



2014

Annual Activity Report

Annexes

**Directorate-General
for Informatics**



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ANNEXES

ANNEX 1: Statement of the Resources Director

I declare that in accordance with the Commission's communication on clarification of the responsibilities of the key actors in the domain of internal audit and internal control in the Commission¹, I have reported my advice and recommendations to the Director-General/Executive Director on the overall state of internal control in the DG/Executive Agency.

I hereby certify that the information provided in Parts 2 and 3 of the present AAR and in its annexes is, to the best of my knowledge, accurate and exhaustive.

Brussels, 20 March 2015

(signed)

Bernard MAGENHANN

¹ Communication to the Commission: Clarification of the responsibilities of the key actors in the domain of internal audit and internal control in the Commission; SEC(2003)59 of 21.01.2003.

ANNEX 2: Human and Financial resources

Table 1 – Human Resources by ABB activity

Human Resources by ABB activity				
Code ABB Activity	ABB Activity	Establishment Plan posts	External Personnel	Total
26 03	Services to public administrations, businesses and citizens	13	3	16
26 AWBL-30	Policy strategy and coordination for the Directorate-General for Informatics	10	7	17
26 AWBL-31	Corporate ICT infrastructure solutions	136	6	142
26 AWBL-32	Information system governance – ICT consulting, information systems development and support	142	4	146
26 AWBL-33	Administrative support for the Directorate-General for Informatics	89	7	96
26 AWBL-34	ICT infrastructure service provisions	105	3	108
Total		495	30	525

General remark: the above data rely on the snapshot of Commission personnel actually employed in each DG/ service as of 31 December of the reporting year. These data do not necessarily constitute full-time-equivalents throughout the year.

Table 2 - Implementation of decentralised administrative authorised operations of the global envelope as of 31 December 2014

Implementation of decentralised administrative authorised operations of the global envelope as of 31 December 2014 (EUR)				
Budget line	Appropriations	Commitments	Payments	% Execution
26.010211.00.01.10	507,761	507,761	416,786	
26.010211.00.01.30	-	-	-	
26.010211.00.02.20	-	-	-	
26.010211.00.02.40	60,866	60,866	51,974	
26.010211.00.03	19,500	19,500	9,582	
26.010211.00.04	183,508	183,508	63,025	
26.010211.00.05	3,799,596	3,798,156	702,139	
26.010211.00.06	251,736	251,736	149,325	
Total	4,822,967	4,821,527	1,392,831	99.97%

ANNEX 3: Draft annual accounts and financial reports

AAR 2014 Version 1

Annex 3 Financial Reports - DG DIGIT - Financial Year 2014

Table 1 : Commitments

Table 2 : Payments

Table 3 : Commitments to be settled

Table 4 : Balance Sheet

Table 5 : Statement of Financial Performance

Table 6 : Average Payment Times

Table 7 : Income

Table 8 : Recovery of undue Payments

Table 9 : Ageing Balance of Recovery Orders

Table 10 : Waivers of Recovery Orders

Table 11 : Negotiated Procedures (excluding Building Contracts)

Table 12 : Summary of Procedures (excluding Building Contracts)

Table 13 : Building Contracts

Table 14 : Contracts declared Secret

TABLE 1: OUTTURN ON COMMITMENT APPROPRIATIONS IN 2014 (in Mio €)					
			Commitment appropriations authorised	Commitments made	%
			1	2	3=2/1
Title 26 Commission's administration					
26	26 01	Administrative expenditure of the Commission's administration- policy area	10.11209191	9.23480398	91.32 %
	26 03	Services to public administrations, businesses and citizens	25.30567411	25.098681	99.18 %
Total Title 26			35.41776602	34.333485	96.94%
Title XX.010301.11.03					
XX.0103	XX.010301.11.03		66.88143969	63.5835631	95.07 %
Total Title XX.010301.11.03			66.88143969	63.5835631	95.07%
Title XX.010301.11.04					
XX.0103	XX.010301.11.04		78.24925649	74.4135677	95.10 %
Total Title XX.010301.11.04			78.24925649	74.4135677	95.10%
Total DG DIGIT			180.5484622	172.330616	95.45 %

* Commitment appropriations authorised include, in addition to the budget voted by the legislative authority, appropriations carried over from the previous exercise, budget amendments as well as miscellaneous commitment appropriations for the period (e.g.

