

# Procuring during the COVID-19 emergency

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## Purpose

The Novel Coronavirus (COVID-19) presents an unprecedented and extended emergency impacting Queenslanders and the economy.

This guidance provides objectives of procurement during the COVID-19 emergency, practical tips about how buyers can manage procurement activities to maximise use of local and regional suppliers, outline potential supplier issues and how to respond, and includes a buyer checklist to assist buyers during stages of the emergency, and recovery.

**This guidance operates on a time limited basis and will be revoked when the COVID-19 emergency eases.** It should be read together with Procurement Advisory Notices (PANs) which will be progressively released during the COVID-19 emergency period. [Read the current PANs.](#)

## Objectives of Queensland Government procurement during the COVID-19 emergency

The Queensland Procurement Policy remains the government's overarching rules for conducting procurement. Procurement decision making during the pandemic should be guided by the following:

1. Preserve life, safety and wellbeing
2. Support local businesses, including regional businesses and manufacturers
3. Consider increasing use of small and medium enterprises, and innovative proposals
4. Observe principles of integrity, probity and accountability
5. Maintain confidence - continue 'business as usual' procurement as relevant

## Emergency response categories

Emergency situations and the associated procurement response can be categorised into three main types of response. Refer also the quick reference checklist at Appendix 1.

### Category 1 – Immediate response

**A rapid reactive procurement response** seeks to provide immediate relief to critical events that have a direct impact on life or public safety, the threat is of a catastrophic nature (e.g. environmental or core infrastructure damage) and where if a response was delayed it would result in increased harm to individuals and the Queensland community.

For example:

Accessing medical equipment for hospitals, personal protective equipment for frontline services, sourcing food and housing for displaced people, transportation of goods across the state.

#### What this looks like in practice:

- Apply a common-sense approach and use sound reasoning and good judgement under pressure
- Verbal approval may be the only available approval at the time. Ensure the officer has appropriate delegated financial authority to approve and follow-up in writing as soon as possible
- Maximise use of digital signatures and electronic approvals instead of in-person signatures, where delegates cannot sign in person

- Record file notes of decisions and rationales for approvals, collect invoices from suppliers and details of goods or services purchased
- Use direct procurement practices (suspend requirement for multiple quotes) on a case by case basis when there is no reasonable prospect of applying usual competitive processes to meet emergency need for essential goods and services
- Use 'short form' or simplified terms and conditions and contracts to increase timeliness of responses, where appropriate.

## Category 2 – Sustained emergency relief

**An emergency response** is required to urgently sustain state infrastructure or other core services once immediate criticality has been addressed. These procurements may be appropriate where there is no direct impact on human life, no threat to significant environments or infrastructure but there is still a need to respond urgently to sustain and maintain Queensland communities.

### What this looks like in practice:

- Identify, specify and prioritise immediate procurement requirements
- Speak with other agencies, category leads and industry to identify opportunities to collaborate
- Use established common-use arrangements and pre-qualified supplier lists to meet demand
- Seek approvals and consider formalising an appropriate approval process for your agency during the emergency period
- Check in with suppliers for advice on frontline conditions, critical supply chain situations and to obtain assurances on immediate delivery, to the right location and the right time and price
- Advise suppliers that the purchase is subject to emergency arrangements that may be revoked at any point when the situation is deemed contained, and/or reverted to a normal procurement process for a longer-term solution
- Confirm all arrangements in writing. If using 'short form' or simplified terms and conditions and contracts, have options to vary contracts and extend should the period become sustained longer than expected.

## Category 3 – Recovery response

**A recovery response** is enabled when the emergency situation has been contained and activities are returning to a normal procurement process. This is appropriate when there is no longer an urgent need to respond but there is a need to rapidly activate business as usual and non-essential procurement activities to establish a pipeline for the Queensland economy.

### What this looks like in practice:

- Return to agency procurement plans and processes, with the view to meeting recovery needs
- Sufficient rigour is balanced with the view to accelerating procurement processes to achieve greater responsiveness to support long-term recovery.

