



The awarding of contracts in the Swiss Agency for Development and Cooperation

Performance audit

Key facts

In Switzerland state, semi-private and private organisations are involved in international cooperation.

The most important player is the Swiss Agency for Development and Cooperation (SDC). The SDC is directly involved in campaigns concerning bilateral development cooperation, technical cooperation and humanitarian assistance. In addition it contributes to programmes of multilateral organisations and is involved in the financing of action programmes of Swiss and international relief organisations. Sustained development and poverty reduction are the main tasks of the SDC. In order to work towards these goals, the SDC concentrates upon eight main topics. Cooperation is particularly intensive with 21 countries in the southern regions and 13 countries and regions to the east. At a global level, the SDC is active in approximately 1000 projects. It either manages the projects itself or jointly with state, semi-private and private organisations in the beneficiary countries. The SDC designates this type of activity as "own activities" or it awards contracts for implementing projects to third parties, i.e. relief organisations, university institutes and private companies, e.g. consultants, engineers. The 150 to 250 contracts worth more than CHF 50,000 awarded by the SDC in Switzerland each year alone amount to approximately CHF 180 million per annum.

The awarding of contracts is mainly discretionary

Competition proceedings are the exception. The number of invitation to tender procedures and public tendering procedures remained very low between 1998 and 2003. The SDC claims that the vast majority of its projects with partner countries and/or international organisations are governed by contracts in accordance with international law, and that the Public Procurement Act is, as a result, not applicable to most of the contracts awarded by the SDC. The SDC's internal directive on procurement provides for a series of legal exceptions for deviating from the principle of competition. In subsequent phases of ongoing campaigns, contracts are generally awarded without competition proceedings.

"Monopolistic position of the supplier"

If exceptions are claimed in accordance with the Public Procurement Ordinance, these are mostly on the grounds of the "monopolistic position of the supplier" or "intellectual property". A monopolistic position of the supplier often stems from the fact that in Switzerland only very few suppliers, frequently just one, possess sector-specific or country-specific know-how, together with an established network in the beneficiary country. The SDC attaches great importance to both of these factors when awarding contracts. Market mechanisms are thus largely lacking or are not brought to bear. In addition the circle of Swiss suppliers cannot be enlarged arbitrarily due to the fact that the know-how required by the SDC on the grounds of quality assurance can frequently only be acquired through existing working relationships with the SDC and/or SDC contributions to relief organisation programmes of action.

Other models overseas

A comparison with Denmark showed that the public agencies responsible for international cooperation work very closely with specialised relief organisations and private agencies in the development cooperation sector. In Denmark, as in Switzerland, the relief organisations fulfil an important function in creating goodwill for the concerns of development cooperation with the population at large. In contrast to Switzerland, however, the agencies responsible for development cooperation in Denmark invites tenders for all contracts to be awarded. However, the invitation is only published in Denmark, which prompted the EC to institute legal proceedings.

In contrast to Switzerland and Denmark, Norway's approach to international cooperation is one geared to the beneficiary country, i.e. the beneficiary countries take the decision as to how the funds made available by Norway should be used and also award the contracts. However, a condition of this is that the contracts to be awarded are tendered internationally and that contracts in areas where Norway possesses specialist know-how be awarded to Norwegian companies.

Answers to questions concerning performance audits

The central question in performance audits, if and to what extent public tendering procedures improve the cost-effectiveness of SDC projects and how more appropriate partners and/or new approaches can be found, was only able to be conclusively answered against this backdrop by taking into account aspects of efficiency in the context of international cooperation.

That public tendering procedures contribute to improving the transparency of project awarding by the SDC and to creating more competition amongst suppliers, even those in Switzerland, is beyond dispute. Merely publicising the awarding of contracts contributes to the equality of treatment of suppliers, whereby being informed and being able to submit a bid constitute a considerable prerequisite in the equal treatment of suppliers. The addi-

tional costs related to the tender procedure are not significant as the documentation needed for tender bidders has to be drawn up for project planning anyway. Public tendering procedures also reinforce the independence of the SDC in relation to the private sector partners and is evidence of its commitment to transparency.

On several occasions in the last few years the tendering practices of the SDC were the subject of talks with representatives from the relief organisations. However, the tendering procedures have not had a negative effect on the relations the SDC has with the relief organisations. Even the activities of the SDC and hence knowledge management in the development cooperation sector was not adversely affected by this to any significant extent.

A regularity audit showed that when SDC contracts were awarded, this was done in accordance with the provisions of the Public Procurement Act and the Public Procurement Ordinance and that WTO norms were followed.

Recommendations

The SDC should redefine its policy of awarding contracts and in so doing ensure that in future deviating from the principle of competition is no longer the rule but the exception. In redefining policies concerning the awarding of contracts, the following four principles should be borne in mind:

1. The contracts should be tendered internationally, thus ensuring that exceptions to the principle of competition on the grounds of "monopolistic position of the supplier" or "intellectual property" no longer occur or at least occur much less often. Cases involving a monopolistic position of the supplier should, as has been the case to date, be linked to a contractually agreed right of inspection. Contracts should be advertised as early as possible.
2. In subsequent phases, the contracts must be advertised, provided that the project had not yet been advertised.
3. It should be examined to see if the implementation of development assistance projects could not increasingly be awarded to organisations based in the beneficiary country. Along with reduced financial costs¹, this has the advantage of keeping the know-how in the beneficiary country after the project has finished and thus the sustainability of the assistance can be better ensured in the longer term. Contracts awarded locally in the beneficiary countries should be treated in the same way as contracts awarded by head office. They must also be recorded in the statistics of the SDC Procurement Department.

¹ According to the results of a survey of overseas representations of the Federal Department of Foreign Affairs (DFA) within the scope of evaluating trade and promotion structures of the Confederation carried out by the SFAO, local staff is about four times cheaper and is very well informed about local conditions.

4. Solutions should be sought as to how aspects of donor coordination can better be taken into account in structuring Swiss development cooperation. SDC contributions to relief organisation programmes should also be linked to respective conditions.

In its comments, the SDC noted that it regarded the recommendations of the Swiss Federal Audit Office (SFAO) as impulses but saw no cause to redefine its policy of awarding contracts at the present time.

A much discussed proposal at present is that of donor harmonisation which aims to solve complex inter-related problems and thereby increase the added value, in development policy terms, of development cooperation. With additional donor harmonisation, there will increasingly be programmes devised and implemented by the donor countries with the involvement of the beneficiary countries instead of donor-specific projects. This will lead to a greater degree of international tendering. This development will also influence the future contract awarding practices of the federal agencies responsible for Swiss development cooperation.

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