Executive summary of the public audit report

THE MANAGEMENT OF STATE ASSETS TRANSFERRED TO PUBLIC HEALTH CARE INSTITUTIONS

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DEFINITIONS AND ABBREVIATIONS

Disposal of assets – the right to sell, transfer and rent out assets, or otherwise change their legal status.[1]

Rent agreement – in accordance with a rent agreement, one party (the lessor) commits to grant the lessee the right to temporarily manage and use an object for a fee, while the other party (the lessee) commits to pay rent.[2]

Contract of loan for use – under a contract of uncompensated use of a thing (loan for use), one party (lender) shall transfer a durable thing for temporary uncompensated possession and use to another party (loan recipient), while the loan recipient takes an obligation to return said thing in the same state as it was upon acquisition, taking into account normal wear and tear, or in a state stipulated in the contract.[3]

Health care institution – a legal person, organization or branch thereof, which has been granted the right to provide health care services in accordance with the Law on Health Care Institutions, the Law on Public Health Care, and the Law on the Dental Chamber.[4]

Use of assets – the application of the useful features of assets for the benefit of meeting the needs of the user.[5]

Asset write-off – the withdrawal of assets from circulation or places of storage, documented in accordance with the procedure laid down by the Government, in cases where said assets are being transferred or liquidated.[6]

Trust law – the right of state or municipal institutions, the Bank of Lithuania, and state or municipal companies, establishments and organisations to manage, use and dispose of assets transferred to them by the state or municipality without violating other laws or the rights and interests of individuals, in accordance with their provisions, as well as the rules and procedures specified in normative acts regulating the activities of state and municipal companies, establishments and organisations.[7]

Asset management – the right to physically and economically affect assets in accordance with the procedures of the law.[8]

Asset manager – state or municipal institutions, the Bank of Lithuania, state or municipal institutions, establishments or organisations, and in cases specified by the law – other legal persons, engaged in the management, use and disposal of state or municipal assets under trust law or property rights.[9]

[1] Law on the Management, Use and Disposal of State and Municipal Assets of the Republic of Lithuania, No. VIII-729, 12/05/1998, Article 2, Part 1

[2] Civil Code of the Republic of Lithuania, Article 6.477.

[3] Ibid. Article 6.629.

[4] Law on Health Care Institutions of the Republic of Lithuania, No. I-1367, 06/06/1996, Article 1, Part 1.

[5] Law on the Management, Use and Disposal of State and Municipal Assets of the Republic of Lithuania, No. VIII-729, 12/05/1998, Article 2, Part 8.

[6] Ibid. Article 2, Part 9.

[7] Ibid. Article 2, Part 10.

[8] Ibid. Article 2, Part 11.

[9] Ibid. Article 2, Part 12.

Public institution – a non-profit, limited civil liability legal person, whose goal is to serve the public interest by implementing activities related to education, training, science, culture, health care, environmental protection, sports, the provision of social or legal aid, as well as other activities beneficial to the public.[10]

[10] Law on Public Institutions of the Republic of Lithuania, No. I-1428, 03/07/1996, Article 2, Part 1.

SUMMARY

The Ministry of Health (the Ministry), engaged in the development of national policy in the field of health care, provides state assets to state and some municipal public health care institutions, intended for the provision of health care services.

In 2016, tangible and intangible assets managed under the trust law of the Ministry amounted to 296.1 million EUR, with most of it – 289.9 million EUR (97.9 percent) – being transferred to public health care institutions under contracts of loan for use.

Findings of previous audits[11] related to asset management (regarding contracts of loan for use that were not drawn up or updated; the registration of state assets not under the Ministry's trust law; the permission to use premises without any legal basis; contracts of loan for use of state land under buildings that were not drawn up; uninsured assets transferred on the basis of loan for use; the Ministry's permission to sublet premises, etc.) show that the Ministry is not capable of appropriately implementing the functions of the manager of such assets and ensuring the appropriate management and use of assets transferred to public health care institutions in accordance with contracts of loan for use.

