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*Purchase Documentation as a Source of Information about
Insurance Bought by Public Hospitals in Poland*

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Abstract

Theoretical background: By deciding to purchase insurance the entity which does so expresses its demand for money should it suffer adverse consequences of a fortuitous event – that is to say, an event which the entity concerned has identified and whose occurrence it estimated as probable. There are very limited possibilities to learn about the specifics of insurance public hospitals buy. There are also no sources of data that could shed closer light on this, whether coming from the market or gleaned through surveys. As public finance entities, public hospitals are required to follow applicable public procurement laws in purchasing insurance, although that obligation may be waived under certain circumstances. Whatever the procedure hospitals choose to use in their purchases, certain purchase documentation will be generated over its course, which can be a valuable source of detailed information about the coverage bought.

Purpose of the article: The main objective of this study is to determine the ways in which public hospitals can buy insurance, what kind of documents are generated in the process, and what scope of information they contain.

Research methods: In order to reach the stated objective, a body of literature and legal regulations was analysed, and an empirical study was conducted. The underlying premise in the study was that purchasing

procedures followed by public hospitals provide insight into their purchasing decisions, and thereby into the reported demand for insurance.

Main findings: The study opened up a way for an assessment of the possibilities and limitations involved in gaining insight into insurance purchasing decisions based on the purchase documentation.

Introduction

Insurance is among the most easily available instruments of risk management and its purchase is indicative of the buying entity's financial decision (Hsee & Kunreuther, 2000), as well as reflecting its reported demand for money (Flejterski, 2007; Johnson et al., 1993). Insurance-related decisions are easiest to examine among private sector economic operators, which is facilitated by a variety of data and information sources, including statistical data from the Polish Financial Supervision Authority (Wicka, 2015) or information gleaned directly from respondents via surveys (Mikulska, 2009; Gajda, 2014; Gajda & Jurkiewicz, 2010). Data from the PFSA reveal information about gross premiums written in the non-financial enterprise sector as part of Section II – Other personal insurance and property insurance (PFSA). Data obtained from surveys, in turn, help us establish such facts as the types of insurance chosen by business operators; the main factors behind their motivation to purchase insurance; persons with authority within businesses to choose insurers; what guides businesses in their choices of specific insurance offered; and whether they use insurance distributors in the purchasing process.

No such information is available for entities such as public hospitals, even though they too can shop for insurance. This is because public hospitals are exposed to and have to face different kinds of risks resulting from their use of various resources or from the specific nature of their operations (Janowicz-Lomott & Łyskawa, 2012). Should it materialise, any such risk might pose a threat to a hospital, its personnel or even patients (Chourey, 2015, p. 9). Public hospitals take out compulsory insurance, including civil liability (third-party) insurance for healthcare providers (Art. 17(1) (4a), Journal of Laws 2021, item 1130),¹ which protects them against patients' claims (Bożek, 2017, p. 61); if hospitals use motor vehicles, they also buy motor liability insurance (Art. 23(1), Journal of Laws 2022, item 621). A 2011 publication reports on other types of insurance purchased by public hospitals (Cichońska, 2011). A study carried out at that time (2009) investigated this specific subject on a sample of five teaching hospitals. It would be of great value to repeat this study on a bigger sample and based on the analysis of the insurance contracts involved. The odds of it being repeated, however, would depend on whether access could be gained to the relevant contracts. This might prove difficult given the need to protect classified information

¹ A hospital must take out this insurance one day before it starts its healthcare activities, at the latest. This type of insurance is regulated in detail by the Finance Minister Regulation of 29 April 2019 on compulsory civil liability insurance for healthcare providers (Journal of Laws of 2019, item 866).

or information which hospitals are bound to protect by law (Art. 5, Journal of Laws of 2022, item 902), but also because the insurer is duty-bound to maintain secrecy of its insurance contracts (Art. 35(1), Journal of Laws of 2021, item 1130). It is, therefore, reasonable to seek out other available sources of information on insurance purchases by public hospitals, ones that would be equally as reliable as insurance contracts. It is proposed that one such source could be documentation generated in the course of insurance purchasing process.

