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Deputy David Cullinane,
Dáil Éireann,
Leinster House,
Kildare Street,
Dublin 2.

20/07/2023

RE PQ 35099/23

Question

To ask the Minister for Health to outline the value of goods and services procured by the HSE where the procurement was non-compliant with procurement rules and guidelines for the years 2018 to 2022, further broken down by year, by goods or service type and by amount; and if he will make a statement on the matter.

Response

Deputy Cullinane,

The Health Service Executive (HSE) has been requested to reply directly to you in the context of the above Parliamentary Question which you submitted to the Minister for Health for response.

The HSE has incurred expenditure of approximately €2.2bn 2018, €2.7bn in 2019, €3.8bn in 2020, €4.2bn in 2021 and €4bn in 2022 in relation to goods and services subject to procurement regulations that are set out in detail in the HSE's National Financial Regulations and underpinned by EU Directive 2014/24 and Public Procurement Guidelines for Goods and Services.

In line with the revised code of practice for the governance of state bodies and the public procurement policy framework, the HSE is required to ensure that all contracts for a value of €25k or above, are secured competitively in line with public procurement requirements and to report the levels of non-compliance identified.

The HSE has procedures and policies in place to ensure compliance with procurement rules and guidelines. In procuring goods and services, all areas within the HSE must comply with the relevant procurement procedures which are set out in detail in the HSE's National Financial Regulations. Up to 2020 the HSE was unable to comply with the reporting requirement re non-compliance of the DPER Code and this was noted in recent years audit certificates by the C&AG. Since 2020 the HSE has carried out a comprehensive self-assessment of non-compliance and engaged the services of an independent firm who have reviewed an appropriate sample of responses to provide comfort around the veracity of the outcome.

The HSE is aware that there are limitations regarding the self-assessment review as it currently does not capture expenditure below €25k. The HSE considers that it is probable that the actual non-compliance is higher particularly if the spend less than €25k was considered.

Compliance with procurement rules continues to be an issue for the HSE particularly in relation to the requirements for market testing, tendering and competitive processes. The scale and complexity of the HSE's overall procurement activity is such that it will take a sustained focus over several years in order to ensure high

levels of adherence to procurement rules. This is an important objective for the HSE, which the Board has endorsed, given the need to deliver and demonstrate value for taxpayers' money invested in the health service.

The HSE does not have a single financial system. The absence of such a system in the HSE presents additional challenges to the effective operation of the system of internal financial control. A key element of the Finance Reform Programme is the implementation of a single national integrated financial management and procurement system, or IFMS, based on a set of agreed national standard finance and procurement processes, a single National Chart of Accounts and National Enterprise Structure, and a new National Shared Services Model. IFMS will provide more timely financial reporting and forecasting and will enable improved financial management, governance, compliance and transparency, and a stronger overall financial control environment. The deployment of a single standardised financial and procurement system across the entire health sector will, for the first time, provide quality standardised financial and procurement information across both statutory and voluntary services. A phased implementation is ongoing with first go live in July 2023.

The HSE is currently in the process of developing and resourcing a structure to sustain and enhance the capability to drive multi annual procurement planning, compliance improvement and capacity development. Key activities include:

Corporate Procurement Plan (2022-2024): HSE's Corporate Procurement Plan (CPP) was approved by the HSE Board in June 2022. The CPP addresses a key Department of Public Expenditure and Reform requirement where Section 8.20 of the Code of Practice for the Governance of State Bodies (2016) requires that all non-commercial State bodies complete a CPP underpinned by analysis of expenditure on procurement and the procurement and purchasing structures in the organisation. Delivering this CPP will help the HSE achieve its procurement mission and objectives to:

- Support service delivery across the health sector;
- Maintain effective governance and compliance;
- Achieve greater value for money to support reinvestment into patient care and service delivery.

The CPP sets out the key priorities to be delivered over the next three years to improve and enhance procurement activities within the health service, including:

Financial Reform Programme: A key part of improving efficiency is transforming ways of working around procurement activities. Central to that is the Financial Reform Programme and the implementation of the Integrated Financial Management System (IFMS) and associated standard processes (shared services and self-service procurement with work-flow approval).

Procurement Spend Under Management (SUM): HSE tracks the SUM across the main categories of spend and has targets in place for each category.

Collaboration with the Office of Government Procurement on Common Categories: HSE and OGP collaborate extensively around the procurement of framework and contract arrangements for common categories of expenditure that the OGP coordinate. Collectively, the HSE and OGP will continue to evolve the split of responsibilities and hold each other to account for delivery of commitments.

