

REFORMING EMERGENCY PROCUREMENT TO PROTECT AGAINST CORRUPT DECISION- MAKING WHILE ENSURING SWIFT AND UNENCUMBERED PROCUREMENT

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ABSTRACT

Procuring officials are afforded greater discretion when it comes to carrying out procurement during emergencies. As such, they have more freedom to deviate from standard procurement practices. Under the current South African procurement framework, it appears to be that little is done to ensure that such discretion is not exercised in a fraudulent or corrupt manner. Such an anti-corruption objective remains important in public procurement, even during emergencies. The prevalence of corruption in procurement undertaken during the COVID-19 pandemic provides unfortunate evidence of such a need. However, emergencies also demand a swift ability to procure goods and services. In this article I discuss the potential of utilising guidelines to limit the discretion granted to procuring officials; oversight throughout emergency procurement, and centralised procurement as a means through which an anti-corruption objective can be introduced into emergency procurement. The ability of each of these suggestions to serve as an effective anti-corruption mechanism is analysed alongside their ability to ensure swift procurement without unnecessary impediment.

REFORMING EMERGENCY PROCUREMENT TO PROTECT AGAINST CORRUPT DECISION-MAKING WHILE ENSURING SWIFT AND UNENCUMBERED PROCUREMENT

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1 Introduction

The South African government's response to the COVID-19 pandemic provides unfortunate evidence of a heightened risk of corruption during emergency procurement. The Auditor-General's *Citizens' Report on the Financial Management of Government's COVID-19 Initiatives*¹ noted that the South African government's response to the COVID-19 pandemic was marred by severe deficiencies in its financial management.² In particular, it was noted that the need to respond swiftly to the pandemic and secure the timely procurement of much-needed goods and services ultimately heightened the risk of the loss of public funds through fraudulent behaviour.³

Corruption in procurement involves an improper exercise of a procuring official's discretion.⁴ The South African public procurement framework makes it clear that during emergency situations, the government can deviate from its usual and more rigid procurement procedures in favour of a more flexible approach. Emergency procurement ultimately vests a larger amount of discretion in procuring officials than is usually the case to enable the swifter procurement of goods and services required within a specific emergency.⁵ It thus appears more likely that where a procuring official

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¹ Auditor-General 2020:10.

² 10.

³ 13.

⁴ Williams-Elegbe 2013:346.

⁵ Para 3.4.3 of the Practice Note 2007/2008 and reg 16A6.4 of the Public Finance Management Act (PFMA): Treasury Regulations for Departments, Trading Entities, Constitutional Institutions and Public

is granted greater discretion in the procurement process, a greater opportunity to engage in fraudulent and corrupt procurement arises.

In this article I will seek to address how the need for swift and flexible procurement strategies during an emergency can be reconciled with the need to build sufficient safeguards against corrupt decision-making into the procurement process. I will focus on how best to balance these considerations in emergency procurement with a view towards recommending how to amend the emergency procurement framework in the South African context. The focus of this article will be on emergency procurement once an emergency has already arisen. Recommendations pertaining to improving the government's pre-emptive procurement capacity regarding emergencies will not be discussed as such improvements would only be effective insofar as emergencies are predictable, which is not always the case.

2 Procedures to be followed in public procurement

The constitutional empowering provision for public procurement, section 217 of the Constitution of the Republic of South Africa, 1996 (Constitution), does not provide for a specific procurement method to be followed by the government. However, legislation and regulations have subsequently prescribed specific procedures that government must follow when seeking to procure goods or services.⁶ It is therefore incumbent on procuring government entities to comply with the specific procedures set out within the relevant legislation and its accompanying regulations when procuring goods and services. Deviation from these procedures would render the procuring official's actions unlawful.

Section 74(4)(c) of the Public Finance Management Act 1 of 1999 (PFMA) directs the National Treasury to determine an appropriate framework within which national and provincial government can procure goods and services. Section 168 of the Local Government: Municipal Finance Management Act 56 of 2013 (MFMA) also directs the

Entities of 2005 GN R225 in GG 27388 of 15-03-2005 (PFMA NT Regulations 2005), along with reg 36(2) of the Municipal Supply Chain Management Regulations of 2005 GN 868 in GG 27636 of 30-05-2005 (MSCM Regulations 2005) allow procurement officials to deviate from ordinary procurement methods, vesting in them greater discretion.

⁶ Bolton 2013:195.