The main objective of this study is to determine the ways in which public hospitals can take out insurance, what kind of documents are generated in the process, and what scope of information they contain. Establishing this would help answer the research questions posed, namely whether it is possible to gain insight into insurance purchasing decisions based on purchase documentation and whether this might be subject to limitations. The underlying premise is that purchasing processes followed by public hospitals provide insight into their purchasing decisions and thereby also into the reported demand for insurance.

To attain the stated objective, a body of literature and laws was reviewed, and an empirical study was conducted. The review made it possible to characterise the insurance purchasing process in contracts whose value necessitates the application of public procurement regulations. The empirical study, in turn, was used to characterise the purchasing process in contracts where public procurement rules need not be followed. In conducting the study, reference was made to internal public procurement regulations for awards of less than PLN 130,000, obtained from public hospitals in the Łódź Province.²

Insurance purchases by public hospitals in light of public procurement law

As they are publically financed entities (Art. 9, Journal of Laws of 2022, items 1634, 1725, 1747, 1768), public hospitals must follow applicable public procurement laws when purchasing insurance (Niczyporuk, 2017; Szymański, 2016). Moreover, the insurance service as the subject of contract is not exempt from the application of Public Procurement Law (Art. 2(1)(1), Journal of Laws of 2019, item 2019). That said, whether or not the PPL-derived public contract procedures need to be followed will depend on the amount to be paid under the awarded contract, which must be estimated with due care (Art. 28, Journal of Laws of 2019, item 2019) and with account taken of the largest possible scope of such (insurance) contract.

In an insurance contract, the payment is represented by the premium. Determining the premium amount may be difficult as there are numerous parameters affecting its estimation that need to be taken into account, such as the subject and scope of insur-

² The size of the study group was determined based on data in the Register of Healthcare Providers (RPWDL), as compiled by Centrum e-Zdrowia (e-Health Centre).

ance (including any potential purchases or changes in property structure), the sum insured (including its possible reductions or increases) or the duration of insurance coverage. The valuation should also factor in the claims level or any possible changes in hospital activities. The contractual payment (insurance premium) is determined not earlier than 3 months before the procurement procedure start date (Art. 36(1), Journal of Laws of 2019, item 2019). Where the estimated insurance premium is equal to or exceeds PLN 130,000, some form of public procurement procedure must be followed in the purchasing process and that process must start with a “contract notice” being prepared and then published in the Public Procurement Bulletin (PPB) of the Polish Public Procurement Office or in the Official Journal of the European Union (OJEU) (Art. 86, Journal of Laws of 2019, item 2019; Journal of Laws of 2021, item 1177).³

A “contract notice” (Art. 267(1) and Art. 86, Journal of Laws of 2019, item 2019) must at least state or identify the following: the contracting authority; the name of the contract and a brief description of its subject; the estimated total value of the contract;⁴ information whether the contract is divided into lots; the contract award criteria; the duration of the contract; information whether a bid bond is needed; and the conditions for the participation of potential economic operators in the procedure.⁵ Once the procedure is completed, a “contract award notice” is published (Art. 216(3) and Art. 265(1), Journal of Laws of 2019, item 2019), identifying the successful economic operator and/or stating that the procedure has been cancelled. Where an economic operator has been selected, the following information will be provided: the date on which the contract agreement is to be concluded; the number of bids received; the name and address of the economic operator selected to perform the contract; and the total final value of the contract. Where no economic operator has been selected, the relevant facts and laws will be cited as grounds for the cancellation of procedure (in whole or in part) (Art. 7(3), Journal of Laws of 2019, item 2019).