Capital and Works Programme: The delivery of the annual Capital Works programme, which consists of all healthcare related construction activities such as new builds, refurbishments, fit-outs and equipping, amounting to circa €1bn in 2022 is underpinned and set out in the Capital Plan. The procurement and delivery of this distinct work stream is managed specifically by the HSE's Capital & Estates Team under the direction and management of the National Director of Capital & Estates.

Multi-Annual Procurement Planning: Derived from the CPP, HSE is developing a multiannual programme of sourcing and contracting requirements for the Health Service.

Corporate Procurement Planning & Compliance Improvement (CPPCI): Prioritisation and resourcing of the CPPCI process across all HSE divisions and agencies.

Learning and Development: The HSE continues to support health service participants on apprenticeship diploma, de-grees and masters programmes based on the European Competency Framework for Public Buyers.

Non Compliance as reported in Annual Report and Financial Statements of the HSE 2018 to 2022
(Relevant Excerpts attached Appendix 1)

	2018	2019	2020	2021	2022
Procurement Non Compliance Rate for Invoices over €25k (€20k in 2022)	Not available (See excerpt from Annual Report)	Not available (See excerpt from Annual Report)	10% (See excerpt from Annual Report)	9% ((See excerpt from Annual Report)	7% (See excerpt from Annual Report)
Analysis by Goods / Services			Appendix 2	Appendix 2	Appendix 2

Summary and Way Forward:

The HSE is required to provide an estimate of compliance and non-compliance with procurement regulations and to detail the same in its Annual Statement of Internal Control (SIC) in order to fulfil key requirements of the DPER Code of Practice for the Governance of State Bodies. In order to meet this requirement, a self-assessment exercise has been conducted since 2020 to determine the level of compliant and non-compliant spend. This process involves the issuing of returns to each National Division (ND), Hospital Group (HG) and Community Health Organisation (CHO) whereby budget holders are asked to assess each invoice over €25k.

Significant progress has been made since 2020 including the development in-house of the Procurement Assessment Compliance Tool (PACT). However the HSE continues to consume significant Finance & Procurement WTEs annually supporting ‘after the fact’ assessments, governance and compliance reports. Integrating the assessment into the real-time transaction is critical for improved governance, control and performance. With the advent of a single Financial & Procurement management system (IFMS), there is a significant opportunity to streamline the procurement compliance assessment process and reduce or eliminate ‘after the fact’ manual assessments. Compliance & competitive assessment can be logically derived at the point of PO creation.

Excerpts from the 2018 Annual Report & Financial Statements of the HSE

“The HSE cannot provide a definitive rate of procurement non-compliance. Management and Internal Audit’s monitoring of non-compliance indicates that compliance with procurement regulations remains an issue for the HSE.

Development of an online procurement compliance report which provides detail of non-compliance to Service areas. This report is currently in use but is not yet fully populated for the entire HSE area. Once fully developed this report will be used to both identify noncompliance and as a benchmark monitoring tool as part of the Compliance Improvement Plan roll-out.”

Excerpts from the 2019 Annual Report & Financial Statements of the HSE

“The HSE cannot provide a definitive rate of procurement non-compliance. However the HSE expects to be in a position to provide this in respect of 2020. The HSE procurement team tasked with providing this analysis is currently re-deployed to on-going COVID-19 priority work streams. Management and Internal Audit’s monitoring of non-compliance indicates that compliance with procurement regulations remains an issue for the HSE.”

Excerpts from the 2020 Annual Report & Financial Statements of the HSE

The HSE has undertaken a self-assessment review of its non-competitive spend >€25k for 2020. The total expenditure on invoices over €25k was €2.2 billion, 58% of HSE procurable spend in 2020. All major budget holders were required to complete a self-assessment return to determine the level of non-compliant procurement. Self-assessed returns covered €2 billion (90% of the spend under review). The returns indicate that non-competitive procurement was in the region of 63% (circa €1.25 billion). It should be noted that under articles 12, 32 and 72 there are valid reasons for non-competitive procurement particular in relation to the impact of the COVID-19 pandemic. A sample of returns totalling circa €120 million was subjected to a review carried out by a private firm of accountants engaged by the HSE to help verify the accuracy of the returns made. This sample represents circa 18% of non-COVID-19 related expenditure (€635m). The review agreed with 95% of the returns. Based on the self-assessment returns and the outcome of the review, the HSE has determined that the level of non-compliant procurement considering mitigations is around 10% (€200 million). When excluding COVID-19 specific expenditure the non-compliant rate is circa 18%. The HSE acknowledges that the result of the self-assessment is likely to have been impacted by the COVID-19 pandemic and the significant COVID-19 expenditure arising (€1.3 billion). The HSE is aware that significant work is required to improve the level of non-competitive procurement and remains committed to progressing change.”

