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TRANSPARENCY IN HEALTH ENGAGEMENT PROJECT

GUIDE TO THE IDENTIFICATION OF RED FLAGS IN PUBLIC PROCUREMENT IN THE HEALTH SECTOR

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Preface

Public Procurement is a one of the most important tools of ensuring effective and sound management of funds in the health sector. Through public procurement the government can achieve strategic objectives such as supporting innovation, education and most importantly increasing the trust of the public towards the government. Therefore, knowing the true power of public procurement, it is of a key importance to protect public institutions from using it as a tool for personal benefits, which can undermine any attempt for effective service delivery towards citizens. One of the best tools of control is without any doubt external auditing, which if done correctly can identify and help fight corruption in all the levels of governance.

Corruption can appear throughout health sector. There are numerous of ways how corruption can take place in this sector, but public procurement is the most vulnerable chain of health sector management. Nevertheless, if corruption takes place in the health sector it can negatively affect not only an increase of prices but also the quality of drugs, services and the overall performance of the sector. In order to prevent and curb corruption, governments need to take several actions, including the strengthening of oversight mechanisms such as external auditing and civil society initiatives that seek accountability.

This Guidebook intents to help auditors on identifying red flags of corruption, frauds and other illegalities in the health sector. Auditors at the national level as well as internal auditors can benefit from this guide book to better understand procurement threats, understand the context and at the end provide with recommendations for policy or action changes. In addition, this Guidebook can also be used by the media and civil society NGO-s to conduct monitoring campaigns in the health sector, and conduct advocacy campaigns for clean public procurement.

Introduction: Public Procurement in the Health Sector

Public Procurement as a form of purchasing services, works and supplies for public institutions is recognized as one of the sectors with the highest vulnerability to corruption. This sector is endangered by corruption in all countries, but the likelihood is even greater in those countries where the rule of law is weak and the efficiency of prosecution institutions is no less weak. One of the most dangerous forms of corruption in public procurement includes the health sector, through which procurements are made for drugs, consumables, medical equipment and in some cases, services from individuals or the private sector are purchased.

Unlike other sectors, corruption in the health sector has major consequences as it affects public health and in many cases, directly impacts the lives of the citizens of a country. In many countries, patients have paid a very expensive price due to bad management of health care services. The quality of the products purchased by governments has affected citizens who have had to pay with their own health for the poor process of public procurement.

Degree of the Problem

Corruption in the health and pharmaceutical sector affects the quality of the services provided to patients and can cause a long-term health crisis. Usually, these situations have a greater impact on the middle class and especially the poor, who do not have access to first-class health services that can be provided by the private sector or abroad. The Global Corruption Barometer developed by

Transparency International in 2013 through a survey of 114,000 citizens from 107 countries, has revealed that on average 45% of them believe that the health and pharmaceutical systems are extremely corrupt.

Corruption in this sector is usually facilitated by the lack of information available to citizens. This lack of information can be used for private gain of individuals or groups of individuals or companies, who use the system's shortcomings to personally benefit. Moreover, health insurance funds, which are usually high, are another factor because some people view it as a potential for personal benefit in this sector. Another reason for this high level of corruption may be the shared responsibility of health and pharmaceutical issues in many institutions and individuals. This makes it even more difficult to identify and prosecute people who benefit from this bureaucratic system.


- Expenditures in the health and social protection sector for 2018 in Albania are foreseen to reach 77.7 billion ALL or 4.43% of Gross Domestic Product.
- 70% of citizens in the region believe that corruption in the health sector is extremely high, including Albania and other countries in the region such as Serbia, Kosovo, Bulgaria, Bosnia and Herzegovina, Greece, etc. (Transparency International, Global Corruption Barometer 2013).

The most common forms of corruption in health and pharmacy can be presented through:

- Drafting the list of drugs reimbursable by the state, favoring products that are not essential and leaving aside other products that are vital to the health sector;
- Designing the specifications of medicines or consumables in a form that favors a single producer, increasing supply prices and in certain cases setting up a monopoly;
- Purchases of products (medicines, other consumables) which have limited therapeutic or diagnostic effect on patients as a consequence of inappropriate procurements;
- Bad management of storage facilities and drugs distribution in health care facilities. In some cases, these products may not be delivered on time and end up as expired products or end in private pharmacies as products for sale; and,
- Not providing services to patients and/or not using the products offered by the public budget, in order to send patients to private institutions, whether for medical services or supplies.