Additionally, hospitals are required to document the course of the contract award procedure (Art. 71(1), Journal of Laws of 2019, item 2019) by drawing up a relevant “record” of it (Journal of Laws of 2020, item 2434). Unlike notices and other documents created to conduct the procedure, this record does not have to be published

³ The Public Procurement Bulletin and the Official Journal of the European Union both serve as records of all tendering procedures subject to public procurement law. The PPB and the OJEU also record other types of selection procedures for economic operators in supply, service or works contracts. When a contract notice is published in the PPB, the relevant procedure will be national in terms of its scope; when it is published in the OJEU, the procedure will be Union-wide (Union procedure). The decision on where the notice should be published will depend on the estimated premium: if it is below PLN 623,504, the publication will be in the PPB; if it is higher, the OJEU will be chosen.

⁴ This is the value the contracting authority has estimated for the given service; it is not mandatory to state it in the notice.

⁵ This sets out the conditions an economic operator must satisfy in order to participate in the procedure. They may refer to the operator’s ability to conduct its professional activity, including the requirement to be entered in the relevant professional or commercial register, the operator’s economic and financial situation, its technical capabilities and professional qualifications.

but is public in principle and can be provided on request (Art. 74(1), Journal of Laws of 2019, item 2019).

In addition to those mentioned above, other documents (called contract documents) are also generated during the procedure. The contracting hospital will refer to them in the course of the procedure, and they are used to define or describe the conditions of the contract, including the specification of its terms and a description of needs and requirements⁶ (the so-called terms of reference or, before 1 January 2021, essential terms of reference). For insurance contracts, the terms of reference should state, among others: the contract period (that is, an indication of how long insurance coverage will last); the conditions to be satisfied by economic operators;⁷ a description of the criteria the hospital will follow when choosing the insurance offered, in addition to the premium, e.g. the scope of proposed coverage (such as any proposed extensions to it or additional clauses) or the sum insured (when a higher one is offered than required) (Koba, 2020). The terms of reference set out the coverage a hospital expects, taking into account any such requirements and circumstances as may affect the economic operator's bid, and they also provide information the insurers might need to calculate their premium (coverage parameters, i.e. the subject and scope of insurance, duration of coverage, any mandatory conditions or additional clauses, and past insurance information, including the number of claims made or the value of claims paid). Terms of reference also include a list of properties or the types of fire or theft protections used. Once the hospital makes its terms of reference available, inquiries may be submitted to it regarding the content of the contract, and the hospital will have to publish its answers to those inquiries. If terms of reference are modified following such inquiries, and this also results in changes to the contract notice, the contracting hospital will submit a notice of changes (Art. 90(1), Art. 267(2), Journal of Laws of 2019, item 2019).

The responsibility for arranging and conducting a tender procedure lies with the head (manager) of the contracting authority and any activities in this respect may be delegated to other persons, including the contracting authority's employees (Art. 52(2), Journal of Laws of 2019, item 2019) or people from outside the hospital, such as an insurance broker (*Wybór brokerów...*, n.d.). The lawmakers allowed for any ancillary purchasing activities to be delegated by the contracting hospital within its own organisation but also to a third party called the "contracting authority's representative" (Art. 37(2) and Art. 37(3), Journal of Laws of 2019, item 2019). For example, ancillary activities that may be contracted to a broker include the provision of technical infrastructure, advice on the conduct or planning of contract award procedures, or end-to-end preparation and conduct of such procedures on behalf of and

⁶ The grounds for procedure cancellation are set out in Art. 255–258 of the Public Procurement Law Act of 11 September 2019 (Journal of Laws of 2019, item 2019).

⁷ Such as having the relevant qualifications under the Insurance and Reinsurance Activity Act.

for the contracting authority. In such situations brokers can use their own websites or purchasing platforms to conduct the relevant procedure.

