

Regulation In Procurement Of Goods And Services For Amounts Up To 8 Uit Tax Units And Efficiency In Purchases Of The Social Health Security - Essalud, 2022

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ABSTRACT

The objective of this research is to determine the relationship that exists between the regulation in the contracting of goods and services for amounts equal to or less than eight (8) UIT and the efficiency in purchases in ESSALUD, 2022. Methodology: application type with a non- experimental and cross-sectional design for which two instruments were applied. Results: 3.3% of respondents (3) report not presenting an adequate procedure in the regulation in the contracting of goods and services for amounts equal to or less than 8 UIT, while 46.7% (42) report Sometimes an appropriate procedure is presented, 44.4% of those surveyed (40) say that it is almost always and 5.6% of those surveyed (5) say that it is always. Conclusion: it can be assured that ESSALUD has its respective regulations that correspond to Contracts Equal and Inferior to the 8 UIT, which are updated following the conditioning for an optimal process and efficiency in the purchasing processes.

Keywords: Regulation, contracts, goods, services, tax unit (UIT), efficiency.

1. INTRODUCTION

1.1 Problematic situation.

According to the Organization for Economic Cooperation and Development, in the world the approximate estimated value per year of government purchases is US\$ 2 trillion. The World Bank also mentions the hiring of the states account for between 10% and 15% of their GDP. The organization believes that establishing sound practices and regulations for all public procurement is essential to determine efficiency in good governance. (World Bank Group, 2016).

In Spain, the Public Sector Contracts Law was approved, which aims to regulate and achieve greater participation and transparency in Spanish government procurement in order to achieve a price-quality ratio (Gabilex, 2017)

In Latin America, deficiencies are shown, this is due to the poor management in the execution of spending, this produces that sometimes the due planning is not complied with, which are indicated in the annual contracting plans, and also, the constant changes that occur in these countries, for which the objectives set are not achieved and as a result of this, there are deficiencies in budgetary and institutional management (Jiménez & Roca, 2017).

In Peru, state contracting is oriented to the maximization of the values of public resources, for this, rules are oriented that promote the results management approach so that these contracts are carried out in a timely manner, with favorable conditions of quality and price, allowing to comply with political purposes and their positive repercussions on the lives of citizens. (Law No. 30225).

It is worth mentioning that the Supervisory Body for State Procurement (OSCE) regulates the supervision of all the processes that the state carries out to contract goods and services. It is a technical body assigned to the MEF (OSCE, 2019).

In our country, Supreme Decree No. 082-2019-EF of Law No. 30225, Law on State Contracting, is issued, which specifies (Article 5. paragraph a) the exclusion from the scope of public organizations subject to contracting contracts for goods/services that present values less than or equal to 8 UIT, effective at the time of negotiation. (Single Harmonized Text of Law No. 30225).

However, the problem arises in the possibility that this type of regulation leaves to handle these contracts correctly within the state administration (according to the study of the Special Permanent Multiparty Commission) (PUCP, 2018).

Likewise, the lack of regulation and supervision generated economic damage at the state level, by violating these principles and their application, in particular, the principles of transparency and efficiency, established in Article 2 (C), by not guaranteeing freedom of attendance, equal treatment, impartiality and objectivity in the development of contracting conditions in these processes. (PUCP, 2018).

As a result, there is no adequate management that complies with the aforementioned principles in the procurement of strategic goods (medical devices, pharmaceutical products, clothing and medical equipment, among others) in order to be applied in a comprehensive manner and with the purpose of carrying out such procurement, in the opportunity for which they are required and with the best market conditions. in safeguarding the resources allocated.

The efficiency of contracting with the state, which is supported or framed among the activities of the MINJUSDH, begins with the statement of satisfying a need, being this, exposed to the administration office, continuing with the process, this request is raised to the supply office which has the function of attending to it, being here where the market study begins, establishing the fair price, and the contract is refined, likewise, the administrative procedure of time is executed, complying with the stages of the process as well as the corresponding obligations. (Ministry of Justice and Human Rights, 2018).

Although it is true, in the absence of a control mechanism that leads to the misuse of public resources and cases of corruption, these regulations are necessary, which can be through directives that establish guidelines based on time, deadlines, compliance with stages, that is, to achieve institutional objectives.

The Social Health Insurance, (EsSalud), a decentralized body with legal responsibility and public internal law, which is attached to the MTPE. Its purpose is to provide health coverage to the insured and their beneficiaries, by also granting promotion, prevention, rehabilitation, economic benefits, etc., corresponding to the contributory regime of the Social Security in Health.

