Disclosure of surveys

Audit Report No OSIV-2-6/05/27 of April 7, 2005

Executive summary

Government agencies order different studies and analyses (hereinafter surveys) for their performance of public duties. In the years 2001-2004, the government agencies ordered over 1,000 surveys for a total of EEK 200 million. About four fifths of those surveys were never publicized on a web site, as required by law.

The State Audit Office (SAO) has analysed the reasons for the failure to disclose on a web site the information about studies and analyses ordered by government agencies. The SAO relied on the principle that information about the surveys ordered by government agencies must be available to everyone. In the opinion of the SAO, the due publicity given to surveys will reduce the risk of spending public funds on duplicating or non-priority surveys.

The disclosure of the primary objective, the conductors and the fees paid for the surveys is conducive to increased public control and a lower risk of accepting work which has not been completed in line with the primary objective, of ordering surveys from persons who are not sufficiently qualified for their conduction or of paying unreasonably great fees for a survey.

The SAO is of the opinion that it would be appropriate if upon ordering studies and analyses the following data would be made public: the name of the survey and the description of the primary objective, the conductor of the survey, the cost and the payer, the time of completion and the contact data of the person who can provide further information about the ordered work. After the completion of the survey it should be disclosed in full on the web site of the institution ordering the survey or the web site should at least provide a link to another site where the survey is publicized. In case of very extensive surveys, it should suffice to provide an executive summary thereof and information about the opportunity to access the complete work.

Relevant observations

- It is obscure what the legislature means by the studies and analyses subject to disclosure.
- It is obscure what kind of information about the studies and analyses should be made public and when.
- Upon conclusion of contracts for the performance of studies and analyses, the government agencies do not always keep in mind the obligation to disclose the ordered works.
- Several agencies have not specified the manner in which the disclosure of studies and analyses on a web site is to be done and who in specific is held responsible for that.

During the discussion of the audit findings in the Ministry of Internal Affairs, the employees of the Ministry and of the Data Protection Inspectorate noted that they have encountered problems similar to the disclosure of information about the studies and analyses in respect of all other information subject to disclosure on a web site as provided by the Public Information Act.

Major proposals to the Minister of Internal Affairs

- In order to ensure the disclosure on a web site of the studies and analyses ordered by government agencies, initiate an amendment to the Public Information Act, in collaboration with other concerned agencies if necessary, to make provision for:
    - the definition of the terms "survey", "study" and "analysis" as used in the law or the list of works corresponding to the said terms;
    - description of and time of disclosure of information about the surveys, studies and analyses subject to disclosure;
    - the obligation of government agencies to
        - indicate in the contracts on the performance of studies and analyses the transfer to the client of the right to disclose information about the completed work; define the information treated as a trade secret, with a view to being

aware that completed work is subject to disclosure; provide for the electronic submission to the client of the report of survey;
    - enforce the procedure for the disclosure of information about studies and analyses on a web site, incl. assignment of responsibility, etc;
    - design the web site of an agency in such a manner that it would be easy to retrieve information about ordered studies and analyses.

- Decide whether it is necessary to address the problems identified in the course of the current audit with reference to other information subject to disclosure and if it is considered necessary, give corresponding instructions.
- Ensure that the Data Protection Inspectorate exercises more efficient state supervision of the disclosure of surveys, studies and analyses, incl. the Inspectorate recommendations to agencies for the implementation of requirements not specified in the Public Information Act.

In the view of the SAO, the implementation of the made proposals will help to

- reduce unjustified non-disclosure of public information ;
- make the retrieval of public information as easy as possible for the interested parties;
- disclose public information without undue delays, which helps save the time of interested parties;
- improve the quality of future contracts;
- create conditions for the avoidance of duplicating surveys;
- increase the transparency of the activities of government agencies, which in turn creates better opportunities for public control over the use of taxpayers' money.

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It appears from the response of the Minister that the **Ministry of Internal Affairs** has identified several important problems to be solved with regard to the Public Information Act. The set of problems audited by the SAO – the activity of government agencies in the disclosure of studies and analyses ordered by them – is relevant, but it is just few of the many topical problems relating to the implementation of the said act that demand serious consideration. In the estimation of the Minister, the entire Public Information Act needs a closer analysis.

The Minister did not concur with a number of proposals made by the SAO in respect of amendments to the Public Information Act. He supported his views by stating that the audit outcome did not reflect the deficiencies in the law, but the failure to comply with the provisions of the law. However, the Minister does not see any need or possibilities to require that the Data Protection Inspectorate increase supervision in this regard, claiming that the Inspectorate must determine its priorities according to the resources at its disposal.

The full texts of the statements of the Minister and the Director General of the Data Protection Inspectorate have been appended to the audit report.

Olav Lüüs
Chief Auditor
Audit Department IV