



State Comptroller of Israel | Local Government
Audit Report | 2023

Follow-up Audit

Employment of External Consultants by Local Authorities – Follow-up Audit



Employment of External Consultants by Local Authorities – Follow-up Audit

Background

Local authorities usually engage with consultants without tendering to perform their duties (external consultants). The consultation services address architecture, engineering, organizational consulting, public relations, accounting, financial consulting, and more. The local authorities are obliged to comply with the provisions of the law and the directives of the Ministry of Interior, among other things regarding these engagements, while ensuring transparency, equality, proper administration, efficiency, and preservation of public funds.



Key Figures

1,121

the six examined local authorities' total engagements with external consultants in 2019–2021: in **Ashdod** (508), **Be'er Tuvia** (54), **Binyamina-Givatada** (125), **Givatayim** (258), **Herzliya** (148), **Kiryat Bialik** (28)

NIS 9.5 million

Be'er Tuvia regional council paid its consultants in 2019–2021

NIS 2.7 million

Herzliya municipality Paid its consultants in 2019–2021

63%

the **Herzliya** municipality payment share in 2021 to the five consultants with the highest earnings out of the total payments to its consultants

67%

the **Be'er Tuvia** regional council payment share in 2021 to the five consultants with the highest earnings out of the total payments to its consultants

67%

the **Be'er Tuvia** regional council engagements share with external consultants in 2019–2021, with no insurance appendix, out of 54 engagements

65%


the **Be'er Tuvia** regional council engagements share with external consultants in 2019–2021, in which a questionnaire for identifying conflicts of interest was not filled out or found, out of 54 engagements

NIS 2.09 million

the **Be'er Tuvia** regional council engagements sum with external consultants in 2019–2021 through work orders with no obligations and rights details nor signed agreements




Audit Actions


 From June to August 2022, the State Comptroller's Office conducted a follow-up audit on the rectifications of the key deficiencies noted in the previous report (the previous audit)¹ including the employment of external consultants by local authorities² (the follow-up audit), and the implementation of the "Directive for engagements for the performance of professional work requiring special knowledge and expertise or special trust relationships exempt from tendering" (the Ministry of Interior Directive or the Directive) that was published in the Ministry of Interior's Director General Circular after the publication of the previous report, to regulate the authorities' engagements with external consultants³. Additional topics not included in the previous report, such as documentation of the engagements with consultants, payment to consultants, and the costs of hiring the consultants, were also audited. The follow-up audit was carried out in the **Herzliya** municipality, the **Be'er Tuvia** regional council, and the Ministry of Interior, and a questionnaire was sent to the **Ashdod**, **Givatayim** and **Kiryat Bialik** municipalities and the **Binyamina-Givat Ada** local authorities which were examined in the previous audit as well.

Key Findings



 **The Ministry of Interior's Control Over the Local Authorities' Engagements with External Consultants** – from 2018 to the audit date, the Ministry of Interior did not audit and monitor the local authorities' engagements with external consultants. It did not verify whether the authorities applied the provisions of the directive it set. However, it should be noted that in June 2022, the Ministry of Interior instructed the auditors to examine the above engagements to prepare detailed reports for 2021 (as of the audit date, the reports had not been published). Furthermore, no official in the Ministry of Interior is in charge of handling the local authorities' engagements with consultants.





 **The Local Authorities' Control Over the External Consultants' Employment** – the previous audit raised that the **Herzliya** municipality did not regulate the procedures for the consultants' reporting on their activities, the municipality's supervision thereof,


- 1 State Comptroller, **Local Government Audit Reports For 2015** (2015), "Employment of External Consultants by Local Authorities".
- 2 The audit did not include engagements with legal consultants.
- 3 The Ministry of Interior's Director General Circular 8/2016 from November 2016.




and the mechanism for approving the consultants' payment demands. The **Be'er Tuvia** regional council reported to the State Comptroller's Office that the consultant directive would include an additional chapter on the supervision and control procedures. The follow-up audit found that the deficiency was not rectified. The **Herzliya** municipality did not have in its consultants' directive the supervision and control procedures over the consultant's work, and the **Be'er Tuvia** regional council, contrary to the above report, did not address in its directives the supervision and control processes required for the council's engagements with consultants and for examining its previous experience with consultants before deciding on a future engagement with them and did not address the documentation of said processes and their products.

