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## EMERGENCY PROCUREMENT AND CORRUPTION IN SOUTH AFRICA AND NIGERIA: LESSONS FROM THE COVID-19 PANDEMIC

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### ABSTRACT

Procurement of goods and services by government agencies, during emergencies is often vulnerable to irregularities and corruption. This article discusses the risks of corruption in emergency procurement, which are frequently a result of various factors including urgency, unpreparedness, supply chain disruptions, goods shortages, as well as unclear rules for utilising different modes of purchasing, the removal of procedural controls and increases in the availability of resources to address the emergency. The article relies on qualitative data to explore the manner in which emergency procurement during the Covid-19 pandemic was managed in South Africa and Nigeria. The article also discusses the kinds of interventions that may limit the risks of corruption in emergency procurement. It will be seen that implementing a robust crisis preparedness framework, better oversight and monitoring and a working e-procurement system are all useful in mitigating the corruption risks that arise in emergency procurement.

**Keywords:** *crisis, Covid-19, corruption, emergency procurement, Nigeria, public procurement, South Africa.*

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## 1. INTRODUCTION

Emergency procurement mechanisms, although necessary for a rapid and effective response during a crisis, pose significant corruption risks that undermine public trust,<sup>1</sup> waste public resources, and hinder effective crisis responses. ‘Emergency procurement’ refers to a variety of situations, which permit deviation from standard competitive procurement procedures.<sup>2</sup> This deviation introduces flexibility and speed into the procurement process through the relaxation of procedural and other controls. The removal of or reduction in these controls often means that emergency procurement is fraught with corruption and other risks. Addressing these risks requires the improvement of the resilience of procurement systems, despite the exigencies of an emergency.

The last two decades have shown that global, local and regional emergencies are on the increase. There have been a series of severe health emergencies, such as the SARS outbreak in 2002, Avian flu in 2005, the H1N1 outbreak in 2009, the Ebola outbreak in 2014, the Zika virus outbreak in 2016, and a resurgence of the Ebola outbreak in 2019. There have also been notable man-made disasters such as the Jilin chemical plant explosion in 2005, the BP Deepwater oil spill in 2010, the Soma mine disaster in 2014 and the Tlahuelilpan pipeline explosion in 2019, to name a few. Civil and political unrest, have also escalated, even in hitherto peaceful countries.<sup>3</sup>

In addition, disastrous climate events in Africa<sup>4</sup> and elsewhere have displaced and killed thousands, and it is expected that these would increase in frequency, scale, and impact.<sup>5</sup> The implication of the aforementioned is that most countries and/or regions will be

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- 1 Morris SD and Klesner JL (2010) ‘Corruption and Trust: Theoretical Considerations and Evidence from Mexico’ 43 (10) *Comparative Political Studies* at 1258.
  - 2 Racca GM and Yukins C (2024) ‘Emergency Procurement and Corruption’ in Williams S and Tillipman J (eds) *Routledge Handbook of Public Procurement Corruption*, Oxford: Routledge at 77.
  - 3 Carnegie Endowment for International Peace (2021), *Global Protest Tracker*. <https://carnegieendowment.org/features/global-protest-tracker?lang=en> (accessed 13 December 2025).
  - 4 World Meteorological Organisation (2024) *State of the Climate in Africa*. [https://library.wmo.int/viewer/69000/download?file=1360\\_State-of-the-Climate-in-Africa-2023\\_en.pdf&type=pdf&navigator=1](https://library.wmo.int/viewer/69000/download?file=1360_State-of-the-Climate-in-Africa-2023_en.pdf&type=pdf&navigator=1) (accessed 13 December 2025).
  - 5 Thomas V and López R (2015) ‘Global Increase in Climate-Related Disasters’ ADB Economics Working Paper Series. Available from <https://www.adb.org/sites/default/files/publication/176899/ewp-466.pdf> (accessed 13 December 2025).

in the throes of a health, climate, or man-made crisis, and it is crucial that countries develop the capacity within their procurement systems to respond to these challenges.<sup>6</sup>

In 2020, the Covid-19 pandemic turned out to be a global emergency with economic and health consequences. Whilst the pandemic was unique in its global and simultaneous impact, it was also peculiar in relation to the trade, travel and supply chain disruptions that accompanied it, as well as the ‘diversity of the sources of uncertainty,’<sup>7</sup> which included health and economic uncertainties. The pandemic required the enforcement of quarantine and restrictions, deployment of relief funds, the provision of food parcels to vulnerable groups, the continuity of essential services, the procurement and transportation of medical supplies, customs clearance of imported medical goods, the mobilisation of health care workers and contact tracers,<sup>8</sup> and the swift procurement of IT systems and hardware for educational institutions.

The multiple measures required to respond to the pandemic, strained and challenged procurement systems and the pandemic highlighted the lack of ethical resilience in public procurement systems, exposing gaps in anti-corruption mechanisms, trust, and procurement integrity. From the northern to the southern hemisphere, no country escaped the corruption that beset public financial management systems. This exposed chasms between legal prescriptions and reality. It is this lack of ethical resilience in emergency procurement in Nigeria and South Africa (SA) that is the focus of this article.

South Africa and Nigeria are both federal states with decentralised procurement systems. In South Africa, procurement law derives its authority from the Constitution, which establishes that public procurement must be ‘fair, equitable, transparent, competitive and cost-effective.’<sup>9</sup> There are also several laws which govern the procurement function, and

6 Pee LG, Pan SL, Wang, J and Wu J (2021) ‘Designing for the future in the age of pandemics: a future-ready design research (FRDR) process’, 30 (2) *European Journal of Information Systems* at 157.

7 Estache A and Foucart R (2021) ‘Procurement during health crises when not just incompetence and corruption matter’ in Bandiera, O, Bosio E and Spagnolo G (eds), *Procurement in Focus: Rules, Discretion, and Emergencies* London: Centre for Economic Policy Research at 114.

8 Olowo-Okere E (2020) ‘Can corruption risks be mitigated without hindering governments’ COVID-19 response?’ May 12, 2020, World Bank Blogs; UNODC (2021) *Corruption and Covid 19: Challenges in crisis responses and recovery* Vienna: UNODC at 2; UNODC (2021b) *Crises and Corruption: Emergency Responses during COVID-19. Experiences and Lessons Learned* Vienna: UNODC at 2.

9 Republic of South Africa, Constitution 1996, section 217.

contracting authorities (referred to as ‘organs of state’) procure for their own account, under supply chain management policies and with limited central control.<sup>10</sup> The procurement regulatory framework is undergoing reform, with the passage of the Public Procurement Act 28 of 2024 and the ongoing drafting of the procurement regulations needed to implement the Act. In South Africa, the National Treasury and Provincial Treasuries have oversight responsibility over accounting officers, who are responsible for procurement in their domains.

In Nigeria, the 1999 Constitution gives both the federal government and the states (sub-national regions) competence over public procurement. There is a procurement law which governs federal procurement<sup>11</sup> and separate procurement laws for the states. There is also decentralised procurement oversight, with oversight over federal procurement provided by the Bureau of Public Procurement (BPP), and the states providing oversight through state procurement agencies.

The article examines the way South Africa and Nigeria implemented emergency procurement measures during the pandemic, it also highlights the corruption risks and challenges faced. The article argues that although emergency procurement is fraught with corruption risks, it is possible to reduce or mitigate these risks. This may be attained through the creation of a robust crisis preparedness framework, which clarifies roles, responsibilities and permissible procurement approaches, better oversight and monitoring of emergency contracts, including by relying on civil society and through the deployment of a working e-procurement system.

## 2. STATEMENT OF THE PROBLEM AND METHODOLOGY

As stated in the introduction, emergency procurement procedures are necessary for a rapid and effective response to a crisis, but are often accompanied by increased corruption risks. As natural and man-made disasters become increasingly common, it is important for African

10 Quinot G, Williams-Elegbe S and Udeh KT (2021) Emergency Procurement and Responses to COVID-19 in Africa: The Contrasting Cases of South Africa and Nigeria’ in Arrowsmith S, Butler L, La Chimia A and Yukins C (eds) *Public Procurement Regulation in (A) Crisis: Global Lessons from the COVID-19 Pandemic* Oxford: Hart/Bloomsbury Publishing at 525.

11 Williams S (2024) ‘Nigeria’ in Williams S and Tillipman J (eds) *Routledge Handbook of Public Procurement Corruption* Oxford: Routledge Publishing.

countries to develop measures to ensure that emergency procurement does not lead to avoidable losses from corruption.

While emergency procurement is not a new issue, it was not until the Covid-19 pandemic that emergency procurement systems came under the spotlight.<sup>12</sup> There has, however, been limited academic interrogation of the mistakes made by African countries in procuring for the pandemic and the lessons learned from the procurement failures that arose during the pandemic. This article aims to fill this gap by examining emergency procurement systems in South Africa and Nigeria. This article thus seeks to answer the following questions:

- What are the corruption risks in emergency procurement?
- How is emergency procurement managed in South Africa and Nigeria and what are the challenges faced in undertaking emergency procurement?
- What kind of interventions are suitable to reduce the risks of corruption during emergencies?