## Guidance about the objectives

There are many options for government buyers that can have an immediate positive impact on Queensland businesses and the economy in general. A need for flexibility, together with a rapid and appropriate response to procurement for essential goods and services, is critical.

## 1. Preserve life, safety and wellbeing

### 1.1 **During this emergency period, agencies may purchase from a supplier with one quote if the delay involved in securing essential supply (for example, advertising and competitive tendering) will prevent them delivering the goods or services in time to meet critical Queensland community needs that preserve life, safety and well-being.**

Life extends beyond human life to include animal life, for example, ensuring humane treatment of livestock and other animals.

Common-use supply arrangements (such as Standing Offer Arrangements (SOAs)) should continue to be used in accordance with clause 5.3 of the QPP but agencies can depart from these arrangements:

- to meet urgent needs for essential services (eg saving or preserving life, securing urgent equipment such as medical equipment or ensuring the continued effective operation of critical infrastructure); or
- where a good or service is to be supplied to regional or remote Queensland locations.

Buyers are not relieved of their responsibility to perform due diligence checks, apply the right terms and conditions as issued by the relevant procurement category, and ensure legally sound contracts are in place and managed.

When procuring outside of clause 5.3, agencies should:

- clarify whether the situation is deemed an emergency for supply of essential urgent goods or services, review agency procurement plans and prioritise essential procurement
- revisit routine procedures that may delay effective relief being delivered in a timely manner (e.g. advertising, competitive tendering)
- consider what is reasonable and justifiable action given the circumstances and information available
- consider the need for, and appropriateness of direct purchasing from a supplier
- make decisions based on balancing the need to act without delay and meeting procedural processes for probity and integrity
- find out what other government agencies and NGOs are doing and collaborate where possible
- consider the conditions and operating environment on the frontline.

Business as usual or non-essential supply should continue to be made in accordance with clause 5.3 wherever possible.

The *Buy Queensland* approach to procurement remains applicable during all stages of emergency response procurement activities. This means seeking local supply wherever possible and should be your first response.

Refer to the Queensland Contracts Directory (QCD) for further information about arrangements at <http://qcd.hpw.qld.gov.au/Pages/home.aspx>. Further information about accessing arrangements can be obtained by contacting the relevant contract manager, also listed on QCD.

### 1.2 **Use 'short form' terms and conditions and contracts for essential supply, where appropriate.**

Category Councils issue standard terms and conditions for procurement including contract forms. The use of category terms and conditions should be the starting point for all procurement activities.

The QPP (Clause 5.4) prescribes that 'Departures from the terms and conditions [developed by lead agency category teams] are to be based on a defensible assessment of the requirements of the procurement'. An example is within the [ICT category](#) where they can use supplier terms and conditions if the cost is less than \$100,000 and the procurement is assessed as low risk.

Where there is a need to rapidly form a legally binding contract for essential supply, use of short form terms and conditions and contracts is permitted particularly for lower cost and lower risk activities.

Seek advice from the category lead agency where you are dealing with a high risk or complex good or service.

## **2. Support local businesses, including regional businesses and manufacturers**

Procurement decisions will help sustain the Queensland economy during the crisis period and assist in recovery.

### **2.1 Identify and take steps to protect your critical supply chains, and suppliers.**

Agencies identify critical supply chains and suppliers, and put in place plans to regularly communicate with, and monitor, the supplier's situation and ongoing ability to provide essential supply.

As a priority, agencies should review any established SOAs under their responsibility to identify critical suppliers and potential risks to the supply chain and work with category leads to determine an appropriate collaborative response to applying flexible procurement arrangements to the SOA.

### **2.2 Agencies should immediately review procurement procedures to ensure that as much as possible of the budget and decision making for routine procurement is devolved to regional offices.**

This is an existing requirement of the QPP and agencies should examine whether there is scope to devolve more procurement to the regions.

### **2.3 In seeking quotes, buyers should go only as far geographically as needed to ensure competitive supply.**

Supply market analysis should examine the capability and capacity of local suppliers, including how broadly buyers need to go to secure competitive supply.

