



AUDIT
OFFICE



REPUBLIC
OF CYPRUS

AUDIT OF TENDERS DURING THE COVID-19 PANDEMIC

COVID-19 LABORATORY TESTS

PURCHASE OF PROTECTIVE MASKS

CONSTRUCTION OF NEW WARD IN GENERAL HOSPITAL OF NICOSIA



AUDIT OFFICE OF THE REPUBLIC
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AUDITED ENTITIES

Ministry of Health

State Health Services Organization

1. Executive Summary

For the purchase of services for the COVID-19 molecular tests during the pandemic, the Purchasing and Supply Directorate (DAP) of the Ministry of Health (MH), as the awarding authority, conducted, until the day of the audit, 16 tenders/programs following the negotiated procedures, due to the urgent need that had arisen. According to the data submitted to our Office by DAP on 16.6.2020, until the day of the audit, a total of 96.287 tests were awarded under the above tenders to 12 laboratories, for the total amount of €7,506,933, as analyzed in this Report and the relevant Annexes. Additional awards followed, which have not been audited yet. For the sake of completeness, it is reported that until 15.9.2020, 140.012 tests have been carried out and the total cost increased to €8.871.537.

From the audit of the procedures followed for the 16 programs, we concluded that DAP has largely followed and applied the procedures provided for in the relevant public procurement legislation for such exceptional circumstances. Our detailed comments and findings for each program separately, are recorded in the Report. However, initially, in two cases there was a direct award to a company serving the interests of a former Minister. It is noted as a general remark, that the Minister was not limited to granting approval, but had previously given instructions and defined almost all aspects of the procedure, for which he was then asked to grant his approval, which he did. This is not in line with the relevant legislation.

The main issue which arises through this audit concerns the setting of the prices/costs of the tests mentioned and the big differences/reductions, which were observed over time, since in a period of only two months (April - June 2020) there was a decline in the cost by approximately 55%, taking into account the highest (€110/test) and the lowest (€50/test) prices that were awarded until the completion of the audit. Then there was a further decrease and today the price has been fixed at around €40- €43/test. It is also noteworthy that the above reduction was observed in the prices submitted by a private laboratory, which has undertaken 69% of all tests, most of which were awarded at prices higher than the above lowest price. A similar variation/decrease is observed in the prices of the other laboratories.

The Cyprus Institute of Neurology and Genetics (INGK) had a big impact in the initially high charges, due to the charge of the tests it had conducted for the Ministry of Health at the beginning of the pandemic, which amounted to €100/test, without the sampling. The Ministry of Health based their assumptions on this amount, in setting an acceptable price for the initial tenders. Another important factor, for the price set, was the initial inability of the Microbiological Laboratory of the General Hospital of Nicosia to conduct these tests at the early stage of the pandemic, which resulted for the Ministry of Health not having any alternative option. It is noted that the Microbiological Laboratory of the General Hospital of Nicosia, was the second accredited laboratory to conduct the above tests together with the INGK, to carry out these tests, and that later on, in April 2020, had carried out tests at the price of €65/test, including sampling.

Finally, as important a role as INGK played in the increased initial prices, as mentioned above, it also played an equally important role in reducing prices, with the intention of conducting tests at lower prices, in the event that private laboratories did not drop their prices, since it had the opportunity to do so, according to the position/suggestion of our Office at the time, as it was expressed through our relevant announcements in April 2020. The above position of our Office, in combination with our other suggestions, helped significantly, in collaboration with DAP, in reducing prices and preventing the creation of conditions of oligopoly or unfair cartels, through appropriate safeguards to protect citizens and private companies from profiteering phenomena. If all 140.012 examinations/tests were conducted at the price of €110, then the total cost for the taxpayer would be equal to €15.401.320 while if they were conducted at the lowest price of €40 at which it ended up, it would be equal to €5.600.480. The amount actually paid is between the two.

Other factors that, in our view, played a role in reducing prices were the increase in competition, which came from the increase in private laboratories that met the conditions for conducting the tests in question, the various complaints to which detailed reference is made in this Report, regarding the very high cost of these tests, which caused, among other things, the involvement of our Service in the whole process, as well as the will of the Ministry of Health and DAP, through its competent officials, to cooperate and take on suggestions from our Office.