The article adopts a qualitative and desk-based (secondary) approach. Qualitative information was garnered from interviews with a limited number of stakeholders in Nigeria and South Africa between 2022 and 2023. These stakeholders included public procurement regulators, procurement officials, anti-corruption experts and officials in multilateral donors. These interviews were designed to understand current (and informal) practices and challenges relevant to emergency procurement.

The desk-based research comprised a contextual analysis of the literature, studies, policies, and programmes on emergency procurement and provided information on the state of emergency procurement and successful interventions that make emergency procurement more resilient to corruption and fraud.

### 3. CORRUPTION RISKS IN EMERGENCY PROCUREMENT

Public procurement comprises the framework of laws, institutions and practices relied on by the public sector to buy the goods, services and construction needed to function and maximise public welfare.<sup>13</sup> Procurement consumes a significant proportion of public

<sup>12</sup> Quinot, Williams-Elegbe & Udeh (2021) at 525.

<sup>13</sup> Williams-Elegbe S (2012) *Fighting Corruption in Public Procurement: A Comparative Analysis of Disqualification or Debarment Measures* Oxford: Hart Publishing at 2.

resources and accounts for up to 15% of GDP in Organization for Economic Co-operation and Development (OECD) countries.<sup>14</sup> Procurement is an aspect of the public financial management system, which consists of the systems and processes utilised in the management and spending of public resources, including budgeting, treasury, cash management, disbursement, accounting and reporting, audit and control, public procurement, and human resources.<sup>15</sup>

Whilst procurement is a highly regulated and process-driven activity, designed to ensure integrity, competition and value for money, it is often at risk of corruption.<sup>16</sup> In times of emergency, public procurement follows a quicker, less bureaucratic and less competitive process, which dispenses with some integrity controls. It is this quicker process that is referred to as ‘emergency procurement’.

The term ‘emergency procurement’ is used as an umbrella term to cover situations (not limited to emergencies) in which public agencies are permitted to deviate from the rules requiring competitive procurement procedures.<sup>17</sup> These include situations where there is an urgent need owing to a disaster or there is an urgent need for any other reason (other than a failure to plan) making it impractical to undergo a competitive process.<sup>18</sup> It also includes instances where there are national security concerns, which make a (public) competitive process inappropriate.<sup>19</sup> The Covid-19 pandemic warranted urgent procurement for health and other public goods. This meant that ‘pandemic’ goods were suitable for emergency procurement procedures.<sup>20</sup>

Emergency procurement is often beset by ethical failures and corruption scandals.<sup>21</sup> During the Covid-19 pandemic, corruption was partly attributable to the peculiarities of the

14 OECD (2021), *Government at a Glance 2021* Paris: OECD Publishing chapter 8.

15 Morgner M and Chêne M (2015) ‘Public Financial Management’ Transparency International. Available from <https://knowledgehub.transparency.org/guide/topic-guide-on-public-financial-management/4994> (accessed 13 December 2025).

16 International Monetary Fund (2019) *Fiscal Monitor: Curbing Corruption* Washington DC: International Monetary Fund at 53; Williams-Elegbe (2012) at 9.

17 Racca and Yukins (2024) at 77.

18 United Nations, (2011) *UNCITRAL Model Law on Public Procurement* General Assembly resolution 66/95 of 9 December 2011, art 30.

19 Racca and Yukins (2024) at 77.

20 Quinot, Williams-Elegbe & Udeh (2021) at 525.

21 Cortese J (2020), ‘COVID-19 and the coming corruption pandemic’. The Hill. Available at

pandemic, such as the urgency, unpreparedness, supply chain disruptions and goods shortages, which create their own corruption risk,<sup>22</sup> as well as incoherent, variable and unclear rules.<sup>23</sup> The removal of controls,<sup>24</sup> increases in the availability of resources to address the emergency, staff increases, turnover and inexperience, also created corruption risks.<sup>25</sup> The pressure to act, led to hurried purchases that amplified the potential for fraud.<sup>26</sup> Other integrity failures were attributable to the inability of emergency procurement systems to withstand corrupt actors, exacerbated by pre-existing corruption vulnerabilities and inefficiencies in the health sector.<sup>27</sup>

Corruption manifests in emergency procurement as bribery,<sup>28</sup> the embezzlement of public funds, conflicts of interest, unethical exchanges of confidential information and steering contracts and resources in a specific direction.<sup>29</sup> During the Covid-19 pandemic, this was accompanied by the fraudulent deviation of procured goods to the black market,<sup>30</sup> the

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<https://thehill.com/opinion/criminal-justice/491300-covid-19-and-the-coming-corruption-pandemic/> (accessed 13 December 2025).

- 22 Steingrüber S and Gadanya M, (2021) 'Weak links: How corruption affects the quality and integrity of medical products and impacts on the Covid-19 response' U4 Issue 15 at 1.
- 23 Estache and Foucart (2021) at 114; World Bank (2021) 'Opportunities and Challenges for Public Procurement in the First Months of the COVID-19 Pandemic: Results from an Experts Survey' EFI Insight-Governance. Washington, DC: World Bank at 1 Rose-Ackerman S (2021) 'Corruption and Covid-19' 20 *Eunomia. Revista en Cultura de la Legalidad*, at 19.
- 24 Schultz J and Soreide T (2008) 'Corruption in emergency procurement' 32 (4) *Disasters* at 516.
- 25 Schultz and Soreide (2008) at 516.
- 26 Rose-Ackerman (2021) at 18.
- 27 Rose-Ackerman (2021 at 18-19; Garcia, P (2019), 'Corruption in global health: the open secret' 394 *Lancet* at 2119; Transparency International, 'The Ignored Pandemic: How Corruption in Health Care Delivery Threatens Universal Health Coverage' at 1. Available from <http://ti-health.org/wp-content/uploads/2019/03/IgnoredPandemic-WEB-v2.pdf>; World Health Organisation (2019) 'Reinforcing the focus on anti-corruption, transparency and accountability in national health policies, strategies and plans'. Available at <https://www.who.int/publications/i/item/reinforcing-the-focus-on-anti-corruption-transparency-and-accountability-in-national-health-policies-strategies-and-plans> (accessed 13 December 2025).
- 28 Milata, P (2020) 'Fraud's Impact on Healthcare During COVID-19' *Nemexis* at 10. See also Gallego J, Prem M and Vargas JF, (2021) 'Pandemic corruption: Insights from Latin America' in Bandiera O, Bosio E and Spagnolo G (eds) *Procurement in Focus: Rules, Discretion, and Emergencies* London: Centre for Economic Policy Research at 101.
- 29 Oliveira Silva Luz A (2021) 'Emergencies: Increasing the Opportunities to Corruption' Geneva Global Policy Briefs 1/2021 Geneva: University of Geneva at 1; Fazekas, M, Nishchal S and Søreide T, (2021) 'Public procurement under and after emergencies' in Bandiera O, Bosio E and Spagnolo G (eds) *Procurement in Focus: Rules, Discretion, and Emergencies* London: Centre for Economic Policy Research at 33. Prohibitions against this kind of conduct are found in the procurement legislation of both Nigeria and South Africa- see section 58 of the Public Procurement Act, 2007 (Nigeria) and sections 10-12 of the Public Procurement Act, 2024 (South Africa).
- 30 Milata (2020) at 12.

use of newly registered companies owned by politically connected persons, repeated contracts (for varied goods) to the same contractors,<sup>31</sup> using emergency procurement rules to purchase goods unrelated to the emergency, price gouging and contractor fraud, which included non-delivery, sub-standard or short delivery.<sup>32</sup>

Whilst the kind of corruption risks that manifest in emergency procurement are clear, it is often challenging to understand corruption in emergency procurement. For instance, it is not clear whether corruption within emergency procurement arises owing to the pre-existing poor quality of governance. In other words, it is not clear whether the corruption is simply an extension of the corruption that manifests during non-emergency procurement, or whether the corruption is directly attributable to the exigencies of the emergency.<sup>33</sup> This is important as the effectiveness of anti-corruption interventions may depend on the context of the corruption. Second, the risk indicators that signal corruption in non-emergencies, such as direct awards, limited advertisements, and higher prices, are less useful in an emergency, as the essence of emergency procurement is a legally permitted reliance on direct awards, limited advertisements (and relatively higher prices as a result of non-competition). This means that triangulated<sup>34</sup> corruption risk proxies may be necessary to accurately signal corruption risks during emergencies. One of these proxies is the suppression of early warning whistleblowers, which occurred in the United States of America,<sup>35</sup> and in South Africa during Covid-19. Other useful risk indicators include cost overruns, contract awards to campaign donors and time extensions<sup>36</sup> and price-gouging.<sup>37</sup>

31 Mellman A and Eisen N (2020) 'Addressing the other COVID crisis: Corruption' Brookings Report Available at <https://www.brookings.edu/research/addressing-the-other-covid-crisis-corruption/>.