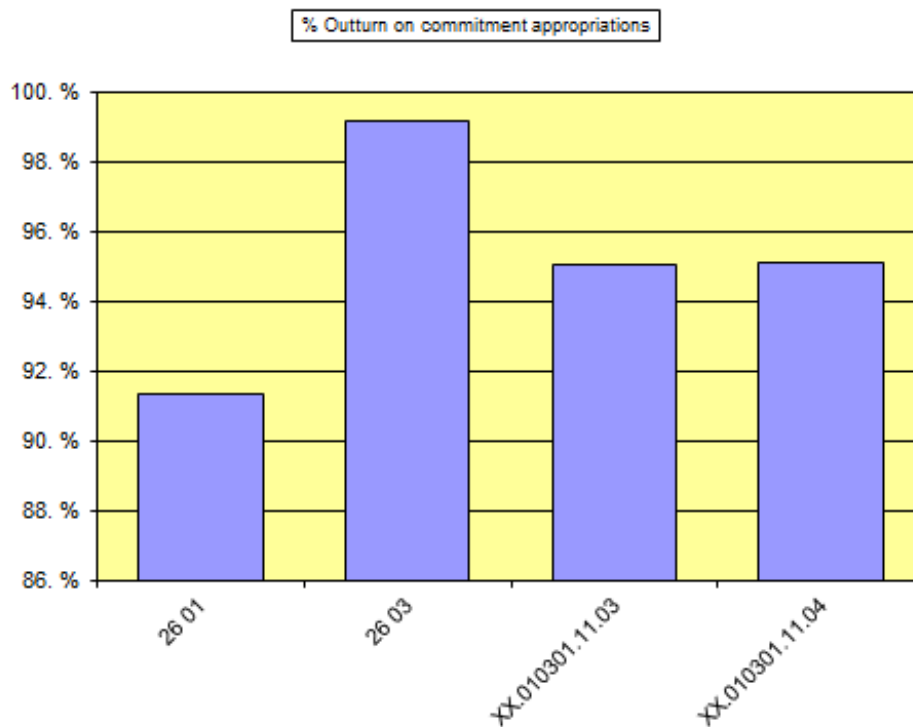


TABLE 2: OUTTURN ON PAYMENT APPROPRIATIONS IN 2014 (in Mio €)					
Chapter			Payment appropriations authorised	Payments made	%
			1	2	3=2/1
Title 26 Commission's administration					
26	26 01	Administrative expenditure of the Commission's administration-policy area	14.74191109	7.80790868	52.96 %
	26 03	Services to public administrations, businesses and citizens	25.12510759	24.4019538	97.12 %
Total Title 26			39.86701868	32.20986248	80.79%
Title XX.010301.11.03					
XX.0	XX.010301.11.03		81.65491402	62.721965	76.81 %
Total Title XX.010301.11.03			81.65491402	62.721965	76.81%
Title XX.010301.11.04					
XX.0	XX.010301.11.04		115.0064571	78.76499994	68.49 %
Total Title XX.010301.11.04			115.0064571	78.76499994	68.49%
Total DG DIGIT			236.5283898	173.6968274	73.44 %

* Payment appropriations authorised include, in addition to the budget voted by the legislative authority, appropriations carried over from the previous exercise, budget amendments as well as miscellaneous payment appropriations for the period (e.g. internal and external assigned revenue).

