VALSTYBĖS KONTROLĖ
PUBLIC AUDIT

PUBLIC BODY CPO LT ACTIVITY IN PUBLIC PROCUREMENT

12 November 2024

No ATA-2

SUMMARY

Relevance of the Audit

The public body CPO LT carries out public procurement on behalf of other contracting authorities, manages and administers the electronic catalogue of centralised public procurement and the e-Procurement Centre. According to CPO LT data[1], in 2023 the number of orders in the CPO LT electronic catalogue reached 29.9 thousand, the total value of purchases - EUR 1 072 million (or 11.8% of the total value of all Lithuanian public procurement). In 2023, CPO LT also carried out 1 048 purchases on behalf of other contracting authorities: compared to 2022, the number of purchases increased by 22% (from 856 purchases) and their value amounted to EUR 73.5 million (or 0.8% of the total value of all Lithuanian public procurement). As the number of purchases carried out by CPO LT increases, it is important that its activities meet the needs of contracting authorities and that purchases are carried out more professionally and efficiently.

Audit objective and scope

The objective of the audit was to assess whether CPO LT, in organising its activities, seeks to ensure a professional centralised public procurement process, competition between suppliers, whether it aims to meet the needs of contracting authorities and whether the financing of CPO LT's activities is based on the necessary costs and investments.

Key audit questions:

- ✓ whether the responsibilities of CPO LT and the contracting authorities are defined in such a way as to ensure a professional procurement process;

[1] Report on the activities of the public body CPO LT in 2023, available online: https://www.cpo.lt/wp-content/uploads/2024/08/CPO-LT-metine-ataskaita-2023.pdf (žiūrėta 2024-09-16).

- ✓ whether CPO LT is consistently increasing its competences (both in public procurement and in specific areas such as healthcare, whose procurement it is entrusted with);
- ✓ whether CPO LT finds out the expectations of contracting authorities and takes them into account when improving the services provided;
- ✓ whether CPO LT aims to ensure a quality procurement outcome;
- ✓ whether CPO LT's procurement aims to ensure competition between suppliers;
- ✓ whether the financing of CPO LT, including the level of service fees and the principles for calculating them, is based on the necessary costs and investments.

Audited entity - public body CPO LT.

The audited period is from 1 January 2022 to 31 March 2024.

The audit was carried out in accordance with the International Standards of Supreme Audit Institutions in order to obtain reasonable assurance as to whether CPO LT organises its activities in such a way as to ensure a professional centralised public procurement process, competition among suppliers, to meet the needs of the contracting authorities, and that the financing of its activities is based on the necessary costs and investments. The scope of the audit and the methods applied are described in more detail in Annex 2 'Scope and methods of the audit' (p. 40).

Key audit results

CPO LT aims to carry out its activities in a professional and high-quality manner. By conducting procurement on behalf of other contracting authorities, it would ensure its full functioning as a centre of excellence for public procurement if it did not delegate to contracting authorities' activities in the procurement process that require public procurement competences. A more detailed assessment of the expectations of existing and potential customers (contracting authorities and suppliers) would encourage interest in using CPO LT services. Transparent procedures and principles for the calculation of CPO LT's fees would enable the setting of fees for services that cover the necessary costs and investments. The allocation of State budget funding must be targeted and linked to a need that cannot be covered by the revenue generated by CPO LT for its services.

1. CPO LT's performance as a centre of excellence for public procurement should be improved

- ✓ Centralisation of procurement to CPO LT does not fully address the lack of procurement competences in contracting authorities, as the current division of functions and responsibilities between CPO LT and CAs does not allow CPO LT to carry out the entire procurement process. Contracting authorities wishing to delegate their procurement to CPO LT still have to provide not only a description of the subject of the procurement but also information used to prepare the terms and conditions of the procurement and the documents, which requires public procurement expertise to understand and to present in a correct and appropriate manner. This division of responsibilities and functions between contracting authorities and the CPO LT is influenced by the fact that there is currently no long-term strategy and vision for the centralisation of public procurement at national level, which defines which problems in public procurement are to be solved by the centralisation of procurement through the centralised contracting authorities (Sub-section 1.1, p. 12).