32 Quinot, G (2024) 'Corruption and Covid-19 Procurement' in Williams S and Tillipman J (ed) *Routledge Handbook of Public Procurement Corruption* Oxford: Routledge Publishing at 62.

33 Fazekas, Nishchal and Søreide (2021) at 34.

34 Fazekas M; Cingolani L; and Tóth B (2016), 'A comprehensive review of objective corruption proxies in public procurement: risky actors, transactions, and vehicles of rent extraction'. Working Paper series: GTI-WP/2016:03. Available at [http://digiwhist.eu/wp-content/uploads/2016/08/GTI\\_WP2016\\_3\\_Fazekas-Cingolani-Toth\\_Conceptualising-PP-corr\\_160821.pdf](http://digiwhist.eu/wp-content/uploads/2016/08/GTI_WP2016_3_Fazekas-Cingolani-Toth_Conceptualising-PP-corr_160821.pdf) (accessed 13 December 2025).

35 Florko N (2020), 'Vaccine expert says he was punished for raising concerns about Trump's coronavirus response, nepotism'. Available at <https://www.statnews.com/2020/05/05/vaccine-expert-says-he-was-punished-for-raising-concerns-about-trumps-coronavirus-response-nepotism/>

36 Gallego, Prem and Vargas (2021) at 104; Fazekas M, and Mark L (2017) 'Objective corruption risk indicators using donor project and contracts data' Government Transparency Institute reports GTI-R/2017:02 Budapest: Government Transparency Institute at 1.

37 Pillay K (2020) Data Analysis of Treasury Records reveals extent of Price Gouging on PPE.



The implications of corruption during emergencies can be severe and constrain responses to the emergency.<sup>38</sup> Corruption during a crisis drives public mistrust,<sup>39</sup> slows public sector responses,<sup>40</sup> affects donor willingness<sup>41</sup> and damages social cohesion, community resilience and the social contract when it is needed the most.<sup>42</sup> In 2024, the Edelman Trust Barometer highlighted that societal trust is at an all-time low with governments regarded as one of the least trustworthy institutions.<sup>43</sup> During the pandemic, government mistrust drove misinformation and contributed to vaccine hesitancy in sub-Saharan Africa<sup>44</sup> and mass disregard for public health recommendations in Nigeria.<sup>45</sup> Although there has been investment in building integrity in procurement systems,<sup>46</sup> more can still be done to strengthen procurement integrity.<sup>47</sup>

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<https://www.corruptionwatch.org.za/data-analysis-of-treasury-records-reveals-extent-of-price-gouging-on-ppe/> (accessed 13 December 2025).

38 International Monetary Fund (2019).

39 Morris and Klesner (2010) at 1258; Cho W and Kirwin M F (2007) “A Vicious Circle of Corruption and Mistrust in Institutions in sub-Saharan Africa: A Micro-Level Analysis”, Working Paper, no. 71, Cape Town: Afrobarometer.

40 World Bank (2021) at 9.

41 Schultz and Soreide (2008) at 516; Dávid-Barrett E, Fazekas M, Hellmann O, Márk L, McCorley C (2020) ‘Controlling Corruption in Development Aid: New Evidence from Contract-Level Data’ 55 *Studies in Comparative International Development* at 481.

42 Jewett RL, Mah SM; Howell N; Larsen MM (2021) ‘Social Cohesion and Community Resilience During COVID-19 and Pandemics: A Rapid Scoping Review to Inform the United Nations Research Roadmap for COVID-19 Recovery’ 51 (3) *International Journal of Health Services* at 325; Cheeseman, N and Peiffer C, (2022), ‘Why efforts to fight corruption can undermine the social contract: Lessons from a survey experiment in Nigeria’ *Governance* at 1.

43 Edelman Trust Institute (2025) Edelman Trust Barometer: Trust and the Crisis of Grievance. Available from [https://www.edelman.com/sites/g/files/aatuss191/files/2025-01/2025%20Edelman%20Trust%20Barometer%20Global%20Report\\_01.23.25.pdf](https://www.edelman.com/sites/g/files/aatuss191/files/2025-01/2025%20Edelman%20Trust%20Barometer%20Global%20Report_01.23.25.pdf) (accessed 13 December 2025).

44 Hausenkamph (2021) ‘Vaccine hesitancy, institutional mistrust and corruption in sub-Saharan Africa: everything is connected’. CMI/U4 blog. Available at <https://www.u4.no/blog/vaccine-hesitancy-institutional-mistrust-sub-saharan-africa>.

45 Ezeibe CC; Ilo C; Ezeibe EN; Oguonu CN; Nwankwo NA, (2020) ‘Political distrust and the spread of COVID-19 in Nigeria’; Bertou E (2019) ‘Rethinking political distrust’ 11 (2) *European Political Science Review*, at 213.

46 International Monetary Fund (2019).

47 OECD (2020), ‘Exploitative pricing in the time of COVID-19’; Coviello, D, Spagnolo G and Lotti C (2021), ‘Rules, bunching and discretion in emergency procurement: Evidence from an earthquake’ in Bandiera O, Bosio E and Spagnolo G (eds) *Procurement in Focus: Rules, Discretion, and Emergencies* London: Centre for Economic Policy Research at 13.

#### 4. EMERGENCY PROCUREMENT

Emergencies and disasters often reveal the corruption and fraud risks in public procurement.<sup>48</sup> In emergencies, the procurement function bears the brunt of the crisis, as governments move to quickly obtain the requirements to address the crises by circumventing regular procurement processes, whilst managing the tension between process, discretion and accountability.<sup>49</sup> This section will examine what is meant by ‘emergency procurement’ and how it operates in South Africa and Nigeria.

##### 4.1 What is Emergency Procurement?

‘Emergency procurement’ refers to a variety of situations, (not restricted to emergencies), which permit deviation from standard competitive procurement procedures. This deviation introduces flexibility and speed into the procurement process through the relaxation of controls and the requirements for competition, transparency, and publication, whilst increasing officials’ discretion and powers.

The situations that trigger emergency procurement procedures can be classified as: situations of urgency (caused by *inter alia*, a disaster or catastrophe affecting human life/health, a climate emergency, a war, armed conflict or other military action, or any other reason not attributable to the contracting authority); situations where there are national security concerns, making a (public) competitive process inappropriate; or where there is no market for the required goods and services, making a competitive process unnecessary.<sup>50</sup> In these permitted situations, contracting authorities may pursue a different procurement process, which favours simplicity, speed, flexibility, and in relation to national security concerns, secrecy. South Africa has flexibilities (referred to as ‘deviations’) included within its procurement rules<sup>51</sup> and during the Covid-19 pandemic the government also introduced

48 International Monetary Fund (2019); Bosio E, Djankov S, Glaeser EL and Shleifer A (2022), ‘Public Procurement in Law and Practice’, 112 (4) *American Economic Review* at 1091.

49 Cocciolo S, Di Maro V, Samaddar S (2021) ‘Public procurement at the onset of the Covid-19 pandemic’ in Bandiera O, Bosio E and Spagnolo G (eds) *Procurement in Focus: Rules, Discretion, and Emergencies* London: Centre for Economic Policy Research at 135.

50 See for instance, section 42 to section 43(1)(a) Public Procurement Act 2007 (Nigeria).

51 See Regulation 16A6.4 Treasury Regulations for departments, trading entities, constitutional institutions and public entities issued in terms of the Public Finance Management Act, 1999 (South Africa) (hereafter Treasury Regulations).

additional procurement flexibilities. The Nigerian Public Procurement Act 2007 (PPA) is modelled on the 1994 version of the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Public Procurement and contains provisions for emergency procurement.<sup>52</sup>

Although countries have provisions for emergency procurement subsumed within their procurement regulations, during Covid-19, several countries provided further guidance to contracting authorities on the conduct of emergency procurement or developed temporary procurement regulations in response to the crisis.<sup>53</sup> These regulations focus on supplier selection and contract awards, with little attention devoted to planning and contract implementation, resulting in an integrity gap that permits abuse in high-pressure situations.

Domestic regulations on emergency procurement reveal different ways in which contracting authorities approach the market on a continuum from limited to no competition. There is a balancing act between procurement objectives of competition and transparency and the tensions brought about by the emergency. This has been described by the World Bank as a tension between procuring quickly and procuring safely.<sup>54</sup> Below, the article examines the general ways in which emergency procurement operates, focusing on the processes, people and challenges and highlighting the corruption and fraud risks therein.

