

Abstract

In February 1999, the Flemish Community signed a contract with an IT service provider concerning the outsourcing of the data processing function at the Ministry of the Flemish Community. This contract worth over 5,5 thousand million BEF was spread over five years. The Belgian Court of Audit performed an audit on this contract and its implementation. It noted that the Flemish Government did not first hold a debate on the core activities involved although this had been requested by the Flemish Parliament. Moreover, preparatory work proved flawed because it ignored opinions expressed and failed to collect any basic data, so that the contract was drawn up in vague terms and was hard to implement. It subsequently resulted in numerous amendments and also caused enormous additional costs.

Legality audit

On 23 February 1999, the Flemish Community signed a contract with an IT service provider concerning the outsourcing of the data processing function at the Ministry of the Flemish Community. The Court of Audit examined its regularity in respect of the decision-making procedure, the awarding procedure, the outsourcing contract itself and its implementation up to January 2001. It forwarded its findings to the Flemish Civil Service minister on 24 September 2002, who sent his reply on 21 November 2002.

Debate on core activities

The Court of Audit first noted that the Flemish Government decided to outsource the data processing function from the ministry of the Flemish Community without any prior holding of a debate on core activities as requested by the Flemish Parliament, which should have clarified what functions would be eligible for outsourcing.

Opinions

Moreover, the Flemish Government ignored the unfavourable report of the Finance Inspector and the difficulties pinpointed beforehand by an assisting consultant. The preparatory work for the contract was in general flawed. It failed to gather essential data such as inventories of ongoing IT contracts and of hardware and software equipment available at the ministry.

Vaguely termed contract

This resulted in a relatively vaguely termed contract leaving many issues unresolved. These aspects had to be specified all the way through a discussion between the parties irrespective of any opening to competition. This resulted in enormous additional costs. The contract was therefore hard to implement and suffered long delays. The cost of the transitional stage would eventually exceed by at least 127 million BEF the figure provided in the contract. The IT service provider's initial claim amounted to as much as 400 million BEF additional costs.

Implementation

Although a commitment of results was primarily part of the contract, the contracting party did not fulfil - or delayed to fulfil - most of its commitments (service level aspects), usually because of the ineffectual response of the contracting authorities. Sometimes, action by the ministry was not taken.

Recommendations

The Court of Audit finds it therefore necessary to better prepare large contracts of that type and ensure a strict compliance with the laws concerning public procurement in the future.

The minister's reply

The Flemish Civil Service Minister is of the opinion that contacts with other actors in the IT sector show that in spite of its shortcomings, this contract was better and more comprehensive than most existing outsourcing contracts. According to him, the preparatory work was impaired because the action needed, such as a comprehensive inventory of the IT assets, could not be carried out at the time. The minister promised to devote maximum care to the preparation of the new ICT contract for which the procedure is already now underway. The minister admitted that the IT service provider, in spite of strict contract provisions and penalties, actually failed to achieve the expected service provision level. He, however, added that price corrections were according to him always enforced. The only measure left the ministry could have taken was a contract termination but this would have been counterproductive for the ministry.