



## **WITHDRAWAL OF MFMA CIRCULAR 102 : PROCUREMENT IN RESPONSE TO NATIONAL STATE OF DISASTER REGARDING COVID-19 PANDEMIC**

### **1. PURPOSE**

The purpose of the circular is to-

- (a) inform institutions of the withdrawal of MFMA Circular 102 and that they must comply with existing procurement procedures;
- (b) communicate the maximum prices for the identified PPE items, including fabric masks to reflect realistic current market prices; and
- (c) communicate the conditions with which service providers must comply in order to provide PPE items and fabric masks to institutions.

### **2. BACKGROUND**

- 2.1 MFMA Circular 102 was issued to provide general and specific requirements on the emergency procurement for COVID-19 PPE items, cloth masks as well as goods, works or services to prevent an escalation of the national state of disaster, declared on 15 March 2020 (the Disaster) or to alleviate, contain or minimise the effects of the Disaster.
- 2.2 Paragraph 12.2 of the Circular indicated that its content will be in effect until the Disaster lapses or terminates or until the Circular is withdrawn.
- 2.3 On 5 August 2020, at the meeting of the Standing and Select Committees on Finance, National Treasury briefed the Committee on the procurement of PPE during the COVID-19 pandemic and highlighting some shortcomings in the transparency of PPE procurement information. A similar briefing was done for MECs of Finance on 6 August 2020.



- 2.4 Consensus was reached that municipalities and municipal entities must revert to normal procurement procedures for all goods, services and works (including the procurement of PPE items and fabric masks). A further call was made for National Treasury to issue reporting guidelines to institutions to improve the monitoring and transparency of COVID-19 related procurement data and publish such information on their relevant websites and the National Treasury website.

### 3 PROCUREMENT PROCESS

- 3.1 From the effective date of this Circular, procurement of all goods, services and works, must be conducted in accordance with existing procurement procedures in terms of the Municipal Finance Management Act, 2003, its regulations and circulars made thereunder, the Preferential Procurement Policy Framework Act, 2000 and regulations made thereunder as well as institutional supply chain management policies.
- 3.2 The procurement of PPE items, fabric masks, goods, works or services to prevent an escalation of the Disaster or to alleviate, contain or minimise the effects of the Disaster is no longer ***automatically regarded as emergency procurement*** as provided for in Circular 102. Refer to paragraph 8 of this Circular that withdraws Circular 102.
- 3.3 Notwithstanding paragraph 3.2, cognizance must be taken that MFMA Regulations must be applied.
- 3.4 The procurement referred to in paragraph 3.1 must as far as it relates to PPE items and fabric masks, must comply with the following conditions in RFQs and RFBs —
- (a) The items must comply with the item specifications of National Department of Health, World Health Organisation and the Department of Trade, Industry and Competition (dtic) (**Annexure B** – for Fabric Masks);
  - (b) the **prices** must be equal or lower than the prices in **Annexure A**;
  - (c) the service providers must be registered on the Central Supplier Database;
  - (d) the items must meet the stipulated minimum threshold for designated local content and production as required by the Preferential Procurement Regulations, 2017 (PPR 2017) (Refer to **Annexure C1** for PPE Commodities requiring adherence to the Local Content & Production Thresholds); the designated local content requirements must be adhered to – deviation will only be allowed when and if the request for exemption is approved by the dtic;
  - (e) for products that are not yet designated, provisions of regulation 8.4 of the PPR 2017 must be utilised and the items must meet the recommended minimum threshold for content and production as per **Annexure C2**; and
  - (f) evaluation of RFQs/Bids, as far as it relates to paragraphs 3.4(d) and (e) above, to comply with—



- (i) the Designated Sector Instruction issued on 16 July 2012; or
- (ii) Circular 11 of 2019/2020 (Standard for Implementation of Regulation 8.4 of PPR 2017) issued on 19 December 2019.

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

## 4 Existing contracts and orders

- 4.1 Contracts and orders concluded under the provisions of Circular 102 must be honoured until the expiry and conclusion thereof. These contracts and orders must not be extended or varied in any way.