Minister of Finance to develop an appropriate framework for local government's procurement of goods and services. The National Treasury Practice Note No. 8 of 2007/2008 (Practice Note 2007/2008) sets out the various procurement processes that need to be followed by accounting officers or authorities in government based on the intended transaction's value.⁷ Regulation 12(1) of the MFMA: Municipal Supply Chain Management Regulations of 2005 (MSCM Regulations 2005) provides for the various procurement processes to be followed on a local level based again on the intended transaction's value.

On a national, provincial and local level procuring officials are expected to procure goods and services utilising either a petty cash process; inviting verbal or written quotations; or a competitive bidding process.⁸ Compliance with these prescribed procurement procedures is often time-consuming.⁹ Therefore, allowance is made for procuring officials to deviate from the prescribed methods of procurement during emergencies where time is often of the essence in securing the procurement of goods and services in response to a specific emergency.¹⁰

During emergencies, the procuring official at a national or provincial level is empowered to deviate from the requirement of a competitive bidding process.¹¹ They must, however, record their reasons for deviating from the competitive procedure for approval by an accounting officer or authority and report all cases where they procured goods or services above the value of R1 million to the relevant treasury and Auditor-General within ten working days of such procurement. The same deviation is allowed in the context of local government. However, procuring officials must merely record and report their reasons for deviations and are not required to make a disclosure to the relevant treasury and Auditor-General if a purchase above a particular amount is made.¹²

⁷ Para 3 of the Practice Note 2007/2008.

⁸ Para 3 of the Practice Note 2007/2008 and reg 12(1) of the MSCM Regulations 2005.

⁹ Engelbert 2016:63.

¹⁰ Para 3.4.3 of the Practice Note 2007/2008 and reg 36(1)(a)(i) of the MSCM Regulations 2005.

¹¹ Para 3.4.3 of the Practice Note 2007/2008 and reg 16A6.4 of the PFMA NT Regulations 2005.

¹² Reg 36(2) of the MSCM Regulations 2005.

3 Competing interests present during emergency procurement

Section 217 of the Constitution makes it clear that there are a number of considerations at play during public procurement. A public procurement system must balance a need for fairness, transparency, equality, competition, and value for money.¹³ These principles embody further aims or objectives that must be considered during procurement such as the prevention of corruption and providing redress for past discrimination.¹⁴

Within the context of emergency public procurement, additional considerations emerge. For example, there is the objective of securing speedy access to whatever goods and services are required. This is evident in the regulatory system's allowance for deviation from competitive procurement processes during such emergencies, given the time-consuming nature of procurement processes under ordinary circumstances.¹⁵ However, there is still a need to ensure sufficient control in how government funds are spent during emergencies as evident in the reporting structures set out in the regulatory frameworks that regulate emergency procurement. This can be linked to the need to combat corruption in public procurement to ensure that public funds are well spent. Ensuring that emergency procurement is not tainted by corruption and fraud is also a way in which value for money and competition can be ensured in the procurement process. This also helps to ensure that the right kind of goods and services of a suitable quality are procured, as are required during a particular emergency.

The emergency deviation provisions allow for an increase in the amount of discretion afforded to a procuring official when it comes to selecting from whom goods and services will be procured. Without the need to follow a competitive bidding process which prescribes the criteria to be utilised when determining who the successful provider of goods and services will be, procuring officials have greater freedom in

¹³ Bolton 213:179-180.

¹⁴ 179-180.

¹⁵ Engelbert 2016:63.

selecting who to procure from. This may make it easier for procuring officials to select a provider to contract with due to corrupt or fraudulent influences.

Some authors have argued that limiting a procuring official's discretion through the imposition of bureaucratic limitations on their discretionary powers aids in the occurrence of corruption in public procurement.¹⁶ However, this viewpoint is unsustainable when one views corruption as the:

“[improper] exercise of [a procuring officer's] discretion”.¹⁷

This understanding of corruption makes it clear that when granting a public official greater unregulated discretion, the opportunity for corrupt decision-making increases as they are afforded a greater opportunity to exercise their power in an improper fashion.¹⁸

There is a need to strike a balance between granting procuring officials freedom from constricting regulations in order to secure speedy procurement and ensuring sufficient regulation of the exercise of their discretion to prevent the improper exercise thereof. The relevant procurement regulations appear to already be doing so to a limited degree. The National Treasury Supply Chain Management Instruction Note 3 of 2016/2017 (Instruction Note 2016/2017) provides a definition of an emergency that can justify deviating from the prescribed procurement procedures.¹⁹ As such, the amount of discretion afforded to a procuring officer regarding when to deviate from standard procurement procedures is limited as they can only do so in a situation that meets the definition provided. However, the discretion afforded to an officer regarding how to deviate from standard procurement procedure is not limited by any regulations or instructions as of yet.