In the research presented, this organization (ESSALUD) has been considered to evaluate whether within its institutional needs the procurement of goods is regulated through a Directive that develops both administrative and operational rules, as well as actions to carry out internal administrative acts or other activities, to contract goods and or services of quantities less than 8 UIT with third parties.

In all this, the objective of this article is to **identify whether there is a relationship between the regulation in the contracting of goods and services for amounts up to 8 UIT units and the efficiency in purchases of Social Health Security - EsSalud, 2022.**

1.2 Theoretical Bases.

1.2.1 Regulation on procurement of goods and services for amounts up to 8 UIT. Regulation.

This expression "regulation" is frequently used in a legal context as well as in general areas. This expression has different meanings. It is used (on some occasions) to indicate any form of behavior control, regardless of its origin. Regulation is then the centralized and sustainable control carried out by a public institution over the activity to which a locality attributes social relevance (Selznick, 1995).

Contracting less than or equal to 8 UIT. They are excluded from the application or execution imposed by the regulations that regulate state procurement, although they must always be executed based on guidelines that are set in the internal rules of each organization (OSCE, 2017).

Regulation in the Contracting of Goods and Services for Values up to 8 UIT. A primary purpose of the state is the common good or public interest and in order to achieve it it must limit, prohibit, allow certain acts or authorize them, in this sense, Retamozo (2014) points out that the state instrumentalizes law, especially administrative law to achieve the objectives, one of them being the public interest.

With respect to contracting with the state, the power of the state is manifested through promotion and contracting processes. These contracts are made in order to satisfy the needs of the state institutions, needs that need to be covered in order to achieve their goals and objectives, with an adequate use of their resources and within the established time, however, it also contemplates a group of contracts that it does not consider should be immersed in the law regulating state contracting and these are those that are less than or equal to the 08 ITU, which leaves it to the discretionary power of the heads of public entities, it is precisely to this type of contracting that the development of this research is directed. Retamozo (2014).

Historical Evolution of the Regulation of State Contracting.

- **Decree-Law No. 22056**, issued in 1977, establishes that all selection and contracting carried out by public institutions must be subject to the provisions of the Administrative Supply System, which was created to unify, rationalize and make efficient these contracting processes by the State and to give order to said process.
- **Article 143 of the Political Constitution of Peru of 1979** establishes that: The contracting of supplies and works

with public funds, as well as the sale or acquisition of an asset, is necessarily carried out by public tender. There are public tenders for contracting projects and services whose amount and importance are indicated in the budget law. (CPP, 1979).

- According to Martin (2013), in the Political Constitution of Peru of 1979 "it was possible to constitutionally consolidate the obligation of the State to contract services, goods and supplies using administrative procedures of public tender and bidding, in order to guarantee the management and efficiency with transparency of public resources"

Once this Constitution came into force, a set of rules was issued with the aim of simplifying the procedures for procuring goods and services and public works through procurement.

- **Supreme Decree No. 034-80-VCE**, dated 22/09/1980, which approved the Single Regulation of Public Works Tenders and Contracts (RULCOP), which regulates public works tenders. The RULCOP was in force until 1997, when it was annulled by the Third Final Provision of Law No. 26850.
- **Supreme Decree No. 065-85-VC**, dated 19/07/1985, which approves the Single Procurement Regulation (RUA) that regulates state procurement, in order to systematize procurement procedures and rationalize public spending. The RUA was in force until 08/03/1997 when it was repealed by Law No. 26850.
- In the 90s, a new Constitution was promulgated, which established the guidelines for this type of procurement and contracting in public institutions. Thus, Article 76 of the CPP, 1993, establishes that both the acquisition of supplies and the execution of works which are acquired with public resources or funds must necessarily be executed by contract and public bidding. It is from the promulgation of this Magna Carta that the norm in force at that time was unified, which was dispersed **Law No. 26850**, dated 27/07/1997, "**Law on State Contracting and Acquisitions**", unifying in it all contracting processes in all public entities to acquire goods and services. This law primarily regulated the selection process of contractors and, to a lesser extent, the execution of contracts. Likewise, this law creates the Superior Council of State Contracting (CONSUCODE) which later and until today is known as the OSCE. This law was amended by Laws No. 27070 and No. 27148; and with the enactment of Law No. 27730 in 2000, 41 articles were modified (Martín, 2013)

Another important modification to the aforementioned Law is introduced by Law 28267, of 03/07/2004, through which 28 articles are modified and 04 are incorporated, generating the promulgation of a new TUO and a new Regulation that was approved by D.S. No. 083 and 084-2004-PCM

This Law on State Contracting was amended by Supreme Decree No. 138-2012-EF, dated 08/07/2012, establishing, among other things, that this regime does not apply to administrative service contracts, contracts for the leasing of services that are made with the presidents of the boards of directors of the public entities, who work full-time.