Insurance purchases by public hospitals in light of internal contract award regulations for awards of less than PLN 130,000

This study has found that the initiating action in any procedure is the filing of an application to commence it, as approved by the hospital director. The application is prepared by an organisational unit requesting the purchase, and it sets out detailed contract parameters, the estimated contract value (including the basis for its estimation), the proposed bid selection/evaluation criteria, and the time for contract completion. Once completed, the application is further processed by relevant staff at the hospital's Public Procurement Department (PPD), with other information being added to it, such as: the CPV code,⁸ the recommended procedure and the reasons for it. An opinion from the hospital's chief accountant is indispensable as well: in it, the accountant will confirm that the hospital has budgeted the funds for the requested insurance contract; if no funds were budgeted, the chief accountant will state where they will come from⁹ (Art. 46(1), Journal of Laws of 2022, items 1634, 1725, 1747, 1768). Once completed, the application is submitted to hospital director for approval (Figure 1).

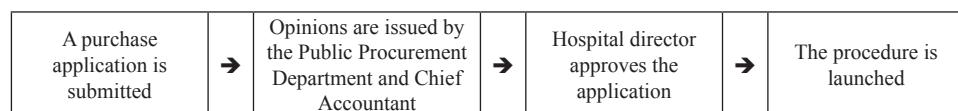


Figure 1. Commencing insurance purchases in public hospitals: the process

Source: Author's own study.

For contracts with an estimated net value below PLN 130,000, economic operators are selected in what is called the “price/market exploration” procedure or the “request for quotation” procedure (Table 1). Which of the two procedures is selected will depend on the estimated contract value, which varies from hospital to hospital.

⁸ The insurance service is classified in group code 66500000-5 “Insurance and pension services”, itself placed within a higher-level group code “Financial and insurance services” (66000000-0). The CPV code designation is necessary to classify the subject of contract. Developed by the European Commission, the CPV codes are now used by all public contract awarding entities. The codes provide contract information to potential users, including contracting entities/authorities, candidates or tenderers in contract award procedure (see *Zamówienia publiczne...*, p. 3).

⁹ As a contracting entity, a hospital should provide for an obligation it will assume under its insurance contract award procedure, and it should do so sufficiently in advance (i.e. in its financial plan).

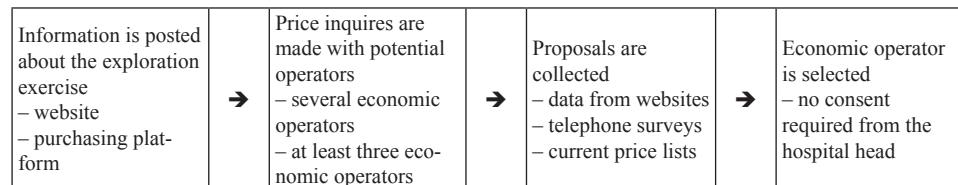
Table 1. How an economic operator is selected depending on insurance contract value

Estimated insurance premium*	Procedure
PLN 5,000 or less (10%)	
PLN 15,000 or less (10%)	
PLN 20,000 or less (30%)	
PLN 25,000 or less (10%)	Price/market exploration
PLN 40,000 or less (10%)	
PLN 50,000 or less (30%)	
Between the upper limit for price exploration process and PLN 130,000	Request for quotation
PLN 130,000 or more	Public procurement

* calculations are based on public procurement regulations in force since 1 January 2022

Source: Author's own study based on the Public Procurement Law Act of 11 September 2019 (Journal of Laws of 2019, item 2019) and the 3 December 2021 Announcement of the Public Procurement Office President on the current EU thresholds and their PLN equivalents, the PLN equivalents of amounts expressed in euro, and the PLN/EUR mid exchange rate serving as the basis translating the amounts involved in public contracts or competitions.