- ✓ CPO LT provides advice on the clarification of standard contract clauses, but does not collect and organise information on disagreements between contracting authorities and suppliers during the performance of procurement contracts, and is therefore not in a position to assess the most frequent causes of these disagreements and to take informed decisions on the improvement of the CPO LT's procedures, activities, processes, or standardised documents in order to prevent such conflicts from happening in the future (Sub-section 1.1, p. 16).
- ✓ CPO LT has taken steps to increase and ensure competences and is continuously expanding the team to fill in missing competences, but there are still risks due to a lack of competences, especially in centralised specific areas such as health procurement. Without sufficient competences in centralised procurement in specific areas and on behalf of other contracting authorities, and with responsibility mainly limited to the conduct of the procurement procedure, CPO LT cannot act as a centre of excellence for procurement, as it has to continue to rely on the documentation prepared by contracting authorities' specialists, which it is not in a position to properly assess in terms of its legality and compliance with the basic principles of public procurement (Sub-section 1.2, p. 17).

2. To encourage the use of CPO LT services, it is important to know the expectations of contracting authorities and suppliers

- ✓ CPO LT planned and implemented measures to identify the needs of its customers, improved internal procedures and processes, but did not consistently collect and analyse them, and therefore did not have comprehensive information on:

  - the expectations of existing and potential clients - contracting authorities - as the surveys did not focus on potential clients who do not currently use CPO LT services. It also did not systematise the suggestions and requests received from stakeholders (contracting authorities and suppliers) through all communication channels (Sub-section 2.1, page 19);
  - Lithuanian and EU case law relevant to procurement, as well as inspections carried out by other authorities in its procurement and the non-compliances found during those inspections. This information has been systematised following a request for information during the audit (Sub-section 2.2, page 22);
  - the quality of goods, services or works purchased through the e-catalogue. Given the scale of CPO LT purchases, the measures taken (preparation of methodological material for contracting authorities on the performance of contracts, organisation of an itinerant visit to the places of receipt of goods, services or works during the audited period) to mitigate the risk of a poor quality procurement outcome were insufficient (Sub-section 2.3, page 24).

  Without collecting and structuring information, it does not provide the comprehensive data needed to carry out a detailed analysis to make the necessary informed decisions on:

  - process improvements and service development to encourage contracting authorities and suppliers to use CPO LT service;

- reviews of procedures and documentation and timely adjustments to reflect changes in conditions or procurement requirements to prevent errors and non-compliance with procurement requirements.

✓ The CPO LT single-supplier indicator as measured by the Public Procurement Service in Q1 2022-2024 had a positive value (< 20%), but in 7 out of 34 procurements it was detected that the information used by the Public Procurement Service to calculate the indicator contained errors, so that some of the procurements in which (or parts of) a single supplier submitted a bid may have been missed from the data used to calculate the value of the single supplier indicator. The e-catalogue of centralised public procurement is also full of specifications for goods or services (about 1,900 in the audited period), which indicate the number of suppliers as 0 or 1. CPO LT has organised and participated in events organised by its partners, and has used communication tools in different media, but it should pay more attention to the clarification of the suppliers' expectations, in order to attract more suppliers to the procurements carried out by CPO LT (Sub-section 2.4, p. 25).

3. Implementation of the CPO LT funding model to be improved

✓ The methodology for setting prices and tariffs for CPO LT services has not yet been approved during the audited period (it was approved only on 16 October 2024). This made it difficult to set the tariff, since, in the absence of a procedure for its recalculation, it was not established at what intervals it could be reviewed. Inappropriate assumptions used in the calculation of the fee may have reduced the future costs of some of the fee components and increased others. CPO LT plans and executes the procurement of the Ministry of Economy and Innovation and its subordinate bodies free of charge, and the costs of these activities are covered by the funding allocated by the State budget, which, in addition to the above-mentioned function, is also allocated to various other activities. Given that the financial result (profitability or loss) of CPO LT's individual activities is not calculated, it is not known what the real need for additional funding from the State budget is. The strategic action plan of the Ministry of Economy and Innovation sets out indicators for the achievement of CPO LT's operational objectives and the measures of the budget programme in an inconsistent manner and does not cover all areas of CPO LT's activities (Section 3, p. 27)

