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ACCOUNTS CHAMBER
OF THE REPUBLIC OF TATARSTAN



SINDICATURA DE COMPTES
DE LA COMUNITAT VALENCIANA

*International seminar
“Audit of Public Investment in Sport”*

The audit of sports sponsorships

The experience of the Audit Office of the Valencian Community

Kazan - 23rd May 2017

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Valencian Community

- Area 23 255 km²
- Population 4 959 968 inhabitants
- Capital Valencia
- Languages Spanish/ Valencian
- Regional Budget 17,725 million euros



The Audit Office of the Valencian Community

- Employees 84
- Budget 7.27 million euros
- Audited bodies:
 - Regional public sector
 - Administration
 - 44 regional government dependent companies and organisations
 - Local public sector
 - 620 local authorities
 - 227 local government dependent companies and organisations

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SINDICATURA DE COMPTES DE LA COMUNITAT VALENCIANA

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Informe de fiscalización de la Cuenta General de la Generalitat de 2015

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Videos tutoriales nueva SEDE ELECTRÓNICA

PERFIL DE CONTRATANTE

X Premio de Investigación "Mestre Racional"

MEMORIA Y CUENTAS ANUALES 2015

PROGRAMA ANUAL DE ACTUACIÓN 2017

ASOCEX

100% renovables

La Sindicatura
 Información sobre la institución; composición organización, estructura, programa anual
[\(Summary in English\)](#)

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Área de entidades locales
 Toda la actividad sobre las entidades locales de la Comunitat Valenciana

BADESPAV

Últimas noticias

10/04/2017	La Sindicatura de Comptes presenta a Les Corts la auditoria operativa de la concesión de asistencia sanitaria de Manises
14/03/2017	Las entidades locales valencianas acumulan facturas pendientes de aplicar a presupuesto por valor de 122,8 millones de euros
27/02/2017	Vicent Cucarella presenta en les Corts el Informe de fiscalización de la Cuenta General de la Generalitat del ejercicio 2015
15/02/2017	La Sindicatura de Comptes entrega el X Premio Mestre Racional a Jordi Vila i Vila por su trabajo sobre políticas presupuestarias
08/02/2017	La Sindicatura de Comptes pide a les Corts la necesidad de contar con capacidad sancionadora

[más noticias...](#)

Nuestros informes
 Publicamos todos nuestros informes en la web. Reflejan la labor fiscalizadora y de control de la Sindicatura.

Miscelánea
 Aquí encontramos información sobre otras actividades: premio de investigación, publicaciones, concursos, enlaces

Portal del ciudadano
 El Portal Rendición de Cuentas es una iniciativa para facilitar la rendición de cuentas de las EELL y permitir a los ciudadanos el acceso a la información y conocer la gestión desarrollada.

Portal de Transparencia

Últimos informes

26/04/2017	Informe de fiscalización de diversos aspectos de la gestión del Ayuntamiento de Favara. Ejercicios 2014 y 2015
12/04/2017	Informes de fiscalización sobre el control interno de los Ayuntamientos de Novelda, Xàtiva y Xirivella. Ejercicio 2015
10/04/2017	Auditoría operativa de la concesión de la asistencia sanitaria integral en el Departamento de Salud de Manises. Ejercicios 2009-2015
31/03/2017	Informes de fiscalización sobre el control interno de los Ayuntamientos de Benicarló y Onda. Ejercicio 2015

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Forms of support to sport

- Subsidies/grants
 - Competition
 - Previously included in budgets (nominative subsidies)
- Sponsoring contracts
- Purchase of rights of audiovisual broadcasts (covert form of support)
- Loan guarantees granted by the Valencian Institute of Finance, an entity of public law owned by the Valencian regional government
 - Most recent form of support. When specific clubs face difficulties to survive.
 - The Valencian regional government was the de facto owner of Valencia Football Club for some time.
 - The Valencian regional government is at present owner of the stadium of the football club of Alicante.
 - (These aids have been declared illegal by the EU and must be paid back)

Support to sports, sports events or sports organisations?