 **Mechanisms for Regulating the Engagement with Consultants in the Local Authorities** – the **Binyamina-Givat Ada** local authorities have no directive regulating the process for its engagements with external consultants, including managing the consultants' database, examining the engagement with consultants and managing the engagement until its conclusion.


 **Examining Concerns of Conflicts of Interest** – the previous audit raised that the **Be'er Tuvia** regional council, for an extended period, did not settle the concern of conflicts of interest in employing external consultants. Moreover, even after the Ministry of Interior published relevant instructions, it implemented them only after four years. The Council did not stipulate in the agreements with its consultants that they are obligated to fill out a questionnaire for identifying conflicts of interest as a condition of their employment and did not require them to fill out the above questionnaire. The follow-up audit found that the deficiency was not rectified – the council did not incorporate a guideline to fill out a questionnaire for identifying conflicts of interest into its directives. In about 65% of the council's engagements in 2019–2021, the questionnaires were not filled out or found in the council's possession.


 **Documentation of Engagement with Consultants** – the follow-up audit found that the **Be'er Tuvia** regional council did not find any documents on its engagements with consultants in 2019–2021, including agreements, work orders, insurance appendices of some consultants, and questionnaires for identifying conflicts of interest. As part of addressing the audit report, the council furnished missing documents regarding agreements, work orders, insurance appendices, questionnaires for identifying conflicts of interest, and affidavits regarding the absence of conflict of interest. Still, there were no questionnaires for identifying conflicts of interest for about 65% of the engagements; for one engagement out of 54 engagements, no agreement or work order was found, and the insurance appendices rate that were not in the possession of the council ranged from about 62% (18 out of 29) in 2019 to about 82% (9 out of 11) in 2021.


 **Engagements Through Work Orders and Without an Agreement** – the previous audit raised that in 2012–2014, in 18 cases, the **Be'er Tuvia** regional council engaged with consultants through work orders and without an agreement that would anchor the



details of the essential engagement, such as the purposes of the engagement, its requirements, the period of the engagement, the remuneration for the engagement and the remedies available to the council in the event of disputes between it and the service provider. The follow-up audit found that the deficiency was not rectified – about 69% of the council's engagements (37 out of 54) in 2019–2021, at NIS 2.09 million, and for which information was received, were made through work orders that did not include details of the parties' obligations and rights and without any agreements being signed.

 **Establishing a Consultants Database and Publishing it** – in December 2021, the **Be'er Tuvia** regional council set up a computerized database of consultants; The database was published in January 2022, but until the completion of the audit, the Council's Committee of Three made no use of it. Furthermore, as of the audit date, 30 out of 48 consulting areas in the council's consultant database had at most three consultants in the database; in 19 areas, only one consultant was registered. Following the audit, the council expanded the list of consultants in the database, so out of 19 consulting areas in which one consultant was registered, 6 such areas remain.

 **Publication of Information About the Authorities' Engagements with External Consultants on the Official Websites** – the **Be'er Tuvia** regional council did not publish on its website about 73% (47 out of 64) of the resolutions from the Engagements Committee's deliberations – the Committee of Three – regarding the Council's engagements with external consultants in 2019–2022, in contravention of the Ministry of Interior Directive. The rate of unpublished resolutions was particularly high in 2019, when about 94% were not published.

 **Costs of Hiring Consultants on an Hourly Basis** – the Ministry of Interior did not establish a provision for the local authorities' engagement tariffs, with external consultants. It did not instruct them to base themselves on the TAKAM directives (the Finance and Economy Directives, published by the Accountant General Division of the Ministry of Finance for the use of the government ministries on the rates for contracting with external service providers and contracted workers). In 9 out of 11 engagements sampled in the **Herzliya** municipality, it paid the consultants an hourly wage corresponding to the wage defined in the TAKAM directive. The salary was higher in two engagements than the wage specified in the TAKAM directive. In 2 out of 3 engagements sampled in the **Be'er Tuvia** regional council, it paid an hourly wage that matched the wage defined in the TAKAM directive. Regarding the third engagement, the consultant was given an hourly wage higher than the TAKAM rate.



