



EMERGENCY PROCUREMENT

Lessons Learned from Covid-19

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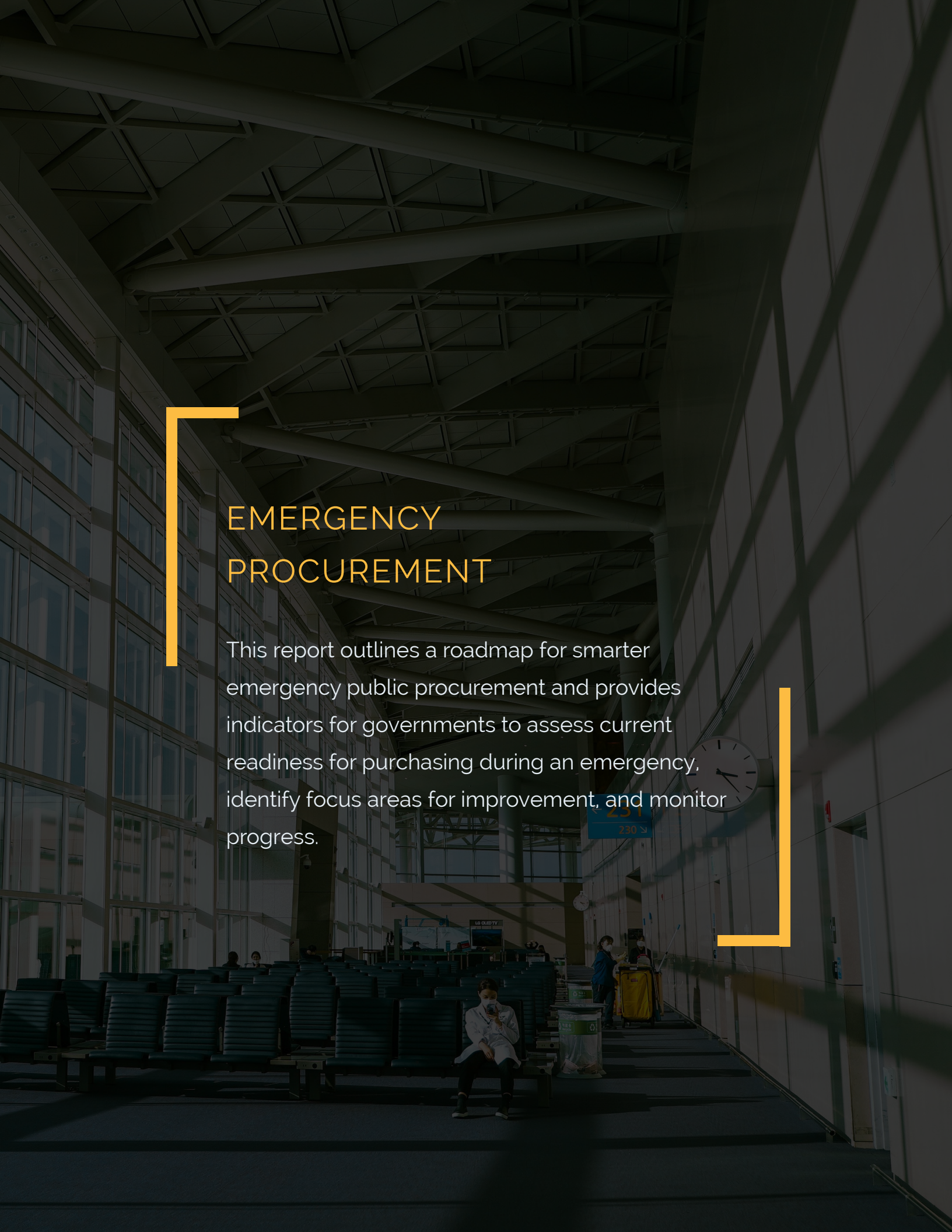
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Global Digital Marketplace Programme
Government Digital Service
7th Floor | White Chapel Building
10 Whitechapel High Street
London E1 8DX

Authors

Taryn Davis, Annie Kilroy, and Emily Fung
Development Gateway, Inc.
1110 Vermont Avenue NW | Suite 500
Washington, DC 20005 USA



EMERGENCY PROCUREMENT

This report outlines a roadmap for smarter emergency public procurement and provides indicators for governments to assess current readiness for purchasing during an emergency, identify focus areas for improvement, and monitor progress.

EXECUTIVE SUMMARY

EMERGENCY PROCUREMENT IS FULL OF UNCERTAINTIES. THIS REPORT AIMS TO PROVIDE A RESOURCE FOR GOVERNMENTS INTERESTED IN POLICIES, STRATEGIES, AND TOOLS THAT CAN BE USED TO ADDRESS COVID-19 CHALLENGES AND PREPARE FOR FUTURE EMERGENCIES.

In particular, this resource aims to strengthen government ability to:

① BUY SMARTER AND FASTER IN CRISIS

Identify procurement needs and priorities, aggregate demand and distribution, identify reliable suppliers, and use digital tools for procurement

② ENSURE QUALITY SUPPLIES AND SERVICES

Avoid fraud and collusion, and use open data and analytics for accountability and transparency

③ MAINTAIN SERVICE DELIVERY & SUSTAIN THE ECONOMY

Protect government supply chains by providing support to already-contracted suppliers and digitising government services

To achieve this, this report includes an Emergency Procurement Indicator Framework and self-scoring rubric. This tool helps governments assess current baseline readiness for purchasing during an emergency; identify targets or focus areas for improvement; and monitor and evaluate progress.

The full body of the report provides context, background, and supporting case studies for the Emergency Procurement Indicator Framework. This report and accompanying framework were developed by Development Gateway, in collaboration with the UK's Government Digital Service (GDS) as part of the Global Digital Marketplace Programme.

The Global Digital Marketplace Programme aims to help international governments make their procurement more efficient, effective, and transparent, and to boost their digital, data, and technology sectors. The Covid-19 pandemic has highlighted the importance of government procurement in response to, and in recovery from, emergency situations. This report provides context, background, and supporting case studies for the indicators.

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BACKGROUND

DEVELOPMENT GATEWAY AND THE GLOBAL DIGITAL MARKETPLACE PROGRAMME PARTNERED TO IDENTIFY WAYS TO IMPROVE GOVERNMENT DIGITAL PROCUREMENT EFFECTIVENESS, EFFICIENCY, AND TRANSPARENCY.

The Global Digital Marketplace Programme aims to share lessons learned from the UK Government Digital Service journey to reform ICT public procurement. The programme is focused in Malaysia, Indonesia, South Africa, Mexico, and Colombia.

Development Gateway (DG) creates tools and conducts applied research that help institutions collect and analyse information; strengthen institutional capability to use data; and explore what processes are needed to enable evidence-based decisions.

DG partnered with the Global Digital Marketplace Programme to conduct discovery research and analysis with national and government stakeholders on a range of procurement related issues, at a time when the Covid-19 situation escalated globally. This presented an opportunity for DG to include in its work a focus on developing recommendations and a set of indicators, as a tool to support Global Digital Marketplace Programme priority countries identify where to strengthen procurement response during emergencies, sustain government services, and support the economy during and post-crisis.

The research is focused on five pillars that are the basis for Global Digital Marketplace Programme's theory of change for digital procurement: 1) assuring plans before money is spent, 2) designing procurements and contracts, 3) assuring service delivery, 4) building capability and capacity, and 5) publishing open contracting data.

INTRODUCTION

The coronavirus (Covid-19) has flipped the world on its head, brought it to a standstill, and has made apparent where societies are not prepared to face such a devastating global pandemic. While it may seem to be a rare situation; in reality, this is not the first pandemic that our world has faced,¹ and our increasingly globalised society means that this is unlikely the last one either. Although vaccines are in the process of being tested,² and there is much hope for one to be on the market sooner than any other vaccine in history,³ it is still unclear how soon one will be widely available. Challenges related to

1. LePan 2020

2. World Health Organization 2020 (a)

3. New York Times 2020

producing and distributing the vaccine throughout the world means that countries may be dealing with the threat of Covid-19 for much time to come.

One of the things Covid-19 has made apparent is just how important government procurement is during an emergency. Stories of the extreme measures taken to obtain critical personal protective equipment (PPE) made global headlines.⁴ At the same time, a global economic crisis began to unwind as businesses were forced to close their doors and people were asked to stay at home.⁵ While no silver bullets exist during such scenarios, there are key policies, processes, and tools that government procurement can put in place to ensure the ability to:

1. **Procure emergency supplies fast** by identifying procurement needs and priorities, aggregating demand and distribution, quickly identifying reliable suppliers, and using digital tools for procurement;
2. **Ensure quality supplies and services** by avoiding fraud and collusion, and using open data⁶ and analytics for accountability and transparency;
3. **Ensure service delivery and sustain the economy** by protecting all government supply chains by providing support to already contracted suppliers and digitising government services.

