

PROCUREMENT OF GOODS – A CHALLENGE FOR PUBLIC HOSPITALS

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Abstract: This paper presents some of the challenges that the Romanian public hospitals are confronted with when seeking to procure the goods required to perform their daily activity. As public units, they have to follow the specific legislation regarding the use and expenditure of public money. The Government Emergency Ordinance (GEO) no. 34/2006 with subsequent amendments and other secondary legislation set up the framework for public procurement together with its fundamental principles. A better usage of it, a better planning and a tighter collaboration between the administrative and medical departments will lead to a more efficient way of spending the public money and to an improvement in the procurements' results, the medical personnel's activity and the quality of the services provided to patients.

Public procurement refers to the process by which public authorities purchase goods, works and services from companies. In 2014, public authorities in Romania spent around 67.151.118.654 LEI (around 15.1 billion EURO) on the purchase of goods, works and services.(1)

Public procurement is regulated in Romania by the Government Emergency Ordinance (GEO) no. 34/2006 concerning the award of public procurement contracts, public works concession contracts and services concession contracts, with subsequent amendments (GEO 34/2006) and other secondary legislation. Because Romania is one of the member states of the European Union, these legal documents are set according to European directives. The purpose of this legislative framework is to create a fair and competitive environment for the public procurement and, by doing so, to stimulate competition, equal treatment, transparency and a more efficient expenditure of the public money.

Depending on the specific type of purchase, the Contracting Authorities (as defined by GEO 34/2006) can choose between the following procedures:

1. *Open procedure* – any interested operator has the right to submit an offer;
2. *Restricted procedure* – any interested operator can submit an application, but only the ones selected will be allowed to place their offers;
3. *Competitive dialogue* – any interested operator can submit an application and the Contracting Authority will engage in a dialogue with admitted candidates in order to identify one or more solutions according to specific requirements. Based on the solution(s), the operators will place their offers;
4. *Negotiation* – the Contracting Authority conducts consultations with the selected operators and negotiates the terms of the contracts (including prices);
5. *Offers requests* - the Contracting Authority calls for offers from different economical operators and selects the best offer;
6. *Solution contest* – a special procedure used especially when

an esthetical solution is required (such as in the case of city planning or any sort of architectural solution).

7. *Direct purchase of goods* - the Contracting Authority can directly purchase goods from any economical operator if the value is of less than 30 000 EURO excluding VAT.

In Romania, public hospitals are more largely represented than the private units (in terms of number of units and funds assigned) (2) and they are the main buyer of medical supplies, works and services. In a public hospital, the acquisition of works is rare and it usually involves the participation of local and central authorities. The acquisition of services is mainly the responsibility of the general manager based on the unit's needs, the managerial programme and the budget. The main type of acquisition (in terms of quantity) in public hospitals is represented by the purchase of goods, in which direction a series of steps have to be taken. Initially, the head of the department has to compile and sign a report in which she/ he mentions the products' denomination and the quantities required by her/ his department. This report will be then submitted for approval to the general manager, the medical manager and the financial manager (according to the internal procedures of each hospital). Only after these preconditions have been fulfilled, the procurement department can initiate the legal procedures for acquisition.

Falling under European legislation, a specialized procurement department in every public hospital and the relatively limited number of companies which are active on the medical market (when compared with other sectors), we can expect that they will purchase the demanded products at the best prices and that the medical personnel from the different departments will be satisfied with the purchases. But as reality shows, the medical personnel is not always satisfied with the quantity or the quality of the products purchased.

The quantity of the procured goods depends on the hospital's budget and on the price per unit. Public hospitals' budget depends on the funds assigned by the National Health Insurance House, by the Ministry of Health, by Local Authorities (in some cases) and, also, on the administrative

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skills of the management team.