## **3. Consider increasing use of small and medium enterprises, and innovative proposals**

During the emergency period, there may be small and medium enterprises (SMEs) that are not currently suppliers to government, and may either approach buyers (unsolicited proposals) or which buyers may identify when existing government suppliers are not able to meet demand.

Buyers may also be able to break large procurements into smaller packages to assist SMEs to supply, or work with head contractors or other SMEs to ensure that regional SMEs can access sub-contracting opportunities.

In such situations, buyers should ensure that the offer processes used, including specifications or evaluation criteria do not disadvantage regional suppliers or limit immediate emergency relief.

Consider innovative proposals. Be mindful that suppliers may be reaching out with new ideas and opportunities. Take the time to consider whether such unsolicited proposals, or innovative responses to tenders, may in fact be a solution to your needs, or the needs of another agency.

The QPP also requires agencies to publish and maintain forward procurement schedules for upcoming significant procurements. While it may not be possible during the initial emergency response period, in the recovery phase the publication of forward procurement schedules is more important than ever as a means of enabling the supply market to identify and plan for upcoming opportunities.

## Payment terms and processes

### **3.1 Review agency procurement and accounts payable procedures to make payment on correctly rendered invoices as quickly as possible.**

Look at agency delegations and processes for facilitating payment in this disrupted environment. Agencies may need to increase the use of corporate cards, and digital approvals to keep goods receipting and payments processes moving.

## Supplier issues

It is important that government buyers are aware of potential supplier issues and take proactive action to deal with these.

### Supplier disruption

Some suppliers may face difficulties due to disruptions in their supply chain, inability to provide supply due to trade restrictions, prioritisation of goods and services to areas of greatest impact and reduction in workforce. These difficulties may impact on pricing, delivery timeframes and ability to meet contractual or project obligations. Buyers should keep in regular contact with critical suppliers and keep informed of the status of supply.

### **3.2 Buyers should be understanding of the suppliers' circumstances and be flexible.**

Where usual suppliers are temporarily stretched due to demand, buyers should look at alternative sources and connecting local suppliers across the market to create new and innovative opportunities to meet demand needs. Buyers should continue to monitor their recovery and resume supply as soon as the supplier regains capacity, while being aware that this period may be extended for many months and is an unknown factor.

Employing active contract management and supplier communication can result in solutions to contractual challenges, this may include exploring measures such as interim variations to move from a milestone format, to a percentage payment for work completed. These considerations should be made on a case-by-case basis and with respect to maintaining full transparency and accountability.

The Department of State Development, Manufacturing, Infrastructure and Planning can help buyers connect with capable suppliers and manufacturers, or work with agencies and suppliers to identify innovative solutions and make connections.

### Duty of care to suppliers

Continuing the flow of government investment to critical suppliers and ensuring ongoing public safety is the duty of care for all procuring officers and agencies. Be sure to consider the support needed for your suppliers to maintain appropriate safety measures now and into the future.

### Offer processes currently on foot

Both agencies and suppliers may be affected with respect to offer processes already in progress. Agencies should immediately review potentially affected offer processes, and issue instructions to buyers with respect to extending closing dates where possible and the rules that will apply regarding acceptance of late offers due to disaster related disruption at either the agency or supplier end.

## Price gouging and profiteering

Government buyers should be aware of any attempts at profiteering, including price gouging and anti-competitive behaviour such as price fixing. These instances may be considered a breach in the Australian Consumer Law and have significant legal ramifications.

If buyers have genuine grounds for suspecting that profiteering activities are taking place, for example prices are much higher than is considered reasonable or fair, where possible seek alternative supply and report the suspected activity to the QPP Compliance Unit and review advice available from the Office of Fair Trading and Australian Competition and Consumer Commission.

## 4. Observe principles of integrity, probity and accountability

### 4.1 Make sure decisions made in this rapidly moving environment withstand public scrutiny and audit.

The obligation on accountable officers (Directors-General, Chief Executive Officers) to take responsibility for their agency's procurement decisions during the emergency, will not change.

