



Norad

VCCI



# CENTRALIZED PROCUREMENT, PROCUREMENT OF DRUGS

## 01

### When to apply centralized procurement?

Centralized procurement shall apply if the following requirements are met:



(1) Goods or services are of similar categories and need to be procured in a large quantity to serve demands of one or some authorities, organizations and units

- If regulatory authorities, organizations and/or units have need for the same good or service which is not included in the list of goods and services to be procured through centralized procurement, they shall aggregate their quantities of good or service in need to form a procurement package and appoint one of them or a qualified centralized procurement unit to execute this procurement package;
- In case a rare drug needs to be procured in a small quantity, the centralized procurement method may also be employed to ensure the supply of sufficient drugs for medical examination and treatment activities;

## (2) Goods or services to be procured are included in the list of goods and services to be procured through centralized procurement

### Power to issue lists of goods and services to be procured through centralized procurement:

- The Minister of Health of Vietnam shall issue the list of drugs to be procured through national centralized procurement; the list of medical devices and test equipment to be procured through national centralized procurement in case of need;
- The Minister of Finance of Vietnam shall issue the list of goods and services to be procured through national centralized procurement, except those included in lists issued by the Minister of Health of Vietnam as prescribed in Point a of this Clause;

- Ministers, heads of ministerial agencies, governmental agencies, and other central-government agencies, Chairpersons of provincial People's Committees, heads of state-owned enterprises and wholly state-owned enterprises shall issue lists of goods and services to be procured through centralized procurement (including lists of drugs, medical device and test equipment) within their jurisdiction, except those included in lists of drugs, goods and services to be procured through national centralized procurement issued by the Minister of Health of Vietnam or the Minister of Finance of Vietnam as prescribed in Points a and b of this Clause.

### Compared to the 2013 law

Compared to the 2013 law, the Law on Public Procurement 2023 has allowed the application of centralized procurement with rare drugs, drugs that need to be procured in small quantities.

## 02

### Forms of contractor selection and methods of centralized procurement

#### Centralized procurement must be conducted through:

- Competitive bidding
- Direct contracting method may apply to procurement of a good which is included in a list of goods and services to be procured through centralized procurement but needs to be purchased immediately to serve epidemic and disease prevention and combat;
- The price negotiation method may apply to procurement of a good which is included in a list of goods and services to be procured through centralized procurement may be procured through if the price negotiation requirements

### Compared to the 2013 law

The Law on Public Procurement 2023 has added two forms of contractor selection (direct contracting and price negotiation) in specific cases compared to the Law of 2013.

## Centralized procurement methods:

Centralized procurement shall be conducted by the national centralized procurement unit or centralized procurement units of ministries, central-government agencies, local governments or enterprises adopting one of the following methods:

- The centralized procurement unit shall conduct contractor selection and directly sign contract with the selected supplier;
- The centralized procurement unit shall conduct contractor selection, and sign a framework agreement with one or some selected suppliers which shall be used as the basis for the entities in need of goods or services to sign contracts directly with such suppliers.

## What is the framework agreement?

**Framework agreement on centralized procurement** means an agreement made between a centralized procurement unit and one or some selected suppliers for an undivided package or a part of a divided package.

- Contents and conditions of the framework agreement shall be used as the basis for entering into each specific procurement contract.
- The validity period of a framework agreement is specified in the contractor selection plan but shall not exceed 36 months. The selected supplier's bid must still remain valid at the time of signing the framework agreement.
- In case of a consortium bidder, the framework agreement must bear signatures and seals (if any) of all members of the consortium.

## What is the relationship between a centralized procurement unit and a unit in need of procurement?

Centralized procurement units shall conduct contractor selection within the ambit of their assigned tasks or under contracts signed with entities in need of procurement of goods or services.


## What are the ways in which contractors are selected to supply medicines, chemicals, test equipment and medical devices?

Health facilities may adopt one of the following methods to selection of suppliers of chemicals, test equipment and medical devices:

- Selection of chemical or test equipment supplier whereby the selected supplier shall also provide medical devices serving the use of their supplied chemical or test equipment at the request of the employer; the supplier shall only transfer the rights to use medical devices to the health facility but retain ownership thereto;





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- Selection of supplier by quantity of technical services:

+ The selected supplier shall only supply chemicals, test equipment, medical devices, spare parts, accessories and relevant services serving the operation or use of medical devices in the quantity of technical services specified in the bidding documents or RFP issued by the employer or procuring entity, without providing personnel in charge of operating such medical devices.

+ The supplier shall only transfer the rights to use medical devices to the employer but retain ownership thereto. The package and bid price shall be determined on the basis of the quantity of technical services to be supplied. Duration of a contract shall not exceed 05 years;

- Selection of supplier of medical devices, chemicals and test equipment: The selected supplier shall transfer the ownership to medical devices and chemicals, test equipment to the employer after the contract signed by and between the two parties becomes effective;
- Selection of medical device supplier in accordance with regulations of law on bidding;
- Selection of supplier of chemicals and test equipment used for operating existing medical devices;
- Selection of technical service supplier in accordance with the Law on Medical Examination and Treatment.

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### **How is drug procurement, which is not covered by the Health Insurance Fund, carried out?**

Regarding the procurement of drugs which are not covered by the health insurance fund or procurement of vaccines used in providing on-demand vaccination services, health facilities shall themselves decide the procurement of such drugs or vaccines in a manner that ensures openness, transparency, economic efficiency and accountability.

This is the **new provision** in the Law on Public Procurement 2023. This regulation will allow public health facilities to be more proactive in the procurement of drugs that are not included in the list of drugs paid by the Health Insurance Fund.



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## How will the **Health Insurance Fund** pay for its procurement at private medical facilities?

Where a private health facility fails to apply the provisions of this Law to its procurement of drugs, chemicals, test equipment and medical devices, the payment from the source of Health Insurance Funds is made as follows:

- It shall only be entitled to reimbursement by the health insurance fund of costs of such drugs, chemicals, test equipment and medical devices calculated according to the corresponding successful bid prices of provincial- or central-level public health facilities or a local health facility of same level of technical and operational procedures;
- If such reference successful bid prices are not available, the Government's regulations shall apply.

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## How is the **incentive** for drug procurement prescribed?

Incentives in drug procurement include:

- **General incentives in drug procurement according to Article 10 of this Law**



### • **Incentives for domestically produced drugs:**

+ The employer shall decide whether to require inclusion of a domestic drug in bids if such drug can be manufactured by at least 03 domestic manufacturers satisfying technical requirements imposed by the Ministry of Health of Vietnam, and other quality and price requirements.

+ If a drug can be manufactured by at least 03 domestic manufacturers that fulfill EU-GMP requirements or EU-GMP-equivalent requirements as announced by the Ministry of Health of Vietnam, and also meet technical requirements imposed by the Ministry of Health of Vietnam, and other quality, price and supply capacity requirements, the inclusion of a domestic drug in bids shall be a requirement laid down in bidding documents or RFP

» Compared to the Law of 2013, the Law on Public Procurement 2023 has **more specific** provisions on incentives for domestically produced drugs.



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