This report outlines a roadmap for smarter emergency public procurement and provides indicators that governments can use to assess current readiness for purchasing during an emergency, identify focus areas for improvement, and monitor progress.

4. Holmes et. al. 2020

5. Gopinath 2020

6. Open Knowledge Foundation. (n.d.)

METHODOLOGY

This research expands on the learnings identified in discoveries conducted by DG and GDMP around government digital procurement in Jalisco, Mexico; and Selangor and Penang, Malaysia, and incorporates best practices employed by the UK Government Digital Service. To build on this knowledge, DG conducted desk research on public and private sector expert resources, news articles, and attended a bevy of webinars on the topic of Covid-19 procurement response. The research methodology draws on DG's experience working in open contracting to develop tools and resources to increase transparency and incorporate data insights for the improvement of procurement efficiency, value for money, and identification of corruption risk flags.


HOW TO USE THIS REPORT

The report provides an explanation and body of evidence to accompany the indicators provided. It is categorised into three main sections, 1. Buy Smarter and Faster in Crisis, 2. Ensure Quality Supplies and Services, and 3. Maintain Service Delivery & Sustain the Economy. The full indicator framework is also provided separately, without the report's accompanying context. Most of the indicators provide a scale of practices, policies, and tools that governments might employ. DG has added a numerical value to each of the options, with "0" meaning that no practice/policy/tool is in place, and then lists subsequent levels a country might employ. The purpose of this is to try and define good, better, and best practices, and to allow governments to identify how they might move up the scale for each indicator.

DG has listed the total number of points available as a reference for countries to identify whether specific areas are in need of more focus than the others. The points system is not meant as a ranking for countries to compare against each other, and it is important to note that not everything will be applicable to all countries and contexts. Countries should tailor tool usage according to their unique government structures, and policies, and can adapt the framework and values as they see fit.

DG has also worked with Global Digital Marketplace Programme teams in each of the five focus countries to identify relevant indicators and create tailored country briefs. These briefs further allow countries to determine where they currently stand in regards to crisis procurement readiness, and support the selection of priority areas for procurement reform to address challenges specific to crisis response.

BUY SMARTER AND FASTER IN CRISIS



AS SOON AS AN EMERGENCY HITS, KNOWING WHAT AND WHO TO PRIORITISE ALLOWS GOVERNMENT PROCUREMENT TO FOCUS SCARCE RESOURCES TO PURCHASE THE MOST CRITICAL ITEMS AND GET THEM TO THE COMMUNITIES MOST AT RISK.

UNDERSTANDING NEEDS

As soon as an emergency hits, knowing *what* and *who* to prioritise allows government buyers to focus scarce resources to purchase the most critical items and get them to the communities most at risk. Particularly during a global pandemic, when many government administrations are vying for the same limited supply of resources, acting quickly is critical to saving lives.

During the Covid-19 pandemic, the World Health Organization (WHO) has provided many resources for governments, including a list of priority medical devices (such as PPE) for Covid-19 case management⁷, as well as a Covid-19 Essential Supplies Forecasting Tool⁸ where countries can plug in their number of cases to forecast the resources they're likely to need. These tools can be a reference for governments to define what their procurement priorities are during a crisis. Once defined, the government should publish their list of priority items to make it clear to other government agencies what priorities should be (particularly for decentralised health systems), and alert suppliers to what is likely to be needed, which can help speed up supply and procurement processes. Once a list of priorities has been defined, these items should take priority over, though not completely exclude, other procurement needs.

In addition to prioritising purchasing of critical supplies, identifying who has priority in receiving supplies is just as critical. As the coronavirus has spread globally, we've seen that certain communities and areas have been hit the hardest, and certain individuals are more at risk. The UK National Health Service (NHS)

7. World Health Organization 2020 (b)

8. World Health Organization 2020 (c)

developed a Shielded Patients list,⁹ which outlines high and medium risk patients at risk of developing complications from the virus. In addition, we've seen that in certain countries specific communities are at greater risk of contracting and dying from Covid-19, such as black and minority ethnic people in the UK¹⁰ and US¹¹ and migrant and refugee communities throughout the world.¹² The reasons for this are varied, but include challenges in social distancing and access to sanitation and healthcare. Each country might have specific communities that are more vulnerable to Covid-19 and should be prioritised as such.

Knowing how many people in a hospital district fall into these particularly vulnerable categories is also important for prioritising the resources and support these communities should receive. This might include providing sanitation services to informal settlements that might not have access to running water or soap, and need communal toilets cleaned to avoid the spread of the disease.¹³ In addition, governments must make sure hospitals in areas that will likely see the highest number of serious cases have the supplies they need to respond to the demand. In order to conduct this kind of critical prioritisation, governments should have in place standard systems and processes for securely, and responsibly collecting this information. Health Information Management Systems can be crucial in emergencies to quickly identify at-risk communities, as well as monitor the cases and outcomes throughout the process (learn more about benefits of digital government services in section C.3). Additionally, Content Design London has developed the initial dataset in a bank of virus-based user needs to align and support top tasks, products, and services needed during the crisis.¹⁴



CASE STUDY: CREATING A DIGITAL SUPPLIER AGGREGATION PORTAL

The UK launched the webpage, *Offer Coronavirus (Covid-19) Support From Your Business*, where businesses can submit formal requests to volunteer their products or services to the response efforts. For the coronavirus, these items included products like medical equipment, PPE, sanitisation products, and hotel rooms for frontline staff. The UK government was able to roll this tool out so quickly because their technical engineers already had high-quality "off the shelf" technology tools to build off of.¹⁵

9. National Health Service 2020

10. Elwell-Sutton et al 2020

11. Thebault, Tran & Williams 2020

12. Human Rights Watch 2020

13. International Budget Partnership 2020

14. Richards, S 2020

15. Raines, M., & Buckley, M. (2020, May 13). How Government as a Platform is meeting challenges posed by coronavirus. Retrieved from <https://gds.blog.gov.uk/2020/05/13/how-government-as-a-platform-is-helping-in-the-covid-19-response/>

Indicators: 1. Understanding Needs

1.1. PRIORITISING NEEDS

VALUE = NONE

The government has not compiled a list of needed priority emergency response supplies to procure

VALUE = 1

The government purchases based on international guidance on priority emergency response supplies (such as the WHO's list of priority medical devices¹⁶)

VALUE = 2

The government has tailored international guidance to meet the country's specific needs (such as the Covid-19 Essential Supplies Forecasting Tool¹⁷)

VALUE = 3

The government publishes their tailored list of essential supplies, and regularly updates compares them with available stocks

1.2. IDENTIFYING AT-RISK COMMUNITIES

VALUE = NONE

Government is not aware of which individuals and communities are most vulnerable

VALUE = 1

Government uses international guidance (such as WHO¹⁸) to understand globally who is most vulnerable

VALUE = 2

In addition, the government accesses and/or conducts supplementary research on vulnerabilities within their own communities (informal settlements, refugees, minorities, etc.)

VALUE = 3

The government is able to identify where vulnerable communities are located, while maintaining privacy protection

1.3. MONITORING NEEDS OF AT-RISK COMMUNITIES

VALUE = NONE

Government has no evidence on the needs of vulnerable communities

VALUE = 1

Government has a general idea of the needs of vulnerable communities, but does not regularly collect or analyze data on the needs of vulnerable communities

VALUE = 2

Government consults experts and evidence as-needed to monitor the needs of vulnerable individuals and communities

VALUE = 3

Government has data and reporting systems (i.e., Health Information Management Systems) to identify and monitor the needs of vulnerable communities

1.4. ALLOCATING RESOURCES

VALUE = NONE

Government has no emergency budgetary or oversight mechanisms in place to ensure that the areas and supplies of greatest need are prioritised

VALUE = 1

Government procurement prioritisation is ad-hoc; few budgetary or oversight mechanisms in place to prioritise areas and supplies of greatest need

VALUE = 2

Emergency budgetary and procurement oversight processes are enacted to ensure that supplies are prioritised for areas of greatest need

TOTAL VALUE AVAILABLE = 11

16. World Health Organization 2020 (b)

17. World Health Organization 2020 (c)

18. World Health Organization 2020 (n.d.)

AGGREGATING DEMAND AND DISTRIBUTION

Aggregating demand for essential supplies is one mechanism to ensure efficient sourcing and resource allocation. By pooling needs and budgets under one purchasing order, buyers can benefit from the cost-savings of bulk purchasing while increasing their competitiveness. When shipping lanes and distribution channels are also affected, this kind of partnership can also streamline the delivery of essential goods and services to those who need it most.¹⁹



CASE STUDY:

AGGREGATING DEMAND AND DISTRIBUTION ACROSS US STATES

When the pandemic ravaged New York City, instead of competing and individually vying for scarce resources, New York State and five neighboring states formed a partnership to aggregate demand and distribution channels under a single, bulk purchasing order to improve coordination, efficiency, and value-for-money. Without this partnership, hard-hit states like New York and New Jersey would be competing against each other for essential supplies on the open market – even though they were both responding to the same outbreak.

