

National Treatment Purchase Fund – 2004

Supplement to Audit Report

The National Treatment Purchase Fund (NTPF) was set up in April 2002 to purchase treatments for patients who had been longest on surgical waiting lists of public hospitals. The business of the Fund was overseen by a steering group chaired by a senior official from the Department of Health and Children and managed by a specially recruited project director and an official from the Department, both of whom were also members of the steering group.

The Fund was established on a statutory basis with effect from 1 May 2004 by way of the National Treatment Purchase Fund Board (Establishment) Order 2004 but the first Board members were not appointed until September 2004. The project director was appointed Chairperson of the Board and the Department's official became Chief Executive Officer. This ensured a seamless transition to the new status of the Fund.

Expenditure incurred from April 2002 up to October 2004 was charged directly to the Vote for Health and Children and, from then on, block allocations made to the Board were charged to the Vote. Under the Establishment Order, accounts of the income and expenditure of the Board are subject to audit by the Comptroller and Auditor Général. Issues from the Vote from the outset to 31 December 2004 to meet the Fund's expenditure totalled €79,069,000.

In the course of my audit of the Fund's accounts for the eight-month period to 31 December 2004 I noted two areas where proper procedures were not followed – approval of staffing and procurement of services.

Staffing

The Establishment Order provides that the Board requires the approval of the Department of Health and Children with the consent of the Department of Finance for the number and grades of staff it appoints.

Immediately prior to the establishment of the Board on 1 May 2004, 18 staff were engaged on the work of the Fund. By the end of 2004 this number increased to 22 and had further increased to 39 at the end of 2005. As my staff had noted in the course of an examination of the Department's records that a limit of 17.6 whole time equivalent posts was in place in March 2005 and that there was no indication that this limit had subsequently been increased, I asked the Chief Executive if the required approval had been obtained for the staffing employed.

The Chief Executive informed me that there had been liaison and contact with the Department of Health and Children in relation to staffing issues and pointed to letters sent to the Department in April 2003, February 2004, June 2004 and May 2005. He stated that the level of staffing for the Board's activities was the subject of ongoing discussions between the Department and the Department of Finance. No agreement on staffing levels had been reached by early 2006.

Procurement of Services

Procurement of services by public bodies is subject to EU and national rules and guidelines. If the value of services purchased by a contracting authority is above a certain threshold, the procurement process is governed by the EU's Public Sector Directive. The main requirement for such purchases is the publication of a contract notice in the EU official journal advertising the services to be procured. The particular information to be included in a contract notice is laid down by EU law. It includes the selection and award criteria to be applied. The overall thrust of the directive is to ensure compliance with EU law principles, particularly those of transparency, non-discrimination and equal treatment.

The thresholds applying to services in 2002 was €162,293 for those procured by central government authorities and €249,681 for those acquired by other public bodies. These were changed with effect from 1 January 2004 to €154,014 and €236,945 respectively. Below those thresholds, government departments and agencies and other public bodies are subject to procurement guidelines and circulars issued by the Department of Finance. While it is a basic principle of public procurement that a competitive process should be used unless there are justifiably exceptional circumstances, the guidance provides that purchases of services in excess of a value of €50,000 should normally be advertised as part of a formal tendering process.

Three significant procurements of services by the NTPF did not appear to comply with EU/national rules:

- Public relations and advertising
- Management consulting
- Financial services

Public Relations and Advertising Contract

A contract for the supply of public relations and advertising services was concluded soon after the initiative commenced. Amounts expended on these services were:

	2002	2003	2004	Total
Professional Fees	€122,000	€220,000	€291,000	€663,000
Special Promotion and Marketing: Advertisements, Radio and Newspapers Campaign, etc.	€261,000	€1,118,000	€331,000	€1,710,000
Total Payments	€383,000	€1,338,000	€622,000	€2,343,000

From 1 January to 31 October 2005, €291,000 and €331,000 was expended on professional fees and promotion and marketing etc., respectively.

As the total value of the services supplied under this contract exceeded the Government Departments' threshold set out in the EU directive and as the contract was extended for a further year, I asked why the NTPF did not comply with the requirement to use the open procurement process in this instance.