- Lack of competition
 - Most funds were received by specific organisations through contracts and agreements concluded with the regional administration.
- Absence of equivalence between funds provided by the Administration and consideration provided by organisations.
 - Disguised grant not subject to the rules set out in the Subsidies Act
- Support based on the potential media impact
 - What is sought with the support?
 - The promotion of sporting activity? → it seems unlikely.
 - To assist sports organisations with a huge number of supporters? → at best these are aids to organisations with a strong economic impact. At worst the objective is to have many loyal voters among the supporters of particular football clubs.



Some particularities observed

- Different publicly-owned companies of the Generalitat Valenciana have sponsored one football club at the same time.
- Sometimes the consideration given in return has included singular obligations such as to provide the sponsor with a number of free tickets or even the possibility of travelling with the club and stay at the same hotel.
- In older contracts there was not even an assessment of the advertising impact of the sponsorship.
- At times the agreed amount for the fulfilment of objectives was paid prior to submitting the justificatory report.

An example: Valencian television and football

- Purchase of broadcasting rights Valencia C.F. (2009)

Concept	Purchase	Sale
Copa del Rey, national league and international competitions	17,105,865 EUR	13,002,438 EUR

- That same year the subsidy budget for sports activities of the regional government was 12.3 million euros (just one football club obtained in this way the equivalent of 33% of the total budget for support to sports activities)

Multiple sponsorship. The example of Villarreal C.F.

- Sponsorship via publicly-owned companies of the Generalitat Valenciana (2010/2011-season)

Sponsoring public company	Amount
Castellon Airport	4,050,000 EUR
Thematic Projects Company (“Sociedad Proyectos Temáticos”)	4,500,000 EUR
Valencian Tourist Agency	210,000 EUR

- That same year the subsidy budget for sports activities of the regional government was 12.4 million euros (just one football club obtained in this way the equivalent of 70% of the total budget for support to sports activities)



Audit guide of the Audit Office of the Valencian Community: sponsoring contracts

- Interest of the Administration in:
 - Promoting brands of the Valencian Community.
 - Financing particular sports or cultural activities.
- Legal instruments used for the same economic reality:
 - Sponsoring contracts
 - Partnership/collaboration agreements
 - Direct subsidies

Key features of a sponsorship contract - 1

- Advertising contract.
- Commitment on the part of the sponsored party to collaborate in the sponsor's advertising.
- The advertising is performed by outsiders unfamiliar with advertising activities (it is not a media company or an advertising agency).
- The aim is to benefit from the social significance of the activity performed by the sponsored party.

Key features of a sponsorship contract - 2

- It is an onerous contract.
 - The sponsoring party does not intend to promote an activity of public interest through the recipient of its contribution but to obtain from the recipient the advertising collaboration engaged.
 - The sponsored party does not seek to benefit the sponsoring party through the promotion of its name, brand, or product but to obtain the financial resources the sponsoring party agreed to provide.
- If there is no equivalence between what is paid by the Administration and the service received, then no sponsorship contract can be concluded.

Audit guide of the Audit Office of the Valencian Community: partnership / collaboration agreement

- “Partnership/collaboration agreements are those agreements having legal effect which have been adopted amongst each other or with subjects of private law for a common purpose by public administrations, their associated or dependent public agencies and bodies, or public universities”. (as defined by Act 40/2015, of 1 October, on rules governing the public sector)
- They are the customary instrument to channel directly granted subsidies, which may or may not be provided for specifically in the budget

Audit guide of the Audit Office of the Valencian Community: subsidy

- Subsidy is any monetary delivery without receiving any consideration, subject to the implementation of the activity intended to be supported (activity for the public good or in the social interest or to encourage a public purpose), and the beneficiary must comply with the obligations established, among which is included to publicize the financing of the subsidised activity.
- Unlike sponsoring contracts, in the case of subsidies the beneficiary commits himself to carry out the activity subsidised by the Administration and justify the use of the funds received, so that the purpose to which these funds have been allocated becomes essential. The beneficiary undertakes an activity for purposes of its own and which at the same time are considered for the public good or in the social interest.

Key points of subsidies

- Monetary delivery without receiving any consideration
- Subsidised activity of public interest
- Justification that the activity has actually been implemented
- Compliance with the requirements of the rules and regulations for subsidies (among them publicization of the subsidy)

Auditing sponsorships with advertising purposes -1

Onerous sponsorship / Main aspects to verify

1. The need for and appropriateness of the contract must be justified. The audited bodies should indicate the nature and extension of the needs intended to be met through the proposed contract, as well as the appropriateness of its subject and content in order to satisfy them. Otherwise, a non compliance should be stated in the audit report.