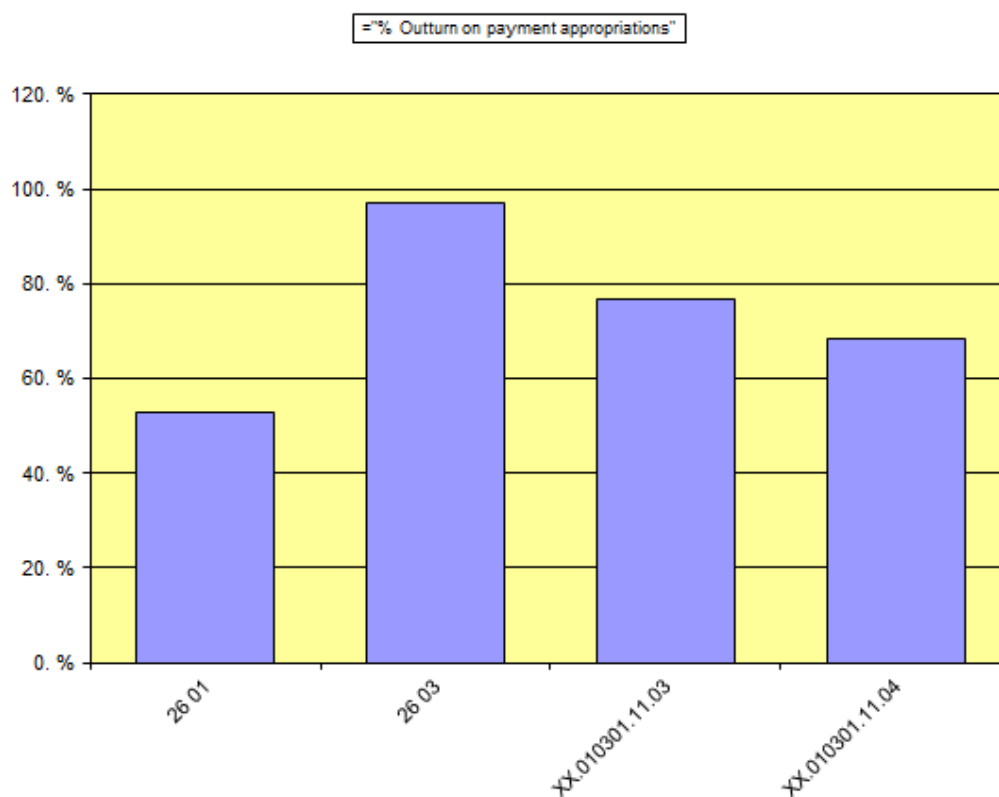


TABLE 3 : BREAKDOWN OF COMMITMENTS TO BE SETTLED AT 31/12/2014 (in Mio €)

			2014 Commitments to be settled				Commitments to be settled from financial years previous to 2014	Total of commitments to be settled at end of financial year 2014(incl corrections)	Total of commitments to be settled at end of financial year 2013(incl. corrections)
Chapter			Commitments 2014	Payments 2014	RAL 2014	% to be settled			
			1	2	3=1-2	4=1-2/1	5	6=3+5	7
Title 26 : Commission's administration									
26	26 01	Administrative expenditure of the 'Commission-s administration- policy area	9.23480398	3.36	5.87738386	63.64 %	0.00	5.88	4.63
	26 03	Services to public administrations, businesses and citizens	25.098681	2.89	22.2044091	88.47 %	13.04	35.25	34.59
Total Title 26			34.333485	6.25	28.0817929	81.79%	13.04498911	41.12678205	39.2199559
Total DG DIGIT			34.333485	6.25	28.0817929	81.79 %	13.04498911	41.12678205	39.2199559

= "Breakdown of Commitments remaining to be settled (in Mio EUR)"

