



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

TO ALL: ACCOUNTING OFFICERS OF DEPARTMENTS
: ACCOUNTING OFFICERS OF CONSTITUTIONAL INSTITUTIONS
: ACCOUNTING AUTHORITIES OF SCHEDULE 2 AND 3 PUBLIC ENTITIES
: HEAD OFFICIALS OF PROVINCIAL TREASURIES

NATIONAL TREASURY INSTRUCTION NO. 11 OF 2020/21: PROCUREMENT IN RESPONSE TO NATIONAL STATE OF DISASTER REGARDING COVID-19 PANDEMIC AND REPEAL OF INSTRUCTION NO. 5 OF 2020/2021

1. PURPOSE

The purpose of the instruction is to-

- (a) inform institutions of the repeal of Instruction No. 5 of 2020/21 and that they must comply with existing procurement procedures;
- (b) prescribe the maximum prices for the identified PPE items, including fabric masks to reflect realistic current market prices; and
- (c) prescribe the conditions with which service providers must comply in order to provide PPE items and fabric masks to institutions.

2. BACKGROUND

- 2.1 Instruction No. 5 of 2020/2021 (as amended on 20 May 2020 and 3 July 2020) prescribe general and specific instructions on emergency procurement for COVID-19 PPE items, cloth masks as well as goods, works or services to prevent an escalation of the national state of disaster, declared on 15 March 2020 (the Disaster) or to alleviate, contain or minimise the effects of the Disaster.
- 2.2 Instruction No. 5 of 2020/21 provides that the Instruction will be in effect until the Disaster lapses or terminates or until the Instruction is withdrawn.
- 2.3 On 5 August 2020, at the meeting of the Standing and Select Committees on Finance, National Treasury briefed the Committee on the procurement of PPE during the COVID-19 pandemic and highlighted some shortcomings in the transparency of PPE procurement information. A similar briefing was done for MECs of Finance on 6 August 2020.
- 2.4 Consensus was reached that institutions must revert to normal procurement procedures for all goods, services and works (including the procurement of PPE items and fabric masks). A further call was made for National Treasury to issue reporting guidelines to

NATIONAL TREASURY INSTRUCTION NO. 11 OF 2020/2021
Procurement in response to National State of Disaster

institutions to improve the monitoring and transparency of COVID-19 related procurement data and publish such information on their relevant websites and the National Treasury website.

3. PROCUREMENT INSTRUCTIONS

- 3.1 From the effective date of this Instruction, procurement of all goods, services and works, must be conducted in accordance with existing procurement procedures in terms of the Public Finance Management Act, 1999, its regulations and instructions made thereunder, the Preferential Procurement Policy Framework Act, 2000 and regulations made thereunder as well as institutional supply chain management policies.
- 3.2 The procurement of PPE items, fabric masks, goods, works or services to prevent an escalation of the Disaster or to alleviate, contain or minimise the effects of the Disaster is no longer ***automatically regarded as emergency procurement*** as provided for Instruction No. 05 of 2020/21, as amended. Refer to paragraph 8 of this Instruction that repeals Instruction No. 05 of 2020/21.
- 3.3 Notwithstanding paragraph 3.2, cognizance must be taken that Treasury Regulation 16A6.4 may be applied where necessary.
- 3.4 The procurement referred to in paragraph 3.1, as far as it relates to PPE items and fabric masks, must comply with the following conditions in RFQs and RFBs —
- (a) The items must comply with the item specifications of National Department of Health, World Health Organisation and the Department of Trade, Industry and Competition (dtic) (**Annexure B** – for Fabric Masks);
 - (b) the **prices** must be equal or lower than the prices in **Annexure A**;
 - (c) the service providers must be registered on the Central Supplier Database;
 - (d) the items must meet the stipulated minimum threshold for designated local content and production as required by the Preferential Procurement Regulations, 2017 (PPR 2017) (Refer to **Annexure C1** for PPE Commodities requiring adherence to the Local Content & Production Thresholds); the designated local content requirements must be adhered to – deviation will only be allowed when and if the request for exemption is approved by the dtic;
 - (e) for products that are not yet designated, provisions of regulation 8.4 of the PPR 2017 must be utilised and the items must meet the recommended minimum threshold for content and production as per **Annexure C2**; and
 - (f) evaluation of RFQs/Bids, as far as it relates to paragraphs 3.4(d) and (e) above, to comply with—
 - (i) the Designated Sector Instruction issued on 16 July 2012; or
 - (ii) Circular 11 of 2019/2020 (Standard for Implementation of Regulation 8.4 of PPR 2017) issued on 19 December 2019.