Demand aggregation can also happen at more local levels, depending on how centralised or decentralised budgetary and procurement authorities and departments are (discussed below). Aggregating demand for emergency response supplies can be challenging across decentralised and bureaucratic government procurement structures, and in many countries is not routinely implemented in non-emergencies. Regardless, finding all related products that need to be resourced at once and pooling spending is an effective strategy for maximising efficiency and reducing redundancies.²⁰

SPEND CONTROL PIPELINE PROCESS FOR EMERGENCY PROCUREMENT

A “spend control tower” is one approach to consolidating needs assessments. It acts as a chokepoint for spending, and provides a centralised hub for information and decision making that can force deeper

19. Brueckner 2020

20. Dhillon 2020

thinking on spending. They also lead to more incremental and informed decision-making on price negotiations and allocation of resources. For example, in Malaysia, authorities have been rolling out a phased series of stimulus packages adjusting to changing needs, most recently having released a stimulus of RM 21 bn (1.4 percent of GDP).

CENTRALISING PROCUREMENT

In an emergency when critical materials are in short supply, uncoordinated demand can create hefty competition across government administrations. In the early days of the coronavirus outbreak in the US, states found themselves competing against each other on the open market.²¹ The result was that larger, richer states such as New York were able to out-bid smaller states like Rhode Island – leaving the latter without a supply of PPE for healthcare workers, despite needing to manage its own outbreak.²²

To avoid this, procurement may be simplified so that one purchasing agency procures all emergency equipment for all downstream administrations within its jurisdiction – for example, a state purchasing on behalf of all its counties. Governments can also prioritise public emergency response purchases over purchases for private entities. For example, in Colombia, "territorial entities have priority to purchase goods and services that have uniform technical characteristics through the Virtual Store of the Colombian Public Procurement Agency."²³

Demand aggregation has a strong foothold in the business world as a consulting venture to help companies implement more effective procurement strategies. Several tools exist that enable demand aggregation for private sector supply chains, including Allocation Network, Jaggaer, Synertrade, Ivalua, Tealbook, and more. Other tools can help governments aggregate supply as well, such as the UK government platform that allows private entities to report which products and services they can volunteer to support emergency response response.²⁴ Governments that have similar systems in place will be well-prepared to allocate resources efficiently.

Government administrations that do not (or cannot) centralise procurement can still help support a more-coordinated purchasing process by providing clear guidance, standards, and training for procurement officials. These items can also help ensure a "minimum viable product" of familiarity with the emergency standards and procedures. Trainings can be run at the regional or state level; and serve to build good practices for technical and non-technical employees.

21. Miller 2020

22. Relman 2020

23. Rodriguez, D., Amador, M., & Aguirre, J. (n.d.)

24. Raines, M., & Buckley, M. 2020

Indicators: 2. Aggregating Demand

2.1. POOLING DEMAND

VALUE = NONE

Procurement authorities do not have budgetary or procurement mechanisms to pool demand under one purchase order

VALUE = 1

Procurement authorities have the ability to pool demand on a case-by-case basis

VALUE = 2

Procurement authorities have the ability to pool demand across internal jurisdictions

VALUE = 3

Procurement authorities have the ability to pool demand across internal and external jurisdictions

2.2. SPEND CONTROL

VALUE = NONE

No clear spend control authority or oversight mechanisms in place

VALUE = 1

Government has a spend control authority, but no clear guidance or standards for evaluation in an emergency

VALUE = 2

Government has a spend control authority and some guidance on emergency purchases

VALUE = 3

Government has a spend control authority and clear standards for emergency purchases, regularly updated with supply chain assessments

2.3. CENTRALISING PROCUREMENT

VALUE = NONE

Local government authorities must compete against each other on the open market for emergency supplies

VALUE = 1

Central government has authority to bulk purchase orders and distribute to downstream jurisdictions

VALUE = 2

Central authority utilises demand aggregation tools and data analysis to purchase and distribute critical supplies

2.4. EMERGENCY PROCUREMENT AUTHORITY

VALUE = NONE

Government has no designated central emergency procurement authority; no guidance for purchasing in an emergency

VALUE = 1

Government has designated emergency procurement oversight, but no clear standards or guidance

VALUE = 2

Central emergency procurement authority establishes clear purchasing guidelines and provides oversight

VALUE = 3

Central emergency procurement authority provides training, advisory support, and oversight to local buyers

TOTAL VALUE AVAILABLE = 11

QUICKLY IDENTIFYING & CONTRACTING RELIABLE SUPPLIERS

During an emergency, governments need access to a wide range of suppliers – many of whom may not have ever contracted with the government before. Also, existing suppliers might be used for different purposes: for example, if the government has an existing contract for employee uniforms with a clothing company, and that clothing company's textile manufacturer shifts production to producing face masks, state emergency procurement measures should allow government buyers to shift to contracting with that supplier for face masks, to begin sourcing faster. A variety of methods and tools can be employed to quickly identify and contract existing and new viable suppliers.

Having a database of potential suppliers to reference and recruit from can help accelerate the purchasing process for emergency response supplies, as opposed to waiting for suppliers to respond to tender postings. Robust supplier databases can further accelerate emergency purchasing processes if the suppliers within them have been vetted and verified as legitimate business entities (see more on this in section B.1.). Supplier databases that include information on performance reviews and allow for data analysis and visualisations can help improve market intelligence for buyers to make more informed supplier decisions. Finally, business regulatory authorities and law enforcement agencies should compile and share information on banned suppliers, or entities flagged for corruption, collusion, fraud, and beneficial ownership. Read more on this in section B.1.

Utilise Framework Agreements. Ideally, governments have framework agreements with trusted suppliers of critical emergency response supplies before an emergency strikes so that they can have a qualified supplier pool ready, with standard contracting language and evaluation metrics already in place. However, governments should seek to expand existing framework agreements and create new ones if there are none in place. Public contracting authorities may enter into framework agreements with one or more suppliers, which "prescribe the terms and conditions which would apply to any subsequent contract and make provision for selection and appointment of a contractor by reference directly to the agreed terms and conditions or by holding a competition inviting only the partners to the framework agreement to submit specific commercial proposals."²⁵

EXPANDING SUPPLIER POOL

Eliminating red tape to expand the supplier pool will help to attract and identify first-time government contractors or non-traditional suppliers that can assist with the government's emergency response. Business regulation authorities should seek to accelerate their timelines for registering and verifying entities as official government contractors. Colombia, for example, passed emergency procurement legislation that allowed governments to contract directly with department stores for the first time.²⁶

25. European Commission 2020

26. Rodríguez, D., Amador, M., & Aguirre, J. (n.d.).

Use mechanisms for international procurement. Governments should also be able to look to international markets when emergency response materials cannot be produced or purchased domestically. For example, in Colombia, the Ministry of Foreign Affairs has authorised its diplomatic agency to enter into internal inter-administrative agreements and to conclude contracts with foreign public entities, foreign private enterprises or other organisations for purchasing necessary goods to mitigate the pandemic, without having to implement the time-consuming approval procedures outlined in non-emergency procurement legislation.²⁷ While procurement policies that incentivise contracting with domestic suppliers can help bolster the domestic economy, government buyers should not face red tape if international suppliers are able to deliver critical emergency response supplies faster or more efficiently than domestic suppliers.

Government buyers should be able to thoroughly vet bidders quickly, in order to get contracts up-and-running and emergency responses delivered promptly. In an emergency, the vetting process can be accelerated in a number of ways. Electronic Bond Verification mechanisms (see section A.5.) can quickly verify the liquidity and financial basis of a country. A database of pre-vetted, verified, and existing suppliers in good standing that buyers can reference can also speed up the verification process (see section A.3. and indicator table 3.6. below). Additionally, through contracts, governments can push partners to develop closer, more trusting relationships with other suppliers. Once operating within a functional consortium of pre-approved suppliers, procurement strategy, roles, and responsibilities can be refined to ensure each supplier brings its individual strengths.

