

# Abstract

## Settlement of accounts in public road works contracts

*The Court of Audit examined the settlements of accounts related to public road works contracts awarded by the Flemish Region. It found that deficiencies in the preparation, preliminary study and monitoring of the building contracts resulted in an average 8,5% cost increase. Besides, local divisions of the Flemish government department involved do not respect systematically the rules and procedures aimed at securing more advantageous prices and at limiting default interest. Furthermore, the department does not have efficient instruments at its disposal to monitor the settlement of accounts and there is insufficient information on the department's policy.*

### Introduction

The Court of Audit examined the settlements of accounts related to road works contracted by the Flemish department for Roads and Transport. The public procurement regulation defines a "settlement of accounts" as an agreement set up between the contractor and the department when changes occur in a contract. The settlement specifies the modified or new quantities and sets out the reviewed or agreed prices.

### Financial significance and causes

The Court of Audit found that settlements of accounts raised the cost of works by an average 8,5%. This increase is highest in the local divisions of Antwerp and East Flanders. These two divisions account for no less than 83,7% of the total amount of settlements during the period under review. Most settlements of accounts (67,7%) result from changes and extensions during execution of the works. The settlements are attributable mainly to careless preparation of the call for tenders by some contracting authorities and to the way specifications are drawn up. Besides, procedures and projects have grown in complexity and the local divisions do not always have sufficient specialized staff at their disposal. Projects prepared by design offices also lead to substantial settlements. The fee regulation - a percentage of the final amount paid for executed works – does not incite them to avoid settlements.

### Preparation of tenders

Local divisions cannot fall back on centrally defined instructions and procedures when preparing the projects. For price estimates, they are still waiting for an operational price data bank, although the contract for setting it up was already awarded in 1997. The mediocre to insufficient quality of the specifications leads to numerous changes and extensions during execution of the works. These changes are sometimes so far-reaching that the legal principles of agreed price and competition are hardly respected.

### Lawfulness of the settlements

Local divisions do not fully comply with rules and prescriptions regarding settlements. They notably do not take advantage of the possibility of reviewing unitary prices when the real quantities exceed at least three times the estimated quantities. In some cases, however, when taking into account the cost-overrun, the contractor is no longer the lowest bidder.

### **Default interest**

Neither do local divisions comply sufficiently with procedures and instructions in order to reduce default interest when discussing prices. The total of default interest paid out by local divisions for settlements concluded in 2003 and 2004 amounted to 1,3 million EUR. Long procedures and, consequently (considerable) amounts of interest also result from a lack of credits, compulsory consultation of advisory organs, annual clearing of the accounts and – in some divisions – lack of staff and expertise.

### **Reporting and policy instruments**

The authorities do not have efficient instruments at their disposal to monitor the settlements, whether during execution or on completion of the works. Information about policy, although present in the existing data banks, is not linked together. Consulting and reporting instruments are not user-friendly, insufficient or ill-adapted. As a consequence, the responsible officials are unable to detect and correct the problems in due time.

### **Remedial measures**

A number of measures have been taken recently by the various local divisions and at the department's level in order to rein in the settlements. However, most of these measures are still too recent to have resulted in ascertainable improvements.

### **The minister's reply**

The minister said that the department had already initiated a great number of measures aimed at meeting the Court of Audit's recommendations, which would result in a reduction of the number of settlements in the following years.