2006 discharge: EC general budget, Economic and Social Committee

2007/2042(DEC) - 15/11/2007

PURPOSE: to present the Court of Auditor's report on the implementation of the 2006 budget (other institutions – European Economic and Social Committee – EESC).

CONTENT: in its annual report for the financial year 2006, the Court evaluates the legality and regularity of operating expenditure of the institutions. While, on the whole, all the institutions put in place a satisfactory monitoring and control framework in 2006, the Court notes a certain number of weaknesses in terms of the procurement procedures of the institutions (particularly a lack of competition between tenderers in the case of negotiated procedures). In particular, the European Economic and Social Committee and the Committee of the Regions largely disregarded the limited extent to which the negotiated procedure can be used according to the Financial Regulation. This can result in an increased risk for the legality and regularity of the expenditure.

Audit of the EESC and the Committee of the Regions: the examination of a sample of negotiated procurement procedures and contracts managed by the 'Joint Services' of the European Economic and Social Committee and the Committee of the Regions revealed management and control weaknesses. In 2006 the expenditure relating to contracts resulting from a negotiated procedure, instead of a call for tenders, was a high percentage of the whole expenditure for procurement. For budget lines 'insurance', 'water, gas, electricity and heating', 'Cleaning and maintenance' and 'new purchases of technical equipment and installations', this percentage exceeded 50 % of the total of the appropriations committed, which amounted to EUR 6.4 million. This practice does not comply with the general rule, set out in Article 89 of the Financial Regulation, that "all procurement contracts shall be put to tender on the broadest possible base". **The negotiated procedure is an exception** applicable only within the strict limits set out in Articles 126, 127 and 129 of the Implementing Rules to the Financial Regulation (IR).

Furthermore, in negotiated procedures the number of candidates invited to negotiate or to tender may not be less than three, provided that a sufficient number of candidates satisfy the selection criteria, and that the number of candidates invited to tender must be sufficient to ensure genuine competition. For 70 % of the contracts examined during the audit, a tender was requested from only one potential supplier. The Court considers that for most of these contracts (with a total value of EUR 1.8 million), it would have been possible to request tenders from more than one supplier.

In addition, the Court notes that the proportion of negotiated procedures in relation to the number of contracts awarded by the authorising officer by delegation responsible for 'investments in immovable property, rental of buildings and associated costs' and 'movable property and associated costs' of the budget, had increased significantly in relation to earlier years. As far as March 2007, the authorising officer had not reported to the Institution setting out any measures taken to reverse that trend, as required by the Implementing Rules to the Financial Regulation.

EESC replies: the Committee confirms that the total amount does indeed correspond to more or less 50% of the total amount of commitment appropriations in the areas identified by the Court of Auditors, except for 'electricity and gas', for which the amounts are disputed. This market was only recently opened up to competition. An interinstitutional procedure was launched in 2004 but was unsuccessful. The EESC participates in a new interinstitutional procedure, which is ongoing. A contract for an interpretation equipment system extension for new meeting rooms was awarded to the supplier of the system that was already installed in all other meeting rooms for reasons of technical compatibility. For several contracts,

previously awarded by negotiated procedure, calls for tender were launched in the meantime (buildings maintenance contract, building inspection, elevator inspection, elevator maintenance, hygienic supplies and waste disposal) and in several cases new contracts have been signed since. As for the insurance contracts, an initiative for an interinstitutional call for tender in 2003 was not successful. The EESC is preparing to either launch its own call for tender or to be associated with interinstitutional contracts, with an aim to establishing a new legal framework in 2008. The EESC considers that, when there was no call for tender for a contract, the situation was justified by the circumstances (e.g. previous call not successful, technical compatibility, etc.) and this explains the volume of contracts awarded without call for tender.

Furthermore, the Committee justifies many of the negotiated procedures with single tenderers due to the small size of the market in question (for example, banners and posters; small amounts; security badges; orders with the supplier, not via distributors; a conformity study for the JDE 'Belliard I & II' building to be carried out by SICABEL, at the request of the European Parliament…).