

# THE AUDIT OF PUBLIC PROCUREMENT IN THE SPANISH COURT OF AUDIT

Pilar Cobos. Spanish Court of  
Audit. Public Procurement Audit  
Seminar, Lisbon, 14-15 October  
2010

**1. THE AUDITING WORK OF THE SPANISH COURT OF AUDIT COVERS:**

- CONTRACTS HELD BY THE CENTRAL GOVERNMENT.**
- CONTRACTS HELD BY OTHER PUBLIC SECTOR ENTITIES.**

## 2. **FOUR LINES OF ACTION:**

- **GLOBAL AUDIT REPORT, ANNUAL OR BIENNIAL, OF ALL CONTRACTS HELD BY THE STATE PUBLIC SECTOR ENTITIES SUBJECT TO LAWS REGULATING PUBLIC SECTOR CONTRACTS.**
- **INDIVIDUAL REPORTS FOR THE CONTROL OF CERTAIN CONTRACTS OR PROCUREMENT HELD BY A PARTICULAR PUBLIC ENTITY.**
- **ANNUAL REPORT FOR THE CONTROL OF THE PROCUREMENT HELD BY THE REGIONAL PUBLIC SECTOR AND THE LOCAL PUBLIC SECTOR.**
- **SEPARATE REPORTS FOR THE CONTROL OF PROCUREMENT HELD BY THE MANAGEMENT BODIES AND COMMON SERVICES OF THE SOCIAL SECURITY.**

### 3. LEGAL FRAMEWORK:

- ◆ LAW 30/2007, OCTOBER 30th, ON PUBLIC SECTOR CONTRACTS, WHICH TRANSPOSES INTO SPANISH LEGISLATION DIRECTIVE 2004/18/EC.
  - PRINCIPLES OF THE LAW:
    - FREEDOM OF ACCESS TO BIDS.
    - PUBLICITY AND TRANSPARENCY OF PROCEDURES.
    - NON-DISCRIMINATION AMONG CANDIDATES.
    - TO ENSURE AN EFFICIENT USE OF PUBLIC FUNDS AND SELECTION OF THE MOST ECONOMICALLY ADVANTEGEIOUS TENDER.

- ◆ **GENERAL INSTRUCTION ADOPTED IN 2005, AND MODIFIED IN 2009, BY THE FULL SESSION OF THE SPANISH COURT OF AUDIT. FOLLOWING THE PROVISIONS OF LAW 30/2007, IT SPECIFIES THE INFORMATION AND DOCUMENTATION THAT MUST BE SUBMITTED BY THE PUBLIC SECTOR ENTITIES.**
  - **THE INSTRUCTION ENVISAGES A DOUBLE SUBMISSION OF DOCUMENTATION TO THE SPANISH COURT OF AUDIT.**
  - **ALL PUBLIC BODIES, AGENCIES, AND ENTITIES HAVE TO SEND AN ANNUAL CERTIFIED LIST COMPRISING ALL CONTRACTS AND AGREEMENTS MADE IN THAT YEAR.**
  - **BESIDES THE ABOVE LIST, ALL THE PUBLIC BODIES, AGENCIES, AND ENTITIES MUST SEND, IN A CONTINUOUS BASIS THROUGHOUT THE YEAR, EXTRACTS OF DOCUMENTATION WITH SPECIFICALLY DETAILED RECORDS OF CERTAIN CONTRACTS, BY TYPE AND ECONOMIC SIZE.**

- ◆ **THE IMPLEMENTATION OF THE INSTRUCTION SINCE 2005 HAS BEEN VERY POSITIVE.**
- ◆ **THROUGH THE CERTIFIED LIST OF CONTRACTS THE SPANISH COURT OF AUDIT KNOWS ABOUT ALL CONTRACTS THAT HAD BEEN HELD ON THE PUBLIC SECTOR.**
- ◆ **THE SPANISH COURT OF AUDIT CAN EVALUATE MORE PRECISELY AREAS OF RISK AND DETERMINE WHICH SPECIFIC CONTRACTS OR ENTITIES SHOULD BE SPECIFICALLY AUDITED.**
- ◆ **THE ENTITIES OF THE PUBLIC SECTOR ARE AWARE OF THIS ACTION AND TAKE MORE CARE ON THE COMPLIANCE WITH THE LAW.**

#### 4. THE OBJECTIVES OF PROCUREMENT AUDIT

THE TECHNICAL GUIDELINES THAT GOVERN THIS PROCEDURE, WITH RESPECT TO CONTRACTS AWARDED IN 2008, SET OUT THE FOLLOWING CONDITIONS:

- VERIFICATION OF COMPLIANCE WITH THE OBLIGATION TO SUBMIT TO THE COURT OF AUDIT THE DOCUMENTATION PROVIDED BY THE GENERAL INSTRUCTION.
- ANALYSIS OF THE PARTICULAR ADMINISTRATIVE CLAUSES AND TECHNICAL REQUISITES OF THE MOST SIGNIFICANT CONTRACTS.
- EXAMINATION AND VERIFICATION OF COMPLIANCE WITH THE REQUIREMENTS IN THE PREPARATION, AWARDED AND SIGNING OF CONTRACTS.
- ANALYSIS OF THE IMPLEMENTATION OF CONTRACTS, NOTING THE MAJOR INCIDENCES OR IRREGULARITIES ALONG WITH THEIR CAUSES AND CONSEQUENCES.

## **5. IMPLEMENTATION OF THE GLOBAL REPORT:**

**THE AUDIT IS CONDUCTED BY SELECTING A SAMPLE OF FILES RECEIVED BY THE COURT.**

**THE SAMPLE MUST BE REPRESENTATIVE OF DIFFERENT CONTRACTS AND DIFFERENT TYPES OF AWARD PROCEDURES.**



- IN 2006:

- 3.797 RECORDS, REPRESENTING AN AMOUNT OF 7.841 MILLION EURO, WERE RECEIVED BY THE COURT OF AUDIT.

OUT OF THIS TOTAL:

- 1.846 FILES, REPRESENTING AN AMOUNT OF 5.245 MILLION EURO, WERE AUDITED.

THIS ACTION INVOLVED THE EFFECTIVE AUDIT OF 49% OF THE NUMBER OF FILES AND 67% OF THE TOTAL AMOUNT.

- IN 2007:

- 3.637 RECORDS, REPRESENTING AN AMOUNT OF 12.300 MILLION EURO, WERE RECEIVED BY THE COURT OF AUDIT.

OUT OF THIS TOTAL:

- 1.605 FILES, REPRESENTING AN AMOUNT OF 9.126 MILLION EURO, WERE AUDITED .

THIS ACTION SUPPOSED TO HAVE AUDITED 43% OF THE NUMBER OF FILES AND 74% OF THE TOTAL AMOUNT.