

Implementation of public procurement in the Ministry of Foreign Affairs

Audit Report No. OSI-2-6/06/2 of January 23, 2006

Summary

The objective of the audit by the State Audit Office (SAO) was to assess compliance of the implementation of public procurement in the Ministry of Foreign Affairs with the current regulatory framework. To this end, 36 public procurements implemented by the Ministry of Foreign Affairs (MFA) and registered in the Public Procurement Register in the first half of 2005 were audited. The audit report also includes the analysis of disbursements (18 million kroons in total), made by the MFA to 33 businesses, exceeding the public procurement limit (100,000 kroons). Seven procurements connected with state secret were not audited.

Main observations

During the audited period, most public procurements were organised as required. In the implementation of most of the public procurement, the MFA had been in compliance with the requirements of the Public Procurement Act and the public procurement organisation procedure laid down by the Secretary General of the MFA. Tender documents were drawn up professionally. Tender procedures were carried out according to the rules. The implementation of the procurement was generally sufficiently recorded. In the case of simplified proceeding, negotiations with at least three tenderers were held, where possible.

Implementation of public procurement did not always comply with the Public Procurement Act, some infringements have occurred year after year.

No tender procedures were organised for several procurements.

- Technically single public procurement (purchase of telephone exchanges and telephone sets) was implemented in two parts, the value of both parts remained below public procurement limit, and thus no open or restricted tender procedure was organised.
- No tender procedure was organised for the procurement of safes because individual procurements could not be aggregated into a single procurement.
- No tender procedure was organised for the procurement of electronic communication service for the embassy and consular representation. This has not been done in previous years either.

The implementation of several procurements has not been carried out with required diligence.

- The requirements of the procurement contract (design project of reconstruction works and supervision service provided by the author) did not comply with the requirements laid down in tender documents and successful tender, which is why the supplier had the opportunity to collect additional fee of 60,000 kroons. By the time of the completion of this audit report, the MFA and the supplier had signed an annex to the procurement contract in which both parties brought the requirements laid down in tender documents and successful tender into conformity with the requirements of the procurement contract.
- Procurement contract for consulting services (preparation of the documents of reconstruction works and public procurement) was concluded ex post facto after partial provision of the service, although the successful tender had been submitted four months earlier.
- Due to the negligence of procurement contract coordinators, worse guarantee requirements were laid down in the procurement contract for vehicles' repair and maintenance services than in the tender made by the supplier. By the time of the completion of this audit report, the MFA and the supplier had changed the guarantee requirements of the procurement contract in a way that they complied with the tender made by the supplier.

Proposals to the Minister of Foreign Affairs

- Supplement the public procurement procedure with a provision that would require the department's Director General to observe that similar or functionally interacting products or services would be procured in a single public procurement. This prevents the division of public procurement into parts as well as compliance with requirements.
- Ensure a systematic follow-up check of the shortcomings and infringements identified in the procurement procedure, the objective of which is to observe the improvement of procurement process and identify systematic infringements.
- Ensure that during the coordination of the procurement contract, the conformity of tender documents, successful tender and the requirements of the procurement contract to be concluded, would be checked, to prevent the conclusion of a void procurement contract.
- Ensure that documents for the implementation of public procurement would be compiled, conformed and approved within the time limit laid down in the Public Procurement Act and procedure of public procurement organisation. By complying with the regulation, it is possible to prevent cases where documents are recorded formally, incl. ex post facto.
- Supplement the public procurement procedure so that in the case of procurements smaller than the public procurement limit, the conclusion of procurement contracts would be ensured in a way that they could be resubmitted in written form, if it is necessary for the interest of the clarity, transparency and controllability of the implementation of public procurement.

The Minister of Foreign Affairs considered the proposals given in the audit report appropriate and proposed a plan of action for the implementation of the proposals.

At the same time the Minister stated that part of the cases listed in the report arise from the work specifics of the MFA:

- foreign representations, which, in legal terms, are the Ministry's structural units, actually have more discretion;
- safety requirements have to be followed even if the Public Procurement Act leaves no clear opportunities for that.

The SAO does not question the need for a larger liberty of action for both the representations and Ministry's structural units and the importance of following safety requirements. However, the shortcomings in the implementation of some public procurements projects can not be justified with the work specifics of the MFA, because

- the identified infringements in the implementation of public procurement outside Estonia did not originate from the misconduct of representations but from the department organising the procurement;
- while using reasoned criteria and the right type of tender procedure, it would have been possible to follow both the safety requirements and the requirements of the Public Procurement Act.

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