We have carried out an audit to assess the effectiveness and legitimacy of the management and use of state assets in the field of health care. In assessing the management of such state assets we have examined:

- whether the management functions implemented by the Ministry in relation to assets transferred to public health care institutions under contracts of loan for use are related to the development of national policy in the field of health care, and the organization, coordination and control of its implementation;
- whether the Ministry performs asset management functions to ensure legitimate and effective use of assets.

The audit was carried out at the Ministry of Health. Data was also collected at public health care institutions which the Ministry has transferred state assets to in accordance with lending right. Audited time period – the year 2015. In order to obtain a more accurate assessment, we have also used data from earlier time periods, as well as the year 2016.

The audit findings show that the functions implemented by the Ministry in relation to assets transferred to public health care institutions under contracts of loan for use are not related to the development of state policy in the field of health care, and that the present model of asset management is inappropriate, which means that assets are not always managed in an appropriate manner.

Having assessed the audit findings, we present the national audit conclusions and recommendations.

[11] Financial (legitimacy) audits of 2009–2014 (audit reports: 31/05/2010 No. FA-P-10-8-51, 31/05/2011 No. FA-P-10-6-56, 16/07/2012 No. FA-P-10-5-42, 15/07/2013 No. FA-P-10-7-88, 15/07/2014 No. FA-P-10-8-45, 20/07/2015 No. FA-P-10-6-10-1).

CONCLUSIONS

The nationwide centralization of the management of immovable property in accordance with current regulation fails to encompass immovable property related to health care and medical treatment, which means that this process will fail to significantly change the functions of the Ministry of Health in the field of the management of these assets. Therefore, the Ministry should take decisive action in solving the following problems related to the management of assets transferred to health care institutions under contracts of loan for use:

1. The asset management model of the field of health care is inappropriate because the Ministry functions, in some part (except in relation to asset monitoring), as a centralized asset manager in possession of state assets transferred to health care institutions under contracts of loan for use, while the main goal of the Ministry should be to develop health care policy (Chapter 1).
2. The Ministry implements insufficient monitoring of contracts of loan for use because it lacks accurate information about the number of loan recipients and related contracts, there remain a number of contracts for an indefinite period, some of the loan recipients are not obligated to insure assets, and contracts of loan for use are not updated in case of changes in the amount of assets transferred. The possession of such information would be beneficial in making decisions, e.g., related to the development of the most appropriate health care service network (Section 2.1).
3. Having failed to implement all of the functions of an asset manager and set indicators of the effectiveness of asset management, the Ministry delegates part of the state asset manager's functions (such as the organization of rent tenders, the calculation of proposed initial rent fee, the organization of auctions, the determination of the price of assets to be sold, etc.) to loan recipients, who have no interest in effective asset management, because they are not responsible for it and receive no benefit from the implementation of these functions. This leads to ineffective asset management and lowered state income (Sections 2.2 and 2.3).

RECOMMENDATIONS

Considering the fact that the National Audit Office is carrying out a systemic audit of the management of immovable state property to assess the policy related to the management of said assets, and to present recommendations regarding the resolution of complex problems, we have submitted recommendations to the Ministry of Health, which require immediate action on the part of the Ministry:

1. In order to provide the conditions necessary for the separation of policy development and implementation, and to effectively manage assets transferred under contracts of loan for use: review the asset management and related functions implemented by structural units, and set clear responsibilities for their implementation, such that they would be beneficial to the process of making decisions related to health care policy (Conclusions 1 and 2).
2. Review the contracts of loan for use drawn up by the Ministry, comparing them to state assets factually transferred to health care institutions, and, if necessary, initiate their update or draw up new contracts, thereby ensuring that all state assets would be transferred to

health care institutions in accordance with the most appropriate conditions for the management of said assets (Conclusion 2).

3. In order to make timely and rational decisions regarding unused assets:
   3.1. conduct an analysis of state assets transferred in accordance with contracts of loan for use (Conclusion 3);
   3.2. look for means of implementing continuous monitoring to ensure the presence of assets and assess their condition (Conclusion 3).
4. Supplement asset manager's planning documents with activity indicators capable of indicating the effectiveness of the management of transferred assets (Conclusion 3).

More detailed information on the means and terms of implementing the recommendations is supplied in "The Plan for Implementing Recommendations" (see page 16).