Planning of Purchases


During the planning of purchase phases of consumables, drugs and medical equipment, there are some important elements that may have an impact on all other stages of procurement. This is because if planning is done with the purpose of favoring certain products or producers, it is very difficult at other stages to detect these mistakes. Generally, procurement planning problems in health can be grouped into:

Planning		
Risk	Red Flag Indicator 	Way of Identification (Source)
	The commission does not have all-inclusiveness, not all stakeholders are involved in the consultation process	Search for appointment of commissions that have been

Drafting the list of drugs, consumables and medical equipment	The commission is not transparent and does not provide information on its work	involved in the planning phase
	The list of drugs and consumables is not updated in regular time periods	Search if the list of drugs and consumables is reviewed once a year or another regular time period
Determining the amount of purchases	Quantities of consumables, drugs purchased by the state have significant differences in consecutive years	Look at purchase orders and contracts in the last three or five years
Drafting the technical specifications of the products	The specifications are very detailed in a way that clearly favor a manufacturer or product	The number of bids is very low or only one
	Technical specifications are not defined properly and thus give a lot of discretion to evaluating commissions to select the winners	The reasons for eliminating the cheaper bids are not sustainable and are not decisive conditions in the tender dossier
	An economic operator or an entity assists in the drafting of technical specifications	Complaints of competing operators, or complete adaptation of the technical criteria to catalogs of any economic operator
Using brandnames	Purchase of specific products according to the brandname	Usage of brandnames in the tender folder, instead of generic names
Replacing products and drugs	Replacement of products from the list, in order to purchase more expensive products or less qualitative ones	Compare contracts' registry

Selection of Bids (Tendering)

The selection of winning bids through the evaluation commissions is always a process that triggers multiple reactions among economic operators. This is usually noticed by the number of complaints filed in the public procurement appeal institution. Even for this procurement phase, there are some indicators that bring out the possibility of the presence of corruption or other irregularities.

Selection of Bids (Tendering)		
Risk	Indicator 	Way of Identification (Source)
Adapt the technical and/or suitability criteria	Filed complaints against difficult technical or eligibility criteria	Complaints to the contracting authority or the public procurement appeal institution
Changes in the criteria	The terms of the tender dossier are changed after the tender dossier has been published	e-procurement platform

Bid changes	The offer has arithmetic errors (unit price calculations) or is changed after submission	Copy of operator's bid or bid evaluation report
Bad reputation of the manufacturer/bidder	The institution accepts a bid from a manufacturer or bidder who is unknown or has bad reputation for contract enforcement	Agency of Public Procurement portal (APP)
Value of products, drugs or medical equipment	Products have higher prices compared with the prices in the private or retail market	Compare prices with previous years, with other institutions, other states and private retail market
Conflict of Interest	Familiarity with the bidders for a considerable time	Bidders and public officials have social, family relations or agree on similar contracts for a long period of time
	Gifts or promises of employment in the future	Officials receive material or non-material gifts, there is evidence that they have been promised future employment after the end of their mandate, have been sent on holidays or scientific conferences by private companies
	Lack of four-eye principle (implies that a transaction should be approved by more than one person)	Only one official is responsible for a transaction, either directly or indirectly
Low Competition	There is a lack of competition in procurement activities, or an organized group of operators submits bids by prior agreement	Bid prices are not consistent with market value, other operators have no interest in bidding
Inability to verify documents	Economic operators present documents such as licenses, certificates, test results or catalogs that cannot be verified by an independent source	Lack of verification sources
Selection of procurement procedure	Competition is restricted through the use of contract negotiation procedures or restricted procedures, with the reasoning that it is an obligation, technical or other	The contract was concluded through forms that did not allow the competition of economic operators
Market Sharing	Operators have separated the areas of interest and do not compete with one another	There is competition in the market but there are no offers in procurement activities
Donations	Donations from companies, which subsequently condition the purchase of consumables as a result of technical obligations	Direct or negotiated contracts with the companies

