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COVER NOTE

From:	Mr Klaus-Heiner LEHNE, President of the European Court of Auditors
date of receipt:	28 November 2017
To:	Mr Märt KIVINE, President of the Council of the European Union
Subject:	Report on the annual accounts of the European Environment Agency for the financial year 2016 together with the Agency's reply

Delegations will find attached the European Court of Auditors' report on the annual accounts of the European Environment Agency for the financial year 2016.

This report is accompanied by the Agency's reply and will shortly be published in the *Official Journal of the European Union*.

Encl.: Report on the annual accounts of the European Environment Agency for the financial year 2016 together with the Agency's reply.¹

¹ In English only. The other languages of this report are available on the European Court of Auditors' website: <http://eca.europa.eu/>.



EUROPEAN
COURT
OF AUDITORS

Report on the annual accounts
of the European Environment Agency
for the financial year 2016

together with the Agency's reply

INTRODUCTION

1. The European Environment Agency (hereinafter “the Agency”, aka “EEA”), which is located in Copenhagen, was established by Council Regulation (EEC) No 1210/90¹. It is responsible for setting up an observation network to provide the Commission, the Parliament, the Member States and, more generally, the public with reliable information on the state of the environment. This information should, in particular, enable the European Union and the Member States to take action to safeguard the environment and assess the effectiveness of such action.

2. **Table 1** presents key figures for the Agency².

TABLE 1: KEY FIGURES FOR THE AGENCY

	2015	2016
Budget (million euro)	49,2	50,5
Total staff as at 31 December ³	219	208

Source: data provided by the Agency; includes both core and non-core budget.

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

3. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

¹ OJ L 120, 11.5.1990, p. 1.

² More information on the Agency's competences and activities is available on its website: www.eea.europa.eu.

³ Staff includes officials, temporary and contract staff and seconded national experts.

OPINION

4. We have audited:

- (a) the accounts of the Agency which comprise the financial statements⁴ and the reports on the implementation of the budget⁵ for the financial year ended 31 December 2016, and
- (b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

Reliability of the accounts*Opinion on the reliability of the accounts*

5. In our opinion, the accounts of the Agency for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Agency at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

Legality and regularity of the transactions underlying the accounts**Revenue***Opinion on the legality and regularity of revenue underlying the accounts*

6. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

⁴ The financial statements comprise the balance sheet, the statement of financial performance, the cashflow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

⁵ The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

Payments

Opinion on the legality and regularity of payments underlying the accounts

7. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

Responsibilities of management and those charged with governance

8. In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

9. In preparing the accounts, management is responsible for assessing the Agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

10. Those charged with governance are responsible for overseeing the entity's financial reporting process.

Auditor's responsibilities for the audit of the accounts and underlying transactions

11. Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if,

individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

12. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal controls relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

13. For revenue, we verify the subsidy received from the Commission and assess the Agency's procedures for collecting fees and other income, if any.

14. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

15. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 208(4) of the EU Financial Regulation⁶.

16. The comments which follow do not call the Court's opinion into question.

COMMENTS ON INTERNAL CONTROLS

17. The Agency updated its Security Policy in 2016 but many other internal procedures are outdated. The senior management approved an action plan which includes the review and

⁶ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

update of the business continuity plan. The Agency also intends to review its document management policy which it adopted in 2009 in line with the new Security Policy. Similarly, the Agency envisages to review and update its internal control standards, where necessary.

18. The Commission's Internal Audit Service (IAS) carried out a performance audit on the 2015 State of the Environment Report (SOER) preparation processes. In its audit report of July 2016, the IAS concluded that the SOER processes were generally fit for purpose. The Agency and the IAS however agreed on a plan to further improve them.