## 4.2 Process

### 4.2.1 Contractor verification and registration

The process of contractor verification and registration, is often affected by emergency procurement. This process is used to assess a contractor's qualifications and compliance with various legal prescripts such as tax, social security, money laundering etc.<sup>55</sup> Many countries relax contractor registration requirements in an emergency, thus eliminating a process that regulates the private sectors' access to public opportunities, and ensuring (at least on paper),

52 Section 43 Public Procurement Act 2007 (Nigeria).

53 OECD 2021; Arrowsmith S, (2021) 'The Approach to Emergency Procurement in the UNCITRAL Model Law: A Critical Appraisal in Light of the COVID-19 Pandemic' in Arrowsmith S, Butler L, La Chimia A and Yukins C (eds) *Public Procurement Regulation in (A) Crisis: Global Lessons from the COVID-19 Pandemic* Oxford: Hart/Bloomsbury Publishing at 21.

54 Cocciolo, Di Maro V, Samaddar S (2021) at 135.

55 Korytářová, J, Tomas, H, Kozik, R and K; Radziszewska-Zielina, E (2015) "Exploring the Contractors' Qualification Process in Public Works Contracts" 123 *Procedia Engineering* at 276.

the authenticity and reliability of proposed contractors. During the pandemic, South Africa did not suspend the registration of suppliers, or the socio-economic objectives of procurement. Suppliers were still required to be registered on the Central Suppliers Database (CSD), which is the portal for the registration of suppliers and cloth masks suppliers were further required to be small businesses registered with the Department of Small Business Development. Like South Africa, Nigeria did not suspend the contractor registration process, which is implemented through an online database that ensures potential contractors are registered corporate entities, are compliant with their obligations relating to taxes, pension contributions, social security contributions and are qualified to enter into public contracts.

#### 4.2.2 Contractor selection

The second process affected by an emergency is the market approach or the contractor selection process, which is often modified and accelerated.<sup>56</sup> Countries often use common approaches to this process, which include the use of framework contracts, negotiations, and direct award contracts. Framework contracts are used to make repeat purchases more efficient.<sup>57</sup> This occurs through a two-stage procurement process where a competitive tender is made to select a few suppliers for potential contracts, and a second stage where a contract is awarded to a particular supplier for specific quantities under the umbrella agreement, as the need arises (with or without a further competition between the pre-selected suppliers).<sup>58</sup> Usually, each order under the umbrella agreement is a separate contract, and the government has no obligation to place orders under the umbrella agreement. In an emergency, orders may be placed quite rapidly under a framework contract, increasing the speed of the process as the procedure to pre-select the suppliers, would already have been concluded.

56 van der Valk, W (2023). "Public Sector Contracting" in: Grandia J and Volker L (eds) *Public Procurement: Theory, Practices and Tools* Cham: Palgrave Macmillan at 121.

57 Albano GL and Nicholas C (2016) "The economic analysis of framework agreements" in *The Law and Economics of Framework Agreements: Designing Flexible Solutions for Public Procurement* Cambridge: Cambridge University Press at 50.

58 Eyo, A (2020) "Framework agreements in public procurement in Africa: Progress and limitations" in Quinot G and Williams-Elegbe S *Public Procurement Regulation in Africa: Development in Uncertain Times* Cape Town: Lexis-Nexis at 317.

The use of framework contracts in emergencies is preferable as suppliers on the framework have been verified and subject to a competition, thus managing the integrity risk.<sup>59</sup> Framework contracts may, however, be of limited use in an emergency, where the emergency requires goods that could not have been foreseen and for which no framework umbrella exists. For instance, the goods required in a climate emergency differ from those required during an armed conflict or health emergency. There might thus be limited overlap between the requirements for different kinds of emergencies, making it difficult for planning.<sup>60</sup>

The second market approach in emergency procurement is through negotiations with a few suppliers (sometimes relying on existing supplier lists).<sup>61</sup> Negotiations may be conducted where a contracting authority identifies interested suppliers registered on a procurement database after an assessment of their suitability/qualifications. Where goods or services are urgently required, these potential suppliers may be approached and awarded a contract after a negotiation.<sup>62</sup> The benefits of negotiating with suppliers from an existing list is the presence of supplier verification and some level competition, reducing the potential for contract awards to unsuitable suppliers.

The third approach is through direct awards (also referred to as single/sole source procurement), where a contracting authority engages with only one supplier, thereby eliminating competition from the process. Direct awards are often perceived as problematic, as they are non-competitive with non-transparent criteria for the selection of the supplier. In non-emergencies, direct awards are limited to obtaining spare parts from a previous contractor or extending an existing contract. Direct awards are a quicker process, making them useful in a crisis. During the Covid-19 pandemic, direct awards were made through unsolicited proposals and challenges to the private sector such as the United Kingdom's Rapid Manufacture Ventilator Systems programme.<sup>63</sup> Direct awards in non-emergency contexts are

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59 Arrowsmith (2021) at 28.

60 Arrowsmith (2021) at 29.

61 Demircioglu MA, and Vivona, R (2021). 'Positioning public procurement as a procedural tool for Innovation: An Empirical Study' 40(3) *Policy and Society* at 379.

62 Kelly S, and Chicksand D (2024) 'A Critical Exploration of Bargaining in Purchasing and Supply Management: A Systematic Literature Review' 33 *Group Decision and Negotiation* at 617.

63 Butler L (2021) 'Regulating Single-Source Procurement in Emergency Situations in light of the COVID-

associated with a high risk of corruption, and there is a significant correlation between direct awards and corruption.<sup>64</sup>

It must be noted that these three market approaches can be implemented by individual contracting authorities who purchase their own requirements, or through demand aggregation by a central purchasing authority or a state-owned enterprise (SOE). With the Covid-19 pandemic, there was an increased reliance on central purchasing authorities.<sup>65</sup> Centralisation places the burden of procuring and maintaining adequate stockpiles on a central agency, and increases economies of scale, but also potentially increases risks. It is a double-edged sword as it has the benefits of increased coordination and eliminates reliance on contracting authorities that may have ‘integrity weak spots’, but can magnify the consequences of unethical procurement which requires a different risk mitigation strategy.

Research suggests a correlation between procurement centralisation and increased corruption risks,<sup>66</sup> with heightened risks when centralisation is conducted through state-owned entities. These publicly owned commercial entities conduct business in sectors where a government wishes to influence the market, prevent monopolies, control utilities and the exploration of natural resources.<sup>67</sup> Politicians and bureaucrats may find it easier to interfere with State Owned Enterprises (SOEs), and they are often subject to procurement flexibilities, making it easier for them to avoid public scrutiny.<sup>68</sup> In South Africa, SOEs were targeted in the state capture saga affecting their autonomy and ability to function efficiently and for the public good.<sup>69</sup>

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19 Pandemic: Issues in Policy and Practice’ in Arrowsmith S, Butler L, La Chimia A and Yukins C (eds) *Public Procurement Regulation in (A) Crisis: Global Lessons from the COVID-19 Pandemic* Oxford: Hart/Bloomsbury at 107.

64 Wachs, J, Fazekas M and Kertész J, (2021) ‘Corruption risk in contracting markets: A Network Science perspective’ 12 *International Journal of Data Science and Analytics* at 45.

65 Racca and Yukins (2024) at 84.

66 Wachs, Fazekas and Kertész, (2021) at 45.

67 Baum A, Hackney C, Medas P and Sy M (2019) ‘Governance and State-Owned Enterprises: How Costly is Corruption?’ IMF Working Paper Fiscal Affairs Department WP/19/253 (November 2019).

68 International Monetary Fund (2019); Baum, Hackney, Medas and Sy (2019).

69 Baum, Hackney, Medas and Sy (2019).

#### 4 2.2.1 Contractor selection in South Africa

Under the South African Treasury Regulations, where it is impractical to invite competitive bids, the accounting officer or accounting authority may procure the required goods or services by other means, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the accounting officer or accounting authority.<sup>70</sup>

The instructions issued by National Treasury,<sup>71</sup> define an emergency as ‘a serious and unexpected situation that poses an immediate risk to health, life, property, or environment, which calls an agency to action and there is insufficient time to invite competitive bids.’<sup>72</sup> Deviations must be approved by the accounting officer of a contracting authority. When a deviation is required, procurement can be conducted through single or sole source procurement, or written price quotations.<sup>73</sup>

During the pandemic, the National Treasury issued further guidance on emergency procurement procedures,<sup>74</sup> designating all pandemic goods as suitable for emergency procurement procedures and addressing control measures, flexibilities and thresholds for various activities.<sup>75</sup> National Treasury also used the Central Supplier Database, as an erstwhile supplier list by requesting registered suppliers to supply quotations for public goods, and these quotations were made available to contracting authorities.<sup>76</sup> This approach modified and shortened the process required to obtain competitive bids. The guidance designating all Covid-19 procurement as emergency procurement, was repealed on 1 September 2020 and standard rules were reinstated, meaning that emergency procurement procedures once again required National Treasury approval.<sup>77</sup>

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70 Regulation 16A6.4 Treasury Regulations

71 PFMA SCM Instruction No. 03 of 2021/22- Enhancing Compliance, Transparency and Accountability In Supply Management.

72 As above.

73 As above.

74 National Treasury Instruction No. 05 Of 2020/21: Emergency Procurement in Response to National State of Disaster (Repealed). Available at [https://www.treasury.gov.za/comm\\_media/press/2020/Instruction%205.pdf](https://www.treasury.gov.za/comm_media/press/2020/Instruction%205.pdf) (accessed 13 December 2025).

