
SUMMARY

Summary of Report 23/2016, relating to the Barcelonès County Council Group, Parliamentary Resolution 281/IX

Barcelona, 25 January 2017

The Public Audit Office for Catalonia has issued Report 23/2016, relating to the Barcelonès County Council Group, Parliamentary Resolution 281/IX, 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 8 November 2016.

The audit had its origin in Resolution 281/IX passed by Parliament and its purpose was to review the accounts management, expenditures, contracts and official agreements (*convenis*) of the following organisations within the Barcelonès County Council Group:

- Barcelonès County Council (BCC),
- the urban renovation and management company Societat Urbanística Metropolitana de Rehabilitació i Gestió, SA (REGESA),
- the company for car parks and services Regesa Aparcaments i Serveis, SA (RASSA),
- the company Marina Badalona, SA (MBSA),
- the foundation providing rental flats Fundació Pisos de Lloguer (the Foundation).

The report has five volumes, one for each of the five audited entities, plus a sixth volume with the auditee comments received. The conclusions are presented separately for each organisation. The time period covered is from the beginning of financial year 2005 to the end of year 2011.

The most relevant findings from the audit work carried out on each of the five audited entities are summarised below.

Barcelonès County Council

- The commission for building the La Colina complex, worth €3.76m, was awarded to REGESA without the corresponding funding and without including the amount in the BCC budget.
- The sale of land relating to the Sant Ramon de Penyafort ring-road (*ronda*) in Sant Adrià de Besòs, for €3.05m, should have been carried out by public auction.
- BCC should have recognised and accounted for €7.55m for construction work in the La Catalana sector of Sant Adrià de Besòs, which REGESA had on its books for €6.33m. The difference between the two amounts corresponds to the VAT for the transactions.

- As regards personnel expenditure, breaches of regulations were noted relating to the drawing up of the official Schedule of Staff Positions (*Relació de llocs de treball*), to how working hours were calculated and to employee pay awards.
- In the procurement files analysed deficiencies were uncovered in the criteria used for evaluating offers and in some of the contracts tendered using the negotiated procedure.
- From its review of official agreements, the Audit Office concludes that the financial effects arising from the commitments undertaken in the agreements signed had not been calculated, for example in the case of the agreements for street layout of the Serra d'en Mena hillside and those for maintaining Barcelona's ring roads and for providing the adapted transport service for the disabled and those with low mobility.

Societat Urbanística Metropolitana de Rehabilitació i Gestió, SA (REGESA)

- The audit detected that no provision had been made to cover the deterioration of some property developments, estimated at €25.10m as at 31 December 2011 by the Audit Office.
- As regards procurement, in the files analysed the contract specifications did not show how assessment criteria were weighted and the award proposals did not give clear reasons for the choice made; this is a breach of public procurement regulations. The audit also detected various weaknesses, such as fixing a threshold for disproportionately low offers very close to the average for all tenders, not advertising twenty-five contracts in the *Official Journal of the European Union* or using criteria to assess the tenders received which contravened EU directives.
- The construction contracts analysed showed changes in the final figure in relation to the amounts initially awarded, contrary to public procurement regulations; in one case this led to as much as a 23.6% increase on the amount awarded.
- In several of the official agreements analysed the amounts for the activities to be carried out by REGESA had not been specified. Furthermore, in the expropriation agreements and in other agreements commissioning construction work, REGESA received no up-front funding to pay for its activities, or what it did receive was insufficient and always in the form of land or building plots, giving rise to liquidity problems which put a permanent strain on the company's cash flow. All of the commissions which REGESA received from town and city councils should have been subject to procurement procedures, because REGESA is not an internal or controlled service provider for the county's municipal councils, only for the county council itself.

Regesa Aparcaments i Serveis, SA

- RASSA was set up to carry out activities to develop parking areas for vehicles; however, its company aims were later modified to include the development and construction of properties for services or other ancillary facilities. There seems to be no justification for the existence of two companies in the same group –REGESA and RASSA– with similar functions.
- In the analysis of the deterioration of RASSA's property developments the audit detected signs of deterioration in some projects for which no allowance had been put on the

books. The shortfall in provisions as calculated by the Audit Office came to €5.13m in stock in hand and €0.45m in property investments.