One could argue that there is further protection against corrupt procurement built into the emergency procurement framework in two ways. Firstly, the requirement of

¹⁶ See the arguments presented in Masiloane & Dintwe 2014:192-193 and Engelbert 2016:62.

¹⁷ Williams-Elegbe 2013:346.

¹⁸ See the argument presented in Williams-Elegbe 2013:345; the argument presented in Engelbert 2016:61 regarding excessive discretionary power and the consequences thereof for corruption in procurement; the argument regarding officials' discretionary authority in Søreide 2002:13 & 27; the argument in Bolton 2006:14; and the argument in Mathiba 2020: 647, which all support this view.

¹⁹ Para 8.2 of the Instruction Note 2016/2017.

recording and reporting of deviations can be seen to provide a level of supervision in the exercise of a public official's discretion. Secondly, the procurement of goods and services can still be challenged using judicial review should it be irregular. However, I would argue that neither of these measures are sufficient to demonstrate an adequate balancing of the discussed objectives in the procurement process itself.

Firstly, they both operate retrospectively. This means that they do little to prevent corrupt procurement and rather serve to deal with the consequences of corrupt procurement. Secondly, the reporting requirement only provides oversight over the choice to deviate from normal procurement procedures and does not provide for oversight of how such deviation takes place. Thirdly, an administrative review of procurement during emergencies is made slightly more complicated should an applicant seek to review it on the grounds of unlawfulness. This is because without a clear indication in legislation or regulations of what lawful procurement during emergencies looks like, it is harder to establish that the relevant standards were not met thus rendering the impugned procurement unlawful.

Given the inadequacies of these two mechanisms in the proactive prevention of corrupt procurement, it appears to be that in seeking to ensure that the objective of timely public procurement in emergencies is realised, the government has sought to disregard an anti-corruption objective almost entirely. There is a very clear need to ensure that, even during emergencies, sufficient protection against the improper exercise of a procuring official's discretion is built into the relevant procurement framework. The consequences of corrupt procurement are devastating. Corrupt procurement often increases public expenditure while simultaneously decreasing the public benefit from such expenditure²⁰ resulting in undermining the realisation of the important objective of best value for money in public procurement.²¹ During emergencies, the goods and services procured would be necessary in seeking to combat the emergency in question or alleviate its effects. In this situation, wasted costs caused by corrupt procurement could limit the value or amount of goods or services procured. This could have potentially more devastating consequences than under

²⁰ Williams-Elegbe 2013:342.

²¹ Bolton 2006:2.

normal circumstances should it aggravate the consequences of the specific emergency in question.

4 Mechanisms to protect against corruption in emergency procurement

There are numerous ways through which an anti-corruption objective can be secured in emergency procurement to ensure a true balancing of objectives in emergency procurement.

4.1 *Limiting the scope of discretion afforded to procuring officials*

A potential starting point for limiting the risk of the corrupt abuse of procuring officials' discretion during emergency procurement is to simply reduce the scope of their discretion. Engelbert argues that because of the broad discretion afforded to procuring officials to deviate from prescribed procurement methods during emergencies, emergency procurement should be regulated to some extent by providing a clear definition of the applicable procedures that officials can deviate to.²² The fettering of the government's power to procure through the use of legislation and regulations is not something that requires a large amount of further justification in and of itself. The very nature of the government's power to procure is statutory, meaning that it is sourced from the provisions of statute.²³ To fetter this power through the use of regulations that speak to how emergency procurement specifically must be conducted would appear easily permissible. However, an anti-corruption objective must be balanced against the need not to unduly constrain a procuring entity with the unnecessary fettering of their discretionary powers.²⁴ Great care would have to be taken in how such regulations are drafted to make sure that some discretion remains to ensure an element of flexibility is still afforded to a procuring official.

While not in a public procurement context, the Constitutional Court has already expressed the need to ensure that public officials are provided with sufficient guidance

²² Engelbert 2016:149.