✓ Centralised procurement is an internal administrative function carried out centrally. From 1 Noverber 2025, only budgetary (but not public) bodies will be able to carry out such activities, following a change in regulation. As a result of these changes, CPO LT's legal form as a public body is currently no longer in line with the changed regulation. In the absence of a change in the legal framework, the Ministry of Economy and Innovation will have to decide on the transformation of CPO LT into a legal entity with a different legal form and on a new financing model for its activities (Section 3, page 26).

Changes during the audit

During the audit, CPO LT adjusted and improved its operational processes and procedures: the recording of substantive comments on draft procurement plans in the EcoCost system was established, the process of preparation of methodological materials was supplemented, providing for the improvement of standard procurement documents, taking into account the amendments to the legal acts regulating public procurement and the clarifications of the Public Procurement Service, the comments or recommendations made by the implementing authorities during their inspections and changes in case law, the process for submitting and managing proposals for the CPO LT catalogue range has been developed, enabling contracting authorities to submit a request to CPO LT for the purchase of a good, service or work where the necessary specifications are not included in the e-procurement system,. and a TimeBase system has been introduced to carry out purchases and record the time actually used.

The Ministry of Economy and Innovation, in cooperation with other responsible authorities, prepared an action plan for eliminating the risks of errors in centralised procurement on 19 August 2024 and, respectively, CPO LT on 29 August 2024 approved an action plan for strengthening internal control in public procurement. The measures developed include internal control measures to strengthen the internal control of CPO LT's procurement by carrying out internal checks on procurement, by increasing the focus on methodological advice and training for procurers, and by strengthening inter-institutional co-operation on the scrutiny of procurement and the uniform application of the legislation.

On 16 October 2024, the Minister of Economy and Innovation approved the description of the procedure for setting prices and tariffs for services provided by the public body CPO LT[2].

[2] Order of the Minister of Economy and Innovation No 4-544 of 16 October 2024 "On Approval of the Description of the Procedure for Determination of Prices and Tariffs for Services Provided by the Public Body CPO LT".

Recommendations

For the Ministry of Economy and Innovation

1. In order for the CPO LT to function fully as a centre of excellence for public procurement in the public sector, change the division of activities and responsibilities between the CPO LT and the contracting authorities (when the CPO LT carries out procurement on their behalf), ensuring that the CPO LT carries out the procurement activities for which it needs procurement expertise (Key audit result 1).

2. Following decisions on the legal form of the CPO LT, by initiating changes to the legal framework, or by changing the form of the legal entity of the CPO LT under the existing framework, establish a financing model for the CPO LT based on the necessary costs and investments, ensuring:

   - in the case of the application of service fees, uniform application for all contracting authorities using CPO LT services;
   - an objective assessment of the need for funding from the State budget, defining the objectives for its allocation and, accordingly, establishing correct monitoring indicators that can measure the achievement of those objectives (Key audit result 3).

For the public body CPO LT

3. In order to take effective decisions on the improvement of the internal control system (procedures, activities, processes or standardised documents), to eliminate and prevent errors, the following measures should be taken: to consistently analyse the information on the changes in the legal acts relevant to the activities of the CPO LT, case law, the results of the inspections of the CPO LT activities, the disputes or disagreements between the CAs and the suppliers during the execution of the contract, and to take decisions involving the management of the institution (Key audit results 1 and 2).

4. To encourage the use of CPO LT services, measures to be implemented include: consistent analysis of information on the expectations of contracting authorities (including those not yet using CPO LT services) and suppliers, enquiries, the quality of procurement results, and take decisions on process improvements and service development (Key audit result 2).

The measures and timeframes for implementing the recommendations, the expected impact of the audit and the indicators for measuring change are set out in the report in the section 'Plan for the implementation of the recommendations' (p. 33). Up-to-date information on the status of implementation of the recommendations, results and developments is published in open data on the National Audit Office website https://www.valstybeskontrole.lt/LT/AtviriDuomenys.