

## PRESS RELEASE

December 2020

### Report to the Flemish Parliament

#### *Public contract for the contact detection in COVID-19*

*The Court of Audit has examined the government contract for contact tracing at COVID-19. It could not determine with certainty whether the principles of equality and transparency were respected. The lack of multiple offers, in combination with the urgency of the contract, weakened the negotiating position of the Flemish government. The Court therefore recommends that the Care and Health Agency continuously and closely monitors the implementation phase.*

#### **Preface**

The Court of Audit limited its investigation to the Care and Health Agency's awarding of the contract. It did not include global decision-making regarding contact tracing, efficiency and effectiveness of the approach and its operation, nor the way in which contact tracing is organized. Implementation has not been investigated either.

#### **Application of negotiated procedure: principles of competition, equality and transparency**

The assignment for contact tracing concerns a negotiated procedure without prior notification due to urgency. Nevertheless, the contracting authority must still consult several entrepreneurs if possible. Although Flemish government contacted six companies on April 28, 2020, only one offer was received on April 30, 2020.

The order placement procedure used wasn't fully clear. For example, the quotation stated at the bottom of its pages April ,23 2020, which is a date prior to the consultation of the six companies, and it also referred to a telephone conversation, prior to its submission, between tenderer and Care and Health Agency. In response, the agency stated that the date was a mere mistake and that no unauthorized contacts took place at any time. However, the Court of Audit has no certainty about the sequence of events, nor about the nature and content of those contacts. It could therefore not establish with certainty whether the companies contacted have been treated equally and whether the principle of transparency was respected.

#### **Course of the negotiation proceedings**

The order placement procedure also shows some administrative and legal-technical shortcomings and inaccuracies. Some of those are probably due to the speed with which the procedure had to be started and completed. As a result, Flemish government was unable to prepare the assignment in sufficient detail or thoroughly enough, and the quotation review and negotiations period was limited. These circumstances undoubtedly had an unfavorable or negative impact on pricing and quality of the offer, and reduced final certainty about it.

The initial offer was submitted for an amount of 142,208,795.69 euros (incl. VAT). Ultimately, negotiations resulted in a price reduction to 122,650,345.65 euros (incl. VAT).

The lack of alternative negotiating partners, in combination with the urgent start-up of the assignment, weakened Flemish government's negotiating position. The Care and Health Agency was also unable to verify price market conformity based on price comparison.

### **Awarding and closing of the contract - start of implementation**

Flemish Government decided to award the government contract for contact tracing on May 5, 2020. On July 16, 2020, an additional deed was signed with more than 1.57 million euros of additions and changes to the contract (incl. VAT). However, some of these seem already to have been included in the initial order or offer, at least partly.

In these circumstances, a thorough, continuous and careful follow-up by the Care and Health Agency is most certainly required. However, Flemish government did not respond to several suggestions the Inspectorate of Finance made to help better manage uncertainties, risks and side effects during implementation and to enable a closer follow-up of the agreement.

The Care and Health Agency pointed out the service provider will base billing on actual delivered services, which will allow accurate follow-up. The obligation for the service provider to submit a substantive and financial report every three months would allow additional follow-up and control.

### **Response of the minister**

The cabinet of the Minister of Welfare, Public Health, Family Affairs and Poverty Reduction has reported on November 26, 2020, that the response of the Administrator General of the Care and Health Agency has been drawn up in consultation with the Minister.

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### **Information for the press**

The Court of Audit exerts an external control on the financial operations of the Federal State, the Communities, the Regions and the provinces. It contributes to improving public governance by transmitting to the parliamentary assemblies, to the managers and to the audited services any useful and reliable information resulting from a contradictory examination. As a collateral body of the Parliament, the Court performs its missions independently of the authorities it controls.

The audit report on the *Public contract for the contact detection in COVID-19* has been sent to the Flemish Parliament. The full version and this press release can be found on the Court's website: [www.courtofaudit.be](http://www.courtofaudit.be).