27. KPMG 2020

Indicators: 3. Quickly Identifying & Contracting Reliable Suppliers

3.1. SUPPLIER VERIFICATION

VALUE = NONE

Government does not have any supplier verification standards or mechanisms

VALUE = 1

Government does not have any supplier verification standards or mechanisms that are specific to an emergency

VALUE = 2

During an emergency, rapid supplier verification standards and mechanisms are prioritised

VALUE = 3

During an emergency, supplier registration and verification is completed quickly and online in real-time

3.2. SUPPLIER DATABASE

VALUE = NONE

Government does not maintain an internal supplier database

VALUE = 1

Government maintains internal supplier database, updated on an annual (or longer-term) basis

VALUE = 2

Government maintains and regularly updates internal database of all potential suppliers; made available to all buyers

VALUE = 3

Government maintains and regularly updates supplier database with vetted and verified suppliers

3.3. LIST OF BANNED SUPPLIERS

VALUE = NONE

Government does not maintain or share list of banned suppliers

VALUE = 1

Government maintains internal list of banned suppliers, but not regularly updated throughout emergency

VALUE = 2

Maintains internal list of banned suppliers that is regularly updated and used for oversight; not readily available to all buyers

VALUE = 3

Government maintains real-time updates to supplier list of banned suppliers that is accessible to all downstream buying authorities

3.4. FRAMEWORK AGREEMENTS

VALUE = NONE

Governments do not engage in framework agreements related to emergency response

VALUE = 1

Governments engage in framework agreements related to emergency response, but not specifically for pandemics

VALUE = 2

Governments engage in framework agreements related to emergency response and pandemics, but none are active

VALUE = 3

Governments have active framework agreements with suppliers who are prepared to respond to a pandemic

3.5. EXPANDING POOL OF ELIGIBLE SUPPLIERS

VALUE = NONE

Government has no mechanisms or plan for expanding pool of eligible suppliers in an emergency

VALUE = 1

Government implements some emergency measures to expand eligible supplier pool, such as subsidiaries of existing suppliers

VALUE = 2

Government implements sweeping measures to expand eligible supplier pool, such as contracting directly with foreign governments or warehouses

VALUE = 3

Government implements sweeping measures to expand supplier market, with accompanying rules of engagement and guidance for new suppliers

3.6. SUPPLIER DATABASE FIELDS

Value = 1 if government has data

| | |
|--|--|
| Company Name (DBA) | |
| Unique identifier or registration number | |
| Financial solvency | |
| Sector qualifications | |
| Beneficial Ownership information | |
| Gender Disaggregated Ownership Data | |
| Contracts - Applied | |
| Contracts - Won | |
| Supplier Performance Evaluation(s) | |

TOTAL VALUE AVAILABLE = 24

EMERGENCY PROCUREMENT POLICIES

PRICE STANDARDS

Ideally, government buyers regularly collect and assess fair market value prices for all purchases to ensure fiscal responsibility and good value-for-money. However in an emergency, prices can fluctuate drastically depending on supply and demand, and the need for reliable, up-to-date market price information is especially critical. With demand soaring and supplies tangled in distribution chokeholds, governments may elect to pay higher prices in order to secure materials quickly.

Governments with robust contracting or procurement information management systems will be able to pool price offerings from bids and assess fair market value easily within their own systems. Governments without market intelligence data should seek to partner with market intelligence firms, prominent suppliers, and other government administrations or international organisations on identifying the going rates for emergency response supplies. Governments can also reference price listings compiled by other organisations or countries, such as the DIME repository of information on drug prices, coverage, competition, and use in Latin America,²⁸ or the Covid 19 Price Observatory used by Honduras.²⁹

EMERGENCY CONTRACT MECHANISMS

There are several ways governments can structure emergency purchasing agreements in an emergency that differ from traditional procurement. For example, governments can utilise:

- Call for competition using a standard procedure with accelerated timescales
- Call for competition among non-traditional suppliers
- Direct award due to extreme urgency
- Direct award due to absence of competition
- Framework Agreements

While direct purchasing avenues are not necessarily ideal practices for non-emergency procurement, well-developed emergency procurement laws will allow for some combination of the above to simplify the purchasing process and eliminate barriers to securing materials. In many cases, only one supplier in the entire market may be able to rapidly mobilise the amount of emergency response supplies required to fulfill bulk orders. In these instances, exceptions should be made that eliminate requirements for competition or multiple bids.

28. Poyect DIME: <http://www.proyectodime.info/informacion-regional/informacion-seleccionada-sobre-covid-19/>

29. Honduras Covid 19 Price Observatory: <http://oncae.gob.hn/observatorio>

Think beyond fixed-price contracts. In emergency situations and times of economic uncertainty, conservative government buyers may be reluctant to offer anything other than fixed-price or fixed-ceilings contracts. However, these types of contracts impose limits on how much the government is willing to spend on the product, good, or service, regardless of any operating or unexpected costs incurred by the supplier in an attempt to fulfill the order. These types of contracts can make government purchase offers less appealing to private suppliers in an emergency, during which high levels of uncertainty pose dire risks to a supplier's ability to deliver. Alternatively, cost-plus contracts can protect suppliers from unanticipated shocks to their value chains by clearly outlining circumstances under which government buyers will subsidise additional costs to ensure delivery during an emergency. Offering cost-plus emergency response contracts can provide more incentive to attract bidders and will bolster economic security for the awarded supplier. Further, incorporating cost-plus-performance emergency response contracts can incentivise exceptional and accelerated delivery of critical response services by providing "bonuses" to suppliers that can deliver efficiently, according to predefined metrics.

ACCELERATING BID & CONTRACT TIMELINES

Crises underscore the importance of getting critical supplies to first responders quickly and efficiently. Emergency procurement policy responses should permit exceptions for normal circumstances' procurement timelines. These can include eliminating legal requirements to leave competitive tenders posted for a minimum number of days, and speeding up timelines for internal reviews of bids and contracts. These exceptions should apply to the critical and priority products/works/services identified in accordance with section A.1.

Indicators: 4. Emergency Procurement Policies

4.1. PRICE STANDARDS

VALUE = NONE

Government has no process for understanding market value or prices for emergency supplies

VALUE = 1

Government consults secondary or external sources for information on emergency supply prices

VALUE = 2

Government has a standard list and estimates for emergency supply market value and price, but is not able to update quickly or with their own data

VALUE = 3

Government maintains internal market intelligence and analysis on fair prices that is up-to-date during crisis

4.2. EMERGENCY CONTRACT MECHANISMS

VALUE = NONE

Government emergency procurement contracts have no standard type

VALUE = 1

Government emergency procurement contracts are fixed price

VALUE = 2

Government emergency procurement contracts are cost plus

VALUE = 3

Government emergency procurement contracts are cost plus performance

4.3. BID & CONTRACT TIMELINES

VALUE = NONE

Procurement processes do not allow for adjustments to timelines in an emergency

VALUE = 1

Emergency procurement policies permit accelerated timelines, but the process is not actually accelerated

VALUE = 2

Emergency procurement policies permit accelerated timelines in accordance with the reality

TOTAL VALUE AVAILABLE = 8

e-PROCUREMENT

Even with shortened bid timelines, any paper-based tendering, bidding, and purchasing transactions can slow the tendering process. Further, during a global pandemic, in-person transactions are simply not possible. However, in many lower- and middle-income countries, state-level procurement processes and regulations require original paper documents, sealed bid envelopes, wet signatures, and stamps. With social distancing requirements and stay-at-home orders in place, making these necessary transactions is impossible without a sweeping roll-out of new digital technology. One of the most effective ways to accelerate bid and contracting timelines moving forward is to digitise them.

Implementing new technology rapidly can be notoriously cumbersome, glitchy, and delayed, and it can also leave governments vulnerable to security risks. Procurement officials need end-to-end digital capabilities in order to facilitate the timely coordination and purchasing of effective emergency response supplies: from posting tenders online, to accepting bids electronically, vetting suppliers digitally, holding virtual committee evaluation hearings, rapid drafting and signature of standard contracts, and online payment. During the pandemic in particular, the ability of procurement officials to actually execute these processes digitally relies on employees' remote telework abilities: an at-home computer; remote access to key files, information management systems and/or programmes; a stable internet connection; and a quiet place to work and take phone calls.

WHAT IS THE UTILITY OF E-PROCUREMENT?

The utility of these tools extends beyond just facilitating rapid procurement, because it allows for the collection and analysis of key information that can help governments procure faster and smarter, both during and after an emergency.