75 As above.

76 Quinot, Williams-Elegbe and Udeh (2021) at 530.

77 National Treasury Instruction No. 11 Of 2020/21: Procurement in Response to National State of Disaster Regarding Covid-19 Pandemic and Repeal of Instruction No. 5 Of 2020/2021.

#### 4.2.2.2 *Contractor selection in Nigeria*

The Nigerian Public Procurement Act (PPA) contains the provisions for emergency procurement. Under the PPA, contracting entities may utilise direct awards: where there is an urgent need for the goods, works or services and engaging in tender proceedings is impractical due to unforeseeable circumstances giving rise to the urgency; owing to a catastrophic event, there is an urgent need for the goods, works or services, making it impractical to use other methods of procurement because of the time involved in using those methods; the procuring entity applies this Act for procurement that concerns national security, and determines that single-source procurement is the most appropriate method of procurement; the country is either seriously threatened by or actually confronted with a disaster, catastrophe, war, insurrection or Act of God.<sup>78</sup>

The emergency procurement provisions permit contracting authorities to ‘procure the goods, works or services by inviting a proposal or price quotation from a single supplier or contractor.’<sup>79</sup> This dispenses with a competitive process and the requirement to obtain the approval of the BPP for contracts over certain financial thresholds.<sup>80</sup> However, the PPA includes integrity controls by requiring a detailed report with the reasons for reliance on the emergency provisions after the cessation of the emergency.<sup>81</sup> The BPP may also issue *ex post* approval after the cessation of the emergency.<sup>82</sup> Where the BPP does not approve the procurement, payments from the federal government to the procuring entity will be withheld as is discussed below.

During the pandemic, the BPP issued further guidelines to federal procuring entities, which clarified the requirements for COVID-19 purchases and required transparency, accountability, probity and value for money.<sup>83</sup> The Guidelines required that procuring entities

78 Sections 42 to section 43(1)(a) Public Procurement Act 2007 (Nigeria).

79 Section 42 (2) (a) Public Procurement Act 2007 (Nigeria).

80 Quinot, Williams-Elegbe and Udeh (2021) at 543.

81 Section 42 (2) (b) Public Procurement Act 2007 (Nigeria).

82 Section 43(4) Public Procurement Act 2007 (Nigeria).

83 Bureau of Public Procurement (2020), ‘Guidelines on the Conduct of Public Procurement Activities by Ministries, Departments and Agencies as a Result of the Covid-19 Pandemic/Lockdown’ (May 2020). [www.bpp.gov.ng/wp-content/uploads/2020/05/BPP-Guideline-on-COVID-19-Procurements-1.pdf](http://www.bpp.gov.ng/wp-content/uploads/2020/05/BPP-Guideline-on-COVID-19-Procurements-1.pdf) (accessed 13 December 2025).



prepare emergency procurement plans for all pandemic related procurement and upload these onto the national open contracting portal.<sup>84</sup> Whilst the statutory requirements for advertisements were suspended, procuring entities were still required to publish contract opportunities on the BPP's website. Second, prior approval for contracts which applied to non-emergency procurements over certain thresholds,<sup>85</sup> was not required for emergency procurements. Third, procuring entities were required to maintain accurate records to be sent to the BPP in the aftermath of the emergency, which included the name of a contractor, description of the project, contract sum and duration of the contract.

In addition to the above, the Guidelines provided clarity on the procedure to be followed when competitive procurement was possible, by using a restricted tendering process in cases where Covid-19 requirements were not urgent. The Guidelines also required procuring entities to purchase goods and services from state owned enterprises where possible.<sup>86</sup>

#### 4.2.3 Contractual formalities

The third process affected by emergency procurement is the relaxation of contractual formalities. Relaxing the requirement for a formal contract reduces the documentation that could constitute a paper trail for *ex post* verification.<sup>87</sup> Bid guarantees may also be waived, which increases the risk that contractors may decline to enter a contract should a more lucrative offer arise. There are also often increased payment flexibilities granted to contractors.<sup>88</sup> During the pandemic, the National Treasury guidance on emergency procurement procedures, addressed the flexibilities and thresholds for various activities.<sup>89</sup> The guidelines clarified that the requirement for Treasury approval to use emergency procedures was not applicable during the pandemic and accounting officers were only

84 Quinot, Williams-Elegbe and Udeh (2021) at 548.

85 Sections 16 (3) & (4) Public Procurement Act 2007 (Nigeria).

86 Quinot, Williams-Elegbe and Udeh (2021) at 551.

87 Quinot (2024) at 66.

88 Racca and Yukins (2024) at 82.

89 National Treasury Instruction No. 05 Of 2020/21: Emergency Procurement in Response to National State of Disaster (Repealed). Available at [https://www.treasury.gov.za/comm\\_media/press/2020/Instruction%205.pdf](https://www.treasury.gov.za/comm_media/press/2020/Instruction%205.pdf) (accessed 13 December 2025).

required to record the reasons for the reliance on emergency procurement procedures. Furthermore, emergency purchases over ZAR1 million had to be reported to the Auditor-General and the relevant treasury, listing the goods and services bought, the name of the contractor and the amounts involved. Accounting officers were also required to ensure adequate systems for financial control and risk management in relation to funds, ensure that officials committing funds are duly authorised, implement internal audits, and regularly monitor expenditure and generate weekly expenditure reports.

The government relaxed the rules on joining centralised contracts. These contracts, known as ‘transversal contracts,’ are centralised arrangements managed by National Treasury on behalf of multiple contracting authorities.<sup>90</sup> In South Africa, a contracting authority may opt into a transversal arrangement, before or after the arrangement is finalised, but once it does, it may not solicit for the same or similar goods or services during the tenure of the transversal contract. During the pandemic, the National Treasury waived the requirement for contracting authorities to seek approval to join a transversal contract and all contracting authorities (whether participating or not) were able to order from existing transversal contracts on the terms negotiated by Treasury.<sup>91</sup> Contracting authorities retained the freedom to purchase requirements from sources outside the transversal contract or CSD quotations. In such cases, however, the National Treasury put price limits in place for common items to combat price gouging and issued specifications for Personal Protective Equipment (PPE) items to address the risk of inappropriate or substandard products.<sup>92</sup> In Nigeria, the Covid-19 procurement guidelines confirmed that prior approval for contracts which normally applies to non-emergency procurements over certain thresholds,<sup>93</sup> was not required for emergency procurements.

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90 National Treasury (2017) Guide to Participation in Transversal Term Contracts Facilitated by National Treasury.  
<https://www.treasury.gov.za/divisions/ocpo/ostb/contracts/guide%20to%20participation%20in%20transversal%20term%20contracts.pdf> (accessed 13 December 2025).

91 Quinot, Williams-Elegbe and Udeh (2021) at 529.

92 National Treasury Instruction No. 05 of 2020/21: Quinot, Williams-Elegbe and Udeh (2021) at 532.

93 Sections 16 (3) & (4) Public Procurement Act, 2007 (Nigeria).

#### 4.2.4 *Publication and Transparency*

Transparency requirements include the publication of procurement information, such as contract opportunities, evaluation and award criteria, and information on awards. These requirements are relaxed in an emergency.<sup>94</sup> This increases procurement speed, but limits opportunities for verification of procurement decisions. While contracting authorities are permitted to award contracts without publication of opportunities, some countries still require *ex ante* publication. Procurement transparency is correlated to the quality of governance.<sup>95</sup> This means that during an emergency, transparency requirements are less likely to be complied with in countries with higher levels of corruption. During the pandemic, Nigerian contracting authorities were required to publish contract opportunities on the BPP's website, prepare emergency procurement plans for all pandemic related procurement and upload these onto the national open contracting portal.<sup>96</sup>

#### 4.2.5 *Contract implementation and monitoring*

Contract implementation is affected in an emergency, with formal and informal changes to payment terms and contract oversight. In emergencies, there is inadequate oversight over contracts that affects the quality of deliverables. During the Covid-19 pandemic, substandard medical goods infiltrated supply chains due to inadequate quality assurance mechanisms and oversight.<sup>97</sup> The anti-corruption infrastructure that helps to identify and remove poor quality medical products from supply chains, may be overlooked to expedite emergency responses.<sup>98</sup> Contract monitoring and oversight must be given a greater priority during a crisis as the lack of oversight can derail crisis responses and prolong a health emergency.<sup>99</sup>

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94 Quinot (2024) at 66.

95 Bosio, Djankov, Glaeser and Shleifer (2022) at 1100.

96 Quinot, Williams-Elegbe and Udeh (2021) at 548.

97 Steingrüber and Gadanya (2021) at 2.

98 Steingrüber and Gadanya (2021) at 3.

99 Interpol (2021) 'Thousands of fake online pharmacies shut down in INTERPOL operation' (June 2021). Available at <https://www.interpol.int/en/News-and-Events/News/2021/Thousands-of-fake-online-pharmacies-shut-down-in-INTERPOL-operation> (accessed 13 December 2025).

