

Contract splitting

NHS fraud prevention quick guide

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This quick guide highlights the increased fraud risks associated with the practice of contract splitting. Contract splitting refers to intentionally breaking up purchases of goods and services to bring total expenditure below organisational and legislative thresholds in order to avoid formal procurement rules.

Contract splitting does not always constitute fraud, but where contract splitting occurs, an organisation is exposed to a far greater risk of fraud in the procurement process by weakening control measures.

Contract splitting is also known as artificial disaggregation of spend.

UK procurement legislation (The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020) states that a procurement opportunity should not be subdivided for the purpose of reducing the total value so that it falls underneath the thresholds and thereby becomes exempt from procurement regulations. Procurement regulations require procurement activity above specific thresholds to be publicly advertised and competitively tendered, which can be seen to be a longer, albeit more transparent process.

Who is this quick guide for?

This guidance is intended for those staff working in NHS procurement teams (particularly those responsible for managing contracts and relationships with suppliers), finance teams, internal audit, and audit committees.



How to spot fraud

Conducting disaggregated spend reviews can help to identify vulnerabilities to fraud risks in the procurement process. Here are some vulnerabilities you may want to look out for:

- A large number of smaller payments made to a single supplier with no contract.
- Disaggregated spend with supplier within short periods of time that fall below the relevant procurement thresholds.
- Close relationships between staff and suppliers.
- Inappropriate use of Single Quotation Agreements (SQAs) and Single Tender Agreements (STAs).
- Unjustified separation of types of work, for example, splitting labour and materials for the same building project.
- Recurring pattern of spend with individual suppliers that falls just under relevant procurement thresholds.

Conducting a disaggregated spend analysis would highlight the absence of SQAs and STAs where they are required along with instances of spot-buying. Spot-buying refers to when ad-hoc purchases with one supplier creep above the threshold of quotations or competitive tendering.

How to stop fraud

NHS organisations should regularly undertake disaggregated spend reviews to prevent and detect vulnerabilities to fraud in NHS contracts. The frequency of the contract review meetings should be determined using a risk-based approach; taking into account factors such as the contract's value (low or high), size and risk for fraud to occur. This should be a defined process that is documented in a clear policy and standard operating procedure (SOP).

The following procedures and controls should be in place for all appropriate contracts:

Governance and process

- The NHS organisation's biggest suppliers should be checked regularly for unexpected high costs. Where there are outliers, cross referencing orders, values and contracts can be useful. Where they do not align, contract splitting may have occurred.
- An NHS organisation's procurement policy/SOP should state that there should be no splitting of purchases simply to avoid the application of a more stringent procurement process.
- Where a contract is split, and its splitting would prevent it from reaching a higher procurement process threshold (e.g., one triggering UK tendering requirements), the

rationale for this should be recorded and brought to the attention of the appropriate governance group.

- There should be an effective categorisation of spend so that reports can be made against it. Classification coding assists in spotting anomalies. It is important to ensure that common goods and services are given the same code if they belong to the same product type (e.g., rubber gloves are recorded under one code rather than several different codes according to type). Rationalising the product line is important to determine whether there are any issues in this area and for value for money.
- Changes to procurement regulations and thresholds should be communicated promptly to appropriate staff.
- There should be regular spot checking of procurement files and transactions.
- It is suggested that governance should include the examination and assessment of all supplier spend by tender process followed (see disaggregated spend analysis below).
- NHS organisations should adopt a more joined-up approach to procurement within individual NHS organisations (from individual departments).
- NHS organisations should reinforce existing financial guidance and controls over the process of procuring goods and services and hold staff to account when the procedures are not followed.
- Staff should remain vigilant during vulnerable periods and continue to follow procedures set and maintain records of decision and actions taken.

Disaggregated spend analysis

- To undertake regular audits and disaggregated spend analysis, collate spend data against each supplier over the course of a financial year and compare this information with your organisation's contracts register(s) and SQA/STA register.
- The overall expenditure on a particular supplier can be looked at and cross checked against the number and types of procurement processes the supplier undertook. This may indicate whether pieces of work are being split. The reasons for splitting work will need to be looked at as there may be good operational reasons for doing so. However, the rationale behind such decisions should be recorded and the records kept for future examination.
- The contracts (or lack of contracts) held by a supplier can be looked at to determine whether a proper process has been followed. The absence of a contract may indicate that an abuse of process has occurred.

If you suspect fraud

If fraud is suspected the organisation's escalation process should be followed immediately

and the Local Counter Fraud Specialist contacted for advice (see also how to report fraud below).

How to report fraud

Report any suspicions of fraud to the NHS Counter Fraud Authority online at <https://cfa.nhs.uk/reportfraud> or through the NHS Fraud and Corruption Reporting Line **0800 028 4060** (powered by Crimestoppers). All reports are treated in confidence and you have the option to report anonymously.

You can also report fraud to your nominated Local Counter Fraud Specialist.

Why take action?

A competitive tendering process ensures that more scrutiny and oversight is applied to the procurement process. Where procurement is under less scrutiny, the likelihood of fraud being detected is low.

While transgressions of this kind may appear relatively minor, such behaviour is likely to constitute a breach of the organisation's policy, standing orders and could be an offence under UK regulations. Furthermore, an organisational culture that allows for breaches of procurement rules to enter into 'business-as-usual' undermines the organisation's own ability to effectively tackle fraud and corruption. This may also cause reputational damage especially when accounting for public expenditure. On its own, therefore, the presence of contract splitting does not automatically mean that fraud and corruption has taken place. It does, however, create an environment in which criminality can thrive.

The impact of good governance of competitive tendering within any organisation ensures that procurement opportunities are conducted in a fair, open, and transparent way, ensuring value for money for the NHS organisation and the taxpayer. It also provides assurance to the Audit and Risk Committee that processes and procedures are being adhered to.

Further information

- For further information visit the NHSCFA website www.cfa.nhs.uk
- The NHSCFA series of fraud prevention quick guides focuses on specific areas of fraud risk vulnerability in NHS finance and procurement and are available to all on [NHSCFA's website](#). They include:
 - » Petty cash
 - » Contract reviews
 - » Due diligence
 - » Suppliers code of practice: preventing fraud, bribery and corruption
 - » Mandate fraud
 - » Buying goods and services

» Credit card

- NHSCFA has developed and published advice and guidance for the NHS on fraud risks relating to COVID-19, which may be helpful. Please visit [NHSCFA's website](#) for further information.
- The [NHS Fraud Reference Guide](#) was developed by NHSCFA to include information and definitions for different types of NHS fraud.
- Details of your Local Counter Fraud Specialist.

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