

Audit of the General State Administration contracts for the financial year 2021 linked to expenditure policies 13 “Citizen security and prison institutions”, 31 “Health” and 32 “Education”

Compliance and performance

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FULL REPORT (ES) 

What we assessed and why

Public procurement has traditionally been one of the priority objectives of the Spanish Court of Audit when carrying out its audit activity, both in terms of its quantitative significance and its importance in the management of public resources. Specifically, in this audit we assessed the procurement related to 845 extensive summaries of procurement files finalised in 2021, for a combined amount of €3.714 billion and financed by expenditure policies 13 “Citizen security and prison institutions”, 31 “Health” and 32 “Education”. To this end, we audited a sample of 111 contracts for an amount of €3.238 billion.

What we found

The World Health Organization classified the public health emergency caused by COVID-19 as an “international pandemic” on 11 March 2020. On 14 March, the Government declared a state of alarm through Royal Decree 463/2020, and adopted measures to protect the health and safety of citizens, guarantee the supply and delivery of products, contain the disease, and reinforce the health system. Two of these concerned public procurement. Firstly, the Ministry of Health agreed to set up the centralised supply of a range of health protection products for the State Administration by the Spanish national health system. Secondly, Article 16 of Royal Decree-Law 7/2020 of 12 March adopting urgent measures to respond to the economic impact of COVID-19 included emergency procedures for the procurement of all types of goods and services required by public sector bodies for the implementation of any measure to address COVID-19 (later repealed by Royal Decree-Law 8/2021 of 4 May).

We found that the successful tenderer, the purpose and, partially, the temporal scope of three of the contracts coincided, so the cost of storing, receiving and distributing medical equipment for tackling COVID-19, which was the purpose of the contracts, overall amounted to €4 887 693.93 (excluding VAT). In addition, another contract of €6 310 911.28 was concluded in 2020 for the same purpose and tenderer, adding to the previous ones for a total of €11 198 605.21 between 2020 and 2021. This, however, does not constitute any breach of the rules, since the first of the three contracts initially signed was concluded under the emergency procedure.





With regard to the framework agreement, the emergency procedure used was not the most appropriate, as was shown by the duration of its preparation phase. It began in July 2020, in addition to the fact that previous files with the same purpose were unsuccessful, and was concluded with the framework agreement awards initially made in November 2020. These continued to be amended and reawarded until February 2021. Furthermore, the existence of lots implies procurement planning, which is at odds with the immediacy of the emergency procedure. Although the estimated value is still merely a forecast, there was a large difference between the estimated value of the framework agreement of €2.1 billion and the cumulative value of the contracts based on it of €18.7 million. This resulted from the fact that, as stated by the Spanish sanitary management Institute in its submissions, given the time spent processing, the prices set in the call for tenders were not adjusted when the contract was concluded in the absence of market tensions.

What we concluded

The delay between the tender for the framework agreement and the conclusion of the contract meant that the prices fixed therein were no longer in line with the market situation, so the number and value of the contracts based on the framework agreement was very small, i.e. 0.9 % of the estimated value, according to the data available to the Spanish Court of Audit.

The framework agreement made it possible to replace and incorporate goods, with changes that, in most cases, resulted in a reduction in the proposed price and, thereby, in the public interest, although in one case the price was increased above the permitted 20 %. In addition, for reasons of efficiency, the existing assets should have been used first from the strategic reserve, with those acquired through this framework agreement being integrated into the strategic reserve.