

PRESS RELEASE

December 2015

Report to the Flemish Parliament

Innovative Calls for Tender

The Court of Audit has examined the efficiency of the programme Innovatief Aanbesteden (hereafter Innovative Calls for Tender) and verified whether the projects of the Flemish government complied with the regulations. It concluded that the selected projects did not bring forth enough innovative solutions to face important socio-economic challenges, nor did they stimulate the Flemish economy significantly. Consequently, the innovation policy of the various policy areas has barely improved. The Court of Audit identified the bottlenecks that are underlying of the poor programme results.

Introduction

Through the programme *Innovative Calls for Tender* the Flemish government wants to engage into innovative solutions for socio-economic challenges currently without any efficient solution. It also wishes to exert its purchasing power to stimulate innovation within enterprises. The *Agency for Innovation by Science and Technology* (AIST) developed a methodology that distinguishes purchase of existing innovation (which is a new approach for the tendering authority) and purchase of solutions which require further research and development. In the first case, a standard call for tender procedure can be applied. The *precommercial call for tender procedure* was proposed for the second case. It implies the phased development of a prototype by several service providers. A commercial call for tender might only follow afterwards.

Results

The AIST did pioneering work and developed an appropriate methodology to outsource innovations. Since the programme *Innovative Calls for Tender* and the developed methodology were new, they constituted a learning process at first. Seven years after the start-up in 2008, *four* projects out of sixteen led to a purchase within the programme framework: three via a standard public call for tender and one via a precommercial call for tender. *Nine* projects were cancelled after the market investigations; three of them were continued outside of the programme with a more limited subject. For *three* other projects, two precommercial calls for tender are still ongoing, and one has been cancelled due to a lack of tenders. According to the Court of Audit, those results are insufficient.

Bottlenecks

The programme had to bring the procurement policy of the different policy areas of the Flemish government better into line with medium and long-term needs. Although the decision to opt for a horizontal application is positive, its execution was not a success. The innovation policy has barely improved and the procurement policy within the different policy areas has hardly become more forward-looking. Furthermore, the decision to select at least one project per policy area only doesn't take into account the fact that not every policy area is equally in need of innovation or as much receptive to innovation. Since the projects are compulsorily spread over all of the policy areas, the general innovation strategy for Flanders does not constitute a sound base for the programme. Priority areas were not taken on and existing innovation institutions were insufficiently made use of. As a

consequence, the most relevant projects failed to be selected. Also, the tendering administrations did not always provide sufficient financial means, thus contributing to the cancellation or limitation of at least three projects.

The vetting procedure for (pre)commercial calls for tender implies longer terms because of several elements: the painstaking initial phase, the many procedural steps and required approvals, the sometimes labour-intensive project management, the often negative advice given by the Inspectorate of Finance and insufficient financial and personal efforts of the entities involved. In addition, some late programme extensions led to periods of uncertainty. The action plan was not extended end 2013; as a result, three ongoing projects were temporarily suspended.

There are also legal bottlenecks. The precommercial call for tender, as an exception to the regulation on public calls for tender, must fulfil some application conditions, the diverse interpretations by the different actors regarding the actual files led to legal insecurity. Moreover, several project contributors pointed out the difficulties they experienced regarding the public calls for tender regulation to acquire innovation. Yet the regulation offers many possibilities to make those purchases, definitely when it comes to projects with a limited R&D content. The new European directive regarding public calls for tender, which must be enacted by April 2016, also creates more flexibility and a number of possibilities.

Regularity

The basic principles of the theoretical-procedural procurement process that the IST developed for the precommercial purchases are aligned with the essential points of interest presented by the European Commission: the precommercial procurement constitutes a separate phase of the procurement process, strictly separated from the commercial procurement. In real terms, the processes for precommercial outsourcing do not always meet the European requirements of phased development and competition.

Response of the minister

In his response of 30 October 2015, the Flemish minister of Innovation is not disputing the findings of the Court of Audit. Moreover, he explained a number of initiatives he is planning to take in the light of the government agreement 2014-2019 to continue investing in the *Innovative Calls for Tender* programme.

Information for the press

The Court of Audit exerts an external control on the financial operations of the Federal State, the Communities, the Regions and the provinces. It contributes to improving public governance by transmitting to the parliamentary assemblies, to the managers and to the audited services any useful and reliable information resulting from a contradictory examination. As a collateral body of the Parliament, the Court performs its missions independently of the authorities it controls.

The Report *Innovative Calls for Tender* has been sent to the Flemish Parliament. The report and the press release can be found on the Court's website (www.courtofaudit.be).