### 4.3 People

During emergencies, officials may benefit from a broader discretion, powers, and financial limits, temporarily modifying roles, authority and affecting accountability. Increasing discretion has contrasting effects on public procurement outcomes depending on public sector capacity. In countries with high capacity, restricting discretion leads to sub-optimal outcomes in procurement, whilst in countries with low capacity, restricting discretion leads to better outcomes in procurement.<sup>100</sup> Greater discretion may improve outcomes with repeated awards to the same high performing suppliers<sup>101</sup> and introduces informal governance mechanisms such as reputation and long-term relationships to ensure good procurement outcomes.<sup>102</sup> However, officials may also abuse their discretion for personal gain.<sup>103</sup>

Emergency procurement affects conflicts of interests and whistleblowing. In non-emergencies, public officials have a duty to declare conflicts of interests, but this may be overlooked during emergencies. Research in the early days of the Covid-19 pandemic highlighted that the suppression of whistle blowers (through reprisals) was a risk indicator for corruption.<sup>104</sup> In South Africa, an official who blew the whistle on a corruption syndicate in the Gauteng Department of Health was assassinated a year after raising the alarm on fraudulent payments.<sup>105</sup>

In South Africa, the guidance on Covid-19 procurement increased officials' powers and amended the financial thresholds for contractual variations, extensions, and expansions of existing contracts from 15 percent to 25 percent for goods and services and from 20 percent to 30 percent for construction contracts. Variations beyond these limits would still require Treasury approval. Procurement officials in Nigeria had increased discretion in executing

100 Bosio, Djankov, Glaeser and Shleifer (2022) at 1093; Camboni, Podkolzina and Valbonesi (2021) 'Buyer's discretion in Russian public procurement during the Covid-19 emergency Procurement' in Bandiera O, Bosio E and Spagnolo G (eds) *Procurement in Focus: Rules, Discretion, and Emergencies* London: Centre for Economic Policy Research at 147.

101 Coviello, Spagnolo and Lotti C (2021) at 13.

102 Coviello D, Guglielmo A, Spagnolo G (2018), 'The Effect of Discretion on Procurement Performance' 64 (2) *Management Science* at 715.

103 Camboni, Podkolzina and Valbonesi (2021) at 147.

104 Milata, (2020) at 18.

105 Global Initiative (2021), 'Babita Deokaran'. Available at <https://assassination.globalinitiative.net/face/babita-deokaran/> (accessed 13 December 2025).

direct awards. At the state level in Nigeria, interviews revealed informal approaches to waiving the deduction of the ten percent withholding tax, leaving it to the contractor to remit the tax to the government. Advance payments were also made to secure needed supplies.

#### **4.4 Challenges with emergency procurement**

As discussed, emergency procurement is quicker, less transparent, and non-competitive. Anti-corruption controls are eliminated in the quicker process, leaving *ex post* controls to address corruption. The risks of corruption are exacerbated by the removal of controls, lack of publicity and operational pressures. This section highlights the corruption challenges that attend emergency procurement, focusing on regulatory challenges, technical challenges, and political challenges.

##### *4.4.1 Regulatory challenges*

The inadequacies of the regulatory framework can create corruption risks in an emergency. During the Covid-19 pandemic, some countries did not have sufficient legal flexibility, creating a challenge when legal waivers and amendments had to be passed within a short timeframe.<sup>106</sup> There was often an initial regulatory gap and lack of clarity over what was permitted.

##### *4.4.1.1 Challenges with contractor selection*

The contractor selection approaches used in emergencies (framework contracts, negotiations, and direct awards) create distinct corruption risks for emergency procurement. Framework contracts create a long-term lack of competition and market closure as new suppliers cannot be onboarded after the selection process. Thus, emerging or more agile suppliers may be locked out of the market for the duration of the framework, (usually three to five years), undermining competition for that period.

Negotiations also create corruption risks. As discussed, during emergencies, South Africa and other countries used direct negotiations with suppliers selected from existing supplier lists as the default method of emergency procurement. This reduces the potential

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<sup>106</sup> World Bank (2021) at 17.

for unsuitable suppliers in an emergency but may increase the opportunity for bribery. Research has found that a reliance on negotiations in public procurement raised prices by 8 percent and resulted in a decline in the productivity of selected contractors.<sup>107</sup> In addition, there might be a lack of transparency in selecting the suppliers asked to submit offers in an emergency. This may be based on the discretion of the procurement officials and may be abused in a crisis, leading to a bias in favour of established or known suppliers.<sup>108</sup>

Direct awards create the most corruption risks due to the absence of competition and transparency which act as guardrails against procurement corruption. The absence of competition may lead to price gouging or extortionate pricing. During the Covid-19 pandemic, this risk materialised in South Africa, where suppliers who provided PPEs increased prices to an extent that anti-competitive enforcement was activated.<sup>109</sup> National Treasury price controls were not adhered to, which led to the purchase of overpriced items.<sup>110</sup> The risks of bribery may also increase due to a lack of transparency and the increased discretion.<sup>111</sup> Nigeria also had reports of excessive pricing, theft of donor funds and food parcels.<sup>112</sup>

#### 4.4.1.2 Technical challenges

Emergency procurement creates operational, financial, and informational challenges. ‘Operational challenges’ refer to practical problems with implementing emergency procurement frameworks. During Covid-19, stay-at-home orders required an unprepared workforce to adapt to an online work environment, in the face of personal and professional difficulties.<sup>113</sup> There were challenges with moving procedures online, the cancellation of in-person bid meetings, often used for contractor clarification, obtaining exemptions for contractors to work around stay-at-home orders, and challenges around public sector adaptability.<sup>114</sup>

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107 IMF (2019) at 53.

108 Arrowsmith (2021) at 32.

109 Quinot (2024) at 66.

110 Quinot (2024) at 62.

111 Campos, N, Engel E, Fischer RD and Galetovic A (2019) Renegotiations and corruption in infrastructure: The Odebrecht case. Available from IDEAS/RePEc <https://ideas.repec.org/pad/wpaper> (accessed 13 December 2025).

112 Quinot, Williams-Elegbe and Udeh (2021) at 552.

113 Racca and Yukins (2024) at 85.

114 Racca and Yukins (2024) at 84.

The absence of e-procurement systems created challenges when officials were working from home, and in many countries, there was a sudden move to accepting digital signatures, and virtual bid openings.<sup>115</sup> Other operational challenges include changes to the contractual allocation of risk in favour of the contractor, and the unexpected shift in bargaining power resulting from the sudden rise in demand, and the pressure to buy, which public officials were unaccustomed to.<sup>116</sup>

Difficulties in overseeing contracts, with the exponential increase in the number of contracts resulted in fraud and improper contract execution. Another challenge was determining when to resume normal procurement processes, to prevent emergency procurement rules being used for longer than necessary. The South African regulators issued guidance to remove the blanket approval for reliance on emergency procurement rules after a certain date.<sup>117</sup> However, lifting approvals did not occur overnight, or across all contracting authorities in the same way, and in some countries led to litigation as suppliers sought to be shielded from competition for a longer period of time.<sup>118</sup>

Emergency procurement reduces the availability of procurement information, and the removal of transparency requirements has a detrimental impact on procurement integrity. The lack of transparency in non-emergencies is often a red flag that highlights a corruption risk.<sup>119</sup> Many countries dispense with transparency measures for emergency contracts, making public scrutiny and monitoring of such contracts more difficult,<sup>120</sup> and greatly increasing the information asymmetry that characterises public procurement.<sup>121</sup> In Nigeria, whilst the Nigeria Open Contracting Portal was supposed to contain information on Covid-19 procurements, few federal agencies used the platform and the information therein was reported to be incomplete.<sup>122</sup> There was also an expectation that procuring entities would

115 World Bank (2021) at 28.

116 Schultz and Soreide (2008) at 516.

117 Quinot, Williams-Elegbe and Udeh (2021) at 533.

118 Atkinson CL and A K Sapat (2012) 'After Katrina: comparisons of post-disaster public procurement approaches and outcomes in the New Orleans area' 12 (3) *Journal of Public Procurement* at 356; Sanchez Graells, A. (2020) "Procurement in the time of COVID-19" 71 (1) *Northern Ireland Legal Quarterly* at 81.

119 Bosio, Djankov, Glaeser and Shleifer (2022) at 1093.

120 World Bank (2021) at 27.

121 Williams-Elegbe (2012) at 25.

122 Bureau of Public Procurement (2020) *Nigeria Open Contracting Portal (NOCOPO) Covid-19 Emergency*

publish procurement plans, which never occurred, revealing gaps between official mandates and procurement practices.

