

# LAW FOR BIDDING IN MEDICAL EQUIPMENT PROCUREMENT AND PRACTICAL IMPLEMENTATION: A CASE STUDY AT CU CHI HOSPITAL, HO CHI MINH CITY

Nguyen Van Luc

*Department of Medical Supplies and Equipment, Cu Chi Hospital, Cu Chi District, Ho Chi Minh city, Vietnam*

## Abstract

*The bidding process in medical equipment procurement is a crucial step to ensure the quality of healthcare services and the efficient use of state budget funds. Conducting bids aims not only to select suppliers with reasonable prices but also to ensure the quality of equipment, transparency, and openness in the bidding process. How has this been implemented at Cu Chi District Hospital in Ho Chi Minh City? This article will analyze the current legal framework for bidding in medical equipment procurement and the practical implementation at Cu Chi District Hospital.*

**Key words:** *law, bidding, medical equipment, Cu Chi District Hospital*

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## 1. Introduction

The formation and development of the market economy, along with the participation of economic components, have created diversity in all sectors of social life, including healthcare. In this context, innovating investment management methods for medical equipment procurement is essential. The introduction of bidding is necessary to replace the outdated method of direct appointment, which no longer aligns with market mechanisms or international practices. Initially applied only in construction, the effectiveness of bidding for the economy led the government to expand its scope to areas like consulting and procurement of goods.

Especially in healthcare today, hospitals have implemented bidding for all projects and packages related to procurement of medical supplies and equipment to ensure transparency, competitiveness, and quality in supplying these products to users.

With the goal of studying the current legal regulations on bidding for medical supplies, this research aims to analyze and evaluate the investment and procurement management practices, and price management of medical equipment and supplies at a district hospital in Cu Chi, Ho Chi Minh City. The aim is to identify shortcomings and propose amendments to legal regulations, toward ensuring transparency and integrity in these activities, meeting the aspirations of the people and society.

## 2. The current legal situation regarding procurement bidding for medical supplies.

According to the Vietnamese Dictionary (published by the Institute of Linguistics in 1998), the concept of bidding (đấu thầu) is understood as "measuring transparency, whoever agrees to do the work, or sell under the best conditions, is assigned to perform or sell goods (this is a method, a way to select contractors to implement projects, construction works)."

In practice, the law does not specifically define the concept of consumable materials in the healthcare sector. However, based on Article 1 of Article 112 of the Civil Code No. 91/2015/QH13, it stipulates: "Consumables are items that, after being used once, lose their nature, shape, and original function." Article 1, Clause 2 of Decree No. 98/2021/NĐ-CP dated November 8, 2021, issued by the Government, defines: "Medical equipment includes various types of devices, implantable materials, tools, test reagents, in vitro diagnostic materials, software that simultaneously meets the following requirements..." Therefore, based on the aforementioned regulations, consumable materials in the healthcare sector can be considered as medical equipment.

Procurement bidding for medical supplies and equipment at public healthcare facilities is the process of selecting contractors to enter into and execute contracts for the procurement of goods, medical equipment; selecting investors to enter into and execute investment contracts under public-private partnership forms, investment projects using land to ensure competition, fairness, transparency, and economic efficiency.

### 2.1. The regulations on tendering for procurement of medical supplies according to current Vietnamese law

According to Circular No. 08/2023/TT-BYT dated April 14, 2023 issued by the Minister of Health, which annuls certain legal documents previously issued by the Minister of Health, specifically Circular No. 14/2020/TT-BYT dated July 10, 2020, governing certain aspects of medical equipment procurement through public healthcare facilities, the provisions in Article 3 of Circular No. 08/2023/TT-BYT allow for transitional arrangements as follows:

For procurement packages of medical equipment that had their contractor selection plans approved before the effective date of this Circular (i.e., before April 14, 2023), the units may continue to follow the regulations stipulated in Circular No. 14/2020/TT-BYT dated July 10, 2020, or adjust related procedures according to current procurement regulations.

The grouping of procurement packages for medical equipment is categorized as follows:

Group 1 includes medical equipment meeting the following criteria simultaneously: Certified for free circulation by at least 2 reference countries; Manufactured in the reference country or in Vietnam.

Group 2 includes medical equipment meeting the following criteria simultaneously: Certified for free circulation by at least 2 reference countries; Not manufactured in the reference countries or in Vietnam.

Group 3 includes medical equipment meeting the following criteria simultaneously: Certified for free circulation by at least 1 reference country; Manufactured in the reference country or in Vietnam.

Group 4 includes medical equipment meeting the following criteria simultaneously: Certified for free circulation by at least 1 reference country; Manufactured in Vietnam.

Group 5 includes medical equipment meeting the following criteria simultaneously: Registered for circulation in Vietnam; Manufactured in Vietnam.

