
SUMMARY

Summary of Report 18/2020, relating to Barcelona Metropolitan Area, governmental procurement, year 2016

Barcelona, 4 November 2020

The Public Audit Office for Catalonia has issued Report 18/2020, relating to the Barcelona Metropolitan Area (AMB), governmental procurement in financial year 2016, in accordance with its Annual Programme of Activities.

The report, which was presented by Board Member Mr Miquel Salazar, was approved by the Audit Office Board at its meeting on 14 October 2020.

This limited audit assignment focussed on a review of the AMB's public sector procurement in financial year 2016, including contracts tendered out or awarded in that year and also those which were in force in the audited year but had been awarded in previous years.

The AMB was created by the Barcelona Metropolitan Area Act (Act 31/2010, of 3 August) and replaced the three metropolitan entities which had existed until then: the joint services entity Union of Municipalities of the Metropolitan Area of Barcelona, the Environmental Agency and the Metropolitan Transport Agency. The AMB is a supramunicipal local government organisation of a territorial nature, comprising the thirty-six municipal boroughs in the Barcelona built-up area.

The AMB's starting budget for year 2016 envisaged revenues and expenditures of €663.35m. During the year modifications to budget appropriations totalling €230.51m were approved, so the final budget came to €893.87m.

The most noteworthy findings arising from the audit work carried out, as explained in the Conclusions section of the report, can be summarised as follows:

Contracts tendered out and/or awarded in year 2016

- In the contract for the customer and IT-user help service, the contract-specific administrative tendering conditions only established the maximum score that could be applied when assessing the criteria requiring value judgements, without specifying the subcriteria to be taken into consideration to obtain the precise marks to be awarded to each offer. These subcriteria should have been clearly explained, to guarantee equality, publicity and competition principles.
- In eight of the contracts reviewed, the assessment formula used to give the relevant scores to the tender prices reduced their relative weighting and, thereby, the overall importance of the cost factor. Because of this, the criterion to be assessed using a

mathematical formula was no longer predominant and, therefore, a panel of experts should have been appointed to assess the tenders.

- In three of the contracts reviewed the assessment formula for the tender price was based on average values and a system for assessing the offers had been established which depended on the number of tenders presented and did not correspond to any technical or financial criterion, thereby failing to guarantee a proper assessment of the different offers tendered.
- In the public works contracts for connecting Barcelona and Esplugues de Llobregat with a bike lane and for redeveloping Torrent avenue, in the borough of Esplugues, and Severo Ochoa street, modifications to the initial contracts were approved which amounted to significant changes to the object or purpose of the contracts, thereby increasing their cost by 43.4% and 26.0% respectively.
- As regards the review of low-value contracts, the Audit Office identified a series of anomalies relating to the contracts' object or purpose and the amounts or contract types which constituted an infringement of the stipulations of article 86, part 2, of Spain's Consolidated Public Sector Contracts Act. The audit therefore considered that an improper splitting-up of contracts could have occurred.

The report recommends that the AMB revises how it arranges low-value contracts where these factors are present, and that it awards them using one of the statutorily prescribed procurement procedures.

Contracts tendered out before year 2016

- The contracts corresponding to the bicycle parking facility and to night-time urban public transport services had been defined as contracts for running public services when in actual fact their true nature was that of a standard service contract, because the audit found that the awardee was not shouldering the financial risk involved in running the service, since in practical terms it was the AMB that paid for any cost overruns.
- From its analysis of the contracts for running the waste treatment plants, the audit found that the construction costs for the Ecopark 1 plant (Barcelona), the Ecopark 2 plant (Montcada i Reixach) and the Ecopark 3 plant (Sant Adrià de Besòs), after adding in the modifications and additional investments made over the years that the contracts were in force, had increased significantly from the initially approved figures. The changes made led to a significant increase in waste treatment costs and a nineteen-year time extension to the operating period. The audit therefore considers that a substantial modification to the initial tendering conditions occurred.
- As regards the contracts relating to running urban public transport services, in the case of the night-time urban public transport service between Barcelona and boroughs in the Baix Llobregat area, the audit found that the annual figure established in the contract extension for year 2019 increased the cost of the service by 14.1% in relation to the initial

contract. This was a breach of article 23 of Spain's Consolidated Public Sector Contracts Act, which stipulates that a contract time extension cannot alter the characteristics of the contract.

For the regular intercity public passenger transport service between Barcelona and Sant Boi de Llobregat and the night-time public transport service in Barcelona and the area to the north, the tendering procedures were interrupted by various appeals lodged by participating companies which required different rulings to be issued and external reports to be drawn up by different advisory and conciliation bodies. For this reason these services were run without a contract after the old concession agreements had expired, in 2008 and 2013 respectively. In addition, in the case of the Sant Boi contract, in 2016 there was a significant increase in the amount finally paid out as compensation for losses incurred, far in excess of the official inflation rate, which was not justified by the increase in the kilometres covered by the bus routes.

This summary is solely for information purposes. The audit report (in Catalan and Spanish) can be consulted at www.sindicatura.cat.