

The procurement of expert financial services

State shareholdings have been administered by different ministries, mainly the Ministry of Trade and Industry, the Ministry of Transport and Communications and the Ministry of Finance.

A new Ownership Steering Department was established in the Prime Minister's Office and responsibility for the ownership steering of all market-based companies was shifted to it, along with the preparation and coordination of ownership policy. The new department went into operation on 1 May 2007 and is responsible for the ownership steering of 38 companies.

Seven ministries remain responsible for the ownership steering of 15 companies that take care of special tasks for the state.

In 2005 state-owned companies had a combined turnover of 23.3 billion euros and associated companies had a combined turnover of 47.5 billion euros. In 2006 state-owned companies' and associated companies' combined turnover exceeded 70 billion euros. These companies employ over 200,000 persons.

The value of state shareholdings at the end of 2006 was nearly 30 billion euros. This included 25.4 billion euros in listed companies. Listed state-owned companies and associated companies accounted for 33% of the market value of the Helsinki Stock Exchange and the state's shareholdings accounted for 9%. The state's dividend income from state-owned companies and associated companies on the basis of results in 2006 totalled about 1.65 billion euros.

In preparing and implementing structural and ownership arrangements, ministries usually make use of outside advisers, to help primarily in financial and legal questions. The present audit refers to this as the procurement of expert financial services.

In 2003-2006 the Ministry of Trade and Industry spent about 1.4 million euros, the Ministry of Transport and Communications about 1.5 million euros and the Ministry of Finance about 2.0 million euros on the procurement of expert financial services.

The audit examined compliance with procurement principles. The main principle is that the procuring unit must make a procurement as economically as possible. This means a procurement should be either economically most advantageous overall or lowest in price. Key procurement principles include fairness and non-discrimination, tendering and transparency. The audit also examined how procurements were made in 2003-2006, what legislation applied to these procurements and whether procuring units complied with this legislation.

The audit of the procurement of expert financial services in 2003-2006 and its findings are also significant for the Ownership Steering Department in the Prime Minister's Office and the ministries that remain responsible for the ownership steering of companies that take care of special tasks for the state.

In the opinion of the National Audit Office, the procurement of expert financial services should be developed so that procurements comply with the same procedures at every stage of the process, regardless of the procuring unit.

The procurement of expert financial services will be an important part of the activities of the new Ownership Steering Department in the Prime Minister's Office. Even if the value of procurements is not necessarily large, the value of the shares that are sold with the help of services can be very large, for example. Consequently the National Audit Office emphasizes that services must be high in quality and arranged in a proper manner. In the opinion of the National Audit Office, there is a special ethical reason to act according to good procurement practice since procurement documents and often procurements themselves are confidential.

The provisions that the Ministry of Trade and Industry, the Ministry of Transport and Communications and the Ministry of Finance said they had complied with in procurements of expert financial services were not the same. The Ministry of Transport and Communications considered that these procurements came within the scope of the Decree on Public Procurement to which the Public Procurement Act Does Not Apply (342/1994). The Ministry of Trade and Industry and the Ministry of Finance considered that the Public Procurement Act (1505/1992) applied to these procurements at least in part. Consequently procurements of expert financial services that

were started or made by the ministries in 2003-2006 did not always follow consistent procurement stages and procedures.

In the opinion of the National Audit Office, procurements of expert financial services should have complied with the provisions in Decree 342/1994 whenever they were confidential. The reason is that confidential procurements fall outside the scope of the Public Procurement Act but come within the scope of Decree 342/1994. In the opinion of the National Audit Office, it does not matter that orders concerning the application of the Public Procurement Act and Decree as well as the memorandum accompanying the Decree do not mention procurements of expert financial services, although they list certain other types of procurements. The National Audit Office also points out that the directives on procurement procedures that were issued in 1992 and 2004 specifically state that they do not apply to public service contracts for financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments.

The main finding in the audit was that, owing to the lack of documentation or insufficient documentation, it was not possible to verify whether procedures had always complied with legislation and good procurement practice. Another problem during the period 2003-2006 was that some stages of the procurement process were completely left out.

A positive finding was that the open supplier register maintained by the Ministry of Trade and Industry has been used by all the ministries that are involved in ownership policy measures since it was introduced. In the opinion of the National Audit Office, the ministry should be commended for creating and maintaining this register, which is presently maintained by the Prime Minister's Office.

The audit found that the Ministry of Trade and Industry and the Ministry of Transport and Communications had made direct procurements on the basis of previous procurements, although these did not include the right to make additional procurements. In the opinion of the National Audit Office, tenders should have been invited in such cases.

In a few instances the Ministry of Transport and Communications conducted oral negotiations with some suppliers during the procurement process and thereby achieved financial benefits for the state. This nevertheless placed suppliers in an unequal position dur-

ing the tendering stage. In the opinion of the National Audit Office, such a procedure did not comply with legislation.

The Ministry of Transport and Communications could not find documents concerning requests for tender for all procurements of expert financial services in 2003 and 2004 or part of 2005 and 2006. It is not known whether these were properly kept. The Ministry of Finance often sent written requests for tenders, but it was not always possible to determine how they were delivered or when tenders were received by the ministry. In the opinion of the National Audit Office, the sending of requests for tenders and the receiving of tenders should happen in a clear and transparent way to assure that procurements are conducted properly.

In some cases the Ministry of Transport and Communications prepared a selection and comparison memorandum on procurements of expert financial services only after a procurement contract had been signed, in which case the memorandum could not have been the basis for the procurement decision. The Ministry of Finance had not prepared documents during the procurement process showing why a procurement decision was made. The National Audit Office points out that the grounds on which a procurement decision is made should always be clearly and consistently presented in documents and these must be prepared during the correct stage of the procurement process.

In the opinion of the National Audit Office, suppliers whose tenders are rejected should be informed in writing and this should be recorded in the journal.

It is the opinion of the National Audit Office that the Ministry of Transport and Communications and the Ministry of Finance have not complied sufficiently with good information management practice according to the Act on the Openness of Government Activities in procuring expert financial services. The Ministry of Trade and Industry should update its procurement guidelines.

The new Public Procurement Act (343/2007) replaced the old Public Procurement Act and the Decree on Public Procurement to which the Public Procurement Act Does Not Apply. A corresponding new Decree has not been issued. The general objectives that are set out in the new Public Procurement Act reflect general principles of good financial management, which should also guide administration that falls outside their scope. Compliance with general princi-

ples of good financial management in different procuring units should be adequately ensured.

In the opinion of the National Audit Office, the current situation in which procurements that fall outside the scope of the new Public Procurement Act are left up to procuring units' own guidelines cannot be a long-term and sustainable solution. The European Commission is preparing a directive that would cover defence procurements, procurements related to national security and confidential procurements. The Commission is expected to present its proposal in November 2007. A working group under the direction of the Ministry of Defence is preparing a proposal for a special Act concerning procurements in these areas. The working group's mandate extends up to the end of the year. In the opinion of the National Audit Office, a special Act is needed urgently and there is no reason to wait for a new directive to be issued.