- None of the procurement procedures analysed established the weighting of the criteria for assessing tenders, and the award proposals gave insufficient justification for the choice made. In addition, the audit found two contracts which had been awarded directly when the amounts involved were over the statutory limit for low-value contracts.
- Five of the official agreements analysed were to award commissions for construction work and four were arrangements for services to be provided by RASSA to different municipal enterprises on a paid basis. All of these undertakings should have been the subject of a procurement procedure, since RASSA is not an internal or controlled service provider for town and city councils in the county; it is only a controlled service provider for BCC.

Marina Badalona, SA

- During the audited period, the CEO had power of attorney to act on behalf of MBSA without prior authorisation from the Board of Directors and was also the sole signatory for banking purposes; this represented a management and control risk for MBSA.
- Both the difference of €44.18m between the provisional settlement for the land allotment project for the port in year 2003 and the revised amounts calculated in year 2012, and the difference of €58.00m between the initially envisaged capital outlay for constructing the port and the latest available estimate, show inadequate project planning.
- MBSA presented its accounts based on the going concern principle. However, the audit carried out suggests that there are reasonable doubts about its future viability.
- In the audited period, MBSA did not draw up an official Programme of Undertakings, Investments and Funding (PAIF – *Programa d'actuacions, inversions i finançament*), a fundamental document bearing in mind the large volume of transactions carried out by the company.
- The review of MBSA's private-law contracts suggested that the company's purpose was to obtain funding which it did not have when it took on the job of developing, constructing and running the Port of Badalona. These operations showed irregularities regarding how agreements and undertakings were reached by the CEO in relation to the divestment of MBSA assets, at prices below market value; how commitments inadmissible for a government organisation were taken on, such as ruling to end certain administrative procedures or shouldering land allotment costs for third parties, and how construction work for the port and for the street layout of industrial sector A (*polígon A*) were tendered and executed without respecting the principles of publicity, competition and impartiality, which should apply in public procurement. The irregularities described could constitute matters actionable through administrative or judicial proceedings; however, determining liability is a matter for the relevant jurisdictional authority.
- MBSA has not evaluated the possible deterioration in the construction value of the Port of Badalona, contrary to the requirements of the General Accounting Plan. The port's actual net value was estimated to be far lower than the net book value given for the port as at 31 December 2011; this would have a corresponding impact on the financial statements.

- Depreciation for the port in years 2005, 2006 and 2007 is undervalued by €4.09m, and revenue for these years is also undervalued by €0.40m.
- As regards procurement, MBSA directly awarded twelve of the twenty-six contracts analysed, without any sort of tendering procedure; these included the contract for designing, building, managing and running a hotel and entertainment, restaurant and shopping areas in the port.
- The contract Urgent work in the dredging of affected sands at the fishing dock in the Port of Badalona shows various irregularities: no formal declaration of urgency, as required by regulations, and the signing of seven supplementary contracts and five subsequent modifications, awarded directly to the contractor of the main construction work, even though they amounted to a substantial modification of the conditions of the initial contract and increased the cost of the work by €23.88m, 138.7% more than the initial figure.

Fundació Pisos de Lloguer

- The Foundation's net working capital was negative from 2007 onwards; it reached minus €1.16m in financial year 2010. In July 2013 the Board of Trustees agreed to dissolve the Foundation after completing the sale of its assets to the residential property investment company Colón Viviendas, Sociedad de Inversión Inmobiliaria, SAU, for €9.58m.
- The Foundation has not been a good instrument for managing the 298 subsidised housing units (*habitatges de protecció oficial*), because of insufficient funding for purchasing the buildings and sloppy management of the residential rental arrangements; this was clear, in revenues, from the fact that not all relevant charges were included when invoicing tenants and, in expenditures, that there was a lack of effective monitoring of building maintenance and repair expenses, which were also carried out without any formal contract or procurement procedure.
- In year 2010 the treasurer ordered the transfer of funds from the Foundation to his own private bank accounts totalling €19,500. He later returned €28,500. These actions could be actionable through administrative or judicial proceedings; however, determining liability is a matter for the relevant jurisdictional authority only.
- Accounts management suffered various dysfunctions occurring mainly because of a lack of proper procedural steps for control purposes and not having a complete register of tenants. So in year 2011 anomalies were detected from previous financial years leading to a loss of €28,795. In addition, the audit detected €44,704 in deposits to be paid and €59,492 in deposits to be received which had not been put on the books; and in revenues from tenants various anomalies were found which meant losses of approximately €40,000€ and €64,675 in years 2009 and 2010 respectively.

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