²³ See the discussion of the nature of the government's power to procure in Ferreira 2011:174 and the Constitutional Court's confirmation thereof in *Steenkamp NO v Provincial Tender Board of the Eastern Cape* 2007 (3) SA 121 (CC) paras 33-34 in the context of public procurement.

²⁴ See the argument in Bolton 2004:91 and Burns 1998:248.

when it comes to exercising the discretion afforded to them by legislation. In *Dawood and Another v Minister of Home Affairs (Dawood)*,²⁵ O'Regan J pointed out that it is insufficient to leave government officials to exercise their discretion when all that they are left with to guide that exercise of discretion are broad constitutional values or the values highlighted within a specific piece of legislation.²⁶ There is a need to ensure that legislation is drafted in such a way so as to guard against the unconstitutional exercise of discretion by officials. This should be done by ensuring that sufficient guidance is provided to them regarding the exercise of their discretion.²⁷ Providing guidance through regulations outlining how emergency procurement can be conducted provides procuring officials with the kind of guidance O'Regan concluded was necessary in *Dawood*.

Bolton has noted that although emergency procurement authorises deviation from prescribed procurement methods, it is still important for procuring officials to comply generally with the procurement principles outlined in section 217 of the Constitution.²⁸ While this observation is true, it is important to note that in light of the reasoning in *Dawood*, the constitutional values outlined in section 217 alone do little to meaningfully guide officials without further substantiation in legislation or regulations. How these values are to apply in a procurement context during emergencies needs to be fleshed out further in order to be of practical use.

There was already some use of guidelines for public procurement during the COVID-19 pandemic in South Africa. The National Treasury issued their Instruction Note 5 of 2020/2021 (Instruction Note 2020/2021) to provide clarity on the emergency procurement of personal protective equipment (PPE) during the pandemic. It set out certain specifications for the procurement of PPE, as well as the maximum prices at which government could purchase such PPE.²⁹ In addition, it provided that should a procuring official approach a supplier to procure PPE, that supplier must be registered on the National Treasury's Central Supplier Database (CSD).³⁰ Guidelines such as

²⁵ 2000 (3) SA 936 (CC).

²⁶ Para 46.

²⁷ Para 48.

²⁸ Bolton 2006:21.

²⁹ Para 4 and as detailed in Annexures A and B attached to the Instruction Note 2020/2021.

³⁰ Para 4.6.

these sought to ensure that whatever may be procured by the government during the pandemic would be adequate for its required purpose and is comparable to the bid specifications used in competitive procurement procedures. In this way, discretion is fettered to ensure that the right kind of goods are procured. These types of guidelines have the potential to strike a balance between fettering discretion to help prevent corruption and ensuring that procuring officials are left with sufficient discretion to swiftly procure goods and services. Fettering discretion with regards to the product to be procured manages to preserve discretion with regards to how such procurement takes place.

Guidelines could alternatively also be aimed at providing some guidance on what procedures should be followed during emergency procurement. Guidelines could also ensure that the process followed incorporates some elements of competition to help guard against corruption such as requiring the procuring official to obtain some quotes prior to selecting with whom they will contract with at the least. Alternatively, they could be aimed at ensuring that the party who will supply the goods or service is well-regarded by the government and thus could require the procuring official to procure with suppliers listed on the CSD as was done in Instruction Note 2020/2021.

This solution is not without fault, particularly in respect of guidelines that aim to delineate how procurement should take place. Firstly, because emergencies are for the most part unpredictable, it is possible that what may be needed by government is something that could only be provided from suppliers who are not on the CSD. Secondly, guidelines are not law and are not necessarily binding on procuring officials and can thus easily be disregarded. Finally, ensuring that sufficient flexibility for swift procurement is retained despite regulation through guidelines may prove difficult as guidelines seemingly re-introduce time-consuming procurement processes.

Despite the apparent inadequacies of safeguarding against corruption through the imposition of regulations, the 2020 Draft Public Procurement Bill (the Bill) makes provision for the ministerial control of emergency procurement through regulations. Section 121(1)(u) empowers the Minister of Finance to make a variety of regulations pertaining to how emergency procurement ought to be carried out, particularly

regarding preferred methods of procurement³¹ and the processes to be followed during emergency procurement.³² An alternative under the Bill could be to rely on the provisions in section 6 that allow the Public Procurement Regulator to declare certain procurement practices to be undesirable to fetter the discretion of procurement officials during emergencies. Declaring certain procurement practices during an emergency to be undesirable ensures that certain conduct in procurement will not take place while still ensuring procurement officials retain some discretion regarding how they undertake procurement.

