

Annex C Briefing Note for the Committee of Public Accounts

Procurement in the HSE

The Committee of Public Accounts requested a note detailing the procedure involved in the examination of the procurement process in the HSE and the way this compares with other bodies and Government departments.

Audit of Procurement in the HSE

The Office's standard approach to audit of procurement in public sector bodies and Government departments is to obtain a list of all suppliers paid in excess of €25,000 in the year, and from this select a sample of transactions for review to determine whether they are in accordance with public procurement policies and procedures.

Our approach to the audit of procurement in the HSE is necessarily different, because the HSE currently lacks a single integrated financial system. It is therefore not possible to obtain a list nationally of all suppliers paid in excess of €25,000 in a given year.

Information on procurement spending is instead held across a number of geographically-dispersed financial systems in hospitals and community healthcare organisations — formerly local health offices — and in what were former health boards. A number of these locations is visited annually as part of the audit. Samples are drawn from the relevant listing of suppliers paid in excess of €25,000 in the year, generated from the financial system at each location visited. Our audit findings on procurement are combined for the locations visited.

Due to the significant levels of non-compliant procurement identified by the audit in recent years, the C&AG has drawn attention to this matter in his audit certificate.

Audit Outcomes

Audit testing of HSE procurement in 2015 involved testing of procurement in five locations, to a total value of €26.9 million. 30% of the sample was found not to be compliant with procurement rules.

The comparable result for 2014, based on a sample value of €22.8 million in three locations, was 12%.

In six locations examined in 2013, 47% of the €2.2 million worth of payments examined were found not to have been subject to appropriate procurement processes.

Estimating the Overall Level of Non Compliance

Extrapolation of sample rates is possible where the sample is drawn randomly from the entire population. The current audit sampling methodology for the HSE involves selecting samples from subsets of the population as opposed to the entire population, due to the limitations outlined above. This does not provide a sufficient basis for extrapolation, so we cannot estimate the total level of non compliance by the HSE.

However, the audits in recent years have consistently identified issues in relation to competitive procurement at HSE locations visited. On this basis, it can be reasonably concluded that non-compliance with procurement requirements in the HSE is systemic.

Other Audit Work

The C&AG has also reported in more detail on an examination of HSE procurement in Chapter 14 of his Report on the Accounts of the Public Services 2013. A copy is attached at Appendix A.

Aside from the non-competitive procurement found in the 2013 sample, the HSE reported (in its annual 'Circular 40/2002' report to the C&AG and DPER) that it had internally identified purchases in 2013, in respect of 116 contracts worth a total of €17.8 million, where non-competitive procurement processes had not been employed. However, the examination found that there was a significant level of under-identification of such non-compliant procurement by the HSE.

In 2014, the HSE reported 299 such contracts worth a total of €56.5 million. In 2015, the HSE reported 205 contracts worth €33.1 million, where non-competitive procurement processes had not been employed.

14 Procurement by the Health Service Executive

- 14.1** In 2013, the HSE incurred total expenditure of just under €14 billion. About €1.6 billion (11%) of this expenditure relates to procurement of goods and services in the HSE directly.¹ Goods and services are procured for a large number of geographically dispersed units including hospitals, local health offices and nursing homes.
- 14.2** In November 2010, the HSE revised its procurement model. The revised model was aimed at reforming the processes used to procure goods and services in order to achieve cost savings. In 2013, the HSE set a target to achieve savings of €43 million as a result of enhanced procurement procedures.
- 14.3** A HSE Procurement Directorate also became operational in 2010. While the Directorate operates in a centralised manner, procurement staff are geographically spread across a large number of locations. The HSE recognises that, for certain activities, local presence is required to meet customer requirements. However, it also recognises that some procurement is driven locally by historical factors and patterns and that the dispersed nature of the procurement team mitigates the ability to effectively manage and control the service delivered.
- 14.4** The Procurement Directorate, which now forms part of the HSE's Health Business Services Division (HBS), has 572 whole-time equivalent (WTE) staff and an administrative budget of €31 million. The Directorate has three units
- a portfolio and category management unit that has responsibility for sourcing goods, centralising tendering and developing contracts (69 WTEs)
 - a logistics and inventory management unit which organises the receipt and delivery of goods ordered (495 WTEs)
 - a business management unit that supports the portfolio and category management unit in developing strategy and reporting to management (8 WTEs).
- 14.5** The HSE estimates that, during 2013, its centralised procurement division awarded a total of 206 contracts with an approximate value of €509 million.
- 14.6** A previous report (published in 2011) looked at the operation of the revised procurement procedures in its initial stage.¹ Evidence from the audit work underpinning that report suggested that
- there was scope to use national frameworks more and to ensure that purchasers use existing frameworks
 - contracting needed to be improved, with procurement based on currently valid contracts, as opposed to roll-over or extended purchasing from expired contracts.