### 2.2. Government management of procurement bidding for medical supplies at public healthcare facilities

The Government management of procurement bidding activities includes:

- Issuing, disseminating, guiding, and organizing the implementation of legal documents and policies regarding bidding.

- Summarizing, evaluating, and reporting on the implementation of bidding activities.

- Managing the bidding information system nationwide, including bid newspapers, electronic bidding platforms, and the national bidding network system. Electronic platforms for bidding activities must be licensed by state management authorities.

- International cooperation in bidding: The state provides guidelines and controls for bidding activities involving foreign organizations, while facilitating domestic enterprises and organizations to participate in international bidding.

- Inspection, supervision, resolution of suggestions, complaints, and handling of violations of bidding laws and related regulations. Inspection and supervision of bidding activities are conducted by specialized inspectors in the bidding field. The organization and operations of bidding inspection are

governed by laws on inspection. Resolving suggestions, complaints, and reports related to bidding issues is carried out according to legal provisions.

- Implementation results of the procurement bidding laws for medical supplies at Cu Chi District Hospital, Ho Chi Minh City:

With the aim of enhancing healthcare capabilities through technology transfer, upgrading medical equipment, and monitoring patient management, the hospital aims to provide high-quality healthcare locally, reducing patient transfers for treatment and narrowing the gap in healthcare service quality between different levels. From 2019 to 2023, Cu Chi District Hospital, under the management of Ho Chi Minh City's Department of Health, has implemented multiple bidding packages in general healthcare and specifically in medical supplies, as follows:

**Table 2.1. Statistics of Medical Supplies Procurement Packages at Cu Chi District Hospital, Ho Chi Minh City, from 2019-2023**

*Note: million VND*

Year	Procurement packages	Valua	Total winning bid amount	Discrepancy	Percentage decrease in bidding
2019	2	23.407	23.407	0	0
2020	3	39.111	38.996	115	0,60
2021	3	35.709	35.645	64	0,18
2022	4	50.999	50.826	179	0,35
2023	2	32.688	32.335	353	1,08

*Source: Department of Planning and Investment of Ho Chi Minh City, Statistical Report for the years 2019, 2020, 2021, 2022, and 2023.*

So, during the period from 2019 to 2023, Cu Chi District Hospital implemented a total of 14 selected procurement packages. The percentage difference in total procurement packages was 2.21% of the total bid value.

The source of state budget for medical supplies procurement in Ho Chi Minh City includes: the Healthcare Sector Support Program Phase 1 under Decision No. 1161/QĐ-UBND dated December 5, 2023 of the Ho Chi Minh City People's Committee on allocation of funding for implementation; and Decision No. 3787/QĐ-UBND dated September 22, 2022 of the Ho Chi Minh City People's Committee on regular budget expenditures. These programs aim to enhance health insurance coverage, train healthcare personnel (doctors, nurses, midwives), repair and upgrade hospitals and commune health stations, provide basic medical equipment, standardize clinical service guidelines, and improve hospital quality management. This funding serves as the primary investment source for medical supplies procurement across Ho Chi Minh City in general and specifically for Cu Chi District Hospital.

Additionally, during the period from 2019 to 2023, there were 16 procurement packages for medical supplies funded by library fees, revenue from health insurance funds, and revenue from medical examination and treatment services provided by public healthcare facilities in Ho Chi Minh City. These favorable conditions support the investment in medical equipment and supplies in the city, including at Cu Chi District Hospital.

### **3. Assessment of the legal framework and implementation practices regarding procurement bidding for medical supplies at Cu Chi District Hospital, Ho Chi Minh City**

Cu Chi District Hospital has published the contractor selection plan and the results of contractor selection in accordance with the guidance and schedule set out in Circular No. 08/2022/TT-BKHĐT dated May 31, 2022, issued by the Ministry of Planning and Investment, detailing the provision and disclosure of bidding and contractor selection information on the national bidding system.

Regarding inspection, auditing, handling violations, and addressing complaints and accusations:

The hospital underwent an inspection of procurement of medical equipment, supplies, biological products, testing kits, Covid-19 vaccines, and drugs by the Inspection Team under Decision No. 25/QĐ-TTCTP of the Government Inspectorate dated February 24, 2022.

Regarding the implementation of Directive No. 13/CT-TTg dated April 4, 2017, Directive No. 47/CT-TTg dated December 27, 2017, and Directive No. 03/CT-BKHĐT dated May 24, 2019:

The hospital strictly adhered to Directive No. 47/CT-TTg dated December 27, 2017, of the Prime Minister, ensuring transparency in bidding information, promoting and facilitating the development of domestically produced goods to gradually replace imported goods, as directed in Directive No. 13/CT-TTg dated April 4, 2017, on increasing the use of domestically produced materials and goods in bidding for investment projects and regular procurement activities using state funds.