The term “price exploration” or “market exploration” refers to the procedure followed when the estimated contract value is a predetermined maximum amount (for the hospitals examined here, this ranged from PLN 5,000 to PLN 50,000). The exploration is a market research exercise and might involve posting information on the hospital's website or its purchasing platform about the price exploration exercise, making price inquires with potential operators, or collecting proposals – whether published on websites, obtained via telephone, online and paper surveys, or based on available price lists. The aim of such market research is to find the most advantageous bid in terms of the contract sought (Figure 2). The exploration involves several potential operators, usually at least three, and those interested may submit their bids in various ways (in writing or electronically). The unit in charge of the exploration exercise will make a note with information on the form of market research it selected, the activities carried out and the bids received (including bid amounts). The note will also identify the proposed economic operator who submitted the most advantageous bid, stating the reason for the selection. To confirm that the exploration exercise was carried out, a document is drawn up following the purchasing procedure that includes the following information: a brief description of the subject of the contract; the estimated contract value; particulars of economic operators which submitted their bids, including information on their tendered prices and such other parameters as may affect the evaluation and selection of any given bid; an indication of where such information originated and which bid is proposed to be selected, including the reasons for its selection. The document requires approval from the head of the organisational unit concerned and from the hospital director or a person authorised by him.

**Figure 2.** The price exploration process

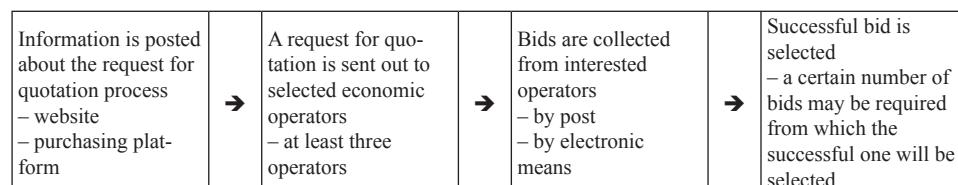
Source: Author's own study.

The “request for quotation” process is used where the estimated contract value is between the upper limit for the price exploration process and PLN 130,000 (net). In the request for quotation process, a request is sent (or, as may be mandatory for some establishments, posted on the hospital’s website and/or purchasing platform) for a bid to be provided on the contract described by the requesting hospital (Figure 3). The request will include the name of the contract and a description of its subject; the time for contract completion; tender evaluation criteria; information on what should be included in the bid; and the bid submission deadline. Interested economic operators may mail their bids to the hospital in writing or electronically. In order to keep the procedure competitive and make sure that the most advantageous offer is selected, a minimum number of bids is required in response to the request (e.g. three bids).

The following documents are prepared in the request for quotation process:

– a request for quotation including a description of the subject of the contract; the time for contract completion; the conditions for participation in the procedure; the bid evaluation criteria; the guidance for economic operators on how their bids should be prepared; and

– a document to confirm that the procedure was carried out, containing an abbreviated description of the subject of the contract; the estimated contract value; the particulars of economic operators which received the RfQ; a list of the bids received, including information on the prices tendered and such other parameters as may affect the evaluation and selection of any given bid; a description of the bid evaluation criteria; and which bid is proposed to be selected, including the reasons for its selection. The document requires approval from the head of the organisational unit concerned and from the hospital director or a person authorised by him.

**Figure 3.** The request for quotation process

Source: Author's own study.

In carrying out each of these processes, the relevant organisational units within hospitals must use standard documentation as specified in their regulations. Once the purchasing procedure is completed, all documents are collected, archived and retained for a minimum of four years.

Possibilities of insight into insurance-purchasing decisions in public hospitals

Based on insurance-purchasing procedures in public hospitals, as characterised above, the conclusion is that any insight into their insurance-purchasing decisions is subject to numerous limitations. In their purchases, public hospitals are bound by laws on public procurement and public finance, and their chosen purchasing paths will depend primarily on the estimated contract value, i.e. the amount of insurance premium. However, each such path or procedure puts public hospitals, as policy-holders, in a rather special position: as contracting authorities, they are the ones to specify their needs and expectations regarding insurance. Regardless of contract value, documentation will be created by hospitals in each procedure which may be a source of the relevant knowledge and information (Table 2). These documents will contain various sets of data and information that may be of interest in seeking insight into insurance purchased by hospitals.