¹ Excludes drugs paid for under the Primary Care Reimbursement Service.

² Report on the Accounts of the Public Services 2010, Chapter 42 Procurement in the HSE.

14.7 This chapter reports the results of a review of

- the extent of compliance in 2013 with procurement rules based on an examination of samples of purchases at three hospitals and three local health offices
- conformance with the requirements of Circular 40/2002¹
- whether there had been an increase in the use of framework agreements
- the extent to which budgeted savings due to more effective procurement have been delivered.

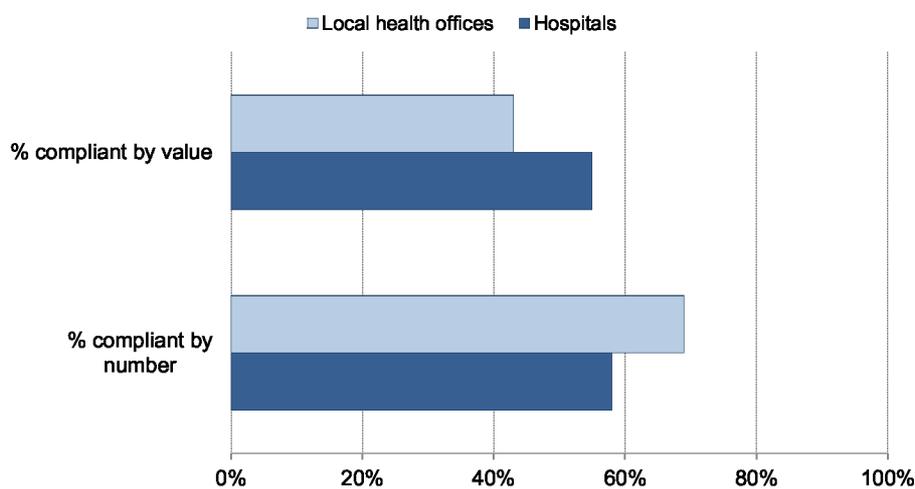
Compliance with Procurement Rules

14.8 The procurement of goods and services by the HSE is governed by national and EU procurement rules and laws and HSE procurement policy. The key required procurement procedures depend on the level of expenditure expected. The key requirements are²

- a minimum of three quotations is required where expenditure is over €5,000 but less than €25,000
- the contract must be advertised on the e-tenders website where expenditure is between €25,000 and €200,000 for supplies and services, and between €25,000 and €5 million for works contracts
- where expected expenditure is above the thresholds for advertisement on e-tenders, EU procurement directives apply, including advertising in the Official Journal of the EU.

14.9 Compliance with procurement rules was examined as part of the audit of the 2013 financial statements of the HSE. A sample of 100 payments to suppliers was examined in six locations – three hospitals and three local health offices. The total value of the 100 purchases examined was €2.23 million. The results are set out in Figure 14.1.

Figure 14.1 Percentage of sample procurements which complied with procurement rules, 2013



Source: Analysis by Office of the Comptroller and Auditor General.

1 Department of Public Expenditure and Reform Circular 40/2002 Public Procurement Guidelines – revision of existing procedures for approval of certain contracts in the central government sector.

