

## Audit of tenders related to the COVID-19 pandemic

Compliance audit

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**FULL REPORT (EL)** 

### What we assessed and why

The audit covered three subjects:

- (a) procurement of COVID-19 molecular testing services during the pandemic, for which the Ministry of Health's Purchasing and Procurement Directorate (PPD), the contracting authority, had conducted 16 tenders/programmes under the negotiated procedure by the time of the audit, because of the urgent need;
- (b) procurement of nine million protective single-use masks by the PPD at a cost of €4.68 million, plus VAT, in two tenders;
- (c) implementation of the project to set up a new Intensive Care Unit (ICU).

### What we found

- (a) The main issue arising from the audit concerns the cost of the molecular tests and the significant variations observed over time: over a period of two months the cost fell by 55 %, from a high of €110 to a low of €50 per test, followed by a reduction to €40-€43 per test. It is also noteworthy that the reduction was observed in the costs submitted by a private laboratory that was responsible for 69 % of all tests, most of which were entrusted to it at the high cost.

We found that the contracting authority had largely followed and applied the procedures provided for in the public procurement legislation applicable in exceptional circumstances. However, there were two cases of direct award of contracts to a company in which a former Minister had an interest. One general observation was that, contrary to the relevant legislation, the current Minister did not confine himself to approving the molecular tests, but actually issued instructions beforehand and determined almost all aspects of the procedure he was later asked to apply and approve.

- (b) Procurement procedures were not fully respected in the purchase of masks, and neither were the principles of transparency, the equal treatment of all economic operators, or the development of healthy competition, which are at the heart of European and Cypriot public procurement legislation. This is substantiated by, inter alia, the poor definition of needs and the restrictions



imposed, and the ex-post acceptance of a tender submitted by an economic operator outside the procedure. We also view the absence of an objective cost assessment in both procedures as a serious weakness.

- (c) The State Health Services Organisation appointed a specific architect to prepare the study for and supervise the construction of the new ICU in the absence of a tendering procedure. It also designated a specific contractor to carry out the construction in a manner that failed to ensure even a modicum of competition, despite seeking proposals from three contracting companies. The tender was awarded to the contractor originally designated because the other two companies had been invited to take part at the last minute, and so did not submit a bid. The entire tendering procedure essentially gave a false impression of supposed competition. Furthermore, the contracting company in question has a special relationship with a high-ranking member of the Organisation that selected it. Lastly, an essential clause in the tender conditions providing for the imposition of a very substantial penalty in the event of delayed project implementation was removed following the submission of bids and prior to contract signature.

## What we concluded

We fully comprehend the particular pandemic-induced circumstances in which the tender procedures under review were conducted. However, the public procurement legislation lays down procedures for awarding contracts, even in emergencies, that allow contracting authorities to conduct a negotiated procedure, which is more flexible than the procedures followed under normal circumstances, takes less time, and upholds the basic principles of public procurement.

We consider that the above principles were not respected, while the way the matter was handled precluded adequate control over the procedure, because of the limited information available. We would emphasise that the particular circumstances of the tendering procedure in question do not remove the obligation to follow regular procedures in order to comply with the principles of transparency and equal treatment of all economic operators, principles comprising the essence of European and Cypriot public procurement legislation. The relevant public procurement legislation must always be applied strictly, as it provides contracting authorities with options and appropriate tools, irrespective of the prevailing conditions. Even in pandemic conditions, as over the period in question, it is essential to safeguard public health, on the one hand, and transparency and equal treatment, on the other, thereby safeguarding the public interest.