Emergency procurements also come with amended financial operations. This could include advance and upfront payments, and suspension of bid guarantees. Upfront payments pose a risk of fraud and 25 percent of countries surveyed by the World Bank adopted advance payments during Covid-19<sup>123</sup> and some contractors disappeared with advance payments and did not deliver on the contracts.<sup>124</sup>

#### 4.4.1.3 *Political challenges*

Political culture may increase corruption risks in emergencies. For instance, procurement may be influenced by political and government leaders. During Covid-19, contracts were awarded in cases where there were conflicts of interest.<sup>125</sup> Political abuses are aggravated by the increased discretion given to officials. In South Africa, despite the foresight and the controls put in place by the National Treasury, there were several instances of large contracts being awarded to politically connected personalities and to companies in which procurement officials had an interest.<sup>126</sup>

## 5. ANTI-CORRUPTION MEASURES IN EMERGENCY PROCUREMENT

There are three broad interventions that will assist countries in future to mitigate corruption in emergency procurement. These interventions are: systemic (crisis readiness); strategic (monitoring and oversight;) and operational (e-procurement).

### 5.1 Systemic reforms: Crisis Preparedness

A recurring theme from the literature is the necessity for crisis preparedness, through contingency plans and strategies. This may address the corruption and fraud that arise in

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123 *Procurement* [www.nocopo.bpp.gov.ng/ContractReportCovid19.aspx](http://www.nocopo.bpp.gov.ng/ContractReportCovid19.aspx) (accessed 13 December 2025).  
World Bank (2021) at 21.

124 Kos D, Richard S and Wasserstrom (2020) 'Minimising Bribery and Corruption in The Time of Covid-19'. *International Anti-Corruption Academy*. Available at <https://www.iaca.int/media/attachments/2020/07/14/drago-kos-joint-paper-fighting-corruption-in-the-time-of-covid-19-final-for-publishing.pdf> (accessed 13 December 2025).

125 Fazekas M, Cingolani L and Tóth B (2016), 'A comprehensive review of objective corruption proxies in public procurement: Risky actors, transactions, and vehicles of rent extraction' Working Paper series: GTI-WP/2016:03 at 2.

126 Quinot (2024) at 62.



emergency procurement. Although it is difficult to anticipate the timing of emergencies, crisis preparedness is crucial to a successful emergency response,<sup>127</sup> but many governments still fall short in preparing for even predictable disasters, meaning that they must make rapid regulatory changes with little oversight, which increases corruption risks.<sup>128</sup> World Bank research indicates that countries that had faced a prior health emergency (Ebola/SARS) had in place emergency procurement procedures to address the pandemic,<sup>129</sup> and were more agile as they did not require sudden regulatory amendments. There are four aspects of a crisis preparedness plan that would mitigate corruption risks in emergency procurement. These aspects are:

#### 5.1.1 *Crisis purchasing framework and procurement coordination*

Crisis preparedness must include a crisis purchasing framework<sup>130</sup> coordinated with procurement centralisation bodies, with national stockpiles and with local manufacturing capacity. This means having a designated crisis procurement coordinator at key contracting authorities to lead an agency's emergency response. The coordinator would develop crisis management capacity, understand the roles of external task teams, determine procurement needs, manage the approvals process during a crisis, develop channels of communication with relevant organisations, deploy crisis procurement capacity and ensure that oversight and contract management functions are maintained. An important part of a crisis purchasing framework is the investment in emergency contacting administration. This includes a process for hiring experienced personnel, adequate orientation of new and seconded employees, and management and oversight.<sup>131</sup> A crisis purchasing framework also needs to take into

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127 Boardman N (2020) *Boardman Review of Government Procurement in the COVID-19 pandemic* at 1. Available from [https://assets.publishing.service.gov.uk/media/60896ff0e90e076ab07a6d83/Boardman\\_Review\\_of\\_Government\\_COVID-19\\_Procurement\\_final\\_report.pdf](https://assets.publishing.service.gov.uk/media/60896ff0e90e076ab07a6d83/Boardman_Review_of_Government_COVID-19_Procurement_final_report.pdf) (accessed 13 December 2025); Government Accountability Office (2006) *Hurricane Katrina: Improving Federal Contracting Practices in Disaster Recovery Operations. Testimony before the Committee on Government Reform, House of Representatives* GAO-06-714T at 1; Government Accountability Office (2021) *COVID-19: Critical Vaccine Distribution, Supply Chain, Program Integrity, and Other Challenges Require Focused Federal Attention* GAO-21-265: Jan 28, 2021

128 Rose-Ackerman, (2021) at 19.

129 World Bank (2021) at 9.

130 UNODC (2021) at 23.

131 Schultz and Søreide (2008) at 516.

consideration the different kinds of risks that are present in an emergency. Whilst public procurement often transfers risks to the sellers, during the pandemic, risks were transferred to the public sector.<sup>132</sup> A risk mitigation strategy for a crisis will include information on how supply chain risks create corruption risks for emergency procurement.<sup>133</sup>

A crisis purchasing strategy and the coordination that it requires will mitigate some of the forms of corruption experienced during Covid-19 pandemic. These include forms of corruption such as the use of newly registered companies, repeated contracts to the same contractors and using emergency procurement rules to purchase goods unrelated to the emergency. Coordination can reduce fraud, waste and corruption<sup>134</sup> and can also stem price gouging. For instance, in Florida, the Division of Emergency Management has a database of goods and services needed to respond to a disaster. Vendors are pre-qualified, and rates established prior to each hurricane season.<sup>135</sup> Planning can mitigate wasteful spending which during Covid-19 manifested as the purchase of excess vaccines and ventilators in some countries. Planning may also include joint planning rehearsals between relevant public agencies and suppliers that will be at the forefront of crisis responses.<sup>136</sup>

### 5.1.2 Data analytics

In emergencies, purchasers require timely information on what is required for the emergency response. Flexibility in responding to an emergency relies on information on the changing needs of the emergency being available to contracting authorities. Data models on changing requirements must be made available to contracting authorities.<sup>137</sup> During Covid-19, many countries over-subscribed for vaccines, leaving other countries struggling to obtain adequate quantities. A lack of certainty over what was needed was a major constraint to countries responding to the pandemic.<sup>138</sup> Reliance on analytics will help agencies understand the

132 Yukins C (2021) 'Emergency Procurement and Responses to COVID-19: The Case of the US' in Arrowsmith S, Butler L, La Chimia A and Yukins C (eds) *Public Procurement Regulation in (A) Crisis: Global Lessons from the COVID-19 Pandemic* Oxford: Hart/Bloomsbury at 393.

133 UNODC (2021) at 17.

134 Oliveira Silva Luz (2021) at 6.

135 Government Accountability Office (2006) at 3.

136 Government Accountability Office (2006) at 3.

137 UNODC (2021) at 7.

138 Cocciolo, Di Maro, Samaddar (2021) at 135.

inventory of what is available and what is required, mitigating price-gouging. In Taiwan, Audrey Tang, the Digital Minister asked civil hackers to create apps to provide information on the location of masks in December 2019 and created a mask-rationing system, which meant citizens were able to mask up early and before there were global shortages.<sup>139</sup>

### 5.1.3 *Clarity on approvals, roles, responsibilities, verification, and audits*

Emergency procurement modifies, accelerates, suspends, or postpones controls and approvals. A clear theme from the literature is the role of independent oversight and supreme audit institutions (SAIs) in addressing emergency procurement corruption. Where *ex ante* controls are modified or suspended, *ex post* verification and audits by SAIs and civil society monitoring can safeguard public finances and hold civil servants and elected officials accountable.<sup>140</sup>

### 5.1.4 *Domestic production capacity, stockpiling and distribution*

The pressure to buy and the inability to verify suppliers in emergencies may be mitigated if countries maintain adequate stockpiles of emergency goods, using analytics to manage stockpiles and prevent obsolescence. All countries must be able to produce limited quantities of essential goods. The global nature of the pandemic meant that developing countries with limited manufacturing capacity struggled to obtain PPEs as global supply chains were stymied. In the face of export restrictions and trade stoppages, all countries must have a minimum level of self-sufficiency and understand the limits of their domestic manufacturing capacity.<sup>141</sup>

## 5.2 **Strategic reforms: Oversight, monitoring and public participation**

The pandemic was challenging because of the lockdowns, quarantine measures and stay-at-home orders, which made oversight and monitoring of procurement contracts difficult. Emergencies require different oversight and monitoring strategies to limit emergency procurement corruption.

139 Kemp L (2021) *The 'Stomp Reflex': When governments abuse emergency powers* BBC. available at <https://www.bbc.com/future/article/20210427-the-stomp-reflex-when-governments-abuse-emergency-powers> (accessed 13 December 2025).