4.2 Increasing oversight

Another potential way to ensure that there are some anti-corruption mechanisms build into emergency procurement is to provide for increased oversight regarding the outcome of an emergency procurement process. An official above the accounting officer or authority responsible for carrying out emergency procurement could be required to authorise either the choice of supplier or the terms of the contract proposed by the procuring official to try and guard against an improper exercise of that official's discretion.

Increased supervision through approval requirements has been recognised by several authors as a mechanism that can aid against corruption in public procurement generally.³³ Approval is something that can be obtained quickly, and it would therefore not be excessively time-consuming. Another positive of using approval is that it affords the procuring official broad discretion regarding how they conduct the procurement process to enable a speedy response to the emergency as it merely focuses on the outcome of the procurement process. In this way, the flexibility required to ensure a procurement process that is adequate in light of the particularities of an emergency situation is preserved.

³¹ S 121(1)(u)(iv) the 2020 Draft Public Procurement Bill (the Bill).

³² S 121(1)(u)(v).

³³ See the argument for the use of increased supervision of public officials in Williams-Elegbe 2013:351; the argument for active oversight in Mathiba 2020:658; the argument for an increased role for procurement oversight institutions in Williams-Elegbe 2018:11; and the argument in Søreide 2002:36 for following up emergency procurement with an evaluation team.

Requiring oversight prior to the conclusion of a procurement contract also ensures that such oversight is not retrospective and thus is able to prevent the conclusion of a corrupt contract. Should the supervisory official detect any corruption; they are able to prevent the procuring official from contracting with the official's selected supplier. This ultimately improves on the system of retrospective reporting discussed previously.

4.3 *Centralised procurement*

A final potential mechanism to utilise in emergency procurement to help better balance the need for swift procurement with the need to ensure the absence of corruption in public procurement is to utilise a form of centralised procurement during emergencies. South Africa's public procurement system is ultimately a decentralised one with each organ of state utilising its own supply management policies to procure goods and services.³⁴ This is also reflected in the general terms utilised in South Africa's procurement legislation's prescription of the relevant procurement frameworks that the different levels of government must comply with.

The decentralised nature of public procurement in South Africa does not, however, mean that South Africa lacks a suitable entity that could carry out centralised public procurement on behalf of all organs of state. The National Treasury is, for example, tasked with managing the public procurement of goods and services by all organs of state.³⁵ It even contains a Specialist Functions Division which is tasked with drafting and issuing public procurement guidelines through the creation of various policy documents.³⁶ The National Treasury is therefore staffed with individuals who have significant experience in creating effective procurement policies as they are the ones ultimately responsible for overseeing the procurement policies of others.

The National Treasury could be utilised to procure all goods and services required by the government during emergencies, as opposed to individual organs of state. The use of the National Treasury to procure goods and services on behalf of other organs of state is not an unheard-of phenomenon and is already provided for in the PFMA: Treasury Regulations for Departments, Trading Entities, Constitutional Institutions and

³⁴ Bolton 2013:181.

³⁵ 182.

³⁶ 182.

Public Entities of 2005 (PFMA NT Regulations 2005). Regulation 16A6.5 authorises organs of state to enter into what it calls a “transversal term contract” where the treasury relevant to that organ of state procures goods and services on behalf of that organ of state.

There are a number of benefits to this approach. Firstly, it preserves the flexibility required to ensure a swift procurement of goods and services in emergencies as the National Treasury can utilise their discretion in how they deviate from the established procurement procedures. Secondly, if the procuring official is removed from the environment that goods and services will be supplied to, it is less likely that that official will be susceptible to corruption emulating from the area where goods will be supplied. Phrased differently, there are fewer points of entry into the procurement process for corruption where the process is carried out by a singular person. Thirdly, where one official or office is responsible for procurement, it is easier to oversee that person as opposed to where multiple officials are responsible for procurement. In the latter case it may be harder to ensure sufficient oversight in a timely manner and officials may be more inclined to merely rubber stamp the procurement arrangements they are presented with and not engage with the particularities of each arrangement given the multitude of procurements they must oversee. Finally, centralising procurement during emergencies may make it easier to attempt to provide procuring officials with access to information held across government which may be helpful in emergency procurement. As was noted by the Auditor-General, different government departments acting in isolation from one another meant information held by one department was not made available to other departments which could have aided in the successful implementation of relief policies during the COVID-19 pandemic.³⁷ Centralising procurement within one government department makes the task of information sharing between different government departments easier as information only needs to be fed back to one entity. This approach has the potential to ensure the inefficiencies in procurement and the provision of goods and services is reduced by making it easier to reduce the effect of governmental departments acting in isolation.