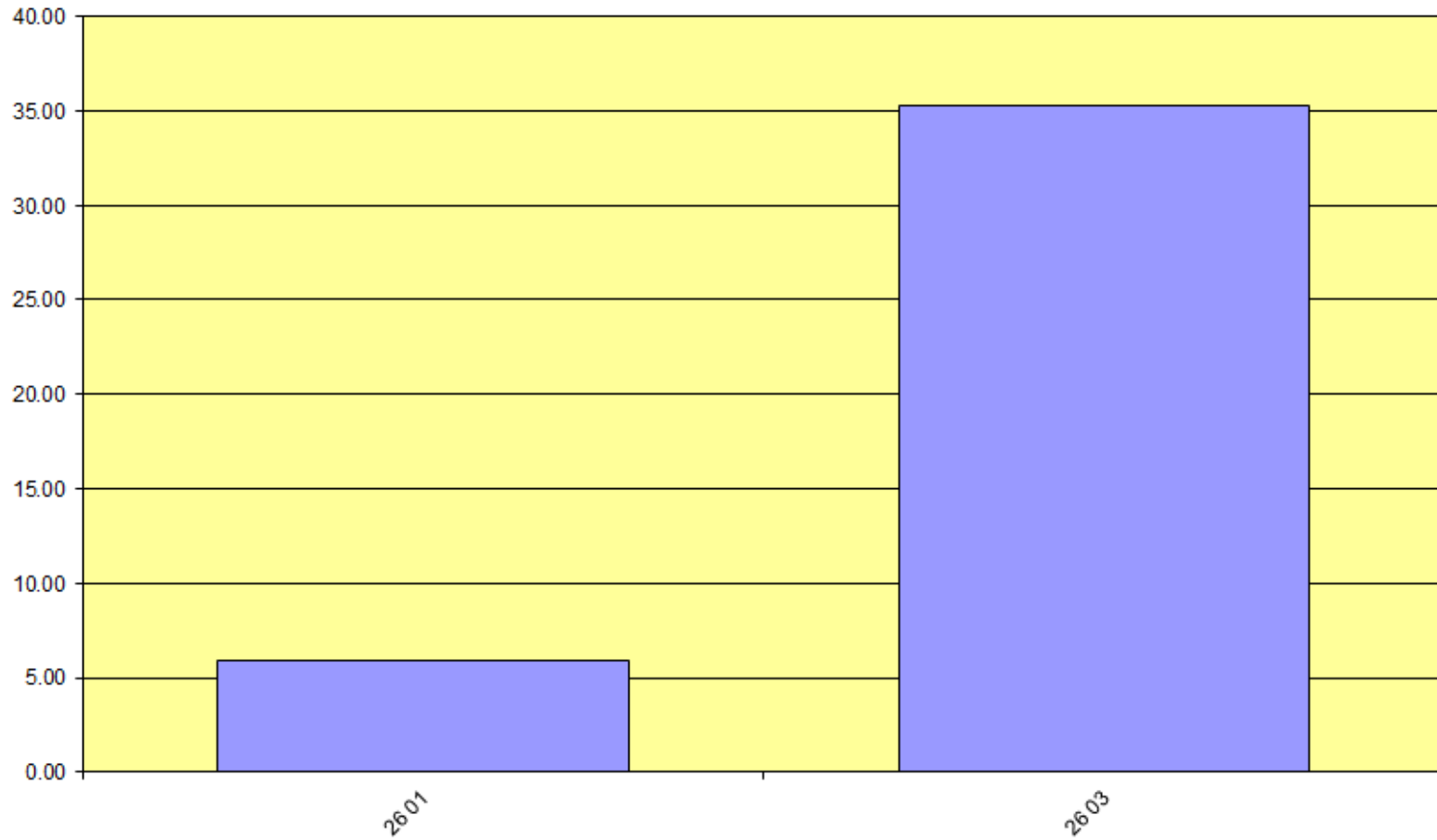


TABLE 4 : BALANCE SHEET

BALANCE SHEET	2014	2013
A.I. NON CURRENT ASSETS	45962366.98	46280120.11
A.I.1. Intangible Assets	7,387,169.22	7,012,556.32
A.I.2. Property, plant and equipment	38,575,197.76	39,267,563.79
A.II. CURRENT ASSETS	1715751.83	4158108.59
A.II.4. Exchange Receivables	844,937.14	3,080,789.00
A.II.5. Non-Exchange Receivables	864,150.47	1,054,377.77
A.II.7. Cash and Cash Equivalents	6,664.22	22,941.82
ASSETS	47678118.81	50438228.7
P.II. NON CURRENT LIABILITIES	-8665245.03	-8665245.03
P.II.3. Long-term financial liabilities	-8,665,245.03	-8,665,245.03
P.III. CURRENT LIABILITIES	-5680959.36	-51815670.17
P.III.3. Short-term financial liabilities	-3,335,413.47	-5,524,224.25
P.III.4. Accounts Payable	-2,345,545.89	-4,382,944.77
P.III.5. Accrued charges and deferred income	0.00	-41,908,501.15
LIABILITIES	-14346204.39	-60480915.2
NET ASSETS (ASSETS less LIABILITIES)	33331914.42	-10,042,686.50
P.I.2. Accumulated Surplus / Deficit	159737354.7	-42829266.88
Non-allocated central (surplus)/deficit*	-193069269.1	52871953.38
TOTAL	0.00	0.00

