

SUMMARY

Summary of Report 24/2020, relating to Metro Line 9, Parliamentary Resolution 511/XI

Barcelona, 25 November 2020

The Public Audit Office for Catalonia has issued Report 24/2020, relating to Metro Line 9, Parliamentary Resolution 511/XI, 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 27 October 2020.

The subject of the report, as laid down by Resolution 511/XI passed by the Parliament of Catalonia, is the audit of the “procurement process and cost overruns in the construction work for Barcelona Metro Line 9” (henceforth abbreviated as L9).

In the year 2000 the Government of Catalonia commissioned its public enterprise for infrastructure projects GISA with the construction of L9, by virtue of an agreement signed by the two parties, the type of sourcing agreement that at that time governed public works commissions to this public enterprise. In 2003, coinciding with the start of the construction work, the Catalan Government passed a Cabinet agreement putting IFERCAT, its enterprise for running railway infrastructures, in sole charge of running L9, and making it responsible for its construction and maintenance. IFERCAT took over all of the Catalan Government’s contractual rights and obligations as the commissioning authority over GISA.

As part of its auditing work, the Public Audit Office has issued a total of sixteen regularity reports covering the public enterprises GISA/Infraestructures.cat and IFERCAT, corresponding to years 2000 to 2014. The subject matter for these audit reports consisted in different reviews of their annual accounts and their legal compliance in the area of public sector procurement.

Section 3 of this report gives the general conclusions and the most important findings from the audit work carried out, which are summarised below.

General conclusions

Up until 31 December 2016, to bring L9 into existence 1,093 contracts had been awarded, worth a total of €13,102.80m, of which €2,917.76m corresponded to standard budget-paid construction work contracts and subsequent modifications to them and €9,837.32m to construction concessions for the stations. In addition, contracts for services and supplies had been awarded totalling €347.72m.

As regards the concession contracts, €2,152.82m corresponded to the construction work the contractors had to carry out, and €7,684.50m to all the other costs which the concession involved (interest payments and maintenance, replacement and running costs).

From the audit work carried out, the Audit Office determined that construction costs for L9 as at 31 December 2016 had come to a total of €6,916.47m. This sum included the capital investment costs (€4,796.23m) plus the financing costs (€2,120.24m) of both the standard budget-paid works and the concession works.

This 31 December 2016 figure of €6,916.47m for the construction cost was €4,949.01m more (251.5% more) than the cost figure envisaged in the initial L9 commissions up until year 2002, which was just €1,967.46m:

Construction cost of the initial commissions:	€1,967.46m
Increases:	€4,949.01m
Increases in capital investment costs as at 31.12.2016:	€2,828.77m
Financing costs as at 31.12.2016:	€2,120.24m
Construction cost as at 31.12.2016:	€6,916.47m

Furthermore, the construction work had overshoot its completion deadline by ten years, and the work was still not finished.

Findings relating to procurement and to the construction and financing costs

- In the contracts awarded by GISA/Infraestructures.cat and IFERCAT after Spain's Public Sector Contracts Act (LCSP) had come into force on 30 April 2008, automatically quantifiable awarding criteria were not made predominant over others requiring value judgements, without this exception to the general score-weighting principle established in the Act being properly justified in the paperwork.
- In the evaluation reports assessing the technical aspects of the tenders for three of the seven contracts awarded in 2009 or 2010 by GISA and IFERCAT, no justifications were found for the scores awarded to each of the competing firms. In the period from 2011 to 2015 justifications were included in all of the files, but they were couched in general terms which the Audit Office considered insufficient.
- In the tenders which were presumed to be unusually or disproportionately low during the 2010-2014 period, the technical reports assessing the justifications presented by the tenderers were insufficiently clear on the reasons for their evaluation. The audit did not find the exclusion proposal by the Procurement Panel in any of the procurement files reviewed where unusually or disproportionately low offers were rejected.

- From June 2011 to November 2015 the Technical Assessment Office was in charge of assessing the offers presented by tenderers and presenting a classification or awarding proposal to the Procurement Panel. It was also therefore responsible for determining the offers to be excluded for being unusually or disproportionately low. Its work was put in question by the audit's findings on the insufficient justifications for its evaluations of the technical offers, the insufficient reasons given for excluding unusually or disproportionately low offers and the fact it made exclusion decisions when these were the preserve of the officials in charge of procurement. It must be said that the Technical Assessment Office was disbanded after a decision to that effect by the Board of Directors on 26 November 2015.
- The way the twenty contract modifications in the audit sample, approved during the 2006-2016 period, had been arranged was not compliant with some statutory requirements, because the possibility of modifying the contract had not been clearly specified, because essential tendering conditions were modified, or because the reasons of public interest or unexpected developments justifying the changes had not been sufficiently explained. In all of the contract modification procedures carried out by IFERCAT in years 2010 and 2014 essential features of the contracts were changed.
- In ten contracts awarded by GISA and IFERCAT in years 2009 and 2010 certain anomalies were detected relating to the contracts' object or purpose, amounts, dates or contract types, which constituted an infringement of LCSP article 74.2, therefore leading to the view that an improper splitting-up of contracts had occurred.
- When awarding the technical assistance service contract for engineering the integration of systems and infrastructures and coordinating the trials for Barcelona Metro Line 9 (key: TM-02609.0) to the temporary business consortium UTE ATI 4 L9, for €0.64m, the contract may have been given to a banned contractor, under the terms of article 60.1.f of Spain's Consolidated Public Sector Contracts Act, because at the time of the award (21 March 2011) J.L.Q. was both the chairman of Infraestructures.cat and the sole administrator of one of the companies making up the chosen consortium.
- In twenty of the twenty-eight files in the selected sample of standard budget-paid public works contracts, construction units (€58.73m) and cost additions agreed with the contractors (€49.33m) were certified which had not been foreseen in the approved project, along with measurement differences of more than 10.0% (€9.74m). The agreements with the contractors also included price reviews totalling €24.16m.
- The capital investment costs envisaged in the Financing Plan for 2016 did not include the following items: financial compensation for standard budget-paid public works, projects carried out by concession holders, and reinvestments in concession-type public works. Financing costs were not included either, except for financial expenditure items incorporated into the concession contracts relating to previously completed public works. The amounts involved, as at 31 December 2016, came to €30.75m for capital investment and reinvestment costs, plus €2,070.80m for financing costs.

Finally, in section 4 the report provides further information, as appendices, including, amongst other data, an L9 map showing the work carried out as at 31 December 2016, a list of contractors according to the amounts awarded, the contract sample used in the audit and the sample of certified concession works.

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