140 IMF (2019) at 53; Fazekas, Nishchal and Søreide (2021) at 34.

141 Boardman (2020) at 8.

### 5.2.1 *Stronger monitoring and oversight*

Most countries waived transparency and accountability measures for emergency contracts, making monitoring more crucial. In South Africa, the Auditor General issued ‘citizen’s reports’ on the governments’ management of Covid-19 spending from September 2020.<sup>142</sup> Oversight by supreme audit institutions (SAIs) can detect when funds were embezzled, where conflicts of interest prevailed and have been shown to reduce corruption.<sup>143</sup> Monitoring is not just reviewing awarded contracts, but also examining where possible, the contracts that were not awarded by considering what offers were rejected. This helps with understanding the (in)consistency of contract award decisions.<sup>144</sup> During non-emergencies, anti-corruption authorities process allegations of corruption referred to them.<sup>145</sup> However, during the pandemic, the lockdowns and the restrictions limited physical access to documents and auditee premises,<sup>146</sup> making e-governance systems more crucial.

### 5.2.2 *Civil society participation*

Countries must create an environment where civil society and citizens can monitor emergency contracts through the provision of accessible and up-to-date information.<sup>147</sup> In South Africa, Corruption Watch analysed information from the government’s portal of Covid-19 contracts and determined that the South African Police Force allegedly procured over 43 million facemasks (enough for 72% of the country’s population) with prices marked-up by over 620%.<sup>148</sup> In the aftermath of the pandemic, civil society (and SAIs) have been at the forefront of unravelling the corruption in emergency procurement. In future emergencies, there ought to be more reliance on civil society anti-corruption capacity, to provide probity

142 Auditor-General, South Africa (2020) *Citizens Report on the financial management of Government’s Covid-19 initiatives*. Available at <https://www.agsa.co.za/Reporting/SpecialAuditReports/COVID-19AuditReport.aspx>

143 Knack S, Biletska, N & Kacker, K. (2017) *Deterring Kickbacks and Encouraging Entry in Public Procurement Markets Evidence from Firm Surveys in 88 Developing Countries*, Available at: <http://documents.worldbank.org/curated/en/817871496169519447/pdf/WPS8078.pdf>.

144 Estache and Foucart (2021) at 114.

145 UNODC (2021b) at 16.

146 UNODC (2021b) at 16.

147 UNODC (2021) at 7.

148 Pillay K, (2020), *Data Analysis of Treasury Records reveals extent of Price Gouging on PPE*. Available at <https://www.corruptionwatch.org.za/data-analysis-of-treasury-records-reveals-extent-of-price-gouging-on-ppe/>

assurance at the contracting authority level. Civil society and citizens may also be included in monitoring contract implementation as during the pandemic, there were severe gaps in contract monitoring, leading to extensive losses.

### 5.2.3 *Operational reforms: Electronic procurement*

Many developing countries have semi-migrated to electronic procurement over the last few decades, but in Africa, there are few countries with an end-to-end electronic procurement system.<sup>149</sup> During Covid-19, the absence of fully functional e-procurement systems was a critical constraint for 59 percent of countries.<sup>150</sup> Contract processing times are shorter on e-procurement platforms, and with stay-at-home orders, e-procurement systems enable public sector agencies to continue operations, and generate the data required for monitoring and reviews.<sup>151</sup> Such data can highlight networks of companies, and show contracts awarded to suspicious contractors, especially where a country integrates beneficial ownership information into the procurement data architecture. A reliance on e-procurement systems has been reported to increase the quality of contract implementation,<sup>152</sup> lower prices and reduce delays.<sup>153</sup>

There are several other possible interventions, to limit corruption in emergency responses, and the table below provides interventions that helped to address the risks of corruption during the pandemic. These are measures that South Africa and Nigeria may consider to address risks in future emergencies.

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149 Mohungoo I, Brown I, Kabanda S. (2020) 'A Systematic Review of Implementation Challenges in Public E-Procurement' in Hattingh M., Matthee M., Smuts H, Pappas, I, Dwivedi YK, and Mintaka M. (eds) *Responsible Design, Implementation and Use of Information and Communication Technology* Lecture Notes in Computer Science vol 12067. Cham: Springer.

150 World Bank (2021) at 19. Cocciolo, Di Maro, Samaddar (2021) at 135.

151 World Bank (2021) at 20; Cocciolo, Di Maro, Samaddar (2021) at 135.

152 Fazekas M. & Blum JR., (2016) "Improving public procurement outcomes: review of tools and the state of evidence base", Policy Research Working Paper 9690 Washington, DC: World Bank at 1.

153 Dávid-Barrett, Fazekas, Hellmann, Márk and McCorley (2020) at 481.

EMERGENCY PUBLIC PROCUREMENT INTERVENTIONS		
ACTOR	INTERVENTION	IMPACT
Ministry of the interior/finance	Crisis purchasing framework	Provides clarity on roles, expectations and anticipates challenges
	Strategy for storage and distribution of vaccines and emergency relief materials	Addresses practical issues that present a corruption risk
	Utilise civil society monitors in an emergency	Assists in reducing the scope for corruption and errors
	Ringfence the application of emergency procurement rules to affected sectors	Reduces the possibility of abuse of emergency procurement rules
	Integrate real-time evaluations into emergency responses	Ensure information is revealed when solutions are possible
	Ensure procurement audits are undertaken	Provides information on gaps, losses, budget utilisation
Procurement regulators	Development of workable emergency procurement procedures	Creates clarity for procurement officials
	Cooperation and coordination channels between contracting authorities	Creates channels for cooperation and knowledge sharing
	Develop appropriate centralisation models	Reduces chaotic approach to centralisation in an emergency
	Establish robust approval systems for direct awards	Can mitigate inappropriate or unethical awards
	Establish clear justifications for direct awards	Gives an opportunity to reflect on whether direct awards are justified
	Determine transparency requirements and level of publication in a crisis	Fosters clarity and consistency of application across contracting authorities
	Determine reporting requirements during and post crisis	Provides guidance on what is required so right data is collected
	Develop crisis appropriate conflict of interest declarations	Fosters clarity and consistency of application across contracting authorities
	Develop supplier verification tied to corporate registration	Mitigates risk of unsuitable suppliers obtaining contracts
	Implement accelerated whistleblowing systems	Provides a process for addressing real-time activity
	Develop accelerated framework for procurement reviews/challenges	Provides a process for addressing mistakes or infractions in real-time
	Develop crisis ready procurement capacity	Mitigate the chaotic approach to emergency procurement
	Institutionalise integrity due diligence for suppliers	Provides assurance of supplier integrity
	Procurement capacity gap analysis	Mitigate the chaotic approach to emergency procurement
	Evaluate procurement outcomes in audits	Understand the areas where outcomes did not match contract awards for further action
	Develop crisis appropriate modalities of contract management	Limit the losses due to corrupt and fraudulent contract execution
Contracting authorities	Crisis ready supplier lists and framework contracts	Create a crisis database of verified suppliers for an emergency
	Ensure reliance on known suppliers is free of bias	Mitigate the risk of bias
	Undertake integrity due diligence for suppliers	Provides assurance of supplier integrity
	Implement conflict of interest controls	Service level assurance of supplier integrity
	Verify relationships between officials and suppliers	Mitigate the risk of bias
	Require verifiable justifications for direct awards	Mitigates the risk of bias in direct awards

**Table 1:** Emergency Public Procurement Interventions (author)

## 6. CONCLUSION

This article has highlighted the challenges and corruption risks that procurement systems face in a crisis. Emergencies present peculiar corruption risks and anti-corruption approaches, which include transparency, a sound legal and regulatory framework, digitisation, a professional civil service, and integrity controls<sup>154</sup> are not always effective, as the situation requires the modification or suspension of these integrity controls and processes.

An important way of addressing the increased corruption risks in emergencies is through advance planning. In other words, a crisis response strategy needs to be developed in Nigeria and South Africa that is properly socialised within the public sector. Any emergency, be it health, climate, or armed conflict has social, economic environmental and recovery dimensions, which must all be planned for. Planning can dramatically contribute to improved outcomes and in Nigeria, the lessons learned from the Ebola outbreak in 2016 were adapted to respond to Covid-19, ensuring that the health system was not overwhelmed.<sup>155</sup>

Planning includes developing a procurement strategy which could mitigate wasteful spending and may include joint emergency planning rehearsals between relevant public agencies and suppliers that will be at the forefront of crisis responses.<sup>156</sup> It must also include clarity on roles and approvals, inter-agency coordination, reliance on data, coordination with domestic manufacturing for emergency goods, an increased focus on civil society monitoring and oversight from SAIs.

There is also an urgent need to fully deploy e-procurement systems. As was discussed, countries with limited e-procurement systems struggled to adapt when in-person activities were restricted during Covid-19. E-procurement systems are also useful in collecting the data that could be used for contract reviews at the conclusion of the emergency.

It is imperative that South Africa and Nigeria urgently undertake the systemic, strategic and operational reforms necessary to ensure that the next emergency or disaster can be rapidly addressed with minimal losses due to corruption.

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154 UNODC (2021) at 12.

155 Abayomi A., Balogun MR, Bankole, M et al. (2021) 'From Ebola to COVID-19: emergency preparedness and response plans and actions in Lagos, Nigeria' 17 *Global Health* at 79.

156 Government Accountability Office (2006) at 3.