- **Law No. 30225, Law on State Contracting**, which eliminates Legislative Decree No. 1017. This new law seeks a balance between efficiency and flexibility of state resources. (Law 30225, 2022).
- **The Central Supply of Strategic Goods (CEABE)**, with Resolution No. 656-PE-ESSALUD-2014 of Dec 31, 2014, in numeral 7 of article 9, considers that this entity is a decentralized body that integrates ESSALUD: in charge of programming, acquisition, estimation of needs, as well as distributing and redistributing strategic goods, which are not considered as investment projects.

The nature of the CEABE is to be a decentralized body of ESSALUD, in charge of estimating needs, contracting, programming, distribution and redistributing strategic goods that guarantee the economy, quality, and timeliness of supply such as: medical supplies, pharmacological, laboratory materials, equipment and medical instruments, not considered as an investment project. (RPE. N° 226-PE- ESSALUD-2015).

Principles that govern Contracting with the State.

The second article of the State Procurement Law establishes that the aforementioned contracts are governed by the principles of Equal Treatment, transparency, efficiency, effectiveness, freedom of attendance, equity, competitiveness, integrity, surveillance, publicity and sustainability.

Officials, Dependencies and Bodies in charge of State Procurement. Taking into account that the State contracting process is carried out by each public entity, because public funds that the State allocates for contracting are allocated to it, within each entity those who are responsible for carrying out the contracting processes are: The User Area, the head of the Entity, the selection committee and the body in charge of procurement.

Contracts with the State whose amounts are up to 8 UIT.

Article five of Law No. 30225, Law on Contracting with the State, establishes all those cases that are excluded from its application, including in paragraph (a) it involves any contracting of an amount less than or equal to 8 UIT. The above does

not apply to this type of contracting that is included in the Electronic Catalog of the Framework Agreement. (Law 30225, 2022).

This means that contracts made for quantities up to 8 UIT, will be held without observing the procedure established as mandatory in the Law of Contracting with the State. (Gómez, 2019).

This type of contract is the one that occurs most frequently in the daily actions of public institutions, which is why this article 5 in paragraph a) seeks to boost such hiring. Prior to Law No. 30225, only up to 8 UITs could be freely contracted.

However, it is necessary to clarify that the fact of contracting goods and/or services less than or equal to 8 UIT, are excluded from Law No. 30225, does not imply that the public institution has absolute freedom, which leads it to abuse its power, but, on the contrary, what is being promoted in the use of the discretion of officials or authorities to fulfill a public purpose, taking into account the scope of the law as a limit. Alvarez; Hiromoto & Álvarez (2016), referring to discretionality, point out that its application must resolve the cases in which the Law cannot, in advance and in general, define and regulate the conditions of the exercise in the same way the consequences, because they are unforeseeable or variable.

Stages of the State Contracting Process.

Public procurement processes in Peru, according to Álvarez; Hiromoto & Álvarez (2016) are developed in 4 stages:

Programming and Preparatory Actions:

a) Programming:

- Requirement of the user areas.
- Consolidated table of requirements.
- Study of market possibilities.
- Executive summary, valuation and reference estimation.
- Preparation of the PAC project.
- Referral of the project to the Planning and Budget offices.
- Adjustment of the PAC Project according to the approved Budget.
- Approve the PAC.

b) Preparatory Actions.

- Preparation of the File.
- Approval of the File.
- Appoint the Selection Committee.
- Prepare the selection procedure document.
- Determine the methods of contracting.

Development of Selection Procedures.

- a) Promulgation of the call.
- b) Registration of Applicants.
- c) Observations and consultations of the bases.
- d) Absolve the observations.
- e) Submission of Observations to the OSCE.
- f) OSCE pronouncement.
- g) Integrate, present and evaluate the offers.

j) Consent and Granting of Good Pro.

l) Perfection of the contract and its signing.

Contractual Performance.

(a) Payments, advances and guarantees

- c) Modification to the Contract..
- d) Nullity and termination of the Contract.
- e) Penalties.

Completion and settlement of contractual performance.

- a) Conformity and Receipt of goods and services.

Dimensions. Time of the process.

It refers to the time that elapses between the successive completion of the units in a given process.

Completion of stages.

