

## **SUMMARY**

### **Summary of Report 5/2019, relating to Infraestructures.cat, years 2012, 2013 and 2014**

*Barcelona, 16 May 2019*

The Public Audit Office for Catalonia has issued Report 5/2019, relating to the infrastructure company Infraestructures.cat, financial years 2012, 2013 and 2014, in accordance with its Annual Programme of Activities.

The report, presented by Board Member Mr Miquel Salazar, was approved by the Audit Office Board at its meeting on 26 March 2019.

This regularity audit included a review of Infraestructures.cat's annual accounts for the given years, to check that they had been drawn up in accordance with the relevant financial reporting regulatory framework and, in particular, according to the accounting principles and criteria contained in that framework. It also included verifying that in the audited period the entity had carried out its activities in accordance with applicable legislation.

Infraestructures.cat is a public enterprise with the legal identity of a single shareholder joint-stock company. It was set up under the name Gestió d'Infraestructures, SA (GISA) and its deeds of incorporation were notarised on 20 July 1990, on the basis of additional provision twenty-nine of the Budget Act for the Government of Catalonia (*Generalitat de Catalunya*) for year 1990 (Act 9/1990, of 16 May).

Through Cabinet Agreement GOV/152/2011, of 29 November, and subsequently Cabinet Agreement GOV/20/2012, of 13 March, and within the framework of the Catalan Government's public sector rationalisation, reduction and streamlining process, the water infrastructure companies Regs de Catalunya, SLU, and Reg Sistema Segarra-Garrigues, SLU, were taken over by GISA, which changed its company name to Infraestructures de la Generalitat de Catalunya, SAU (Infraestructures.cat). The date for the merger for accounting purposes was set at 1 January 2012.

In addition, by virtue of Cabinet Agreement GOV/3/2012, of 10 January, modified by agreements GOV/62/2012, of 26 June, and GOV/87/2012, of 18 September, Infraestructures.cat also absorbed the company for facilities and buildings Equipaments i Edificis de Catalunya, SAU. The date for the merger for accounting purposes was set at 1 January 2012.

After taking over these companies, and so as to bring together all the various company aims, in April 2012 the company's Statutes were amended, specifically article 2, relating to the company's aims.

The overall framework for the relationship between Infraestructures.cat and the Government of Catalonia is laid down in a cooperation agreement which aims to establish a basis for the rules which, in line with statutory requirements, are to steer the activities carried out by the company as an executory arm of the Government, and for the monitoring and oversight roles of the Department for Territory and Sustainability and the Department for the Economy and Knowledge. The first cooperation agreement was signed on 12 March 1992; updated versions were subsequently signed on 5 December 1996, 28 April 2000 and 2 December 2008. This latter was the one in force during the years covered by the audit.

The most significant findings arising from the audit work carried out, as presented in section 3 of the report, can be summarised as follows.

*With regard to the financial statements:*

- The entity did not have any obsolescence study report regarding possible deterioration of the installations of the Segarra-Garrigues primary water distribution network which, although completed, could not be put into operation until the secondary water distribution network was operative; this latter was dependent on at least 70% of the potential agricultural water users making a commitment to join the network.
- In the budget outturn for year 2014 the entity included realised revenues and recognised expenditures which, according to the applicable rules for drawing up the budget outturn, should have been considered off-budget. Reporting them in the outturn meant that the budget surplus for year 2014 was overvalued by €89.26m.

*With regard to procurement:*

- In fifteen procurement files using the open procedure the objective criteria calculated using mathematical formulae and the criteria requiring value judgements were each given a 50% weighting. In nine files, the assessment criteria requiring value judgements were worth 65% or 70%. Although procurement regulations stipulate that more weighting should be given to objective criteria which can be assessed using figures or percentages obtained using mathematical formulae established in the contract specifications, the specific nature and characteristics of each contract must be taken into account. Thus, if adequate justification is given, officials in charge of procurement can make an exception to this general rule.
- In seven of those nine procurement files, the contract was for the conservation and maintenance of buildings owned by the entity in different locations, and also of its company headquarters. In the Audit Office's opinion, conserving and maintaining buildings does not involve highly technical requirements which would serve to justify giving a 70% weighting to subjective criteria when awarding the contract.
- In cases of what appeared to be abnormally or disproportionately low offers, the technical reports assessing the justifications given by tenderers did not provide sufficient reasons

for their findings. They just used a standard paragraph (“after analysing the explanations given, no justification for the low price was found, because none of the explanations constituted a technical, organisational or financial advantage over the other tenderers”).

- The Technical Assessment Office, which was set up in mid-2011 and reported to the Director-General, consisted of one person who was assisted by technical staff in each of the management divisions; this person was charged with assessing the technical specifications of the tenders presented in open and non-publicised negotiated procedures involving several awarding criteria and, therefore, was also charged with determining which tenders should be excluded as being abnormally or disproportionately low, and with submitting classification and awarding proposals to the Procurement Panel. This person’s role is questioned at several points in the report, because these functions really correspond to the official designated as in charge of procurement.
- In eighteen instances where the open procurement procedure was used, in the Audit Office’s opinion the process effectively failed to comply with the principles of competition, equal treatment and non-discrimination, given the cumulative effect of all the anomalies, thus bringing into question how the contract was awarded.

The report concludes with five recommendations on the need to carry out a review of procurement and internal control procedures to correct the anomalies detected and described in the body of the report.

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