Excerpts from the 2021 Annual Report & Financial Statements of the HSE

“The HSE is undertaking a self-assessment review of its non-competitive spend >€20k for 2021. (In 2020 this review was based on spend >€25k and involved approximately 12k invoices). The estimated total expenditure on invoices over €20k is in the order of €2.37 billion (involving approximately 36k invoices) which is 56% of HSE procurable spend in 2021. All major budget holders are required to complete a self-assessment return to determine the level of non-competitive and non-compliant procurement. Self-assessed returns covered €2.066 billion (87+% of spend under review). The returns indicate that non-competitive procurement was in the region of 19% (€0.4 billion) and non-compliant procurement was in the region of 9% (€0.186 billion). When excluding COVID-19 specific expenditure the non-compliant rate is 16% equating to €0.144 billion. The HSE is aware that there are limitations regarding the review as it currently does not capture expenditure below €20k. The HSE considers that it is probable that the actual non-compliance is higher particularly if the spend less than €20k was considered. It should be noted that under Directive Articles 12, 32 and 72 there continue to be valid reasons for non-competitive procurement particularly in relation to the ongoing impact of the COVID19 pandemic in 2021. A statistical sample of 292 returns totalling €0.444 billion was subject to a review carried out by an external independent firm of accountants engaged by the HSE to help verify the robustness of the returns made. This sample represented 19% of HSE expenditure of €2.370 billion. When returns were not submitted to the review team these were considered in the sample as non-complaint. The findings of the independent review indicated a 94% compliance rate”

Excerpts from the 2022 Annual Report & Financial Statements of the HSE

“The HSE recently undertook a self-assessment review of its non-competitive spend greater than €25,000 for 2022. This review included the examination of 26,168 invoices representing a 91% return of 28,695 invoices. Of this, 93% were deemed compliant and within the remaining 7%, 65% of the issues causing non-compliance are being addressed under the corporate plan. An independent firm of accounts were engaged and conducted a review of 296 returns totalling €364.5m. That sample is in the order of 20% of the overall self-assessments returned to procurement for review. The finding of this additional assurance is that 90% of the sample was deemed to be fully compliant. This provides some additional assurance to the HSE, whilst acknowledging the limitations of the review. The estimated total expenditure on invoices over €25,000 is in the order of €2.1bn (involving approximately 28,000 invoices) which is approximately 50% of HSE procurable spend in 2022. All major budget holders are required to complete a selfassessment return to determine the level of non-competitive and non-compliant procurement. The HSE is aware that there are limitations regarding the review as it currently does not capture expenditure below €25,000 and considers it likely that the actual non-compliance is higher particularly if the spend is less than €25,000.”


Non-Compliant Spend by Category of General Ledger Spend

	Yr 2020	Yr 2021	Yr 2022
	€m	€m	€m
Bedding & Clothing	4.52	1.81	0.26
Catering	0.93	0.74	0.54
Cleaning & Washing	11.11	12.56	6.96
Comm. Drugs Schemes	0.12	0.25	0.43
Computer	12.18	18.10	28.85
Drugs	19.57	25.86	1.87
Education & Training	1.23	3.34	0.11
Furniture	1.55	0.44	0.26
Heat Power & Light	0.70	0.23	0.10
Insurance	6.22	7.16	0.00
Laboratory	6.40	7.47	3.08
Legal	0.00	0.03	0.62
Locum / Agency	3.44	11.67	47.33
Maintenance	7.83	17.31	4.50
Med/Surgical Supplies	20.15	4.11	1.26
Medical Gases	1.03	0.00	0.04
Other Medical Equip	4.51	3.53	1.20
Professional Service	20.27	27.72	12.63
Rent and Rates	4.94	31.09	15.71
Supplies & Contracts	45.61	5.01	0.41
Transport (Patient)	4.36	4.00	1.09
Vehicles Purchased	4.11	1.01	0.79
Vehicles Run costs	1.86	0.46	0.00
X-Ray/Imaging	2.17	1.64	0.16
Grand Total	184.81	185.54	128.20

Note: Rounding differences may account for some minor anomalies between totals above and summary totals in Annual Reports.

I trust this information is of assistance to you, but should you have any further queries please do not hesitate to contact the Office of the National Director of Procurement on (01) 635 2688 or via john.swords@hse.ie

Yours sincerely,



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