2 HSE National Financial Regulations, NFR-01, Version 4, 2013.

14.10 Overall, of the 100 purchases examined, 37 (i.e. 37%) were found not to have been subject to appropriate procurement processes. The value of the related payments was €1.05 million, representing 47% of the value of items purchased.

- 14.11** Where procurement procedures had not been complied with, it was found that most of the arrangements had been in place for a considerable length of time, with one procurement relationship dating back to 1991. While some may have been initiated following a procurement process, the subsequent contracts had long since expired and the arrangements continued to be rolled over year after year.

Reporting of Non-Competitive Procurement

- 14.12** Circular 40/2002 stipulates that each department must complete an annual report, signed by the Accounting Officer, in respect of all contracts above €25,000 (exclusive of VAT) that had been awarded without a competitive process. The report must be sent to the Department of Public Expenditure and Reform and to the Comptroller and Auditor General by 31 March of the year following that being reported on.
- 14.13** The Department of Public Expenditure and Reform extended the scope of circular 40/2002 to the HSE in 2009. The date of submission of the annual reports together with details of amounts disclosed between 2009 and 2013 is set out in Figure 14.2. **Error! Reference source not found.**

Figure 14.2 Non-competitive procurement reported by the HSE

Reporting year	Date submitted	Number of contracts reported	Value of procurements €m
2009	May 2010	22	4.1
2010	April 2011	50	4.0
2011	July 2012	62	7.9
2012	July 2013	32	3.3
2013	July 2014	116	17.8

Source: Health Service Executive

- 14.14** The HSE does not have an automated system to maintain a register of all contracts awarded without a competitive process. Rather, it relies on individual areas to identify and report such non-compliance. The HSE acknowledges that it has been unable to submit the annual circular 40/2002 report by the required date, and that as a result of the manual self assessment process, it cannot confirm that the reports submitted include all instances of non-competitive procurement that were appropriate for declaration.
- 14.15** Of the 37 instances of non competitive procurement identified on audit, 32 should have been included in the HSE's 2013 circular 40/2002 report. However, a review of the return submitted indicates that only three of the 32 procurements were included in the report. In the locations reviewed, there was underreporting, by value, of 85%.
- 14.16** The HSE requires that managers attest to compliance with procurement procedures. As part of its control assurance process, each manager in the HSE is required to sign a periodic control assurance statement to attest (among other things) compliance with procurement procedures.

- 14.17** The HSE has stated that, in relation to 2013, 92% of managers completed a controls assurance statement. The HSE was not in a position to quantify the percentage of managers that had reported that there was compliance (or non-compliance) with procurement procedures in their area of responsibility.
- 14.18** In light of the audit finding of 40% to 50% non compliance with procurement procedures in the locations visited, the HSE's control assurance statement process does not appear to be highlighting the underlying level of non-compliant procurement occurring in the HSE.
- 14.19** The HSE noted that the controls assurance process is improving but is still not totally effective. The HSE's formal review of the system of internal control in 2013 made a number of recommendations for improvement to the control framework including the control assurance process and the implementation of these recommendations will be monitored by the Audit Committee. In addition, the HSE noted that it plans to embed the management of identified control weaknesses – such as non-compliance with procurement – into monthly performance management processes.

Procurement Frameworks

- 14.20** Under EU procurement rules, framework agreements can be put in place as a means of facilitating cost effective procurement. In a framework agreement, the pricing structure is agreed but the volume to be purchased and the timing of purchase are not. Within the public sector, there are two types of framework arrangements
- prices are determined by a 'mini-competition' between approved suppliers included in a framework panel as requirements arise, or
 - the price and terms are set out in the framework agreement for the duration of the period of the arrangement.
- 14.21** The use of framework agreements is expected to deliver significant savings. The costs associated with procurement, both for purchasers and potential suppliers, should decrease as a result of a reduction in the administrative burden of frequent and repeated tendering. In addition, reductions in price can be achieved through bulk buying, moving away from local/regional pricing to national pricing, and increased competition.
- 14.22** In practice, framework agreements can only be effective if such agreements are developed in areas where significant expenditure is being incurred, economies can be gained, and individuals involved in procurement make use of framework agreements to the maximum extent possible. The scope to achieve savings may be reduced to the extent that there is currently non-compliance with procurement procedures.

