



Procuring during an emergency

Queensland Government Procurement

July 2021

This document will be progressively reviewed as part of Buy Queensland 2023 implementation.



**Queensland
Government**

Procuring during an emergency

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Important note

This document is intended as a guide only and supersedes the *Procuring during the COVID-19 emergency* guide. This guide is intended to supplement, and not supersede, the Queensland Procurement Policy, related guides, and agency procurement policies and procedures. It should be read in conjunction with whole-of-government and agency disaster/emergency management and/or business continuity plans.

Contact us

Queensland Government Procurement is committed to continuous improvement. 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.

Disclaimer

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Context

Queensland is subject to natural disasters and other emergencies, including for example, pandemics like COVID-19. Declarations of a disaster situation can be made by district, or state-wide, and exist for varying periods of time.

Importantly, Queensland Government agencies need to be equipped to quickly respond to emergencies, with supporting guidance on how to appropriately procure to ensure communities in need receive critical, fit-for-purpose supplies and/or services as soon as possible, while observing expected standards of value for money, probity and accountability.

Purpose

The purpose of this guide is to enable Queensland Government buyers ('buyers') to procure goods and services that meet community and business needs:

- in the current COVID-19 environment, and for future emergencies
- in line with the *Buy Queensland* approach.

This guide has been structured in the following sections, and includes references to other publications (e.g. [Procurement Advisory Notices \(PANs\)](#)) that provide additional detail:

- emergency response categories
- objectives of Queensland Government procurement in an emergency
- practical guidance for buyers to manage procurement activities in line with the objectives.

What agencies should do next

Agencies are invited to adopt this guide for use in their agencies as is, or use it to build or complement their own emergency procurement policies and procedures. Responding to an emergency situation includes balancing responsiveness against risk, which may sometimes necessitate departures from standard agency procurement procedures in specified circumstances.

Agency procurement functions should ensure their respective emergency procurement policies procurement procedures are urgently distributed to all buyers, procurement decision-makers and delegates.

Emergency response categories

There are three main types of emergency response – immediate response, sustained emergency relief and recovery response – categorised according to risk level.

A summary of each emergency response category is outlined in **Table 1** below.

Table 1: Emergency response categories - summary

Emergency response category	Brief description
Category 1 – Immediate response	Rapid, reactive response to provide immediate relief to critical events that have a direct impact on life or public safety (e.g. medical supplies, food security)
Category 2 – Sustained emergency relief	Response to urgently sustain state infrastructure or core services, however the environment is characterised by a lack of imminent risk to human life, significant environments or infrastructure
Category 3 – Recovery response	Response when the emergency situation has been contained and activities are returning to a normal procurement process

In the current procurement environment of a global pandemic, there may still be instances where an immediate response is required to address outbreaks, but generally a more sustained emergency relief environment is present.

For further information on emergency response categories, and a quick reference buyer checklist, please refer to **Appendices 1 and 2**.

Objectives of Queensland Government procurement in an emergency

The [Queensland Procurement Policy \(QPP\)](#) is the government's overarching framework for conducting procurement. Procurement decision-making in an emergency should be guided by the following objectives:

1. Preserve life, safety and wellbeing
2. Support critical suppliers, local and regional businesses and manufacturers
3. Support Queensland small and medium enterprises (SMEs), Aboriginal and Torres Strait Islander businesses, social enterprises and innovative proposals
4. Observe principles of integrity, probity and accountability
5. Continue 'business as usual' procurement.

Guidance about the objectives

During an emergency, there are a number of options for buyers to advance the abovementioned five procurement objectives, which provide a rapid and appropriate emergency response to the need for procuring essential goods and services.

Important

*The **Buy Queensland** approach to procurement remains applicable for all categories of emergency response procurement activities. This means buyers should ensure their procurement activities support Queensland jobs and businesses wherever possible.*

Any decisions made during an emergency response (including the factors considered in making these decisions) need to be clearly documented and appropriately authorised.

1. Preserve life, safety and wellbeing

1.1 Accelerated procurement

Where traditional procurement processes will prevent on-time delivery to meet critical Queensland community needs that preserve life, safety and wellbeing, an accelerated procurement process may be used to source essential goods and services.