## 5. USE OF TRANSVERSAL CONTRACTS

- 5.1 The municipalities and municipal entities that participate in transversal contracts may continue placing orders with the contracted service providers under the transversal contracts for all PPE items listed under **Annexure A**.
- 5.2 Where municipalities and municipal entities opt not to procure in accordance with paragraph 4.1 above, the conditions of paragraph 3 must be followed.
- 5.3 The municipalities and municipal entities that are not participating in transversal contracts may opt to use transversal contracts suppliers for PPE items listed under **Annexure A** without obtaining approval for participation.



- 5.4 The transversal contract suppliers' prices will default to **Annexure A** prices.

## 6. REPORTING REQUIREMENT

- 6.1 All municipalities and municipal entities are required to report procurement transactions for the periods indicated in **Table 1** by the deadlines provided. All procurement transactions related to the emergency procurement for COVID-19 PPE items, fabric masks as well as other goods, works or services that were procured to prevent an escalation of the national state of disaster, declared on 15 March 2020 (the Disaster) or to alleviate, contain or minimise the effects of the Disaster, **must** be reported. This includes, inter alia, expenditure for quarantine and isolation services, humanitarian relief, etc.

**TABLE 1:**

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

- 6.2 Municipalities and municipal entities must use the Excel Template (**Annexure E**) provided and either manually capture the information on the spreadsheet or extract the relevant information from the institution's order and payment systems into the format of the template. **No changes to the template will be accepted.**
- 6.3 National Treasury will automate the process of reading the data from the submitted spreadsheets and consolidate these into one database to enable analysis and reporting. The submitted data will be linked to the CSD and compared against other records, where applicable. The reports will be published monthly in the public domain. It is therefore important that accounting officers ensure that the information provided to the National Treasury is credible and auditable.



- 6.4 Municipalities and municipal entities must ensure that its entities established in terms of the Municipal Finance Management Act, 2003 report on the expenditure. The municipal entities must report independently as they have their own accounting records.
- 6.5 **Provincial Treasuries** must ensure that all municipalities and municipal entities reports are provided or render assistance, where needed, with ensuring that all reports are collected and emailed to the National Treasury.
- 6.6 The reports to be submitted to the National Treasury by email to [ocpocovid-19reporting@treasury.gov.za](mailto:ocpocovid-19reporting@treasury.gov.za) by the submission deadlines provided in Table 1.
- 6.7 With reference to paragraph 3.4 (the local content declaration documents, SBD 6.2 together with associated annexures (Annex C, D and E) must be forwarded to the dtic ([CMatidza@thedti.gov.za](mailto:CMatidza@thedti.gov.za)).

## 7. APPLICABILITY

This Circular applies to all Municipalities and Municipal entities.

## 8. EFFECTIVE DATE

This Circular takes effect on 1 September 2020.

## 9. WITHDRAWAL OF MFMA CIRCULAR 102

MFMA Circular 102 on **Emergency procurement in response to National State of Disaster**, and all amendments, are hereby withdrawn.

## 10. DISSEMINATION OF INFORMATION CONTAINED IN THIS CIRCULAR

Accounting officers are requested to bring the contents of this circular to the attention of municipal officials and municipal entities, supply chain management officials and any other official who may be responsible or are assigned duties in the procurement of items listed in this circular and its Annexures.

## 11. NOTIFICATION TO THE AUDITOR-GENERAL

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

## 12. AUTHORITY FOR THIS CIRCULAR AND EFFECTIVE DATE

12.1 This circular is issued in terms of section 168 of the Municipal Finance Management Act, 2003.

## 13. CONTACT INFORMATION

Any enquiries in respect of this circular must be submitted to:

Estelle Setan

Acting Chief Procurement Officer

Email: [cpo@treasury.gov.za](mailto:cpo@treasury.gov.za)

Any enquiries in respect of the reporting template and data extraction advice must be submitted to:

Tumelo Ntlaba

Acting Chief Director: SCM ICT

Email: [tumelo.ntlaba@treasury.gov.za](mailto:tumelo.ntlaba@treasury.gov.za)



**DONDO MOGAJANE**  
**DIRECTOR-GENERAL**

**DATE:** 25 August 2020

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