Indicators: 5. e-Procurement

5.1. TELEWORK CAPABILITIES

VALUE = NONE

Public Procurement officials do not have telework or teleconference abilities

VALUE = 1

Public procurement officials can teleconference for evaluations and hearings, but no remote access to internal systems

VALUE = 2

Public procurement officials have full telework and teleconferencing capabilities, with full remote access to internal systems

5.2. ELECTRONIC TENDERING

VALUE = NONE

Government does not have online tender board

VALUE = 1

Government has online tender board, but does not regularly collect or store data on tenders

VALUE = 2

Government has online tender board and regularly collects and stores data on tenders

5.3. ELECTRONIC BID SUBMISSION

VALUE = NONE

Government only accepts hard-copy submissions for emergency procurement tenders

VALUE = 1

Government accepts bid submissions for emergency procurement tenders electronically via email

VALUE = 2

Government allows for direct submission of emergency procurement tenders to e-procurement system

5.4. ELECTRONIC BOND VERIFICATION

VALUE = NONE

Government buyers do not have ability to verify bonds of winning bidders electronically

VALUE = 1

Government relies on a combination of online and offline methods to verify bonds of winning bidders

VALUE = 2

Government buyers can verify bonds electronically

5.5. ELECTRONIC CONTRACT SIGNATURE

VALUE = NONE

Government requires hand-written signature and original hardcopy submission of all emergency procurement contracts

VALUE = 1

Government allows for digital submission (via print and scan, or importing digital signature)

VALUE = 2

Government has system for secure and legally-binding document signature, such as DocuSign

5.6. ELECTRONIC PAYMENT

VALUE = NONE

Government only issues payments to emergency suppliers via hard-copy checks

VALUE = 1

Government can issue payments to emergency suppliers electronically upon request

VALUE = 2

Government issues payments to emergency suppliers electronically

VALUE = 3

Government issues payments to emergency suppliers through secure EFT

TOTAL VALUE AVAILABLE = 13

SIMPLIFYING CONTRACTING

Purchasing authorities should simplify contracts and draft standard contract templates for all emergency response contracts in order to accelerate contracting timelines. Contracts can be notoriously large and burdensome to review – with repetitive language, or worse, contradictory language. This means the contracting process can take a long time, and can intimidate or discourage smaller companies. Simplifying and standardising contracts will help to reduce the time it takes for contracts to be drafted and approved, and means that governments (and citizens) will receive critical protection and recovery supplies faster. It also allows more small and medium-sized enterprises (SMEs) to compete and provide emergency goods, works, and services. These contracts should also include standard language on price standards, minimum product standards, and fraud liability (discussed in section B.1.). Government legal departments should prioritise drafting standard language for emergency response contracts at the onset of a crisis so that these contracts can be drafted, reviewed, and signed as soon as possible.

Contracts should include standard policies and contract language on force majeure, in anticipation of any risks related to the Covid-19 pandemic or other emergencies. These contracts should clearly stipulate which deliverables can be subject to force majeure clauses, and when force majeure clauses should not apply (i.e., when the supplier is still expected to deliver, regardless of pandemic-related complications). For more information on reviewing force majeure clauses, see section C.2.

Indicators: 6. Simplifying Contracting

6.1. EMERGENCY CONTRACT TEMPLATES

VALUE = NONE

Governments have no standardised contract templates

VALUE = 1

Governments have contract templates, but none specifically tailored to an emergency

VALUE = 2

Governments have contract templates specifically tailored to emergency contexts

TOTAL VALUE AVAILABLE = 2



**GOVERNMENTS SHOULD SIMPLIFY
THE PROCESS OF FILING A PRICE
GOUGING COMPLAINT, AND
SHOULD PRIORITISE COMPLAINTS
SURROUNDING HIGH-RISK ITEMS,
INCLUDING SUPPLY OF PPE,
HEALTHCARE EQUIPMENT, AND
SANITISATION METHODS.**

ENSURE QUALITY SUPPLIES AND SERVICES

AS COVID-19 BEGAN TO STRETCH ACROSS THE WORLD, A FRENZY FOR PURCHASING PPE CREATED HORRIFIC SCENARIOS THAT THREW OUT PREVIOUSLY FUNCTIONING PROCUREMENT PROCESSES.³¹

AVOIDING FRAUD AND PRICE GOUGING

Instead of using the usual procurement processes, buyers have had to deal with massive amounts of competition around the world, with goods being sold within hours, and in some cases being bought out after a deal was supposedly already closed. A flood of new suppliers entered the market with limited prior experience, sometimes delivering substandard quality equipment or unable to deliver altogether.

WHY HAVE CASES OF FRAUD AND PRICE GOUGING SKYROCKETED?

As demand for PPE soared, so did prices. Intermediary purchasers also flooded the market, looking to skim off profits by connecting desperate buyers with suppliers. Some countries blocked exports of PPE in an effort to preserve their own domestic supplies. Further exacerbating these conditions, market stocks dropped while competition and prices increased. Price gouging and counterfeiting were reportedly already common occurrences within the first few weeks of the global response. In the current arena and moving forward in the crisis, government buyers must meet the urgent demand for PPE while avoiding falling victim to fraud, price gouging, and other illicit activities.^{32 33}

31. Subramanian 2020

32. Agence France-Presse 2020

33. Haltiwanger 2020

CURB PRICE GOUGING

Emergencies provide a ripe opportunity for suppliers to take advantage of high demand and supply bottlenecks by charging exorbitant prices. Price gouging is one example of corruption that can, at least in theory, be controlled through tighter policy regulation. Measures to deter price gouging can be included in emergency procurement legal frameworks, and the legal elements can be integrated into the portals themselves, as has been done by the *Public Procurement Institute (IMPIC)* in Portugal.³⁴ In addition to reiterating the value of e-tendering platforms to maintain supplier accountability, IMPIC has also issued technical guidance on how existing e-tendering platforms can increase interoperability to expedite contract publication.³⁵

Governments can also guard against the illegal sale of commodities, household essentials, fuel, pharmaceuticals, and other merchandise at prices significantly higher than their ordinary price ranges, by charging per violation and enforcing legal implications. As mentioned in section A.4. *Emergency Procurement Policies: Price Standards*, up-to-date price lists are another useful tool to pinpoint fair prices. In the US, price gouging rules and regulations are constitutional at the state level, and are often combined with anti-hoarding laws. Most commonly, violations are subject to civil penalties of between \$1,000 per violation and \$10,000 per violation.

Governments should simplify the process of filing a price gouging complaint, and should prioritise complaints surrounding high-risk items, including PPE, healthcare equipment, and sanitisation methods. During the pandemic, it's also been more widely advertised by law firms that customers are able to file price gouging complaints if they have reason to believe that a retailer or individual is taking part in price gouging. In Argentina, authorities have adopted anti-price gouging policies, including price controls for food and medical supplies.³⁶

AVOIDING COUNTERFEIT PRODUCTS

During the procurement planning phase, buyers should commit to incorporating a clear and accurate description of the product's technical requirements, while not including quantitative specifics that would unduly restrict competition. Those minimum standard requirements can also be used to evaluate proposals. To incorporate safeguards into evaluation criteria, governments can require more elements to evaluate, such as the supplier's demonstrated ability to perform successfully under emergency conditions. Should a full competitive evaluation occur, suppliers' past performance, financial and technical ability, business integrity, and compliance with public policy are all important.

Governments should also have clear liability policies, processes, and mechanisms to report cases of counterfeit. These should protect the buyer from liability, and should establish consequences for suppliers of counterfeit products – which could include official sanctions and referrals to the appropriate law enforcement agency. Though the pandemic response is legally unprecedented, a few key cases so far include litigation on healthcare, technology, pharmaceutical, and travel operation companies, and

34. Public Procurement Institute (IMPIC), Portugal: <http://www.base.gov.pt/Base/pt/Homepage>

35. Enachi 2020

36. IMF. (n.d.)

will provide the initial contexts for securities fraud suits related to Covid-19.³⁷ Using these key cases as examples, governments should make clear what type of litigation will be held for counterfeit products, when that litigation would be taking place, and what controls exist to protect against fake cures, rogue sellers, and false Covid-19 prevention products.

ENHANCED DUE DILIGENCE PROCESSES

Due diligence is more important than ever during the crisis, and verifying the financial health, history of quality product delivery and outputs, and legitimacy of the supplier companies is needed. Due diligence includes a combination of know-your-customer/counterparty (KYC) practices, as well as "know-your-partner" (KYP) due diligence, which is particularly important to encourage among partners themselves.³⁸ These processes give a detailed understanding of the company one is undertaking new business with, and include a number of precautionary checks. Responsible due diligence also includes gaining additional information on the origin and transport of supplies, gathered from credible sources and first-hand evidence when possible. Due diligence processes can be strengthened and scaled by incorporating good practices related to supplier verification and supplier data, discussed in detail in section A.3., "*Quickly Identifying & Contracting Reliable Suppliers*".