³⁷ Auditor-General 2020:11.

There is the danger that it is potentially easier to exert corrupt influence over one official as opposed to many officials. However, this risk can be sufficiently avoided if effective and active oversight mechanisms are built into the centralised procurement process. To this end, the provisions surrounding transversal procurement in the Bill seemingly provides such a solution. Sections 43(1) and (2) of the Bill authorises the National Treasury and provincial treasuries to negotiate transversal contracts, subject to the approval of the Public Procurement Regulator. According to section 43(3)(a), the procurement process adopted by the National Treasury must be approved by the Public Procurement Regulator. The process regarding transversal contracts provided for in the Bill does not in its current form, however, lend itself towards the kind of swift procurement that is required in emergency situations. The process requires the appointment of representatives from affected institutions to procurement committees within the Public Procurement Regulator³⁸ and significant foresight in the procurement process as the relevant treasuries are required to submit a list of goods, services, and infrastructure to be procured through transversal contracts over the course of the next financial year to the institution participating in the contract.³⁹ Knowledge of which institutions may be effected by emergency procurement and what goods, services, and infrastructure may be required to address an emergency situation is most likely not available with much predictability beforehand. To better facilitate centralised procurement during emergencies, it is recommended that section 43 of the Bill be altered to provide more specifically for a shorter-term procurement process to be made available during emergencies. It is preferable that such accommodation comes pre-emptively from the provisions of section 43 itself as opposed to being left to the Minister of Finance to determine under section 121 as the need arises. Requiring that regulations first be published when an emergency occurs before transversal procurement takes place increases the amount of time it would take for emergency procurement to reach fruition.

³⁸ S 43(4) of the Bill.

³⁹ S 43(6).

5 Conclusion

It is clear from an analysis of the procurement regime relevant to emergency procurement that little is done to balance the need to ensure efficient procurement with the need to protect against corrupt influences in the procurement process. Admittedly, it would be difficult to ensure an adequate balancing of these two objectives which allows for both to be given effect to. Ensuring the swift procurement of goods and services required in an emergency situation seems antithetical to ensuring compliance with time-consuming safeguards within the procurement process aimed at protecting against corruption. I would argue that it is not, however, impossible to balance these two objectives through introducing specific oversight mechanisms during emergency procurement that are crafted in such a way as to ensure their swift execution.

Attempting to limit the discretion of procuring officials is seemingly the least likely to be effective. Because emergencies entail a level of unpredictability, it is difficult to determine what kinds of procurement methods would be suitable within a specific emergency. This means that any kind of guidelines that are to be developed to guide the procurement method selected by a procuring official would have to maintain a level of generality that still leaves the procuring official with a large amount of discretion in selecting which method to utilise. Furthermore, corruption exhibits at its core a willingness for officials to disregard the rules relevant to their behaviour. Increasing the number of rules for them to disregard does little to effectively solve the problem.

Utilising active oversight through approval requirements appears to be a more suitable solution. It would require a quick turnaround when it comes to obtaining authorisation if it is to aid in ensuring efficient procurement in emergencies. The need for a quick turnaround, however, increases the likelihood of the supervising official merely rubberstamping a procurement outcome without adequately engaging with its contents to ensure it is not tainted by corruption or fraud. This shortcoming could be remedied if active oversight is utilised alongside centralised transversal contracts in emergencies.

The use of transversal contracts centralising emergency procurement under the National Treasury could further both of the objectives discussed. Drawing from the procurement experience of the National Treasury enables a procurement process that

can provide both greater efficiency and greater protection against corruption. It is also easier to ensure swift and adequate oversight where fewer contracts exist to be overseen. Ultimately this would appear to be the best method through which an anti-corrupt objective can be introduced into emergency procurement. The new Bill seems to provide the potential for such a dual approach to emergency procurement through its endorsement of centralised procurement through transversal contracts subject to approval from the Public Procurement Regulator. However, the Bill in its current form needs further amendments to allow for the applicability of centralised procurement in an emergency context.

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