The Ministry of Interior Directive for Engagements with Consultants – until the previous audit completion in mid-2015, the Ministry of Interior had not published a directive for local authorities' contracts with service providers through tender exemption. The follow-up audit found that the deficiency was fully rectified. In the Ministry of Interior's Director General Circular 8/2016, the "Directive for engagements for the



performance of professional work requiring special knowledge and expertise or special trust relationships exempt from tendering" was published.

Establishing a Pool of Consultants – the previous audit raised that the **Givatayim** and **Herzliya** municipalities did not have a pool of consultants available, and the **Ashdod** municipality operated a pool of consultants only in planning. The follow-up audit found that the deficiency has been fully rectified – the **Ashdod**, **Givatayim**, and **Herzliya** municipalities have established computerized databases of consultants to which one can register through the Internet, and it is made available to the public.






Mechanisms for Regulating the Engagement with Consultants in the Local Authorities – the previous audit raised that the **Herzliya** municipality and the **Be'er Tuvia** regional council did not have a directive for engagement with local consultants. The follow-up audit found that the deficiency was fully rectified by the **Herzliya** municipality and largely by the **Be'er Tuvia** regional council.

Examining Concerns of Conflicts of Interest in the Herzliya Municipality – the previous audit raised that the **Herzliya** municipality did not resolve the concern of conflict of interest in the employment of external consultants in directives or another way. In several cases, the municipality did not insist that their consultants fill out a questionnaire for identifying conflicts of interest. The follow-up audit found that the deficiency was fully rectified. The municipality has included in engagements with consultants that the one ordering the engagement must check with the external consultant that all the documents required for the engagement have been submitted according to the directive terms and signed as required. The municipality's legal advisor reviews the conflict of interest questionnaires, and the municipality requires that as part of registering a consultant to the database, the consultant fills out a questionnaire to identify conflicts of interest. An examination of the municipality's engagements with consultants in 2021 found that the municipality made sure that all consultants filled out the questionnaire again close to the date of signing the contract.

Engagements Through Work Orders and Without an Agreement in the Herzliya Municipality – the previous audit raised that in 2012–2014, the **Herzliya** municipality, in nine cases, engaged with consultants through work orders and without an agreement that would anchor the essential details of the engagement, such as the purposes of the engagement, its requirements, the period of the engagement, the remuneration for the engagement and the remedies that would be available to the municipality in the event of disputes between it and the service provider. The follow-up audit found that the deficiency was fully rectified – even in cases where the municipality entered into engagements through work orders, it anchored the parties' obligations and rights in the main clauses of the engagement.


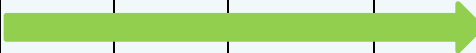


Key Recommendations

-  It is recommended that the Ministry of Interior, as the regulator of the local authorities' activities, establish a supervision and control mechanism for the authorities' engagements with external consultants, including, among other things, a reference to the frequency with which the subject will be reviewed in the audits carried out by it. The local authorities should comply with the provisions of the law and the Ministry of Interior Directive in their engagements with consultants, and among other things, act transparently and publish their reasoned decisions, sign engagement agreements with the consultants that regulate and specify all of the parties' obligations and rights and establish supervision and control mechanisms for the consultants' activities.
-  The **Herzliya** municipality and the **Be'er Tuvia** regional council should act transparently and publish reasoned decisions in their engagements with external consultants. Moreover, they should establish supervision and control mechanisms for the consultants' activities.
-  The **Be'er Tuvia** regional council should sign engagement agreements with the consultants to regulate and specify all parties' obligations and rights. It is also recommended that the Council increase the number of bidders in the database it establishes.
-  The **Be'er Tuvia** regional council should establish in its directives a guideline regarding the obligation to fill out a questionnaire for identifying conflicts of interest as a condition for engaging with an external consultant. Furthermore, it should ensure that all their external consultants will fill out the questionnaire before the beginning of the engagement with them and that a legal adviser on behalf of the council will review the questionnaires.
-  It is recommended that similar to the publication of the Accountant General's tariffs booklet, the Ministry of Interior consider publishing a booklet with minimum and maximum tariffs for the employment of consultants in local authorities according to the classification of different areas of consultation or, alternatively, instruct the authorities to base themselves on Accountant General's tariffs.