The hospital also followed Directive No. 20/CT-BYT dated October 1, 2020, on enhancing bidding activities to ensure transparent and effective competition in the healthcare sector, thereby ensuring the selection of capable contractors based on principles of competition, fairness, transparency, and efficiency

#### **4. Proposal to improve the legal framework for bidding and procurement of medical supplies, and solutions to enhance the effectiveness of law enforcement at Cu Chi District Hospital.**

##### *4.1. Improving the legal framework for procurement bidding documents*

Need to supplement regulations allowing special-grade hospitals or final-level hospitals to choose brands for purchasing medicines or medical equipment because this allows poor people and public hospitals to access modern treatment methods and the most advanced equipment. Need to supplement regulations for emergency cases in healthcare because currently only emergency situations are regulated, without provisions for urgent cases; when there are no bidding units or when bids are unsuccessful, there are no medicines or equipment available for treating patients. Need to supplement and improve regulations on bidding invitation documents to prevent criteria manipulation; promote online bidding to ensure transparency; require all information on contractor selection processes, including goods and service quality, to be publicly disclosed on the national bidding system; establish a national contractor database to evaluate contractor reputation and supplied goods quality; enhance the effectiveness of state management.

##### *4.2. Improve state management regulations in medical equipment procurement bidding.*

Firstly, improve the legal regulations related to bidding activities in the healthcare sector. Specifically, during contractor selection, an independent monitoring agency needs to be added to the designated contractor selection process, especially for the streamlined bidding method, to strictly adhere to prerequisite criteria for contractor selection.

Secondly, enhance professional competence, ethics, and responsibility in work for officials and civil servants in general, particularly in the healthcare sector. Transparency is needed in both reward and disciplinary forms, and legal responsibilities for leadership and management officials should be increased.

##### *4.3. Supplement current Bidding Law provisions regarding guidelines for applying procurement bidding methods for medical supplies paid from health insurance funds for private healthcare facilities.*

Private healthcare facilities are allowed to purchase medicines and medical supplies through:

Firstly: Participating in centralized medical supply procurement (national level, local level, price negotiation) in their registered locality.

Secondly: Organizing their own contractor selection for supplying medicines and medical supplies according to Bidding Law regulations.

Thirdly: Applying the results of medical supply bidding from provincial public healthcare facilities or other healthcare facilities and localities nationwide.

Fourthly: Applying direct procurement methods under conditions where the purchase price of medicines and medical supplies is equal to or not higher than the centralized medical supply bidding price, serving as the basis for social insurance agencies to pay healthcare costs for insured patients.

Fifthly: Regulations should focus on increasing penalties for violating bidding and public procurement regulations and improving dispute resolution regulations, as most activities involve state budget usage, corruption issues, and misuse of positions for personal gain leading to losses and

wastage of state funds and assets have been quite prevalent recently.

### **5. Solutions to enhance the effectiveness of implementing the legal framework for bidding and procurement of medical supplies at Cu Chi District Hospital, Ho Chi Minh City.**

Strictly comply with the legal documents regarding bidding for medical supplies of the state healthcare sector. Ensure full publication of all bidding-related content as stipulated in Joint Circular No. 07/2015/TTLT-BKHĐT-BTC dated September 8, 2015, issued by the Ministry of Planning and Investment and the Ministry of Finance, detailing regulations on the publication of bidding information and contractor selection via electronic means, including:

- Legal documents on bidding regulations;
- Bidding plan, prequalification invitation, notice of interest invitation;
- Bidding documents, competitive bidding invitation notice;

### **6. Conclusion**

The research issue of this article is to study and propose amendments to the Bidding Law to align it more closely with practical realities, legalize the contents currently regulated by sub-law documents that are being implemented stably, and unify the regulations of other specialized laws. The aim is to develop a more comprehensive and inclusive regime. This is a key factor in effectively resolving disputes and inadequacies in the mechanism for organizing the selection of suppliers of medical supplies in localities nationwide.

In the context of increasingly advanced scientific and technological progress, particularly as medical supplies and equipment are crucial elements determining the effectiveness and quality of healthcare services, their management in terms of exploitation and use in medical facilities must be strict. Vietnam needs to be agile in building and strengthening a sufficiently robust decentralized legal system to serve as a foundation for general management decentralization and economic management decentralization in the upcoming period. Despite certain difficulties, we need to design a uniquely 'Vietnamese' approach, similar to the creative theory of building a socialist rule-of-law state that is unique to Vietnam."

1. This approach emphasizes the importance of updating the legal framework to better reflect current practices and challenges, ensuring effective management and utilization of medical supplies and equipment in Vietnam's healthcare system.

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