Clause 1.2 of the QPP requires agencies to identify the procurement strategy and method most appropriate for delivering the best procurement outcome, and that this will be based on an assessment of complexity, scope, opportunities and risks associated with procurement objectives, as well as the level of competition in the supply market.

An accelerated procurement strategy and method may be considered during an emergency response where, for example, preservation of life, safety and wellbeing is paramount. Life extends beyond human life to include animal life, for example, ensuring humane treatment of livestock and other animals.

Examples of accelerated procurement methods (which may be used as part of a Category 1 rapid reactive procurement response) are detailed in **Appendix 1** and may include:

- seeking one or minimal quotes
- streamlining a standard procurement process (e.g. using email instead of formal documents and forms as a record of procurement activity)
- using digital signatures, where appropriate.

1.2 Common-use supply arrangements

Wherever practical, during an emergency common-use supply arrangements should continue to be used as per Clause 5.3 of the QPP.

It is appropriate to direct procure from a supplier on a common-use supply arrangement, as suppliers on the arrangement have already been through a tender process.

Agencies may also establish standing offer arrangements (SOAs) which they may mandate for use in their agency or across agencies, or SOAs may be voluntary for use.

Refer to the [Queensland Contracts Directory \(QCD\)](#) for further information about arrangements or contact the relevant contract manager, also listed on QCD.

Buyers can depart from common-use supply arrangements where a good or service is to be supplied to regional or remote Queensland locations. In the context of a declared emergency, buyers may depart from a common-use supply arrangement to meet an urgent need for essential goods or services (e.g. saving or preserving life, securing urgent equipment such as medical equipment, ensuring the continued effective operation of critical infrastructure).

When procuring outside of Clause 5.3, buyers should:

- clarify whether the supply need is an emergency for provision of essential urgent goods or services, review agency procurement plans and prioritise essential procurement
- consider what is reasonable and justifiable action given the circumstances (e.g. operating environment on the frontline) and information available
- make decisions based on the need to act without delay while meeting procedural processes for probity, integrity and transparency (e.g. keeping an audit trail)
- find out what other government agencies and non-government organisations are doing and collaborate where possible
- seek assistance by contacting their respective District and State Disaster Liaison Officer where existing procurement arrangements are no longer suitable, suppliers are unable to be delivered on time, there are logistical barriers and all whole-of-government options have been exhausted.

Queensland Government Procurement, Department of Energy and Public Works, will provide advice as needed to facilitate coordinated emergency supply arrangements.

Important

In all cases, 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, adhere to agency procurement policies and processes, ensure legally sound contracts are in place and managed, and document all decisions made.

Useful PANs to refer to for further information

The following [PANs](#) should be read in conjunction with this section:

- PAN 13/2020 – For buyers – Use of electronic signatures and witnessing documents
- PAN 21/2020 – For buyers – Procurement and supporting disaster management arrangements

1.3 Short-form terms and conditions

When procuring essential goods and services, consider use of contract terms and conditions commensurate with the risk and value of the procurement.

Category lead agencies are responsible for issuing standard terms and conditions, and template contract forms, for procurement. While these should be used as a starting point for all procurement activities, buyers should assess the risk and value of the procurement, and consider whether other contract terms and conditions (e.g. 'short form' terms and conditions) can be used to enable delivery from suppliers, particularly local SMEs.

Where the use of terms and conditions is being considered, this must be based on a defensible assessment of the requirements of the procurement (refer to Clause 5.4 of the QPP).

Buyers should note that when procuring within the [Information and Communication Technology procurement category](#), supplier terms and conditions may be used if the cost is less than \$100,000 and the procurement is assessed as low risk.

Important

Buyers should seek advice from their respective Chief Procurement Officer or equivalent, central procurement team or category lead agency if there are any questions on how to depart from standard agency procurement procedures and delegations (e.g. departing from standard terms and conditions), or when dealing with a high value or high risk procurement in an accelerated environment.

2. Support critical suppliers, local and regional businesses and manufacturers

2.1 Critical supply

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

Buyers should review existing supply arrangements (e.g. SOAs, long-term contracts), prioritising critical supply chains and suppliers based on immediate supply chain vulnerabilities caused by the emergency.

Understanding which suppliers are critical involves a review including a classification process and risk analysis, at a minimum.