It refers to culminating a portion of the path, a specific trajectory, where a pause is made for the culmination or rest of a phase in the process of developing a certain action or activity. (Pérez, 2008).

Fulfilment of obligations.

Framed in carrying out all the obligations that are committed from the beginning of the obligation. This is one of the normal causes for which the obligation degenerates (Sánchez, 1980).

1.2.2 Efficiency of purchases in EsSalud Efficiency.

According to the Royal Spanish Academy, (2018) it is the "ability to dispose of someone or something in order to achieve a certain effect".

Likewise, in María Moliner's Dictionary, it is pointed out that efficiency is the assertive form used to achieve the objective.

Principle of efficiency in the administration of public resources.

Public resources must be efficiently administered so that they can be used respecting current regulations and with the purpose of being obtained with better results and with minimal public investment, this is summarized with the concept of administrative rationality. This is defined in economics as the optimal use of material, financial and human goods which are available to public entities and agencies. (Aguilar, 2016).

The principle of efficiency is related to the effective fulfillment of goals, objectives or purposes, and should not be viewed only from the budgetary or economic nuance. (Gimeno, 2019).

2. DIMENSIONS OF EFFICIENCY

a) Fulfillment of Objectives.

One of the purposes of achieving the effectiveness of state contracting processes is to meet the objectives of the operational plan of each public institution, which will ensure that the goods and services provided by these institutions generate positive results for users. The efficiency of contracting processes and their timeliness over time make the goods and services provided by public bodies have a greater value, because they meet the needs of citizens.

b) Resource Management.

Public entities must effectively and efficiently manage their resources, obtaining quality services and goods through procurement processes at a lower cost and in a timely manner.

c) User Satisfaction.

According to Álvarez; Hiromoto & Álvarez (2016) "Public entities are owed to citizens and depend on taxpayers, therefore, their orientation must be directed to the population, to satisfy their demands and needs through public services" (p.36). When we talk about making State contracting more efficient, leaving aside non-essential formalities, what is sought is to be able to satisfy the needs of state entities, within a relevant period, so that they can adequately provide their services to users and be able to see them reflected in positive improvements in people's lives. who see their needs satisfied through the quality and timely services they receive from State institutions.

Efficiency in Purchasing Processes in Social Health Insurance.

Efficiency and effectiveness are one of the principles of contracting with the State, which aims to ensure that the objectives set are met in an effective and efficient manner and this is achieved through a contracting process as well as in its assertive execution, in accordance with the purposes set by the public institutions that require it. rather than to comply with non-essential formalities, thereby guaranteeing a timely and effective satisfaction of public purposes, obtaining quality goods and/or services, making adequate use of State resources.

Likewise, the fact that the Law on State Contracting excludes these contracts from the scope of its application does not prevent each institution from issuing a

Directive in which it establishes the rules to be followed in this type of contracting, not to create unnecessary formalism, but to be able to establish which stages must go through and the maximum period that must be delayed in each stage as well as the minimum and indispensable requirements that must be met by the supplier in order to carry out an efficient contracting, as Social Health Security has done.

General Management Resolution No. 836-GG-Essalud-2019.

In order to provide a uniform procedure for contracts of amounts less than or equal to 08 UIT, to which Law No. 30225, the Law on State Contracting is not applicable, the Social Health Insurance has sought to implement good management practices, in order to ensure efficiency and quality in the execution of its functions. through the issuance of RGG No. 836-GG-Essalud- 2019, of 05/29/2019, which approves General Management Directive No. 15-GCL- ESSALUD-2019 V. 01 "Standards for the contracting of goods and services of securities up to 8 UIT" in which procedures and standards are established for this type of contracting already indicated, in the Social Health Insurance, seeking to standardize technical and legal criteria that make these acts possible, aimed at continuous improvement, in order to obtain higher quality at a better price to be contracted with the efficient use of the resources assigned to the Social Health Security, meeting the requirements in a timely manner and above all because this directive will serve as a support instrument, for all bodies and officials.

3. METHODOLOGY

3.1 Type, design approach.

Descriptive type which is oriented to the knowledge of a reality or phenomenon, likewise, the purpose is the measurement of variables. Quantitative approach. Since variables can be and are subject to being quantified and measured. Design. The design was non-experimental / cross-sectional. (Kerlinger and Lee, 2002),

Population, sample, sampling.

3.2. The population, sample and sampling.

In the research, all workers (117 employees) of the Area of the Central Supply of Strategic Goods (CEABE) of the Social Health Security (ESSALUD) 2022 were included. **The sample** is made up of 90 employees who work in the aforementioned institution. **Sampling:** a non-probabilistic sampling was carried out. The technique used was the survey with two instruments that are the structured questionnaires, formulated by the author, which are measured on a Likert scale.

