and Accounting Officer. 	Deputy Director Assistant Director

			Administrative Officer
7.3	Analyse statistics	<ul style="list-style-type: none"> • Maintain SCM Emergency and Urgent Cases Procurement database and control register. • Analyse information for reporting in the quarterly Assessment Report to the Chief Financial Officer and Accounting Officer. • Determine the risks and recommend remedial action and report accordingly in the Assessment Report and amend the Risk and Fraud Plans of the SCM unit. 	Deputy Director Assistant Director Administrative Office

**STANDARD OPERATING PROCEDURE (SOP)
EMERGENCY OR URGENT CASE PROCUREMENT**

SOP	AD-HOC EMERGENCY OR URGENT PROCUREMENT		
Process Scope	Ensure that emergency situation or urgent case procurement procedures are undertaken for ad-hoc incidents where unforeseen and unavoidable events make it extremely urgent to obtain goods/services in time.		
Applicable legislation/policy	<ul style="list-style-type: none"> • The Constitution of the Republic of South Africa, Act 108 of 1996, section 217; • Public Finance Management Act (PFMA), 1999 (Act 1 of 1999); • Treasury Regulation – 16A 6.4 and PTI 16A 5.2.1.6 • Provincial Treasury Instructions, 2019 • Accounting Officer's System of the WCED; • Emergency or Urgent case Procurement Policy; • Institutional Instructions; and • Standard Operating Procedures 		
Process Beneficiary	Service/Goods are provided to the Responsibility Manager within the required timeframe.		
Task no.	Task	Sub-Task	Responsibility
Process Name	1. Demand Stage		
1.1	Identification of need.	<ul style="list-style-type: none"> • The requisition form (LOG 1), PGWC 002 form, detailed specification and application form for Limited Bidding Process received from the Responsibility Manager (RM). • Motivation with reasons for the emergency situation or urgent case procurement. • Business Case, If above R100 000. • Change Request form if item is not included on the approved Procurement Plan (only if goods/service is above R100 000) 	Responsibility Manager SCM Champion Project Manager

		<ul style="list-style-type: none"> Existence of sufficient funds confirmed on PGWC002 and/or within motivated request. 	
1.2	Motivate applicable acquisition management process.	<ul style="list-style-type: none"> Identify and consider the classification and categorisation. Assess the motivation for the ad-hoc emergency or urgent case procurement criteria. Draft a submission to the relevant delegated official via the relevant Bid Committee or Quotation Committee (in a district environment and if practical and possible) for the authority to proceed in inviting and accepting a quotation(s) to address the need in accordance with the Emergency and Urgent Case Policy. 	Responsibility Manager Administrative Officer – SCM
1.3	Consider, validate and recommend the emergency or urgent case procurement need.	<ul style="list-style-type: none"> Research the policy provisions. Assess the motivation for the predictable emergency procurement criteria. Draft a submission to the relevant delegated official via the relevant Bid Committee or Quotation Committee (in a district environment and if practical and possible) for the authority to proceed in inviting and accepting a quotation(s) to address the need in accordance with the Emergency situation or urgent case Procurement Policy. 	Administrative Officer - SCM
1.4	Compile bid documents	Prepare bid documentation pack.	Administrative Officer - SCM
Process Name	2. Acquisition Stage		
2.1	Invite bid response/s	<ul style="list-style-type: none"> Invite bidders registered on the Western Cape Supplier Evidence Bank (WCSEB) and Central Supplier Database (CSD) to respond as per the emergency or urgent case procurement category 	Administrative Officer – SCM

2.2	Evaluate bid response/s	<ul style="list-style-type: none"> • Evaluate bidder/s response/s and adhere to the minimum functional and legislative requirements. • Compile submission for the recommendation of the award to the relevant Departmental Bid Committee/Quotation Committee (where practical and possible) and the approval of the delegated official after following all required verification procedures. At this stage, the cost of the remedial action must have been weighed up against the funds availed by the Responsibility Manager and if insufficient, consultation must have taken place with the Responsibility Manager to get additional funds. • In the case of Education District offices, if the acceptable quotation exceeds the threshold of R300 000.00, the relevant Director in the district environment can accept the limited bidding quotation if the quotation amount does not exceed more than 10% of the procurement threshold value. In the event that the quotation amount is indeed above the acceptable 10% excess, the necessary approval must be sought from the Deputy Director-General: Finance via email. 	Administrative Officer and/or Administrative Clerk in consultation with Responsibility Manager
Process Name	3. Award Stage		
3.1	Award bid	Compile letter of acceptance and the WCBD 7.1 Contract form which must be signed by the delegated official	Administrative Officer

Process Name	4. Contract Management Stage		
4.1	Contract conclusion	Conclude a contract through the signing of the WCBD 7.1 Contract Form and acceptance of such award by the service provider.	Assistant Director or Deputy Director: Corporate Services (where applicable) or Deputy Director: SCM Operations (where applicable) or Deputy Director: LTSM (where applicable)
4.2	Manage contract	Execute contract management and administration activities for the emergency or urgent case procurement award.	Responsibility Manager
4.3	Order	Issue official order form for ad-hoc emergency or urgent case procurement incidences as per approved acquisition management process.	Administrative Officer
Process Name	5. Reporting Stage (SCM Policy and Planning Section with inputs from the relevant Education District Offices)		
5.1	Departmental reporting	<ul style="list-style-type: none"> Report on the application/award of the predictable emergency or urgent procurement incident by 'other means' via the monthly reporting procedure for SCM procurement transactions (Annexure D) and NT PFMA Instruction Reporting Template (Annexure B), including all transactions for emergency or urgent case procurement conducted by the Education District Offices. 	Deputy Director Assistant Director Administrative Officer

		<ul style="list-style-type: none"> • Compile commitment • Compile procurement statistics on all awards above R100 000.00 including the Education District Offices. • Report to Provincial Treasury and Auditor-General. 	
Process Name	6. Record Management Stage		
6.1	Records attached to payment advice	Upon receipt of the invoice, prepare and process payment in accordance with the receipt of invoice and payment procedures.	Administrative Clerk Administrative Officer
Process Name	7. Monitoring and Evaluation Stage (SCM Performance Management Section – SCM Head Office)		
7.1	Compliance review	<ul style="list-style-type: none"> • Complete the Compliance Review 	Administrative Officer Section: Performance Management.
7.2	Post execution assessment	<ul style="list-style-type: none"> • Report quarterly in Assessment Report to the Chief Financial Officer and Accounting Officer. 	Deputy Director: Policy, Planning and Performance Management Assistant Director: Performance Management Administrative Officer Section: Performance Management

7.3	Analyse statistics	<ul style="list-style-type: none"> • Maintain SCM Emergency Procurement database and control register. • Analyse information for reporting in the quarterly Assessment Report to the Chief Financial Officer and Accounting Officer. • Determine the risks and recommend remedial action and report accordingly in the Assessment Report and amend the Risk and Fraud Plans of the SCM unit. 	Deputy Director: Policy, Planning and Performance Management Assistant Director: Performance Management Administrative Officer Section: Performance Management
-----	--------------------	---	--