**NATIONAL TREASURY INSTRUCTION NO. 11 OF 2020/2021
Procurement in response to National State of Disaster**

- 3.5 Institutions are encouraged to use prequalification criteria for preferential procurement to advance service providers in terms of the PPR 2017.
- 3.6 RFQs and RFBs may be issued to service providers listed in **Annexures D1 to D3** for supplies on condition that these service providers comply with paragraph 3.4.
- 3.7 Prices listed in **Annexure A** may be updated from time to time. The accounting officer/ authority must ensure that the price annexure applicable at the time of evaluation is used for reference purposes when evaluating price quotations and bids.
- 3.8 **Annexures D1 to D3** may be updated from time to time.
- 3.9 Institutions must as far as possible negotiate prices with bidders and where prices still exceed the prices provided in **Annexure A** the necessary approvals must be obtained from the accounting officer or accounting authority or delegated person with justifiable reasons and confirmation that the prices are market related.

4. EXISTING CONTRACTS AND ORDERS

- 4.1 Contracts and orders concluded under the provisions of Instruction No. 5 of 2020/2021 must be honoured until the expiry and conclusion thereof. These contracts and orders must not be extended or varied in any way.

5. USE OF TRANSVERSAL CONTRACTS

- 5.1 The institutions that participate in transversal contracts may continue placing orders with the contracted service providers under the transversal contracts for all PPE items listed under **Annexure A**.
- 5.2 Should the institutions opt not to procure in accordance with paragraph 4.1 above, the conditions of paragraph 3 must be followed.
- 5.3 Institutions that are not participating in transversal contracts may opt to use transversal contracts suppliers for PPE items listed under **Annexure A** without obtaining approval for participation.
- 5.4 The transversal contract suppliers' prices will default to **Annexure A** prices.

6. REPORTING REQUIREMENT

- 6.1 All institutions are required to report procurement transactions for the periods indicated in **Table 1** by the deadlines provided. All procurement transactions related to the emergency procurement for COVID-19 PPE items, fabric masks as well as other goods, works or services that were procured to prevent an escalation of the national state of disaster, declared on 15 March 2020 (the Disaster) or to alleviate, contain or minimise

**NATIONAL TREASURY INSTRUCTION NO. 11 OF 2020/2021
Procurement in response to National State of Disaster**

the effects of the Disaster, **must** be reported. This includes, inter alia, expenditure for quarantine and isolation services, humanitarian relief, etc.

TABLE 1:

Reporting Period:	Deadline of submission:	Report to be published by NT in public domain
April 2020 - August 2020	21 September 2020	30 September 2020
September 2020	21 October 2020	31 October 2020
October 2020	21 November 2020	30 November 2020
November 2020	21 December 2020	10 January 2021
December 2020	21 January 2021	31 January 2021
January 2021	21 February 2021	28 February 2021
February 2021	21 March 2021	31 March 2021
March 2021	21 April 2021	30 April 2021