3.3. Validity and reliability of the Instruments.

It was submitted for validity to the judgment of six experts who are qualified with a master's degree, likewise, have proven experience in the public sector and knowledge in public procurement, who have evaluated the total of nineteen (19) items contained in said surveys. For the variable Regulation in procurement of goods and services for amounts up to 8 UIT. Cronbach's Alpha statistic gave a value of 0.783; showing the opinion results of 20 collaborators for 9 items, they are excellently reliable correlated, evidencing a high degree of reliability. For the second variable, Effectiveness, Cronbach's Alpha statistic yielded a value of 0.804; showing that the opinion results of 20 collaborators for 10 Items are excellently correlated, evidencing a high degree of reliability.

4. RESULTS

3.3% of the respondents (3) report that there is no adequate procedure in the regulation of procurement of goods and services for values up to 8 UIT, while 46.7% (42) respondents refer to sometimes presenting an adequate procedure, 44.4% of the respondents (40) report that it is almost always and 5.6% of the respondents (5) refer that it is always. 24.4% of respondents (22) reported not presenting a adequate procedure in the time of procurement of goods and services for values up to 8 UIT, while 57.8% (52) respondents refer to sometimes an adequate procedure is presented, 15.6% of respondents (14), refer that almost always and 2.2% of respondents (2) refer that always. 26.7% of the respondents (24) report not presenting an adequate procedure in compliance with stages of procurement of goods and services for values up to 8 UIT, while 52.2% (47) respondents refer to sometimes presenting an adequate procedure, 21.1% of the respondents (19), none of the respondents reported that it is always. 10% of the respondents (9) report not presenting an adequate procedure in compliance with obligations in the regulation of procurement of goods and services for values up to 8 UIT, while 48.9% (44) respondents refer to sometimes presenting an adequate procedure, 37.8% of respondents (34), and 3.3% of respondents (3) report that always. 3.3% of respondents (3) report not considering an adequate procedure regarding the Efficiency in the process of purchasing goods and services by values up to 8 UIT, while 71.1%

(64) respondents report not being sure about the procedure and 25.6% of respondents

(23) report that an appropriate procedure should be carried out. 7.8% of respondents (7) report not considering an adequate procedure regarding the management of resources in the process of purchasing goods and services for values up to 8 UIT,

while 67.8%

(61) respondents report not being sure about the procedure and 24.4% of respondents

(22) report that an adequate procedure is being executed. 18.9% of the respondents (17) report not considering an adequate procedure regarding the fulfillment of the objectives in the process of purchasing goods and services for values up to 8 UIT, while 55.6% of the respondents (50) surveyed report not being sure of the procedure and 25.6% of respondents (23) report performing an adequate procedure. 2.2% of the respondents (2) report not considering an adequate procedure regarding user satisfaction in the process of purchasing goods and services for values up to 8 UIT, while 64.4% of the respondents (58) respondents report not being sure of the procedure and 33.3% of respondents (30) report performing an adequate procedure.

5. CONCLUSIONS

The Social Health Insurance (EsSalud) is governed by regulations that correspond to contracting up to 8 UITs, which are updated following the conditioning for an optimal process, such as in the regulation of purchases of goods and services, time of the process in contracting, compliance with stages, obligations and efficiency in the purchasing processes. being determined in the research with a P-value of $0.241 > 0.05$. that there is a significant relationship between the regulation of procurement up to 8 UIT and efficiency in procurement in ESSALUD, 2022.

Regarding specific hypothesis 1, which responds to the first specific objective, a P-value of $0.036 < 0.05$ could be determined, accepting the alternative hypothesis, therefore, the time in the contracting process is related to the efficiency in purchasing processes of the Social Health Insurance - EsSalud 2022.

Regarding specific hypothesis 2, which responds to the first specific objective, it was possible to determine a P-value of $0.034 < 0.05$, which, There is a significant relationship between the fulfillment of contracting stages and the efficiency in purchases of the Social Health Security - EsSALUD, 2022 and this is due to the evaluation of the operability of these contracts immersed in the supply area through the prudent and framed deadlines or times in the evaluation process, taking into account technical specifications, market study, etc. However, according to the results found in specific hypothesis 3, which responds to specific objective 3, with a P-value of $0.241 > 0.05$, therefore, there is no relationship between compliance with obligations in contracting and efficiency in Social Health Insurance purchases - EsSALUD, 2022.

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