Emergency Procurement Procedures	Not initiating the procurement activity in a timely manner and putting the institutions in front of emergency situations	Number of emergency activities, frequency and value of these contracts
Patented Products	Binding contracts for patented products with longer deadlines than the validity of patents	European Patent Office (EPO)
Shorter bidding deadlines	The deadlines are cut and the bidding time is shorter than the standard	Agency for Public Procurement portal
Short delivery/distribution deadlines	Deadlines for submitting contract items are too short, this can discourage competition	Agency for Public Procurement portal

Contract Management

There is no doubt that planning and tendering are two very important stages to ensure efficiency in health procurements. However, while these two stages are easier to supervise and fix eventual problems, contract management is much more complex and usually the weakest point of the procurement cycle. Regardless of how well the planning has been and how favorable a contract has been concluded with the economic operators, it will always be a challenge especially in the pharmaceutical sector, to ensure that the drugs are the quantity and quality for which the contract is concluded. There are many factors involved in this risk, including transportation of products, warehousing, distribution to healthcare institutions, and finally sharing for patients.

Contracts' Management		
Risk	Indicator	Way of Identification (Source)
Contract changes	The terms of the contract have been changed or amended after the beginning of the contract implementation	Look for contract change decisions
Direct contracting	The contract is awarded to an economic operator without announcing a procurement procedure. Or consecutive contracts are awarded to the same operator, dividing them into smaller values	Analysis of contract winners, through the e-procurement platform or contracts' register
Difference between the contracted value and the final value	The value of the signed contract distinguishes from the total value of the transactions that have been executed for that contract as a final value	Billing and financial report
Unjustifiable orders	Quantities ordered are not in accordance with needs	Compare value of orders over the years and the reasons
Lack of patients' registry	There is no evidence of delivering drugs to patients	Database of healthcare institutions

Quality	Operators offer supplies whose quality is not in accordance with the contract	Satisfaction of doctors, health institutions, patients and their associations
Distribution	Products have been stolen during distribution or have been sent to private institutions for sale. Products are not transported under right conditions and consequently lose medical properties.	Check contracts, orders and delivery receipt documents
Storage	Storage not in compliance with storage conditions, lack of security and stock management	Check the storage conditions and see the standards of storage for the products
Counterfeit products	Products that bear a certain brandname, but are in fact counterfeit and as such end up in health institutions	Test the samples in laboratories
Conflict of Interest	The contract supervisor is in direct or indirect conflict of interest with the economic operator	The contract supervisor has a financial or other interest with the economic operator and this can be verified
Latency in issuing payments	Payment of bills has been delayed to the economic operator for no reason	Delay in payments may be pressure the operator to offer bribes to public officials
Not performing	The economic operator refuses to perform specific tasks of the contract	The orders of the institution are not respected, according to the purchase order
Gifts for officials	Offering gifts, rewards for doctors, procurement officers or other employees	Officials are sent to visits or conferences abroad, receive gifts or have any direct or indirect remuneration from operators
Unused supplies	Purchased supplies are not used and end up as disposal materials	List of materials, including drugs and consumables for disposal from pharmaceutical stores
Continuation of the contract	Contracts continued without developing a new procurement procedure	The terms of the contracts have expired
Not accepting donations	A company's donations are not accepted and a procurement procedure is conducted for the same article	Compare the list of donations provided with the procurement activities
Harmful donations	Donating expired drugs or drugs very close to the expiring date	Companies attempt to reduce the cost of disposing drugs and consumables and offer them as donations

Preventive Steps

Given the complexity of procurement problems in healthcare, and the possibility of hiding in the details what appear to be necessary conditions, some steps may be taken to reduce the possibility of corruption in public procurement in the health sector. Depending on the procurement phase for which we want to address the problem, these measures may be general or specific.

General Measures

General measures in preventing corruption in public procurements in the health sector include:

Radical Transparency



Publishing:

- Contracts with economic operators for all supplies, maintaining a minimum number of necessary business secrets
- Main parts of economic operators' bids
- Complaints submitted in real time by the economic operator, including those submitted to the public procurement institution and to the contracting authority
- Questions for clarification of tender dossiers, contract notices or differences in interpretation of contracts
- Order purchases, technical receipt reports and bills
- Contract implementation reports and penalties
- Publication of bid evaluation reports and minutes from opening and reading of bid prices

These enable non-governmental organizations, including associations of patients, doctors or other health professionals to monitor procurements. In this way it enables civil society and the media to oversee procurements and ensure that the best products are procured in the health sector at the most favorable prices and in a timely manner.