Finally, a significant issue which should be seriously and thoroughly investigated and which arose through relevant complaints made to our Office, concerns the cases of persons who, while stating that they have not taken the test in question, have received messages on their mobiles phones with the relevant results and their names are included in the statements that have been submitted for payment and which are kept by DAP. In our view, the above serious issue shakes the reliability of both the results and the statements with the persons who have taken the said test and should be further seriously and thoroughly investigated and checked by the awarding authority, prior to the payment of any amount to the Contractors.

On 24.9.2020 we were informed by the Permanent Secretary of the Ministry of Health that, from the control she had ordered to be carried out in the records/documents that accompanied 6.441 test records, for which a specific private laboratory requested payment, it was found that the payment is documented for only 4.409 tests, while for the rest there were findings that do not justify payment.

Regarding the purchase of nine million disposable protective masks at a cost of €4.68m plus VAT from DAP, we found that DAP did not fully comply with public procurement procedures, or the principles of transparency and equal treatment of all economic operators, principles that constitute the quintessence of European and Cypriot public procurement legislation. The non-observance of the above principles is identified mainly at the determination of the needs and the restrictions that had been set mainly in the first procedure, but also in the acceptance of an offer by an economic operator, which was posterior and out of the process, to which an award had also been made (although the procedure was eventually canceled on the grounds stated in the Report), while at the

same time there was a complaint/allegation that the offer of another economic operator had been rejected as being out of the process. Moreover, the above procedures/principles were not fully applied in the selection process of the economic operators, who had taken part in the second procedure, since there is not sufficient documentation to this end. The above omissions have, in our view, affected the development of fair competition.

We consider that a serious weakness in the above procedure was the fact that in neither of the two procedures was there an objective cost estimate based on the prevailing conditions, as a safeguard in the evaluation and the award of the contract, resulting in the fact that at that time the rationality of the prices could not be assessed, especially provided that it was expected that due to excessive demand, they would be increased.

Regarding the Program for the purchase of services for conducting COVID-19 molecular tests for employees of the State Health Services Organization-(SHSO), SHSO has not applied the provisions of the legislation on public procurement, since, based on the data that have been submitted to us, the process of awarding the two contracts for the purchase of services for conducting these tests seems to have been handled by the General Executive Manager of the Organization alone, who decided to directly award the contract to a company serving the interests of a former Minister without following any procedure at all. Apart from not allowing sufficient audit of the process, the way in which the matter is handled is also inconsistent with the basic principles of transparency and equal treatment of economic operators, which must govern public procurement and which must be observed by SHSO, despite the urgency of the situation and the special circumstances under which the purchase was made.

Finally, regarding the implementation of the project of creating a new ward new Intensive Care Unit (ICU) at the General Hospital of Nicosia, this was awarded by SHSO directly to a specific Architect for the preparation of the study and supervision of the works, without following any procurement procedure, and to a specific Contractor for the construction of the project after requesting bids from 3 companies, but in a way that did not guarantee at all the development of even basic competition. The provisions of the legislation on public procurement were not followed in either case, there was a complete circumvention of the Board of Directors of SHSO which is the competent body, while there was also a violation of the general principles of administrative law. In the case of the Contractor, it is noted that initially a contractor company was nominated, but then SHSO decided, supposedly for the purposes of transparency and price comparison, to request the submission of offers for the construction of the project from two other contractors as well, who, as reported to us by the Organization, were judged by SHSO as capable of performing the project. However, as it turns out from how the process ended, the selection of the other two contractors was not appropriate, as one contractor did not submit an offer at all, stating that he was unable to complete the project within the timeframe set in the documents (30 days), while the second contractor submitted an alternative bid, which was more expensive and was deemed to be inferior. In the end, the offer was awarded to the contractor company that was originally nominated and the

whole bidding process offered virtually nothing but a fictitious image of supposed competition. In addition, one of the two contractors has a special relationship with the General Executive Manager of SHSO, who selected him. An essential condition of the tender regarding the imposition of an extremely high liquidated damages clause, in case of delay in the implementation of the project, which was included in the terms of the tender, was removed after the submission of the bids and prior to the signing of the contract. The price achieved seems to be too high and cannot be simply justified only by the narrow implementation schedules or the special conditions due to the pandemic.