It should be noted that the balance sheet and economic outturn account presented in Annex 3 to this Annual Activity Report, represent only the (contingent) assets, (contingent) liabilities, expenses and revenues that are under the control of this Directorate General. Significant amounts such as own resource revenues and cash held in Commission bank accounts are not included in this Directorate General's accounts since they are managed centrally by DG Budget, on whose balance sheet and economic outturn account they appear. Furthermore, since the accumulated result of the Commission is not split amongst the various Directorates General, it can be seen that the balance sheet presented here is not in equilibrium.

Additionally, the figures included in tables 4 and 5 are provisional since they are, at this date, still subject to audit by the Court of Auditors. It is thus possible that amounts included in these tables may have to be adjusted following this audit.

Moreover, these figures are preliminary as they do not take into account year-end closing bookings concerning the following areas: accrued and deferred charges, ITFA costs, financial leasing costs and liabilities, operational leasing costs. These transactions will have, cumulatively, a material impact on the Balance Sheet and the Economic Outturn Account.

TABLE 5 : STATEMENT OF FINANCIAL PERFORMANCE

STATEMENT OF FINANCIAL PERFORMANCE	2014	2013
II.1 REVENUES	-26380114.2	-24971954.74
II.1.1. NON-EXCHANGE REVENUES	-841401.88	-79058.87
II.1.1.6. OTHER NON-EXCHANGE REVENUES	-841,401.88	-79,058.87
II.1.2. EXCHANGE REVENUES	-25538712.32	-24892895.87
II.1.2.2. OTHER EXCHANGE REVENUE	-25,538,712.32	-24,892,895.87
II.2. EXPENSES	174717922.9	227538576.3
II.2. EXPENSES	174717922.9	227538576.3
11.2.10. OTHER EXPENSES	168,514,173.33	209,172,302.58
II.2.2. EXP IMPLM BY COMMISS&EX.AGENC. (DM	6,199,302.96	18,879,925.91
II.2.6. STAFF AND PENSION COSTS		-1,326,828.77
II.2.8. FINANCE COSTS	4,446.61	813,176.57
STATEMENT OF FINANCIAL PERFORMANCE	148,337,808.70	202,566,621.55

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TABLE 6: AVERAGE PAYMENT TIMES FOR 2014 - DG DIGIT

Legal Times							
Maximum Payment Time (Days)	Total Number of Payments	Nbr of Payments within Time Limit	Percentage	Average Payment Times (Days)	Nbr of Late Payments	Percentage	Average Payment Times (Days)
30	7098	6673	94.01 %	15.13187472	425	5.99 %	69.87294118
45	13	10	76.92 %	15	3	23.08 %	101
60	31	20	64.52 %	35.85	11	35.48 %	103.2727273

Total Number of Payments	7142	6703	93.85 %		439	6.15 %	
Average Payment Time	18.61901428			15.19349545			70.92255125

Target Times							
Target Payment Time (Days)	Total Number of Payments	Nbr of Payments within Target Time	Percentage	Average Payment Times (Days)	Nbr of Late Payments	Percentage	Average Payment Times (Days)
30	6131	5755	93.87 %	14.79322328	376	6.13 %	75.07446809

Total Number of Payments	6131	5755	93.87 %		376	6.13 %	
Average Payment Time	18.49013212			14.79322328			75.07446809

Suspensions							
Average Report Approval Suspension	Average Payment Suspension Days	Number of Suspended Payments	% of Total Number	Total Number of Payments	Amount of Suspended Payments	% of Total Amount	Total Paid Amount
0	35	410	5.74 %	7142	11,577,733.68	5.42 %	213,629,105.00

Late Interest paid in 2014			
DG	GL Account	Description	Amount (Eur)
DIGIT	65010000	Interest expense on late payment of charges	721.71
DIGIT	65010100	Interest on late payment of charges New FR	3 724.90
			4 446.61

