

SUMMARY

Summary of Report 30/2016, relating to in-house sourcing agreements, year 2013

Barcelona, 29 March 2017

The Public Audit Office for Catalonia has issued Report 30/2016, relating to in-house sourcing agreements in financial year 2013, in accordance with its Annual Programme of Activities.

The report, which was presented by the Chairman, Mr Jaume Amat, was approved by the Audit Office Board at its meeting on 13 December 2016.

The subject of this audit report is the in-house sourcing agreements formalised by the different departments of the Government of Catalonia (*Generalitat*), by its dependent autonomous agencies of an administrative nature and by the Catalan Health Service (CatSalut) in 2013.

The in-house sourcing agreement which this audit deals with is a legal device regulated by Spain's Consolidated Public Sector Contracts Act (TRLCSP), whereby a contracting authority gives a commission to a public sector body, organisation or entity which has the status of an in-house or controlled service provider, to undertake a certain activity or service. It is therefore a device used by government organisations and public sector entities for supplying public works, goods and services. The main distinguishing feature of these in-house sourcing agreements is that they are excluded from public procurement procedures.

The requirements for a public sector entity to be considered an in-house or controlled service provider for a contracting authority are laid down in the TRLCSP.

The most significant findings from the audit undertaken are to be found in Conclusions section 3.1, and can be summarised as follows:

- The Audit Office detected differences between the information provided by the commissioning organisations and that supplied by the in-house service providers, regarding both the number of in-house sourcing agreements and the amounts involved and the dates the agreements were signed.
- The proportion of activities arising from commissions by the awarding authorities was less than 50% at the Centre for Offender Rehabilitation Initiatives (CIRE), the Centre for Ecology Research and Forestry Applications Consortium, the Autonomous Agency for the Official Journal and Publications of the Catalan Government (EADOP) and the Institute for Food and Agriculture Research and Technology (IRTA). So in year 2013 it cannot be considered that these organisations were carrying out the essential part of their activities for the contracting authorities that controlled them; thus, they cannot be considered an in-house or technical service provider for the latter.

- The Centre for Telecommunications and Information Technologies (CTTI) and the public works enterprise Infraestructures.cat outsource all of the commissions they receive from the Catalan Government or its subsidiary organisations. And outsourced work at the Catalan Institute of Cartography and the EADOP represented more than 50% of commissions received. It would be advisable to keep outsourcing to a minimum as far as possible and that regulations provided limits and controls for subcontracting by in-house service providers.
- The Audit Office found no evidence that the IRTA's prices, and the amounts paid by the Department for the Economy to the Catalan Housing Agency and by CatSalut to the Blood and Tissue Bank and to the Barcelona Mar Health Park Consortium, had been given Catalan Government approval by a Cabinet decision. In addition, payments for commissions given to Infraestructures.cat were not based on a prior agreement on the amounts to be charged; instead, a cost estimate for every commission was included in the Financing Plan (PEF – *Pla economicofinancer*), approved by a Cabinet decision.
- No standard criteria were applied in the administrative arrangements for setting up the in-house sourcing agreements, because none have been laid down in any statutory provision. Thus, the official document for awarding an in-house commission can be a resolution, a Cabinet decision or a cooperation agreement. It would be advisable to establish regulations on the checks which contracting authorities should carry out, the terms for outsourcing, the financial arrangements and the common administrative procedures which should be followed when arranging commissions.
- As a general rule no evidence was found that an individual analysis had been carried out to justify the choice of an in-house sourcing agreement as the most cost-effective option. The most common reasons given were a lack of resources, the existence of the in-house service provider and effectiveness and efficiency.
- In the commissions handed to Infraestructures.cat, to the forestry company FOCASA (Forestal Catalana, SA) and to the EADOP, the amounts agreed included a percentage to cover overheads. In these cases no standard criterion existed on the mark-up to cover overheads, which varied between 6% and 8%, or any study to justify the percentage applied.
- The commissions given by the Department for Agriculture, Livestock, Fisheries, Foodstuffs and Nature to FOCASA and to the IRTA consisted in the supply of services of a recurring nature to cover permanent needs involving tasks inherent to the awarding organisation, because of a structural lack of staff at this department.

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