Table 2. Documents created by a public hospital when using purchasing procedures

Purchasing procedure	Types of documents created	Scope of information contained in the documents
Price / Market exploration	– purchase request – market exploration note	– description of the subject of the contract – estimated contract value and how it was determined – particulars of bidding operators – reasoned proposal for bid selection
Request for quotation (RfQ)	– purchase request – request for quotation – record of RfQ procedure	– description of the subject of the contract – estimated contract value and how it was determined – time for contract completion – terms of participation in the procedure – bid evaluation criteria – list of operators to which RfQ was sent – particulars of bidding operators – reasoned proposal for bid selection
Public procurement	– purchase request – contract notices – terms of reference – answers – tender opening information – selection of bids / cancellation of proceedings – contract award notices	– detailed description of the subject of the contract – estimated contract value and how it was determined – time for contract completion – terms of participation in the procedure – bid evaluation criteria – the amount allocated by hospital to finance the contract – list of priced bids received in the procedure – information on bid selection or procedure cancellation, including reasons

Source: Author's own study.

Regardless of the procedure, all documentation must be secured and archived but that does not mean it will be made available to the public. When engaging in a price exploration exercise, the hospital does not have to post any information on its website, whether during the exercise or afterwards. Finding out whether the procedure involved insurance purchase will require a request for information to be sent to the entity's manager. In the request-for-quotation procedure, some hospitals do publish relevant information on their websites, which allows some insight into it. However, if the entity concerned completed the RfQ procedure but chose not to publicise it, the available options are the verification process and a request for access to relevant documentation – again, with such information request to be sent to the entity's manager.

In the public procurement (contract award) procedure, the hospital will be required to make a very wide range of information available to the public. Every researcher can independently access such information by analysing the content of documents published by the hospital:

- in generally available publications, such as PPB or OJEU (contract notice, notice of changes to contract notice, contract award notice),
- on the hospital's website (terms of reference, answers to questions about terms of reference, bid opening information, information about the selected operator or that the procedure was cancelled).

Depending on research timeframe, monitoring these sources might be difficult. For any pending procedures, the relevant data will probably be available in all those sources; for the archived (completed) procedures, however, the relevant data are likely to be available in official publications only.

However, inspecting documents in official publications can only provide answers to some of the research questions and offers no insight into the specifics of insurance coverage that hospitals are interested in. It does, however, make it possible to examine selected economic efficiency data regarding public contracts for insurance services (Szymańska & Szymański, 2018). For a comprehensive assessment of both the procedure and the specifics of insurance coverage sought by hospitals, including its terms, all documents created in relevant contracting procedures need to be analysed (Table 3).

While it is certainly possible to track pending contract award procedures, the researcher will not only have to monitor the process continuously but, most likely, he or she will need to build up their sources of information – especially if the hospital is represented in the procedure by a brokerage firm. This is because once a broker is contracted to conduct the procedure, all the procedure-related information will be posted at the hospital's headquarters and on its website and/or on the website of the brokerage firm representing the hospital.

Gaining insight into public hospitals' purchasing decisions by analysing their tender procedures based on those sources will most likely be a time-consuming process, and one that requires analytical knowledge and appropriate interpretative skills

when examining the content of whatever documents can be obtained there. However, it allows to observe not just the course of the purchasing process but also its possible effects, and it reveals what is the crucial point, namely the hospital's expectations regarding its insurance coverage. While not the only one, this is a good method for gaining insight into the purchasing decisions public hospitals make when looking out for insurance. Such insight, even if limited, is based on credible documents. Importantly, too, for the procedures derived from public procurement law, it does not require any involvement from the entities participating in the purchasing process: a public hospital, a broker, and an insurer. Involving them actively in the research process would be a rather difficult task, if only because of the commercial secrecy requirements they are subject to. Their refusal to get involved on that basis would mean no information could be obtained. Moreover, what is being observed in such insurance purchasing process are procedures that involve no restraints on competition.