- 6.2 Institutions must use the Excel Template (**Annexure E**) provided and either manually capture the information on the spreadsheet or extract the relevant information from the institution's order and payment systems into the format of the template. **No changes to the template will be accepted.**
- 6.3 National Treasury will automate the process of reading the data from the submitted spreadsheets and consolidate these into one database to enable analysis and reporting. The submitted data will be linked to the CSD and compared against BAS and LOGIS records where applicable. The reports will be published monthly in the public domain. It is therefore important that accounting officers and accounting authorities ensure that the information provided to the National Treasury is credible and auditable.
- 6.4 **National Departments** must ensure that the public entities listed in Schedules 2 and 3A to the Public Finance Management Act, 1999 under their executive authority report on the expenditure. The public entities must report independently as they have their own accounting authorities.
- 6.5 **Provincial Treasuries** must ensure that all provincial departments and public entities in the relevant provinces report to the Provincial Treasury. The Provincial Treasuries must ensure that all reports are collected and emailed to the National Treasury.
- 6.6 The reports to be submitted to the National Treasury by email to ocpocovid-19reporting@treasury.gov.za by the submission deadlines provided in Table 1.

NATIONAL TREASURY INSTRUCTION NO. 11 OF 2020/2021
Procurement in response to National State of Disaster

- 6.7 With reference to paragraph 3.4 (the local content declaration documents, SBD 6.2 together with associated annexures (Annex C, D and E) must be forwarded to the dtic (CMatidza@thedti.gov.za).

7. APPLICABILITY

This Instruction applies to all national and provincial departments, constitutional institutions and public entities listed in Schedules 2 and 3 to the Public Finance Management Act, 1999.

8. EFFECTIVE DATE

This Instruction takes effect on 1 September 2020.

9. REPEAL OF NATIONAL TREASURY INSTRUCTION NO. 05 OF 2020/21

National Treasury Instruction No. 05 of 2020/2021: Emergency procurement in response to National State of Disaster, and all amendments to the Instruction, are hereby repealed.

10. DISSEMINATION OF INFORMATION CONTAINED IN INSTRUCTION

- 10.1 Heads of provincial treasuries are requested to bring the contents of this Instruction to the attention of accounting officers and supply chain management officials of their respective provincial departments.

- 10.2 Accounting officers of national and provincial departments are requested to bring the contents of this Instruction to the attention of accounting authorities and the supply chain management officials of Schedule 3A and 3C public entities reporting to their respective executive authorities.

- 10.3 Accounting authorities of Schedule 2, 3B and 3D public entities are requested to bring the contents of this Instruction to the attention of the supply chain management officials of their public entities.

11. NOTIFICATION TO THE AUDITOR-GENERAL

A copy of this Instruction will be submitted to the Auditor-General for notification.

NATIONAL TREASURY INSTRUCTION NO. 11 OF 2020/2021
Procurement in response to National State of Disaster

12. AUTHORITY FOR THIS INSTRUCTION

- 12.1 This Instruction is issued in terms of section 76(4)(c) and (g) of the Public Finance Management Act, 1999.
- 12.2 This Instruction will be in effect until the national state of disaster, declared on 15 March 2020, lapses or terminates or until this Instruction is repealed.

13. CONTACT INFORMATION

Any enquiries in respect of this instruction must be submitted to:
Estelle Setan
Acting Chief Procurement Officer
Email: cpo@treasury.gov.za

Any enquiries in respect of the reporting template and data extraction advice must be submitted to:
Tumelo Ntlaba
Acting Chief Director: SCM ICT
Email: tumelo.ntlaba@treasury.gov.za



DONDO MOGAJANE
DIRECTOR-GENERAL
DATE: 25 August 2020

- Annexure A:** Prices as from 1 September 2020 (unchanged)
- Annexure B:** Recommended Guidelines – updated. Fabric Face Masks Manufactured by South Africa’s Clothing and Textile Manufacturing Industry for General Public Use.
- Annexure C1:** PPE Commodities Requiring adherence to the Local Content & Production Thresholds.
- Annexure C2:** Non-designated products - minimum threshold for content and production
- Annexure D1:** RT64 Transversal Contract List
- Annexure D2:** Department of Small Business Development Supplier’s List
- Annexure D3:** National Bargaining Council for the Clothing Industry Supplier’s List
- Annexure E:** Reporting Template