TABLE 7 : SITUATION ON REVENUE AND INCOME IN 2014

Chapter		Revenue and income recognized			Revenue and income cashed from			Outstanding balance
		Current year RD	Carried over RD	Total	Current Year RD	Carried over RD	Total	
		1	2	3=1+2	4	5	6=4+5	
57	AUTRES CONTRIBUTIONS ET RESTITUTIONS LIÉES AU FONCTIONNEMENT ADMINISTRATIF DE L'INSTITUTION	25645083.79	1201277.77	26846361.56	22935945.26	1201277.77	24137223.03	2709138.53
90	RECETTES DIVERSES	485250.17	0	485250.17	485250.17	0	485250.17	0
Total DG DIGIT		26130333.96	1201277.77	27331611.73	23421195.43	1201277.77	24622473.2	2709138.53

**TABLE 8 : RECOVERY OF UNDUE PAYMENTS
(Number of Recovery Contexts and corresponding Transaction Amount)**

INCOME BUDGET RECOVERY ORDERS ISSUED IN 2014	TOTAL Qualified		TOTAL RC(incl. non-qualified)		% Qualified/Total RC	
	Nbr	RO Amount	Nbr	RO Amount	Nbr	RO Amount
Year of Origin (commitment)						
No Link			204	15,416,177.10		
Sub-Total			204	15,416,177.10		

EXPENSES BUDGET	Error		Irregularity		OLAF Notified		TOTAL Qualified		TOTAL RC(incl. non-qualified)		% Qualified/Total RC	
	Nbr	Amount	Nbr	Amount	Nbr	Amount	Nbr	Amount	Nbr	Amount	Nbr	Amount
INCOME LINES IN INVOICES	1	78.83					1	78.83	3	78,090.49	33.33%	0.10%
NON ELIGIBLE IN COST CLAIMS												
CREDIT NOTES									344	5,138,047.42		
Sub-Total	1	78.83					1	78.83	347	5216137.91	0.29%	0.00%
GRAND TOTAL	1	78.83					1	78.83	551	20632315.01	0.18%	0.00%

TABLE 9: AGEING BALANCE OF RECOVERY ORDERS AT 31/12/2014 FOR DIGIT

	Number at 01/01/2014	Number at 31/12/2014	Evolution	Open Amount (Eur) at 01/01/2014	Open Amount (Eur) at 31/12/2014	Evolution
2013	10		-100.00 %	1,201,277.77		-100.00 %
2014		18			1,709,087.61	
	10	18	80.00 %	1,201,277.77	1,709,087.61	42.27 %

TABLE 10 : RECOVERY ORDER WAIVERS IN 2014 >= EUR 100.000

	Waiver Central Key	Linked RO Central Key	RO Accepted Amount (Eur)	LE Account Group	Commission Decision	Comments

Total DG	
-----------------	--

Number of RO waivers	
-----------------------------	--

Justifications:

Please enter the text directly (no copy/paste of formatted text which would then disappear when saving the document in pdf), use "ctrl+enter" to go to the next line and "enter" to validate your typing.

TABLE 11 : CENSUS OF NEGOTIATED PROCEDURES - DG DIGIT - 2014**Procurement > EUR 60,000**

Negotiated Procedure Legal base	Number of Procedures	Amount (€)
Art. 134.1(b)	3	115,244,045.00
Total	3.	115,244,045.00

The note explaining the factual reasons of using the above indicated negotiated procedures can be found at the end of Annex 3.

TABLE 12 : SUMMARY OF PROCEDURES OF DG DIGIT EXCLUDING BUILDING CONTRACTS

Internal Procedures > € 60,000		
Procedure Type	Count	Amount (€)
Exceptional Negotiated Procedure without publication of a contract notice (Art. 134 RAP)	3	115,244,045.00
Open Procedure (Art. 127.2 RAP)	5	1,602,475,405.73
TOTAL	8	1,717,719,450.73

Additional comments

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TABLE 13 : BUILDING CONTRACTS

Total number of contracts :	
Total amount :	

Legal base	Contract Number	Contractor Name	Description	Amount (€)