37. Bongiorno, Perla, Shear, Davies, & Lewis 2020

38. KYC-Chain 2020

Indicators: 7. Avoiding Fraud and Price Gouging

7.1. PRODUCT STANDARDS

VALUE = NONE

Government has no product standards or guidelines for identifying counterfeit products purchased during an emergency

VALUE = 1

Government includes standard language on technical requirement and conducts informal or ad-hoc inspections for counterfeit products

VALUE = 2

Government issues detailed guidance to buyers on technical requirements and minimum product standards; no clear inspection or remediation process

VALUE = 3

Government issues detailed guidance to buyers on technical requirements and minimum product standards, with clear guidance on product inspections and remediation process

7.2. ENFORCEMENT

VALUE = NONE

Government has no formal system for reporting counterfeit products or fraudulent suppliers during an emergency

VALUE = 1

Government has ad-hoc, informal system for reporting counterfeit products or fraudulent suppliers during an emergency

VALUE = 2

Government has formal system for monitoring and reporting counterfeit and fraud, such as online forms, public forums, or hotlines

VALUE = 3

Government has formal system for monitoring and reporting counterfeit and fraud; this system is linked with supplier database and list of banned suppliers

7.3. SUPPLIER DUE DILIGENCE

VALUE = NONE

Government has no system for verifying credentials and qualifications of suppliers in an emergency

VALUE = 1

Government uses same non-emergency mechanisms to verify credentials and qualifications of suppliers during an emergency

VALUE = 2

Government accelerates the verification of credentials and qualifications of suppliers during an emergency

VALUE = 3

Government accelerates and intensifies the verification of credentials and qualifications of suppliers during an emergency

7.4. PRICE GOUGING

VALUE = NONE

Government has no regulations on price gouging in an emergency

VALUE = 1

Government imposes some restrictions on price gouging, but they are loosely applied without formal reporting mechanisms

VALUE = 2

Government has strict restrictions on price gouging in an emergency, with formal mechanisms for monitoring, reporting, and enforcement

TOTAL VALUE AVAILABLE = 11

ACCOUNTABILITY AND TRANSPARENCY

With citizens' lives on the line and government spending at record highs, ensuring accountability to citizens is imperative to maintaining trust and effectively managing a response. Although some standards can be relaxed during extreme emergencies, governments should still remain vigilant in pursuing high-quality emergency services that provide strong value-for-money. There's a high risk of corruption at the service delivery level – as "informal payments, overprescribing, favouritism, and nepotism are likely to be exacerbated during an outbreak as the system experiences a greater patient load."³⁹ From service delivery all the way up to the federal level, norms of transparency act as oversight mechanisms, and encourage integrity across the procurement landscape.

EMERGENCY SPENDING OVERSIGHT

According to the World Bank, there are several key oversight principles that governments should consider when spending emergency relief funds, most notably:

- **Ensure complementarity in expenditure across sources**, so that no "double dipping" of allocation funds for the same transaction can occur across multiple sources.
- **Maintain strong linkages of reporting to outputs and outcomes**. In addition to publishing how much money is spent, governments can establish mechanisms for reporting the amounts co-financed through the emergency fund at each agency level.
- **Identify Supreme Audit Institutions (SAIs) and private sector auditors** that can help build credible oversight. Because allocations are more likely to come from both the government budget and emergency funds, they may seem ambiguous without audits.⁴⁰

As mentioned, governments should present clear and accurate descriptions of the technical requirements and quality expectations (see section B.1.), so that product expectations align with reality. If possible, a needs assessment (see section A.1.) can also be a powerful tool to understand what makes a product urgent and viable for emergency procurement, what the incentive is, and what the damages of not procuring would be.

PERFORMANCE METRICS & EVALUATIONS

In an environment in which nothing is certain, procurement processes should stand as one reliable constant. This means that information on supplier compliance rate, availability, and defect rate of emergency suppliers are indicators of response effectiveness.⁴¹ Delays in shipments and responses to inquiries are also common red flags and early warning signs to watch out for.⁴² Determining the effectiveness of response services is tied to careful measurement of the above, and to identifying the specific needs that suppliers are filling.

39. Steingrüber, Kirya, Jackson, & Mullard 2020

40. Zannath, & Gurazada 2020

41. Kissflow 2019

42. Butler 2020


Even in emergencies, government buyers should continue performance evaluations of suppliers' ability to deliver high quality emergency response products, goods, and services. Governments need to show a few different "types" of accountability to maintain trust – accountability to citizens in terms of how you spend their money; and accountability to citizens in terms of effectively and efficiently responding to the emergency (and therefore saving lives).

Public performance metrics and evaluations are key to building that trust – the same key performance indicators (KPIs) that were relevant before the pandemic should still be relevant. Performance evaluations might measure supplier lead time (between when the order is received and when it is shipped), the purchase order (PO) cycle time, and the ability to fill emergency orders effectively. As additional performance incentives, governments can consider cost-plus performance to encourage continuous improvement and value-for-money. See more on contracting mechanisms in section A.6.

OPEN DATA FOR ACCOUNTABILITY

Underpinning the entire operation of smooth procurement policies is the publication of open data, and having sufficient analytics to understand and use that data. Since emergency purchases are prone to corruption or misuse of funds, access to open data is essential for citizens and CSOs to hold governments accountable for their emergency response efforts and spending. Further, publishing open data supports real-time data collection, sharing, and analysis, which can provide useful insights to both buyers and suppliers.

The Open Contracting Partnership published a guide in which it shares what Covid-19 procurement data is most important to collect, publish, and visualise.⁴³ This includes:

- 
1. **Items procured in response to Covid-19;**
 2. **Price and quantity of each item;**
 3. **Awarded supplier(s);**
 4. **Specific location that items are being procured for;**
 5. **Total cost.**

Additionally, supplier lead time; payment methods (direct vs indirect); and procurement method (open tender, sole source, etc.) are also critical to identifying potential red flags for corruption risk. **Beneficial ownership (BO)** information should also always be considered, as it focuses on the ultimate beneficial owners or controllers of a legal entity or arrangement. BO provides answers to the question of who the real winners of contracts are, even though legal title might be awarded to someone else. In an anonymous system, illegal activities can take place hidden from legal authorities. However, linking contracting data with BO requirements identifies and mitigates these risks.

43. Guide accessible at: <https://docs.google.com/document/d/1VTqbBRuxEH3N1wLo5ozDFqLYNzMhxqOMh-bD6U1lYq0/view>

CITIZEN FEEDBACK AND CSO ENGAGEMENT

CSOs and citizens support the government's efforts to identify and report fraudulent applications for relief funding, monitoring the use (or misuse) of emergency response funds, and reporting counterfeiting, fraud, and scams. With stronger citizen-government feedback loops, citizens see action in response to their efforts, building trust and ownership of processes. Argentina has a public procurement monitoring database overseen by *Poder Ciudadano (Citizen Power)* that tracks purchases made by Argentinian public agencies.⁴⁴ Additionally, during a natural disaster in Bosnia-Herzegovina in 2014, anti-corruption hotlines were set up to allow citizens to report corruption instances. A similar approach could be taken here.⁴⁵

It's also important that protections for whistleblowers are continued and Freedom of Information Acts (FOIA) are upheld, as well as other relevant transparency and accountability legislation.

OPEN DATA FOR MARKET INTELLIGENCE

Open data can also help surface market intelligence and share information to prevent turning to less trustworthy black or "grey" markets. For example, Serbia has cited a lack of Europe-wide communication and market access as a reason the government was "forced" to acquire them from the "semi-grey" market.⁴⁶ However, with open data and clear lines of communication, this can be avoided as can resale of medical supplies.

COUNTRY EXAMPLES OF E-PROCUREMENT PLATFORM USE

The Colombian government mandates publishing open contracting data to an e-procurement platform, and in Ukraine, procuring entities are required to publish open data on their orders within one day of the contract's signing. In addition, Ukraine has developed a business intelligence tool (in DoZorro) that monitors medical procurement and emergency spending, and a Covid-19 dashboard to aid reporting and analysis.^{47 48} In Portugal, IMPIC is also using its existing open data portal to publish all awards that are occurring under the emergency legal framework being used during the Covid-19 crisis.⁴⁹

44. Database available at: https://docs.google.com/spreadsheets/d/e/2PACX-1vSnbYwov_Np61DjS7egj1wC56gobxfj40lMsJPhyMS83KhOmy3f4eGKQVjetd2LYSA--CJAFHynFy/pubhtml#

45. Steingrüber, Kirya, Jackson, Mullard

46. Simić 2020

47. Reducing Corruption Risks with Data (n.d.)

48. Tool available here: <https://dozorro.org/tools/med-bi>

49. Reducing Corruption Risks with Data (n.d.)

Data should be available in an accessible and standardised format, such as the Open Contracting Data Standard (OCDS),⁵⁰ to allow for interoperability with other government systems. If possible, governments should have full compliance with OCDS and publish all contracting data in the standard. Within OCDS itself, the guidance has added a new field titled "procurement method rationale," which can be filled out with "Covid-19" to further specify that the contract is flagged as an emergency response. Additionally, if Covid-19 emergency funds also follow International Public Sector Accounting Standards, or national accounting standards by country, those should also be published.⁵¹

OPEN DATA PLATFORMS

An Open Contracting data platform integrated into existing e-Procurement systems can provide a single window for all Covid-19 related contracts to be kept, and identified in Open Contracting Data Fields. Creating a specific section for Covid-19 data to be published on national e-Procurement systems also enables each contract to be identified as emergency procurement, and traceable as such. This would enable free-of-charge aggregation and analysis of information on supply chains, and therefore, public service delivery.