Procurement Frameworks in Place

- 14.23** At July 2014, the HSE had 83 framework agreements in place, which is an increase of 31 compared to July 2011. The framework agreements in place with the HSE fell into the categories outlined below.

Figure 14.3 Frameworks by purchase category

	July 2011	July 2014
Pharmaceutical and medical	4	18
Professional services and office supplies	14	29
Hotel type services	9	16
Equipment, laboratories and diagnostics	25	20
Total	52	83

Source: Health Service Executive

- 14.24** The HSE is increasingly using framework agreements to procure goods and services. It uses mini-competitions to award contracts as requirements arise. The HSE estimated that, between May 2008 and July 2011 (a 39-month period), a total of 97 mini-competitions had taken place to the value of €217 million. This had increased to 92 mini-competitions in 2013 alone with a combined contract value of €306 million.
- 14.25** All areas within the HSE, including acute hospitals and local health offices, are required to use the framework agreements in place.
- 14.26** The extent to which goods and services were procured through the use of framework agreements was examined on audit. In the hospitals and local health offices visited, frameworks agreements had been used in only six of the 100 cases examined. There was an apparent general lack of awareness of the existence of framework agreements.
- 14.27** Voluntary hospitals which are funded by way of a grant from the HSE (and not included in the €1.6 billion procurement expenditure incurred by the HSE) also incur significant expenditure on goods and services.
- 14.28** While the voluntary hospitals are encouraged to make use of HSE framework agreements, they are not obliged to. It is envisaged that this will change in the future as discussions continue between the HSE and the voluntary sector to develop a sector-wide health procurement approach.
- 14.29** The HSE noted that all HSE national framework agreements make provision for all funded agencies. Voluntary hospitals have used HSE negotiated contracts and frameworks, as well as similar arrangements developed by the Health Procurement Hospital Group – this is a collaborative approach developed by a number of the voluntary hospitals.
- 14.30** The HSE uses the e-tenders website to publish the results of its tendering processes and framework agreements. In addition, it uses e-mails and letters to senior managers to communicate details in relation to framework agreements and a schedule of contract and framework agreements is available on the HSE procurement website. However, the HSE acknowledges that communication on tendering and on the detail of framework agreements to local procurement staff needs to be improved. The HSE
- has agreed a new protocol regarding the provision of contract information and the uploading of this information on the various HSE financial systems
 - is progressing the development of a new IT system (a 'price and sourcing' system) which will allow access for both statutory and voluntary agencies to contract information.

Savings

- 14.31** The HSE has set targets to achieve savings through more competitive procurement. It measures performance in achieving those savings on an annual basis. Figure 14.4 sets out target and estimated actual savings between 2010 and 2013.

Figure 14.4 Targeted vs actual procurement savings by HSE, 2010 – 2013

Year	Targeted savings €m	Actual savings €m	Variance €m
2010	62	59	(3)
2011	98	74	(24)
2012	50	50	–
2013	43	46	3

Source: HSE service plans, performance reports and annual reports.

- 14.32** The HSE noted that while it sets target savings to be delivered through more effective procurement, the 'actual' savings figures are measured on the basis of price reductions achieved based on normal usage levels. Such savings may not always result in reductions in expenditure levels by the HSE because price reductions may be offset by increases in the volume purchased e.g. as a result of demographic pressures which increase demand for services.
- 14.33** In addition, the HSE noted that reported savings compare the price in the revised contracts concluded with the 'old prices' in the previous contracts. It does not take account of general price changes that may have occurred in the market since the last contract was concluded. As a result, it may understate the level of saving being achieved.
- 14.34** The HSE also noted that its ability to deliver further savings through more effective procurement is limited in circumstances where it has concluded contractual commitments which run for a number of years. This limits the potential for cash-releasing/budget reduction savings in the short term.