No data to be reported

TABLE 14 : CONTRACTS DECLARED SECRET

Total Number of Contracts :	
Total amount :	

Legal base	Contract Number	Contractor Name	Type of contract	Description	Amount (€)

No data to be reported



Brussels,
DIGIT.R1/SH/SZ/vf/894479s

File followed by F. Morales

NOTE TO THE FILE

Subject: Report on the negotiated procedures in 2014

Ref.: Art 53 of the rules of application of the Financial Regulation
Standing instructions for the 2014 AAR Ares(2014) 3722820 of 10/11/2014
"Model Template Annex 3"

1. INTRODUCTION

Pursuant to Article 53 of the rules of application of the Financial Regulation, I am required, in my capacity as Authorising Officer by Delegation, to draw up the present report, which is aimed at explaining the situation concerning negotiated procedures (NP).

2. STRATEGIC BACKGROUND

The following considerations need to be taken into account:

As far as DIGIT's partners are concerned:

- DIGIT provides a contractual framework which caters for the needs of the Commission's central infrastructure as well as for the common IT service needs of all the DGs. These needs are mostly covered by DIGIT framework contracts which are the legal instruments resulting from the procurement procedures launched to acquire hardware, software and IT services.
- In addition, in some cases, DIGIT may provide help to specific DGs for certain complex NPs and act as "*chef de file*" for these files. The resulting contracts following these NPs count towards DIGIT's statistics.

- DIGIT launches Interinstitutional calls for tenders open to all European Union Institutions agencies and other bodies (EUIs). These interinstitutional procedures require that, in some cases, DIGIT (as "*chef de file*") launches negotiated procedures on behalf of all the participating EU institutions, bodies and agencies (EUIs). The number of EUIs joining DIGIT framework contracts is quite significant and may go up to some 60 EUIs participating in some DIGIT framework contracts. The appropriateness of this approach has recently been confirmed by the circular from DG BUDG on inter-institutional procurement procedures, which advises that the DG acting as *chef de file* conducts negotiated procedures on behalf of all the participating EUIs. This avoids that, in cases where the original expenditure ceiling is reached, the EUIs have to conduct a large number of negotiated procedures of a relatively low value which would result in ineffective procurement and use of resources. The resulting negotiated procedures also count on DIGIT's statistics whereas in most of the cases DIGIT's use of the resulting contracts only accounts for small percentages compared to the use made by DGs and other institutions.

As far as the subject matter of DIGIT's procedures is concerned:

- DIGIT's mission is to enable the Commission to make effective and efficient use of Information and Communication Technologies in order to achieve its organisational and political objectives. The role of DIGIT as "IT facilitator" is essential to achieve this goal. DIGIT framework contracts are intensively used – to a greater or lesser extent – by all DGs and Commission services. DIGIT conducts negotiated procedures to allow DGs continue their operations without any disruption in the context of DGs specific needs.
- DIGIT has to implement political and organisational decisions that may have great impact on the ongoing contracts volumes or lead to the conclusion of new contracts.
- DIGIT has to protect the investments made in relation to proprietary licenses, necessary upgrades and developments while ensuring the continuity of the existing applications in compliance with the applicable procurement rules. A number of software products deployed at the Commission require long term investments in order to ensure that the maintenance and support is provided during the whole operational duration.
- DIGIT has to conclude negotiated procedures in areas where there is a de facto monopoly situation and therefore no room for launching an open call for tenders.

3. FIGURES FOR 2014

3.1. Global presentation

The table below summarises the proportion of NPs awarded by DIGIT in the last years, both in number of procedures and in volume:

Year	Number of procedures			Value		
	NPs	Total	%NPs	NPs (EUR)	Total (EUR)	% NPs
2014	3	8	37,5%	115 244 045	1 717 719 450	6,7%
2013	8	14	57,1%	118 160 751	742 628 254	15,9%
2012	6	16	37,5%	158 780 833	779 464 664	20,3%
2011	12	15	80%	147 571 490	343 428 342	42,9%
2010	7	15	46,6%	4 005 256	997 810 384	0,4%
2009	11	16	68,75%	222 059 870	345 929 473	64,1%
2008	7	24	29.1%	18 035 041	287 330 193	6.3%
2007	10	27	37.0%	39 662 273	304 497 237	13.1%
2006	12	19	63.2%	75 196 031	897 351 478	8.3%

The above table shows that, in terms of number of procedures, in 2014, NPs account for 37,5% of the total number of procurement procedures (open and negotiated).