In addition, governments can also support the public utility of open contracting data by incorporating visualisations into the data platform. The data can be visualised on a full dashboard that includes key analyses, statistics, and indicators for Covid-19, or can be even more simple than that, including specific visualisations without the presence of a full dashboard.

50. Open Contracting Partnership (n.d.)

51. Zannath & Gurazada 2020, May 06

Indicators: 8. Accountability and Transparency

8.1. EMERGENCY SPENDING OVERSIGHT

VALUE = NONE

Government does not have any oversight mechanisms to ensure effective emergency spending

VALUE = 1

Government produces some guidance for buyers on effective emergency response strategies, but with weak oversight

VALUE = 2

In an emergency, government links purchasing guidelines and oversight to needs assessments and technical requirements

VALUE = 3

In an emergency, government has clear audit and oversight processes to ensure that emergency supplies and services purchased are effective

8.2. PERFORMANCE METRICS AND EVALUATIONS

VALUE = NONE

Government does not regularly monitor or evaluate supplier performance in an emergency

VALUE = 1

Government monitor and evaluates supplier performance during an emergency on an ad-hoc basis, without the use of standardised KPIs

VALUE = 2

Government regularly evaluates supplier performance during emergencies based on KPIs, and these evaluations are stored in internal systems for future reference

VALUE = 3

Government regularly evaluates supplier performance during emergencies according to KPIs, and these evaluations are tied to supplier database

8.3. OPEN DATA FOR ACCOUNTABILITY

VALUE = NONE

Government collects emergency procurement information, but does not publish or tag procurement and contracting data for emergencies

VALUE = 1

Public or Private entities can access data or information on emergency procurements through certain avenues, such as an FOI request or with an application/fee.

VALUE = 2

Data and information on emergency procurements is publicly available online

VALUE = 3

Data and information on emergency procurements is publicly available online; and public or private entities can request additional information

8.4. CITIZEN FEEDBACK & CSO ENGAGEMENT

VALUE = NONE

No systems in place for citizens or CSOs to provide feedback or file complaints in regards to emergency public procurements

VALUE = 1

Some informal systems in place for citizens or CSOs to provide feedback or file complaints in regards to emergency public procurements

VALUE = 2

Formal systems in place for citizens or CSOs to provide feedback or file complaints in regards to emergency public procurements, such as online forms, public forums, or hotlines

VALUE = 3

Formal systems in place for citizens or CSOs to provide feedback or file complaints in regards to emergency public procurements; government actively engaging with CSO sector to improve transparency and accountability

Indicators: 8. Accountability and Transparency

8.5. DATA STANDARDS

VALUE = NONE

Government does not use any standards to publish data on emergency procurements

VALUE = 1

Government publishes some contracting data on emergency purchases; no standard format

VALUE = 2

Government publishes emergency contracting data, with partial compliance to OCDS

VALUE = 3

Government regularly publishes emergency contracting data, with full compliance to OCDS

8.6. OPEN DATA PLATFORMS

VALUE = NONE

Government does not have any internal or external emergency procurement data platforms

VALUE = 1

Government maintains internal repository of emergency procurement information, but data analytics capabilities are limited

VALUE = 2

Government maintains internal repository of emergency procurement data, with analytical and visualisation capabilities, but this is not public

VALUE = 3

Government maintains internal repository of emergency procurement data, with analytical and visualisation capabilities, for both internal and external analysis


8.7. OPEN CONTRACTING DATA FIELDS

Value = 1 if government has data

| | |
|---|--|
| Procurement Method | |
| Procurement Method Rationale (Covid-19) | |
| Items/Services | |
| Awarded Supplier | |
| Total Award Amount | |
| Cost Per Item | |
| Location | |
| Tender Start Date | |
| Tender Closed Date | |
| Award Date | |
| Contract Start Date | |
| Payment Methods (direct vs indirect) | |

TOTAL VALUE AVAILABLE = 30

MAINTAIN SERVICE DELIVERY & SUSTAIN THE ECONOMY



THE COVID-19 PANDEMIC HAS HAD A HUGE IMPACT ON GLOBAL SUPPLY CHAINS AS GOVERNMENTS AND BUSINESSES HAVE MADE DIFFICULT DECISIONS TO CLOSE DOWN NON-ESSENTIAL BUSINESSES AND RESTRICT THE MOVEMENT OF PEOPLE.

Downstream suppliers have shuttered production, and shipping and distribution lanes have been severely disrupted. Many companies and organisations are finding it difficult to stay afloat,⁵¹ either because they aren't able to access typical consumers, adapt to remote work, or because their own providers have shut down, re-prioritised, or seen increased demand for scarce resources. This is not only a threat to the domestic economy, but also a threat to a government's ability to ensure that essential public services are delivered to citizens.

BALANCING NEEDS DURING AND BEYOND COVID-19

Beyond the immediate hurdles related to purchasing in response to an emergency, public procurement officials need to think strategically about entire supply chains and their long-term capacity to deliver public services. For example, many government administrations have halted critical infrastructure projects (related to water, sewage, electricity, internet availability, etc.) due to a lack of available skilled labour and raw materials. However, these programmes will eventually need to be re-prioritised. The pandemic itself is also layered and complex – governments must balance the needs of securing PPE for first responders and essential workers, while also ensuring that their respective Departments of Education has the technology it needs to reach students while they are out of the classroom.

52. Tucker 2020

Responding poorly to the challenges suppliers are facing can result in a smaller pool of qualified emergency response suppliers, impact the ability of the government to continue to provide important services, and carries broader long-term implications for the strength of the domestic economy as a whole. Governments should determine how they can appropriately attract and support suppliers to ensure services continue to be delivered to citizens during and after the pandemic, and help companies stay afloat. Government buyers can utilise various contracting mechanisms during an emergency to accelerate the emergency response purchasing process, strengthen incentives for delivering high quality work, goods, and services, and support at-risk suppliers for long-term economic security.

SUPPLY CHAIN RISK MANAGEMENT

In the webinar, *Impact of Coronavirus: Building Supply Chain Resilience*, Procurement Leaders⁵³ recommends conducting a review to identify which sectors are most at-risk. In order to prioritise this research, governments should ask themselves, "what critical services do we supply that would not be fulfilled should upstream suppliers be unable to provide contracted services?"

The government should assess the challenges suppliers are facing, and prioritise those in their critical sectors they identified. Governments might employ a tool such as RiskRecon⁵⁴ to continually track supplier risk, or might do so by sending surveys to the suppliers providing these critical resources to understand their current situations. Questions might include:

- **Are they facing challenges with cash flow because of loss of other business?**
- **Are they having challenges within their own supply chain to get the resources they need?**
- **Do health concerns and/or travel restrictions impact them from being able to provide the services expected on time?**

These questions might also be employed in regular conversations with suppliers during this time; however, surveys can gather the information quickly and allow the government to compare responses and prioritise if needed.

Another important factor in deciding which suppliers to focus support on is trust. An emergency is not the time to provide large payments to companies the government has never worked with before (see section B.1), but rather is an opportunity to support existing suppliers the government has a trusting relationship with. Being able to quickly check the company's past performance will be critical in quickly identifying which suppliers to focus on. Procurement Leaders also recommends creating more trust between buyers and suppliers, by staying in close contact and sharing extra information.

53. Procurement Leaders 2020

54. Risk Recon: <https://www.riskrecon.com/>

Indicators: 9. Supply Chain Risk Management

9.1. RISK ASSESSMENT

VALUE = NONE

Government does not regularly assess or provide guidance on supply chain risks to public service delivery during an emergency

VALUE = 1

Government loosely assesses supply chain risks to public service delivery on an informal, ad-hoc basis

VALUE = 2

Government has formal methods or tools that can assess and identify supply chain risks, but only for new contracts

VALUE = 3

Government has formal methods or tools that can assess and identify supply chain risk to both new and existing contracts during an emergency

9.2. PRIORITISING PUBLIC SERVICE DELIVERY

VALUE = NONE

Government has no clear guidance or methods for mitigating risks to public service supply chains

VALUE = 1

Government prioritises public service supply chains on an ad-hoc, as needed basis

VALUE = 2

Government has strategy for proactively prioritising service delivery supply chains during emergencies

TOTAL VALUE AVAILABLE = 5

SUPPORTING EXISTING SUPPLIERS

The IMF's World Economic Outlook estimates that the global economy will shrink by 4.9% this year as a result of the global pandemic, projecting a grim economic result for both public and private sectors.⁵⁵ With suppliers facing short and long term risks to both their supply chains and their liquidity, government buyers can play an important role in mitigating the economic impacts of an emergency. The UK Government has released a Procurement Policy Note on supplier relief due to Covid-19⁵⁶, which outlines a number of options for supporting contracted suppliers during the pandemic. Many countries have similar policies in place.⁵⁷

Because of disruptions to the supply chain and market uncertainty, buyers and suppliers may be inclined to cancel contracts. However, contract cancellations should be avoided at all costs. Firstly, governments should avoid exacerbating bureaucratic backlogs faced by financial and legal departments during an emergency. Secondly, adjusting contracts rather than cancelling them can support long-term viability of at-risk suppliers – especially SMEs – during the post-emergency economic recession.