Integrity Plans



Integrity plans are a tool to prevent corruption, through which institutions foresee measures designed by the staff of the institution according to the principle of the encircled pyramid. This means that the measures are proposed and taken from below. Also, in addition to the public sector, the same commitment to integrity measures should be taken by the private sector as well. Civil society should be the supervisor and guarantor of these plans (Transparency International UK, Making the Case for Open Contracts in Healthcare Procurement, page 14). Health institutions should therefore ensure that they have taken these measures:

- Approval of integrity plans by providing for measures by all health sector employees
- Involvement of civil society, businesses and academia to ensure that the concerns of the various sectors are addressed
- Measure the implementation of planned activities and report planning
- Allocation of the budget cost for the implementation of the measures provided in the integrity plans
- Regular periodic reviews of the plan, supplementing and changing it according to the needs and situations presented

Monitoring from NGOs and Civil Society



In countries with a high level of corruption, the control of civil society organizations can have a decisive role in curbing corruption. To this end, healthcare institutions, especially those at the central level, should encourage CSOs to conduct impartial monitoring, taking into account and implementing recommendations wherever possible. Moreover, the formation of associations of patients, medical professionals and specialized civil society organizations, which will be able to monitor and influence the regularity of procurement processes in the health sector, should be encouraged.

To enable this monitoring, healthcare institutions are preferred to:

- Share continuous grants to organizations interested in monitoring the health sector, especially public procurement
- Establish formalized cooperation to consider all measures proposed by CSOs
- Include CSOs in public consultations on procurement planning, monitoring of bid evaluation commissions and monitoring contract implementation

Whistleblowing

Defining functional channels for whistleblowing is one of the most effective measures to guarantee institutional integrity. Whistleblowers should be protected and encouraged to report all identified irregularities. Alerts should be regulated according to the principle of three degrees, including reporting to the institution itself, a supervisory institution (like Albanian Supreme Audit Institution), and then alerting the public. This should be done by protecting whistleblowers who report on irregularities, by taking effective measures at reasonable times, and finally rewarding them for their courage. This would also encourage other people to take similar steps in the future. The main measures to ensure efficient whistleblowing should include:

- Establish special reporting channels for whistleblowers
- Protect the identity of whistleblowers
- Protection against consequences, dismissal, change of job position, salary or other degradation
- Physical security protection
- Quick and efficient addressing of reported problems
- Reward for reporting

Special Measures

At the same time, in addition to the general measures, special measures may be applied to suit a particular procurement or procurement phase of a specific product.

Planning

- Publication of procurement plans
- Consultation with CSOs and private sector for procurement plans
- Organize pre-qualification meeting to discuss tender dossier's conditions
- Draft the list of products that are provided free of charge in accordance with WHO
- Design and publish treatment protocols

Tendering

- Inclusion of citizens in the evaluation of bids or at least monitoring of commissions
- Avoid procurements that limit competition
- A qualitative procurement that takes into consideration the patient satisfaction
- Draft a regulation for preventing the conflict of interest and unfair influence of pharmaceutical companies

Contract Management

- Strengthen supervision of contract implementation
- Control drug effects and measure performance of medical equipment
- Inclusion of citizens in supervising the implementation of contracts
- Detailed records on the quantities of procured items and those distributed across clinics and down to the last beneficiary

Bibliography:

- Open Contracting Partnership, Development Getaway: Red Flags for Integrity: Giving the green light to open solutions 2016
- OECD: Preventing Corruption in Public Procurement 2016
- Transparency International UK (TI-UK): Business Principles for Promoting Integrity in the Pharmaceutical Sector 2017
- Instituti Demokratik i Kosovës (KDI): Udhëzues për Parandalimin e Korrupsionit në Prokurimin Publik, 2016
- TI-UK: Making the Case for Open Contracting in Healthcare Procurement 2017
- KDI: Raport i Monitorimit të Prokurimit Publik në Ministrinë e Shëndetësisë 2013
- TI-UK: Corruption in the Pharmaceutical Sector 2016