Following the review, buyers should:

- develop plans to regularly communicate with, and monitor, the critical supplier's situation and ongoing ability to supply
- assess immediate and future risks to the critical supplier and/or supply chain, and develop measures to address these risks (e.g. work with category leads to determine an appropriate collaborative response to applying flexible procurement arrangements to an SOA)
- determine the most appropriate course of action in relation to critical suppliers that are at risk of financial failure.

Employing active contract management and supplier relationship management (e.g. regular contact with suppliers) can result in solutions to contractual challenges – this may include, but not be limited to, the following variations to supplier contracts:

- extensions of existing critical contracts – identify critical contracts due to expire and make an assessment about whether they should be extended. Note that contracts due to expire during the emergency period should not be extended for unreasonable timeframes beyond the declared state of emergency
- replacing milestone payments with percentage payments for work completed
- re-deploying supplier capacity to other areas of need
- ensuring insurance requirements are appropriate relative to risk
- introducing time-limited clauses that relate to how the supplier is meeting emergency health advices, where applicable
- changes to delivery locations and timeframes, noting that this should be monitored on an ongoing basis with the aim to revert to delivery on initial agreed terms as soon as the supplier is able to do so.

Any decision to vary supplier contracts should be:

- made on a case-by-case basis, in line with agency procurement policies and processes
- defensible
- supplemented with legal advice as necessary
- approved by the appropriate delegate
- documented to maintain an audit trail.

Business continuity and risk management

As part of forward planning, a focus on agency business continuity and risk management are key mechanisms that support an agency's business resilience, and its capacity to withstand future unexpected disruptions. This involves developing and executing appropriate risk management strategies, updating business continuity plans and investing in end-to-end supply chain management (including alternative sources of supply where possible).

Useful PANs for further information

The following [PANs](#) should be read in conjunction with this section:

- PAN 1/2020 – For buyers – Contract management and obligations
- PAN 6/2020 – For buyers – Supplier relationship management
- PAN 11/2020 – For buyers – Force majeure and frustration
- PAN 15/2020 – For buyers – Assessing if a supplier is critical to business
- PAN 16/2020 – For buyers – Financial and contractual strategies to support suppliers
- PAN 19/2020 – For buyers – Checklist for business resilience

2.2 Awareness of supplier circumstances

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. It is important that buyers are aware of potential supplier issues through maintaining regular and open lines of communication, and take proactive action to deal with these

2.3 Devolution

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 consistent with Clause 2.5 of the QPP and agencies should examine whether there is scope to devolve more procurement to the regions.

2.4 Using local supply

In seeking quotes, go only as far as geographically 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.

The [Department of State Development, Infrastructure, Local Government and Planning](#) can help buyers connect with capable suppliers and manufacturers, or work with agencies and suppliers to identify innovative solutions and make connections.

3. Support Queensland small and medium enterprises (SMEs), Aboriginal and Torres Strait Islander businesses, social enterprises and innovative proposals

3.1 Building the market

Source required goods and services from local SMEs, Aboriginal and Torres Strait Islander businesses, and social enterprises where possible.

By virtue of their size, SMEs (defined in the QPP as businesses employing less than 200 people) are more vulnerable to the disruption caused by emergencies and where possible, buyers should support SMEs to maintain their resilience.

To support Queensland SMEs through Queensland Government procurement, the QPP now reflects the SME procurement target which requires all agencies subject to the QPP to source at least 25 per cent of procurement by value from Queensland SMEs, increasing to 30 per cent by 30 June 2022.

Practical steps that buyers can take to support SMEs are set out in the [Small and medium enterprise procurement target guide](#). Relevant to an emergency situation, buyers should ensure that the offer processes used, including specifications or evaluation criteria do not disadvantage regional suppliers or limit immediate emergency relief.

Useful PANs for further information

The following [PANs](#) should be read in conjunction with this section:

- PAN 8/2020 – For buyers – Unsolicited proposals to supply to Queensland Government
- PAN 17/2020 – For buyers – Increasing participation of Aboriginal and Torres Strait Islander businesses in Queensland Government procurement
- PAN 18/2020 – For buyers – Supporting Queensland small and medium enterprises through procurement
- PAN 20/2020 – For buyers – Supporting vulnerable Queenslanders through social procurement

3.2 Consider innovative proposals

In emergency situations where existing supply chains are disrupted, 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.

