Legality of organisation of public procurements using the resources allocated from the state budget for the maintenance of roads

Summary

The maintenance of public highways is the task of the state agencies administrated by the Road Administration – county road offices. In 2001 the offices spent 251.8 million kroons of the stage budget funds for that purpose.

In accordance to the opinion expressed by the county road offices and the Ministry of Transport and Communications the state has not been able to allocate sufficient funds for the public road maintenance; this is also the reason why the condition of several public roads leaves to be desired.

Major share of the funds allocated for public road maintenance is spent on the purchase of materials, mechanisms, the fuel needed by thereof and spare parts. When organizing the purchases state agencies are expected to observe the Public Procurement act – this is expected to secure the most favorable purchase price.

When auditing the activities of three county road office in the organization of public procurement the State Audit Office investigated the following issues:

- Is the public procurement organized in all the cases arising from the Public Procurement Act?
- Are the contracts with the successful tenderers being awarded on the same conditions that provided the grounds for declaring them to be the winners of the competitive tender and are the contracts being implemented on the same conditions?
- Has the state (county road offices) taken all the risks arising from the contracts into consideration when concluding long-term road maintenance contracts with trading companies?

Main Conclusions Drawn by the State Audit Office

- In 2001 the county road offices mostly observed the public procurement provisions as far as large public procurement was organized; but in case of smaller procurement, especially if the procurement included several stages of work that were completed at different times, the provisions arising from the Public Procurement Act were often neglected.
- The audited procurement contracts were awarded and implemented in line with the conditions stated in the successful tender having won the competitive tender.
- When awarding the procurement contracts for the purchase of bituminous emulsion and igneous rock stone chippings, Lääne-Viru and Pärnu county road offices did not observe the contracts that the Road Administration had concluded with persons chosen to supply materials required by the county road offices resultant to the public procurement procedures.
- The Road Administration has not paid enough attention to providing county road offices with instructions required for the organization of public procurement implementation procedures.
- The long-term contracts that the county road offices have concluded to maintain the roads managed by thereof appear to be a source of risks not managed well enough by the contracting authority. These are, for example, risks which are related to the fact that the county road offices are not able to provide for the sufficient repair level or roads resultant to the lack of money and risks which are related to omissions in the process applied for the evaluation of the status of roads.
- The road conditioning requirements, endorsed by the Minister of Transport and Communications and the instructions for the classification of road maintenance work, approved by the director general of the Road Administration, are appropriate for implementation in case the public roads are being maintained by county road offices. The requirements need to be more explicit for the implementation of thereof in long-term road maintenance contracts concluded with trading companies.
- As it was the case during previous years, the money allocated from the state budget of 2001 for the public road maintenance to be completed by county road offices was not bound to the planned purpose for its use: the money was allocated for the purchase of works and services although it was known that major share of the road repairs shall be completed by county road

offices using their own staff and mechanisms. The money for the construction and repair of county road offices was not allocated from the line of capital costs but from public road maintenance costs.

The State Audit Office's Recommendations to the Minister of Transport and Communications

- The minister should ask the Road Administration to submit a list of the problems arising from the implementation of long-term public road maintenance contracts and the measures taken for solving such problems. Of necessary, measures should be applied for additional risk management.
- "Road Conditioning Requirements", endorsed with the Regulation of the Minister of Transport and Communications No 63 of 01.11.1999, need to be specified.
- As the costs of the draft state budget of 2003 are being classified it should be taken into consideration that only a certain amount of public road maintenance work is being contracted from other institutions. Any expenditures related to the construction and repair of buildings should be observed as capital costs.

The State Audit Office's Recommendations to the Director General of the Road Administration

- More attention should be paid to the supervision and guidance of the public procurement operations implemented by county road offices.
- An opinion should be formed about the measures to be applied in case of the heads of county road offices not always observing the requirement for the initiation of public procurement procedures in case the estimated cost of the procurement exceeds the limits established with the Public Procurement Act.
- An opinion should be formed concerning the procurement contracts for the purchase of bituminous emulsion and igneous rock stone chippings, concluded by Lääne-Viru and Pärnu county road offices.
- The officials of the administration should be given the task of analyzing the implementation of the decree of the Director General of the Road Administration No 7 of 15.01.2001 "Classification and Marking of Road Maintenance Work" by county road office and use the results of the analysis for making respective amendments to the classification.

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