Views of the Accounting Officer

- 14.35** The HSE noted that the centralised Procurement Directorate has facilitated opportunities to maximise efficiencies and drive added value. The Directorate engages annually with budget holders to develop procurement plans. This process will continue with an increased focus on the value to be obtained from compliance with procurement rules. The HSE noted that it is restricted somewhat by the level of resources available in the procurement function to support the demand for services. However, it seeks to use the available resources in a way that optimises the opportunity to deliver savings.
- 14.36** The HSE is aware that until such time as a single national financial and procurement system is in place, it will have to engage in manual processes to comply with the reporting requirements of circular 40/2002. These manual processes will not of their nature provide the same degree of assurance as a single national solution.

- 14.37** The HSE also stated that consistent or deliberate non-compliance with the requirement for staff to make a self assessed declaration for the purpose of completing the 40/2002 report will be dealt with under the HSE's disciplinary procedures.
- 14.38** It noted that a key element of the current reform of public procurement is based on the concept of 'one voice for procurement' which applies across all Government departments and agencies. The health portfolio will retain its own procurement function which will apply to the entire health system, both statutory and voluntary. The HSE will strive to maximise the use of centrally developed contracts and frameworks for the whole health system.
- 14.39** The HSE is currently working to establish 'one voice' for health procurement. In future all health related expenditure incurred by voluntary and statutory service providers will be procured under a single approach. Procurement of non-health categories such as facilities management, professional services, etc. will be procured through the Office of Government Procurement.

Conclusions and Recommendations

- 14.40** The use of competitive procurement processes can potentially deliver significant savings to the HSE. It is continuing to develop its procurement function. Nevertheless, a significant level of non compliance with procurement rules was identified in relation to 2013 expenditure based on a review of a sample of payments at six locations. The HSE's control assurance process apparently does not highlight the level of non compliant procurement occurring in the HSE.
- 14.41** The HSE has not been in a position to submit a complete, accurate and timely annual report in relation to contracts in excess of €25,000 which have been awarded without a competitive process.

Recommendation 14.1

The HSE should put formal processes in place in the short term to check compliance with procurement rules on an ongoing basis and ensure that non competitive procurement in respect of contracts in excess of €25,000 is comprehensively disclosed in the annual report the Accounting Officer is required to make under circular 40/2002. Such procedures should include examination of the procurement procedures employed in relation to samples of payments across a number of locations.

Accounting Officer's response

Agreed. The HSE plans to deliver additional training to staff in relation to the requirements to report non-competitive procurement. It plans to integrate accurate reporting on non-competitive procurement with its ongoing performance assurance process which will include quarterly reporting to the assurance group. In addition, it plans to expand the controls assurance process by revising the section on procurement and providing additional guidance to managers on the work they need to do in order to report on compliance with procurement rules. The HSE is also investigating the use of data warehousing which would allow it to collate information on contracts and expenditure and allow it to identify non competitive procurement centrally rather than relying on individual managers to report such non compliance.

- 14.42** The number of framework agreements in place has increased from 52 to 83 since July 2011. However, in order to be effective, the agreements in place should be utilised in all appropriate cases. This examination found there was a lack of awareness of the existence of framework agreements in the six locations visited on audit.

Recommendation 14.2

The existence of framework agreements needs to be better communicated to individuals with responsibility for procuring goods and services in order to extend their utilisation.

Accounting Officer's response

Agreed. A number of approaches have been used in the past to communicate the existence of framework agreements and contracts to end users. However, the HSE accepts that an information deficit exists. A number of actions have been taken or are planned to address this deficit. These include agreement of a protocol in December 2013 regarding the uploading of contract information on the various HSE financial systems and the maintenance of a schedule of all contracts and framework agreements on the HSE procurement website since mid 2014. The HSE is also developing a new IT system which will allow access for both statutory and voluntary agencies to contract information. It is expected that the new system will be operational at the beginning of 2015.

