Internal control and supervision applicable to the management of public procurement

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Executive summary

In 2003, approximately 5,000 public procurement procedures were initiated in Estonia and the value of public procurement contracts amounted to EEK 10.4 billion.

The purpose of the audit was to make recommendations to government agencies for the improvement of the internal control system applicable to the management of public procurement.

The SAO audited the management of public procurement in the Ministry of Agriculture and its administered agencies including the Estonian Agricultural Registers and Information Board and the Agricultural Research Centre, the Ministry of Foreign Affairs and RMK (state forest management centre). When formulating the findings and proposals of the audit, the observations made during previous audits were taken into account.

The audit procedures were carried out from February to April 2004.

Relevant observations and findings

Government agencies have started to regulate the management of public procurement by a comprehensive guide through the procurement procedure. The same procedure is often regulated differently by agencies, and the list of procedures covered by the guide is also different. The Ministry of Finance, whose responsibility is also the coordination of the procurement activities of government agencies and the evaluation of the efficiency of the internal control structures, has not made recommendations for improvements in the field.

Several government agencies have started to draw up annual procurement schemes. In the opinion of the SAO, this will help reduce the risk of failing to initiate a public procurement procedure or delaying the commencement of procurement procedures, as well as to prevent the temporal accumulation of procedures to the extent that might prove to be beyond the powers of the structural units responsible for the management.

There are serious shortcomings in the preparation of an extensive and more complex procurement: delays in the commencement of procedures are commonplace. Similarly, in cases where there are officials of several structural units or agencies involved in the procurement procedure, activities cannot be coordinated as efficiently as required and the purposeful realization of what has been agreed may be affected.

Obscure is the scope of functions and rights of the official responsible for the public procurement as laid down in the Public Procurement Act: his/her responsibility is not always balanced against authority to influence the decisions made in the course of the procurement procedure.

The role of procurement committees in the adoption of decisions in the procurement procedures is also obscure. Although the Public Procurement Act does not provide for any committees, their formation is a common practice. As a rule, the committees make draft decisions of the agency’s director, and also perform several managing functions. In many cases it is not clear what is the relation between the committee and the official made responsible for the procurement - whether and to what extent is the official responsible for the decisions of the committee.

In many agencies the internal audit service has failed to assess the risks inherent in the management of public procurement or to audit the management of procurement.

Several ministries have failed to evaluate the management of public procurement in the agencies within their administration area or to provide guidelines thereon, their internal audit services have failed to evaluate the internal controls applicable to procurement activities within their administration area or to make proposals on improvement.

Proposals by the SAO

To the Minister of Finance

- Make recommendations to government agencies about the management of public procurement (procurement planning, elaboration of an in-house guide and the relevant issues therein, incl. rules evolving from the requirement to respect the good practice of public procurement, distribution of duties (responsibilities) between the responsible official and the procurement committee, etc).
- Consider an amendment to the Public Procurement Act that would abolish the obligation of contracting authorities to designate an official responsible for public procurement.
- Propose to other ministers a) that the internal audit services of the ministries will be required to evaluate the management of procurement along with the evaluation of the proper operation of the internal control structure of the agencies within the administration area; b) to introduce measures, where appropriate, in the agencies within the administration area of the ministry, for the additional diversion of risks related to the management of procurement (e.g., in certain cases seeking the approval of a decision by the ministry).

The Minister of Finance announced that the Ministry would complete a common guide on the management of public procurement by the end of 2004 and provide further explanations to contracting authorities (including government agencies), where appropriate.

According to the Ministry of Finance, the cancellation of the requirement for an appointed responsible official might disperse the responsibility of the persons managing the public procurement and bring about the deterioration of the quality of public procurement management. The Minister announced that this question would be debated in the preparation of a new draft on the Public Procurement Act.

The Minister of Finance announced that the Financial Control Department of the Ministry recommends that the internal audit managers consider the incorporation in the internal audit plan the evaluation of internal controls applicable to the management of public procurement.

To the Ministers of Agriculture and of Foreign Affairs

- To give instructions to start the long-term planning of the procurement activity of the ministry, including the preparation of annual procurement schemes. In those schemes, determine the deadlines of major procurement procedures and the entities responsible for their preparation.
- To give instructions to develop a guide on the management of public procurement, including such procurement projects where the cost remains below the ceiling, which, if exceeded, requires the initiation of a tender procedure as laid down in the Public Procurement Act. In case of extensive and more complex procurement, the guide should provide for the preparation of a separate procedures plan on each occasion and measures for monitoring implementation.

To the Minister of Agriculture

- Determine whether and which procurement procedures of the agencies within the administration area must be previously approved by the Ministry and if such approval is deemed necessary, when and how this is to be obtained (establish a relevant procedure).
- Include the evaluation of the management of public procurement in the Ministry and its administered agencies in the work programme of the internal audit service of the Ministry.

The Foreign Minister has announced that she agrees to almost all of the proposals and that the elaboration of a new guide on public procurement has been started.

The Minister of Agriculture issued a Directive on "Public procurement planning", establishing the duties and responsibilities of officials for the management of public procurement and the exercise of the internal control and supervision. The procedure established by the Minister includes guidelines about almost all relevant procedures related to the management of public procurement. Relatively precise identification of the responsibility of officials involved in the procurement procedure has to be pointed out. The Minister instructed the agencies within the administration area to develop their own in-house guidelines on public procurement based on the procedure established by the Minister, and the Internal Audit Department of the Ministry to include in the work programme the evaluation of the management of public procurement activities in the Ministry and the agencies within its administration area.

To the Director General of the Agricultural Registers and Information Board

- Lay down the procedure for the management of public procurement in the agency and include the evaluation of the management of public procurement in the work programme of the internal audit service.

The Director General announced that the relevant procedure had been established and the evaluation of the management of public procurement would be included in the work programme of the internal audit unit.

The Director General of the Government Forest Management Centre announced that he agrees to almost all of the proposals of the State Audit Office and that remedial action has been envisaged. The Director of the Agricultural Research Centre announced that measures had been taken to improve the management of public procurement, including improvements to the procurement guide.

The full text of the responses from audited entities and the Minister of Finance has been appended to the audit report.

Jüri Kõrge
Chief Auditor of the Operational Risks Audit Department