Table 3. Overall information that can be gleaned from public procurement documentation

Documents available in official publications		Documents posted on websites	
Name of document	General scope of information	Name of document	General scope of information
Contract notice	<ul style="list-style-type: none"> – name of insurance that hospital expects (as given by the hospital) – duration of insurance – conditions for the participation of interested parties in the procedure – information whether a bid bond is required – information on how bids should be prepared by insurance companies, and when and how to submit them – information on how bids will be examined and what criteria the hospital will use in bid selection, including information on criteria weightings and how bids will be evaluated – information on any formalities to be completed after bid selection to conclude a contract agreement 	Terms of reference	<ul style="list-style-type: none"> – scope and subject of insurance – sum insured – expected mandatory and optional clauses – duration of insurance – permissible liability exclusions
		Answers to questions from operators	Inquiries from interested operators and answers to them as provided by the hospital, including potential changes to terms of references
		Bid opening information	<ul style="list-style-type: none"> – information on the amount the hospital set aside to finance insurance – information on the bids received, including the names of insurance companies and the prices tendered
Contract award notice	<ul style="list-style-type: none"> – if the operator is selected: information on when the contract was awarded; the total contract value; the number of bids received; and the name and address of the successful operator. – if no operator is selected: information that the procedure was cancelled 	Information about selected bid	<ul style="list-style-type: none"> – information on the selected insurer – information on the bidding insurers' scores in the bid examination process
		Information that the procedure was cancelled	Information that the procedure was cancelled, including a statement of legal and factual reasons for it

Source: Author's own study.

Having said that, one needs to be aware that the focus on procedures subject to public procurement law puts a certain limitation on the research field, one that is not necessarily justified. As mentioned, public procurement procedures will be used when the estimated premium is at least PLN 130,000, but that does not mean the hospital will not purchase its insurance at a lower premium. If that is the case, it would be necessary to examine the procedures used for lower-valued contracts.

Conclusions

To summarise these considerations, finding out what specific insurance public hospitals take out, and to what extent, is a demanding task, due primarily to difficulties in accessing information on insurance contracts. The study here allows the conclusion that purchasing procedures followed by public hospitals, and especially their purchasing records, yield some insight into their insurance purchasing decisions.

The study results have made it possible to determine the types of purchasing procedures followed by public hospitals, and the criteria determining the choice of any given procedure. Other findings relate to the types of purchasing documentation generated and the scopes of the information in it. As described in this article, the method used to determine the type of purchasing procedures followed or the scope of information available in purchase documentation is applicable to similar studies among entities subject to public procurement regulations.

In any attempt to obtain insight into insurance purchasing decisions of public hospitals, the following needs to be emphasised:

- using as a criterion the scope of information about planned insurance, the narrowest such scope will be found in documents created in the so-called “price exploration” procedure, with documents used in procedures subject to public procurement regulations providing the broadest scope of the relevant information,

- using as a criterion the availability of documentation, access will be limited in the “price exploration” and “request for quotation” procedures, depending on hospital managers’ decisions. They can refuse consent, frustrating research objectives, which are to identify and examine the financial decisions of public hospitals regarding insurance. In the case of procedures subject to public procurement regulations, researchers can have full access to documents and information (especially for ongoing procedures), but it may be time-limited (this applies to completed, or archived, procedures).

The research procedure presented here covered public hospitals in the Łódź Province. Due to the limitations mentioned, the analysis did not extend to purchasing procedures in private hospitals or in public hospitals in other provinces.

It would seem valid to advance the lines of future scientific inquiry covering public hospitals throughout Poland. This would allow verification of the results of this study and of private hospitals, facilitating comparisons involving the specific

purchasing procedures followed, including any documents generated in their course and the information they contain.

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