People making procurement decisions at all levels must maintain accurate records and retain evidence of advice on decisions made for each activity, especially when diverging from agency procurement procedures.

The need to preserve life, public safety and wellbeing is paramount during this prolonged emergency period.

### 4.2 Seek the advice of the agency's Chief Procurement Officer, central procurement team, Category Council or lead category agency where you are unsure about what to do, or how to depart from your standard agency procurement procedures and delegations.

## 5. Maintain confidence - continue 'business as usual' procurement as relevant

Where you are dealing with procurement that is not 'essential procurement' aimed at preserving life, public safety and wellbeing, you should ensure you are sending a clear message to the supply market and public that business as usual procurement will be continuing.

Your agency may be rapidly redeploying resources to support essential procurement. Further, parts of the supply market are under intense pressure to supply.

### 5.1 Consider whether SOAs due to expire during the emergency period, should be extended, and exercise appropriate contractual variations or extension clauses. Do not extend existing contracts due to expire during the emergency period, for unreasonable periods beyond the declared state of emergency.

## What agencies should do next

- Agencies should examine this guidance, and either immediately adopt it for use in their agencies or use it to build or complement their own emergency procedures, which may include departures from standard agency procurement procedures in specified circumstances.
- Agencies should ensure emergency procurement procedures are urgently distributed to all buyers, procurement decision makers and delegates.

## Questions

Questions on procuring during the COVID-19 emergency should be directed to [covid19procurement@hpw.qld.gov.au](mailto:covid19procurement@hpw.qld.gov.au)

## Feedback

If you have any suggestions about how we can improve this guide, or if you have any questions, contact us at [betterprocurement@hpw.qld.gov.au](mailto:betterprocurement@hpw.qld.gov.au)

## Acknowledgment

Content for this guide was informed by research and review, including the New Zealand (NZ) Government COVID-19 Emergency Procurement guidance and NZ Government's standard emergency procurement procedures found at [www.procurement.govt.nz](http://www.procurement.govt.nz)

## Appendix 1: Buyer checklist

### Category 1: Immediate response

Action	Tick if applicable or insert 'N/A'
Clarify whether the situation is deemed an emergency for supply of essential urgent goods or services	
Consider obtaining the necessary goods or services direct from local suppliers (where possible), or procure outside a supply arrangement	
Identify and take steps to protect your critical supply chains, and suppliers	
Consider using another agency's suppliers if this supports immediate delivery	
Complete due diligence checks	
Maximise use of digital signatures and approvals where delegates cannot sign in person	
Suspend competitive processes on a case by case basis to meet genuine emergency situations for supply of essential goods and services (direct procurement)	
Apply appropriate terms and conditions and contracts	
Act within existing delegated authority or establish short-term emergency approval arrangements	
Act within an appropriate probity framework, having regard to the need to act without delay	
Keep a written record of the procurement	
Expedite receipting processes and make payment on correctly rendered invoices as quickly as possible	

## Category 2: Sustained emergency relief

Action	Tick if applicable or insert 'N/A'
Review agency procurement plans and prioritise immediate procurement activities that will bring relief	
Find out what other government agencies and non-government organisations are doing and collaborate where possible	
Consider obtaining the necessary goods or services direct from local suppliers (where possible), or procure outside a supply arrangement	
Consider establishing a blanket financial approval to cover emergency-related procurements	
Complete due diligence checks	
Apply appropriate terms and conditions	
Act within existing delegated authority	
Act within an appropriate probity framework, having regard to the need to act without delay	
Keep a written record of the procurement	
Expedite receipting processes and make payment on correctly rendered invoices as quickly as possible	

## Category 3: Recovery response

Action	Tick if applicable or insert 'N/A'
Keep updating the forward procurement pipeline	
Complete due diligence checks	
Apply appropriate terms and conditions	
Act within existing delegated authority	
Act within an appropriate probity framework, having regard to the need to act without delay	
Keep a written record of the procurement	