COMMENTS ON SOUND FINANCIAL MANAGEMENT AND ON PERFORMANCE

19. In 2014 the Commission, on behalf of more than 50 EU Institutions and bodies (including the Agency) signed a framework contract (FWC) with one contractor for the acquisition of software, licences and the provision of related IT maintenance and consultancy. The framework contractor acts as an intermediary between the Agency and suppliers that can address the Agency's needs. For these intermediary services the framework contractor is entitled to uplifts of two to nine percent of the suppliers' prices. The FWC explicitly stipulates that it does not confer any exclusive right to the contractor. In 2016 the Agency used this FWC to purchase software licences for a total of 442 754 euro. Most of these purchases were for products belonging to a particular category that should only be used on an exceptional basis, for which prices were neither quoted during the tender process nor in the FWC. This procedure does not ensure sufficient competition and the application of the most economical solution. Moreover the uplifts charged by the framework contractor were not adequately checked. The largest order concerned the renewal of software licences provided by an exclusive Scandinavian reseller (112 248 euro). In this instance, there was no justification for the use of the FWC which resulted in an unnecessary uplift cost.

FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

20. An overview of the corrective action taken in response to the Court's comments from previous years is provided in the **Annex**.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA,
Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

For the Court of Auditors

Klaus-Heiner LEHNE

President

Follow-up of previous years' comments

Year	Court's comments	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2012 and 2013	(Ex ante) On-the-spot verifications of costs claimed under the grant programmes at beneficiary level are rare ¹ . Existing controls therefore provide only limited assurance on the eligibility and accuracy of the costs claimed by beneficiaries.	Completed²
2014	Furthermore, the internal auditor was involved in both ex ante and ex post verifications: these are incompatible tasks. It should be noted that the system of ex ante controls has been the subject of discussion between the Court and the Agency since 2012.	Completed
2014	The Agency has contracted backup services, including email services, with a cloud services provider using an interinstitutional contract procured by DIGIT. The conditions of the contract do not adequately define the location of the Agency's data. The contractor has reserved the right to transfer the Agency's data outside the geographic area of the European Union without notice, e.g. to address latency issues, routing data may need to be copied to different data centres in different regions. Consequently the Agency has not ensured that the privileges and immunities of the European Communities, to which it is subject, are guaranteed and that the service provider fully respects the privacy guarantees granted by Article 7 of the EU Charter of Fundamental Rights.	Completed³

Year	Court's comments	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2015	The audited procurement procedures showed that the Agency signed framework contracts with a single contractor which are used for various services under fixed-price specific contracts. As a consequence of requesting a fixed-price offer from a single contractor under these contracts, competition on price is neutralised and dependence upon the contractor is increased. The Agency should conclude agreements with multiple suppliers with reopening of competition or direct service contracts, whenever possible.	Completed

¹ In 2012 and in 2011 one ex ante verification was carried out to check one beneficiary's control systems. In 2010 one ex ante verification had been carried out to check the eligibility of expenditure declared by one beneficiary.

² In 2016, the Agency carried out two on-the-spot ex-post verifications of ETC grant beneficiaries.

³ The Agency is monitoring the new developments on an ongoing basis.

THE AGENCY'S REPLY

COMMENTS ON INTERNAL CONTROLS

18. The Agency maintains a significant number of regularly updated procedures that are made available to all staff via the intranet. In the latter half of 2016, the section dedicated to Quality Management was revised, including the register of the procedures. In the course of 2017 all procedures in the register will be reviewed and updated if necessary.

19. The EEA takes note of the Court's reply.

COMMENTS ON SOUND FINANCIAL MANAGEMENT AND ON PERFORMANCE

20. The framework service contract at stake is indeed the result of an inter-institutional procurement procedure carried out by the European Commission for the very purpose of realising efficiency gains, as provided for in Article 104a (1) of the financial regulation, and as such, it is primarily and directly concerned with the principle of sound financial management. In accordance with the applicable rules pertaining to the organisation and management of inter-institutional procurement procedure, the Agency commits when taking part in this inter-institutional call for tenders that it will then renounce to procure the same services through another contract. This commitment is meant to ensure not only transparency towards participating tenderers but also and foremost the respect of the principle of sound financial management, in particular with regard to the principles of economy and efficiency in terms of resources used. This commitment alone provides an adequate justification for the use of the framework contract. Furthermore it should be noted that the uplift applied on the channel products is contractually agreed between the parties whereas the contractor is contractually responsible for providing the products and services at a price whose relationship to the prevailing market price for equivalent items remains constant. The Agency will enquire to the Commission whether on the basis of the aggregated volume of licenses purchased they could be promoted to the local or corporate category of the framework service contract.