Finally, there are a number of contracting mechanisms that government buyers can utilise to adjust projects and payment schedules to better balance the needs and realities of responding to an emergency.

55. International Monetary Fund 2020

56. UK Cabinet Office 2020

57. Bird & Bird 2020

REVIEW FORCE MAJEURE CLAUSES

Many public and private sector contracts include clauses related to *force majeure*, which stipulates specific contractual obligations that can be suspended or cancelled in the event of an extreme emergency. These force majeure clauses provide a legal basis for many of the contractual adjustments discussed in this section. Governments should consult with their legal departments on the fine print of force majeure clauses and consider where it is appropriate to allow suppliers to invoke force majeure.

CONTRACT EXTENSIONS AND RENEWALS

Providing contract extensions can give suppliers the flexibility and time they need to deliver in this challenging situation if Covid-19 has impacted their ability to deliver in the original timeframe. Further, some contract renewals are set to go into effect by default unless the contract is terminated. If suppliers are facing undue challenges to provide services because of Covid-19, which they are typically able to provide in normal circumstances, allowing the contract renewal to go into effect instead of terminating the contract can sustain supply chains and be a boon to suppliers.

ALTERING TIMELINES AND PAYMENT SCHEDULE

Cash flow is likely to be the front-most challenge suppliers, particularly SMEs, are facing at this time. Providing some payments up-front could make the difference in these suppliers being able to remain solvent in order to deliver the contracted goods/services/works. In line with this, if certain payments were originally tied to specific deliverables, outcomes, and KPIs that are now challenging or impossible to meet due to Covid-19, governments should adjust or cut these ties. Similarly, if service credit amounts are deducted when supplier performance fails to meet performance standards set in the contract, and suppliers are not able to meet performance standards because of Covid-19, the payment mechanism should be altered.

Additionally, it's common practice for invoices to be obligated to be paid within 30 days of receiving invoice. At a time when cash flow is especially critical, accelerating this timeline to pay as soon as possible can create supply chain stability.

ADJUSTING CONTRACT DELIVERABLES

Because of new and unforeseen limitations, suppliers might not be able to deliver the exact service/product/work that had been agreed upon. Assessing whether deliverables can be adjusted based on these challenges to meet other needs can go a long way in providing sustainability to suppliers and mitigating long-term risks to supply chains. Similarly, governments should seek to expand purchase orders of PPE and emergency response equipment from existing contracts and suppliers. If expanding the purchase order also means modifying the price of the contract, there should be limits on the amount of increase allowed (for example, the UK sets a 50% increase limit⁵⁸).

58. UK Cabinet Office 2020

INDICATORS: **10. Supporting Existing Suppliers**

10.1. FORCE MAJEURE

VALUE = NONE

Government contracts do not include force majeure clauses

VALUE = 1

Some government contracts include force majeure clauses on an ad-hoc basis; how they apply to payment schedules and delivery is unclear

VALUE = 2

All government contracts include force majeure clauses, but terms, conditions, and processes are not clear

VALUE = 3

Existing contracts outline clear processes and timelines for filing for contract relief and/or contract termination under force majeure

10.2. EXTENSIONS AND RENEWALS

VALUE = NONE

Existing government contracts cannot be modified, extended, or automatically renewed during an emergency

VALUE = 1

Government authorises contract extensions or modifications due to extreme emergency on an ad hoc basis; no guidance for buyers or suppliers

VALUE = 2

Existing government contracts outline clear terms, conditions, and processes for expanding the terms of the contract during an emergency

10.3. TIMELINES AND PAYMENT SCHEDULES

VALUE = NONE

During an emergency, existing government contract timelines and payment schedules cannot be adjusted

VALUE = 1

Existing government contract timelines and payment schedules can be adjusted during an emergency, but process and guidelines are not clear

VALUE = 2

Government issues clear guidance for buyers and suppliers on adjusting timelines and payment schedules to existing contracts during an emergency.

10.4. ADJUSTING DELIVERABLES

VALUE = NONE

Existing government contracts do not allow for adjusting deliverables due to extreme emergency

VALUE = 1

Existing government contracts allow for flexible delivery schedules, but no uniform guidance or standard applied

VALUE = 2

Existing government contracts allow for flexible delivery schedules, with uniform guidance or standard applied

VALUE = 3

Existing government contracts allow for flexible delivery schedules. This information is then fed back to public service delivery risk assessments

TOTAL VALUE AVAILABLE = 10

DIGITAL TOOLS FOR SERVICE DELIVERY

Throughout this report, we've mentioned various digital solutions that can support different aspects of emergency response (supplier database, the *Offer Coronavirus Support from your Business* portal, health information management systems, etc). In addition to these, there are likely other government services that could be made available through digital solutions. The Covid-19 pandemic has highlighted how important it is to be able to access government solutions online when in-person solutions are not an option. Even as many cities throughout the world begin to reopen, vulnerable individuals may not feel safe to do so for quite some time. In order to continue to sustainably provide ongoing and emergency related services to all citizens, governments should shift services to digital platforms where possible. During crises, these services might see a much higher use than during normal times, such as the UK government's tool, "GOV.UK Verify," which has seen massive increase of users as hundreds of thousands of people sought Universal Credit claims.⁵⁹ Thus, governments should be prepared to scale and support these tools during times of crisis.

⁵⁹. Government Digital Service Digital Identity Team 2020



CASE STUDY:

THE TECHNOLOGY CODE OF PRACTICE

UK Government Digital Service (GDS) has many resources for best practices and guidelines for development digital services,⁶⁰ such as the Technology Code of Practice.⁶¹ While all are useful and should be considered, the following recommendations are especially advantageous to help ensure a smooth and quick roll out of essential government digital services:

- Have standard templates, prototype code⁶², and style guides⁶³ to quickly stand up for any government websites.
- Create modular tools that are can be reused in other services (such as the GOV.UK Pay⁶⁴ and Notify⁶⁵ tools). This will make it faster and easier to launch new services that reuse these tools.
- User-centred design to ensure that services are useful and usable.⁶⁶
- Accessibility needs should be considered to ensure tools are accessible by all users.⁶⁷

Additionally, tools like the Technology Code of Practice help establish the reorientation of public financial management processes and spend controls during a crisis, to align with new procurement realities. If specific protocols do not exist, existing guidance can be adjusted to include information on delegation of authority and speedier processes.⁶⁸ For example, GDS uses the Code of Practice to assure guidance around central government digital and technology plans.

60. Gov.UK Service Toolkit: <https://www.gov.uk/service-toolkit>

61. Government Digital Service 2010

62. GOV.UK Prototype Kit: <https://govuk-prototype-kit.herokuapp.com/docs>

63. GOV.UK Style Guide: <https://www.gov.uk/guidance/style-guide>

64. GOV.UK Pay: <https://www.gov.uk/performance/govuk-pay>

65. GOV.UK Notify: <https://www.notifications.service.gov.uk/>

66. Government Digital Service 2017

67. Government Digital Service (n.d.)

68. Gurazda 2020

INDICATORS: 11. Digital Tools for Service Delivery**11.1. DEPLOYING DIGITAL SERVICES QUICKLY**

VALUE = NONE

The government has no standard resources to quickly stand up government digital services in an emergency

VALUE = 1

The government has a style and design guide for how government digital solutions should look

VALUE = 2

The government has a website template and code for standing up government prototypes during an emergency

VALUE = 3

The government has reusable, modular tools that can be plugged into government digital services during an emergency

11.2. USER- CENTRED DESIGN

VALUE = NONE

The government does not engage with users in digital solution development during an emergency

VALUE = 1

Users are able to send feedback on the emergency response tool once it is launched

VALUE = 2

During an emergency, government conducts user acceptance testing at the end of system development

VALUE = 3

During an emergency, users are included in defining the system requirements and through user acceptance testing

11.3. ACCESSIBILITY

VALUE = NONE

Government digital services do not have any accessibility features or considerations

VALUE = 1

Government digital services have some standard accessibility functions (e.g., level A of the Web Content Accessibility Guidelines⁶⁹)

VALUE = 2

Government digital services meet level AA of WCAG

VALUE = 3

Government digital services meet level AA of WCAG

TOTAL VALUE AVAILABLE = 9

69. W3C 2018

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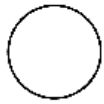
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CRISIS PROCUREMENT READINESS

This tool will allow countries to determine where they currently stand in regards to crisis procurement readiness, as well as select priority areas for procurement reform to address challenges specific to crisis response.



EMERGENCY PROCUREMENT: LESSONS LEARNED FROM COVID-19