Even if public hospitals generally buy larger quantities than a private hospital, the end-user price is higher. This can be partially explained by the limits of negotiation procedures between the public hospitals and economical operators (not able to pay partially or totally in advance or modify the payment terms, having to obtain many approvals before starting the procurement procedures or having to follow strenuous procurement procedures etc.). The use of open procedures in cases where it is not necessary (e.g. for buying goods with a total value of less than 30 000 EURO) and procurements done “in fast forward mode” (the procedure has to begin, finish and the goods to be delivered in only a few days, usually at the end of the year) will increase the costs of the economical operator and this will reflect on the end-users’ costs. The lack of collaboration between the departments of the hospital (e.g.: reports are not approved or rejected in due time) will interfere with the planning process and will increase the economical operators’ costs with the personnel, which will eventually trigger a higher price per unit when selling to public hospitals.

When looking at the possible causes that lead to the purchase of unsatisfactory goods (from the medical personnel’s point of view) the most frequent causes are: not enough or low quality specifications of the products to be purchased, insufficient understanding of the public procurement legislation from the part of the hospital officials, too low hospital budget, personal interests, ill-practices of the economical operators etc. When medical personnel is not willing or incapable of providing good and clear specifications for the desired products, the Contracting Authority organizes the legal procurement procedures and buys the products sold at the lowest price.

The procurement department can misunderstand and wrongly apply the public procurement legislation, and by doing so it increases the costs, lengthens the procurement procedures duration, creates shortages of the required goods and purchases low quality products. The issue of tender documentation for goods, which are non-compliant with art. 35, art. 36, art. 37 and art 38 of GEO 34/2006 (those refer to technical specifications regulations and restrictions) can lead to legal disputes and the procedures can be called off (this equals to wasting time and money by the Contracting Authority and sometimes, to shortage of supplies).(3,4) Using “open procedures” when other procedures are available is legal, but it is not always very practical because the Contracting Authority and the economical operators will spend a long time filling in the forms, gathering the required documents, so that costs will be increased, as well as the delivery time of the goods.

Pursuant to article 198 from GEO 34/2006, the Contracting Authority can use as selection criteria for procurement of goods “the most economical favourable offer” or “the lowest price”, in this order. The preferred selection criterion for public hospitals is “the lowest price”. Using this criterion has the following advantages: it is easy to use, the economical operators tend to dispute the procedures less, the procurement and financial department can account the savings easier.(3,4)

The disadvantages are that sometimes, the hospitals will purchase low quality products that cannot be used or have a shorter shelf-life, the purchase does not include some subsequent additional costs (such as: maintenance, service, additional reagents or consumables that will have to be procured in the near future etc.).

Using the “the most economical favourable offer” as selection criterion for the procurement of goods has the advantage of letting the Contracting Authority select what is more important, quality or price, and set up a scale in this

respect. Also, this criterion allows the Contracting Authority to make decisions based on their type of hospitals, the referenced profile of patients and other resources they have (human, financial and material).

The disadvantages relate to the difficulty in establishing the importance of quality concerning specifications versus price, more work for the medical and administrative personnel, the economical operators tend to contest more this type of procedure, the benefits on the long term are harder to be assessed.

The public hospitals’ budget restrictions can also influence the purchasing strategy by choosing the cheapest products (and of the lowest quality). Sometimes, the economical operator supplies products which are not compliant with the specifications required in the tenders’ specification, but in this case it is up to the Contracting Authority not to accept the products or, if these issues are observed after the reception of good, legal actions should be launched against the economical operator.

In order to improve the medical personnel’s activity and the quality of the services provided to the patients, the public hospitals should take more into consideration the procurement activities. A better planning of the purchases will allow the economical operators to plan the production and the ordering of goods more efficiently and will lead to a reduction of the logistic costs, which will finally reflect in the end-user’s prices.

A better collaboration between the medical and administrative departments will lead to a more efficient planning, more comprehensive tender documents and a more satisfactory cash flow.

Interpreting, understanding and correctly applying the Government Emergency Ordinance no. 34/2006 with subsequent amendments and other secondary legislation will improve the quality and quantity of the purchased goods while also reducing costs.

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