Auditing sponsorships with advertising purposes -2

Onerous sponsorship / Main aspects to verify

2. The existence of actual equivalence between the services to be performed, in accordance with the current market prices.

In order to verify that the contract price is a market price, it must be checked if the file contains some supporting documentation allowing to assess the services to be performed by the sponsored party. To this end, the cost of the sponsorship with advertising purposes could be compared with the cost of purchasing professional advertising services so as to attain the same impact or public dissemination. Likewise, the agreed price could be compared with the price a private sponsor would be willing to pay for the same services to be performed by the sponsored party, or by any other means enabling to justify the existence of such equivalence.

Auditing sponsorships with advertising purposes -3

Onerous sponsorship / Main aspects to verify

3. In the event that there is no competitive tendering, it shall be checked that there is an appropriate and sufficient justification of the reasons which legally authorize the public body not to apply the procedures laid down by the Public Sector Contracts Law. When applying professional judgement, the different level of law enforcement depending on the legal nature of the body should be taken into account.

In the event that the reasons given by the audited body do not justify the non-use of public procurement contracting procedures, non-compliance should be stated in the audit report.

Auditing sponsorships with advertising purposes -4

Partnership/collaboration agreements. Direct subsidies / Main aspects to verify

In cases where sponsorships are implemented by direct subsidies, these latter usually established by partnership agreements, their subject should be examined thoroughly in order to verify:

1. Whether the public body, in the exercise of its power of promotion, is granting an aid to finance a particular activity seen as an activity of public or social interest to be conducted by the beneficiary. Even if publicity is given to the subsidy, the basic issue is the implementation of the activity and the use of the granted funds for that exact purpose.

In this case, the subsidy does not channel a sponsorship with advertising purposes, the principle of service and return service, typical of contractual activities, is not complied with.

Auditing sponsorships with advertising purposes -5

Partnership/collaboration agreements. Direct subsidies / Main aspects to verify

In cases where sponsorships are implemented by direct subsidies, these latter usually established by partnership agreements, their subject should be examined thoroughly in order to verify:

2. Or if the beneficiary, in the normal conduct of his business, is committed to undertake promotion and dissemination activities of particular brands.

In this case, there are agreements typical of the contractual activity, provision of services and return services, and consequently the partnership agreement would be really implementing a contract.

Auditing sponsorships with advertising purposes -6

Partnership/collaboration agreements. Direct subsidies / Main aspects to verify

- In the first case, the submission of the aid granted to the requirements, obligations and procedures set out in the Subsidies Act shall be verified. It should be noted in the audit report that, in this case, publicization will be relegated to a secondary importance, from a causal point of view, and will consist of the obligation to disseminate the sources of the funds received. It will never be the main reason for awarding the grant.
- In the second case, taking into account that the public body is not subsidizing an activity/project to be implemented by the beneficiary in his own interest, it should be noted in the report that the financial aid committed by the public body does not fulfil the requirements set out in the Subsidies Act to be considered a public subsidy, but rather a sponsorship contract which must comply with the principles of the onerous contract.

Auditing sponsorships with advertising purposes -7

Partnership/collaboration agreements. Direct subsidies / Main aspects to verify

- In this second case, the audit report must comment on the inadequacy of the partnership agreement as legal instrument to channel advertising services specific to the sponsorship contract and the failure to comply with the Public Sector Contracts Law. Even in the case when the partnership agreement formalizes subsidies specifically provided for in the budget of the public body granting them, it should be stated that the budgets of the body do not provide an appropriate legal basis for direct procurements.

Conclusion

- The point of view of the Audit Office:
 - If there is equivalence of services: the Public Sector Contracts Law should be applied.
 - Justification of the need and cost estimate of the service to be rendered
 - Competition or justification of its impossibility
 - If there is no equivalence: the Subsidies Act should be applied.
 - Assess the public interest to meet
 - Competition or justification of its impossibility
 - Justification of the actual implementation of the subsidized activity



Thank you very much!