The Chief Executive informed me that a reputable company was asked to do some once-off tasks required by the NTPF, as it was an established PR company with experience in the health sector. The contract was for an initial 3-month period from end June 2002 whilst a Request For Tender (RFT) was being prepared.

The Chief Executive told me that three companies were subsequently asked to submit a tender under the restricted procedure; two respondents were invited to make presentations in November 2002, after which a contract was awarded for 14 months up to 31 December 2003. Because of staff shortages at the end of 2003 and the length of time it took to bed down procedures in the NTPF it was decided to continue the current arrangements with the incumbent PR company to the end of 2004.

Tenders for a new contract, using the EU open procedure, were advertised on the Government *e-Tenders* website in November 2004. The resulting contract was awarded to the same company in March 2005.

The Management Consultants' Contract

The Board engaged the services of Management Consultants in September 2004 to support it in its procurement processes. It had expected at the time that the value of this contract would not exceed €15,000. While it sought quotes from two suppliers, one of these did not respond. Expenditure under the ensuing contract in 2004 amounted to €14,500. However, services to a value of €473,000 were provided under this arrangement to end October 2005 without recourse to further tendering.

I asked the Chief Executive to explain why the procurement rules were not adhered to in this case.

He informed me that in mid-2004 the Board was operating under heavy workloads and needed to procure various services. It realised as the year progressed that it would continue to require the services of experts in order to comply with procurement regulations and, as the Board did not have the necessary expertise in-house, it decided to retain the services of the existing Management Consultants to provide

- Advice and assistance in the creation of Request for Tender templates for the procurement of future services for the Board
- Specific technical (IT) and management expertise for the development and implementation of a computerised Patient Management System
- Control and management assistance in the development of the National Patient Treatment Register including independent assessment of Hospital systems.

The rates for the contract were renegotiated when the extent of assistance required to comply with the regulations of EU level procurements became apparent.

He stressed that the Board had no option without undue risk to the business but to retain the services of the existing Management Consultants. Additionally, once the NTPF realised that the expenditure would exceed the relevant EU thresholds, the NTPF put in train (April 2005) a public procurement competition in accordance with applicable laws which is now complete. Thus, the Management Consultants' current engagement is pursuant to a contract awarded after the relevant public procurement procedures were followed.

The Financial Services Contract

Early in April 2003 a firm of accountants was engaged, without competitive tendering, to review the accounting and financial controls in place in the NTPF and to advise on the computer systems needed to record information relating to treatment prices and the medical procedures. By the end of 2003, some €244,000 had been expended on these services.

I asked why competitive tenders had not been sought for this work.

The Chief Executive stated that it was the intention at the time to engage these services for an interim period to help in the setting up of internal controls and financial reporting and that it would then use open tendering to procure financial services. However, once the initial work had been completed it was clear that there were further tasks that required immediate attention.

In the absence of alternative in-house skills and expertise, the firm's involvement increased in line with additional demands on the NTPF. Because of the knowledge acquired by the firm and in light of the imminent establishment of the Board, it was considered unwise and risky to discontinue the contract at the end of the first quarter of 2004.

In June 2004, an open procurement process was held and at its first meeting in September 2004 the Board awarded the contract to the existing firm of accountants.

The Chief Executive informed me that the services currently provided by the firm relate almost exclusively to Internal Audit. Since mid 2005 the emphasis of the support shifted from operational support to purely independent audit. The contract has since reached its agreed conclusion as outlined in the EU procurement contract process (of June 2004).

The amounts paid to the firm for 2003 and 2004 were €244,909 and €175,614 respectively for accounting and financial support. A further €197,918 was paid to the firm in the period 1 January to 31 October 2005, of which €5,400 was in respect of the internal audit function.

By way of further background, the Chief Executive informed me that for some time after inception the NTPF was in an intensive start-up mode and that it was not clear at that stage what its exact requirements were in terms of resources and expertise. The NTPF began with two personnel in April 2002 and started referring patients at the end of June 2002.



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