8/2016

Extract from Rigsrevisionen's report on

the Danish government's tendering of IT operations and maintenance

submitted to the Public Accounts Committee

1849

147.281

237

1976

114.6

22.480

908

December 2016

1. Introduction and conclusion

1.1. PURPOSE AND CONCLUSION

1. This report concerns the Danish government's tendering of IT operations and maintenance. The report was requested by the Danish Public Accounts Committee in February 2016.

2. The committee's request is prompted by a number of articles that the magazine Computerworld started publishing in December 2015 concerning the Danish Police's and SKAT's (Danish tax and customs administration) procurement of IT services from CSC. It appears from the articles that the Danish Police and SKAT have been tied to old IT systems, and that they have automatically extended contracts worth millions with CSC for the past twenty years without tendering as prescribed by the EU tendering regulations. The Public Accounts Committee has asked Rigsrevisionen to examine whether public-sector outsourced IT services are generally not tendered, what the causes of any failure to tender might be, and what precautions the institutions are taking to avoid becoming dependent on their IT suppliers. The Public Accounts Committee has also been concerned that this practice could be a reflection that public funds are not being managed efficiently.

NUMBER OF IT SYSTEMS
Based on reports submitted by all Danish government institutions, the Danish Agency for Digitisation has calculated the total number of public-sector IT systems to be approximately 4,200.

3. The overall purpose of the study is to examine and assess whether the government institutions have done enough to avoid becoming dependent on specific IT suppliers when tendering IT operations and maintenance services. The report answers the following questions:

- How many contracts concerning major government IT systems have been extended without a prior statutory tendering process and have the institutions done enough to be able to invite tenders?
- To what extent have the tendered contracts actually been in a competitive process?
- To what extent have the government institutions, in their most recent contracts, taken steps to avoid a situation that will prevent them from inviting competitive tenders for their outsourced IT operations and maintenance services?

IT CONTRACTS
The IT contracts in this report may cover operations and maintenance of several IT systems, and in some cases up to 100 systems. For instance, one of SKAT's contracts with KMD concerns 87 IT systems.

In chapter 2, we examine why the contracts have not been put out to tender, and we look at the counselling that the relevant institutions may have received from the Attorney to the Government. In chapter 4, we examine the role of the Ministry of Finance in relation to ensuring sustainable and economic IT operations and maintenance solutions.

CONCLUSION

SYSTEM DOCUMENTA-TION

The collection of documents that describe the requirements, capabilities, limitations, design, operation and maintenance of an IT system.

Failure to tender major contracts concerning IT operations and maintenance has been an issue for many years, and the Ministry of Finance and the Danish Folketing (parliament) have been kept informed of the problems, particular regarding SKAT, through various appropriation requests. It has been generally accepted that the IT systems could not be put out to tender without system documentation, and that obtaining sufficient system documentation to facilitate the tendering process would be very difficult and financially unviable.

The study shows that eight major contracts concerning IT operations and maintenance have never been tendered. SKAT, the Police and the Danish Court Administration are the owners of these contracts that in 2015 had a total value of DKK 296 million, corresponding to 19 per cent of the government's total costs for major contracts regarding outsourced IT operations and maintenance services.

Five of the eight contracts concern legacy systems that are minimum 25 years old, whereas three contracts concern newer systems from year 2000 and onwards. Rigsrevisionen finds it unsatisfactory that the institutions, since they took over responsibility for the systems, have entered and extended the contracts repeatedly without seeking clarification as to whether the contracts were subject to the exemption clauses in the tender regulations, or should be tendered.

LEGACY SYSTEMS

A legacy system, in the context of computing, refers to outdated computer systems, programming languages or application software. According to the Danish Agency for Digitisation, it can be difficult to expose the contracts to actual competition and be difficult for others than the current operators to further develop and/or operate such systems.

For the past 17 years, SKAT has worked on tendering its contracts by means of various different strategies, but has still not succeeded in tendering the three legacy contracts. This is considered unsatisfactory by Rigsrevisionen. The fact that the Police and Court Administration – with a very few exceptions in recent years – have not focused on ensuring compliance with the EU tender directive and reducing the risk of supplier dependence, is also considered unsatisfactory by Rigsrevisionen.

The institutions have applied different price adjusting mechanisms to compensate for the missing tender processes and declining prices in the IT market. Rigsrevisionen is, however, not in a position to determine whether the institutions through this exercise have achieved competitive prices.

Tendering is one of several ways of exposing government activities to competition, but putting out a contract to tender does not guarantee that the contract has actually been in a competitive process. It is Rigsrevisionen's assessment that, in addition to the eight major contracts that have never been tendered, there are indications that additionally 24 contracts have only been exposed to limited competition. It is also Rigsrevisionen's assessment that there is a risk that the institutions' dependence on the suppliers of these IT services may, over time, become so strong that the contracts – like the legacy contracts – become difficult to tender. With regard to the remaining contracts, Rigsrevisionen is of the opinion that there are indications that these have been exposed to real competition within the frameworks provided by the market.

The study also shows that in their most recent contracts, the majority of the institutions have tried to minimize the risk of ending in a situation that will make it difficult for them to tender the contracts. Thus, the institutions have taken contractual precautions to ensure that they can break away from an existing contract and let other suppliers step in. Whether these contractual regulations will suffice to ensure independence and facilitate changing suppliers will be determined when the institution is required to retender the contract.

Since 2012, the Ministry of Finance has worked on supporting the institutions' management of outsourced IT operations and maintenance in order to obtain sustainable and economic solutions, but this work was suspended in 2015. Rigsrevisionen recommends that the Ministry of Finance should resume its efforts in this area to ensure that it plays an important role in this work, also in the future.