The Extent the Key Deficiencies Noted in the Previous Report were Rectified

| The Audit Chapter | The Audited Body | The Deficiency Noted in the Previous Audit | The Extent of Deficiencies Rectification Noted in the Follow-up Audit | | | |
|--|---------------------------|--|--|--------------------|-------------------------|-----------------|
| | | | Not Rectified | Slightly Rectified | Significantly Rectified | Fully Rectified |
| The authorities control over the employment of external consultants | The Herzliya municipality | The Herzliya municipality did not regulate procedures for the consultants' reporting on their activities, the municipality's supervision thereof, and the mechanism for approving the consultants' payment demands. |  | | | |
| The regulation of the engagements of the local authorities with external consultants | The Ministry of Interior | Despite the expansive interpretation given by the local authorities to the provisions of the law regarding their engagement with service providers through the tender exemption, the Ministry of Interior did not publish a directive regarding the employment of external consultants by local authorities. |  | | | |



| The Audit Chapter | The Audited Body | The Deficiency Noted in the Previous Audit | The Extent of Deficiencies Rectification Noted in the Follow-up Audit | | | |
|--|---|--|---|--------------------|-------------------------|-----------------|
| | | | Not Rectified | Slightly Rectified | Significantly Rectified | Fully Rectified |
| Examination of concern of conflict of interest | The Herzliya municipality | The Herzliya municipality and the Be'er Tuvia regional council did not settle the concern of conflicts of interest in employing external consultants. | | | | |
| | The Be'er Tuvia regional council | | | | | |
| Engagements through work orders and without an agreement | The Herzliya municipality | In 2012–2014, the municipality contracted, in nine cases, with consultants through work orders and without an agreement that would anchor the essential details of the contract. | | | | |
| | The Be'er Tuvia regional council | In 2012–2014, the council contracted, in 18 cases, with consultants through work orders and without an agreement that would anchor the essential details of the contract. | | | | |



| The Audit Chapter | The Audited Body | The Deficiency Noted in the Previous Audit | The Extent of Deficiencies Rectification Noted in the Follow-up Audit | | | |
|---|---|---|---|--------------------|-------------------------|-----------------|
| | | | Not Rectified | Slightly Rectified | Significantly Rectified | Fully Rectified |
| Establishment of a pool of consultants | The Givatayim , Herzliya , and Ashdod municipalities | The Givatayim and Herzliya municipalities operated without a pool of consultants, and the Ashdod municipality operated a pool of consultants only in planning. | | | | |
| | | | | | | |
| Mechanisms for regulating engagements with consultants in local authorities | The Herzliya municipality | The Herzliya municipality and the Be'er Tuvia regional council had no directives for contracting with consultants. | | | | |
| | The Be'er Tuvia regional council | | | | | |
| | | | | | | |



Summary

The local authorities serve as the public trustee, and they customarily enter into engagements with external consultants through an exemption from tendering to perform their duties in various fields. The above engagements add up to considerable sums; thus, the **Be'er Tuvia** regional council paid consultants in 2019–2021 about NIS 9.51 million, and the **Herzliya** municipality paid its consultants in 2019–2021 about NIS 2.68 million. The previous audit report found that the examined local authorities engaged with external consultants for considerable sums not according to the rules of proper governance and through procedures that are not transparent and equitable. The follow-up audit found that some of the deficiencies noted in the previous report were rectified, some partially rectified, and some not. The Ministry of Interior rectified the deficiency regarding finalizing regulating the local authorities' engagements with consultants exempt from tendering. However, it did not establish a supervision and control mechanism for the authorities' engagements with external consultants.

Furthermore, the **Herzliya** municipality and the **Be'er Tuvia** regional council did not include in their directives control instructions for their engagements with external consultants and their work, and no documents were found according to which they carried out the said control. The **Be'er Tuvia** regional council did not engage with the consultants through agreements that included the essential details of the engagement and the rights and obligations of each party. It is recommended that the Ministry of Interior and the local authorities establish supervision and control mechanisms for engagements with external consultants. Furthermore, the local authorities should apply the provisions of the law and the Ministry of Interior Directive in their engagements with the consultants.