3.3 Expedite payment

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

To keep cashflow moving during times of emergency, agency procurement and accounts payable procedures should be reviewed and structured to enable payment of correctly rendered, valid invoices from all suppliers, regardless of business size, as soon as they are received and processed. Options include using corporate cards and digital approvals to keep goods receipting and payments processes moving.

The Queensland Government has introduced expedited payment terms to support business cashflow, with suppliers to be paid as soon as an invoice is received and processed but no later than 20 calendar days. The [Queensland Government On-time Payment Policy](#) supports the COVID-19 expedited payment terms by ensuring that small business customers are paid within a maximum of 20 calendar days.

4. Observe principles of integrity, probity and accountability

The need to preserve life, public safety and wellbeing is paramount during an emergency period. However, the obligation on accountable officers (Directors-General, Chief Executive Officers) to take responsibility for their agency's procurement decisions during the emergency, does not change.

In line with Clause 3.1 of the QPP, procurement decision-makers at all levels must maintain accurate records and retain evidence of advice on decisions (including the factors considered in making these decisions) made for each activity, especially when diverging from agency procurement procedures. In addition, buyers should undertake the following actions to minimise fraud and corruption risks:

- conduct regular fraud and corruption risk assessments, to identify current and emerging risks (e.g. increasing use of electronic signatures)
- apply appropriate controls and treatments to mitigate risks (e.g. limiting the use of electronic signatures to transactions of low to moderate risk)
- use good procurement practices.

Useful PANs for further information

The following [PANs](#) should be read in conjunction with this section:

- PAN 7/2020 – For buyers – Preventing fraud and corruption in an accelerated procurement environment
- PAN 13/2020 – For buyers – Use of electronic signatures and witnessing documents

5. Continue 'business as usual' procurement

Continuing business as usual procurement activities, alongside procurement activities addressing the immediate health and safety needs of Queenslanders, is important to maintaining confidence and a strong economy.

Buyers should procure in line with their agency's procurement policies and procedures and the QPP, noting existing flexibility when justifiable and needed. Generally, this involves continuing scheduled procurement activities having regard to the need to maintain probity, accountability and transparency across all stages of the procurement lifecycle, and making reasonable adjustments where needed given the current environment.

In addition, the Queensland Government's expectations of suppliers outlined in the [Queensland Government Supplier Code of Conduct](#), [Ethical Supplier Threshold](#) and [Ethical Supplier Mandate](#) have not changed in the current environment.

For more information on continuing business as usual procurement, please refer to [PAN 12/2020 – For buyers – Continuing business as usual activities](#).

Price gouging and profiteering

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 of 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 [Queensland Government Procurement Compliance Branch](#) and review advice available from the [Office of Fair Trading](#) and [Australian Competition and Consumer Commission](#).

For further information regarding profiteering, refer to [PAN 4/2020 – For buyers – Profiteering, including price gouging](#).

Questions

Questions on procuring in the current COVID-19 environment should be directed in the first instance to the procurement function within your agency in accordance with your agency emergency procurement policies and processes.

If you require any further assistance after contacting your agency procurement function, please send an email to 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.

Acknowledgment

Content for this guide was informed by research, including the [New Zealand \(NZ\) Government COVID-19 Emergency Procurement guidance](#) and [NZ Government Quick guide to emergency procurement](#), the [UK Cabinet Office Procurement Policy Note, Responding to COVID-19](#), and consultations with Queensland Government agencies.

Appendix 1: Emergency response categories - detailed

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.

In addition, buyers should consider the following questions to determine whether a rapid reactive procurement response is required:

- are there genuine reasons for extreme urgency (e.g. public health risks, loss of existing provision at short notice)?
- were there extraordinary, unforeseeable events that led to the need for extreme urgency?
- is it impossible to comply with traditional procurement timeframes?
- has the agency done anything to cause or contribute to the need for extreme urgency?
- has a declaration of a disaster situation been made?

Examples of circumstances which may warrant a rapid reactive procurement response are as follows:

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

Circumstances which do not warrant a rapid reactive procurement response

Inadequate lead times as a result of poor procurement planning do not justify undertaking an accelerated procurement process. In this instance, agencies will still have to comply with the QPP and their respective procurement policies and procedures, and seek any relevant approvals in such circumstances.

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.

Appendix 2: 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 for critical supply	
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	