In terms of value, it must be stressed that in 2014 NPs account for 6,7% of the total value of all the procurement procedures (open and negotiated).

At first sight, the number of negotiated procedures could seem high compared to the total number of procedures but when considering the value of those NPs, they actually account for a very low percentage of the total value of procurement procedures awarded this year.

3.2. Breakdown by type

All the 3 negotiated procedures awarded this year aimed at concluding new contracts. The legal basis used is Article 134(1)(b) RAP ("protection of exclusive rights and technical captivity").

The following table shows relevant details about the total volume of the negotiated procedures in 2014:

Procedure	Description	Award Decision Signed	Contractor	Global Amount (Commission+institutions,bodies/agencies)	Amount Commission	Supply/ Services
DIGIT/R2/PN/2013/068	FOAE Microsoft services	15/04/2014	Microsoft NV/SA	€ 44,000,000.00	€ 4,237,714.78	Services
DIGIT/R2/PN/2014/013	SAP	13/10/2014	SAP Belgium SA	€ 2,271,500.00	€ 1,700,000.00	Services
DIGIT/R2/PN/2014/012	sTESTA	31/07/2014	Orange	€ 68,972,545.00	€ 57,750,000.00	Services
				€ 115,244,045.00	€ 63,687,714.78	

Detailed justifications for each NP are provided in [Annex 1](#).

4. FURTHER EXPLANATION OF THE FIGURES

4.1. Structural factors

There are a number of structural factors arising from the peculiarities of the IT sector which may justify the number of DIGIT'S NPs.

4.1.1. Difficulties to assess the Commission services' needs accurately over several years and other factors

DIGIT does its best to estimate the market volume as accurately as possible, based on extensive inter-services consultations, interinstitutional surveys and contacts with technical services. However, given the increasing number of participating institutions it may happen that the actual consumption under a given contract deviates from the indicative volumes communicated to DIGIT.

These deviations may require on some occasions to launch negotiated procedures in order to cover the gap between the end of the framework contracts and the launching (via open procedure in most of the cases) of open calls for tenders.

There are other factors beyond DIGIT's control which may lead to the need of launching negotiated procedures:

- the cancellation or delays incurred in adopting technical decisions or the impossibility (mainly for technical and/or budgetary reasons) to migrate to another technology. Delays in adopting new technologies or non-materialisation of the initial hypothesis on which orientation documents are devised, may have great impact on the estimated volumes (which may

no longer be accurate), actual consumptions (which may be higher than initially foreseen) and duration of current framework contracts (which may need additional extensions and therefore additional costs).

- the fact that EUIs make more purchases than initially estimated under a contract can force DIGIT to launch negotiated procedures to cover the maintenance for the remaining number of years. Contractual maintenance periods can go up to 10 years in some cases. This implies that equipment bought on the 4th year (usually the last year for purchases) of a given contract has to be maintained 5 or 6 years after the expiry of the framework contract. The principle applied in DIGIT is that maintenance of equipment bought under a framework contract has a priori to be maintained under the same contract unless a take-over clause is foreseen in the new contract.
- the need to implement at short notice Commission and Council decisions which have an impact on IT expenditure but could not have been foreseen when the original call for tenders was launched;
- the speed of technical development, which may for example lead to scarcity of specialised services highly needed by the Commission;

Therefore, although theoretically some NPs could be avoided if the volume of the contract were estimated more accurately from the start, this proves to be very difficult in practice.

On the other hand, the risks of overestimating the contract volumes is also present in some procedures where the contracting parties could be tempted to give high volumes in order to avoid running short of quotas.

4.1.2. *Technical captivity*

The IT domain is particularly prone to situations of captivity. Indeed, in a corporate environment with stringent operational requirements, replacing a product or a supplier is not as straightforward as it may seem. Change has to be controlled and cannot happen overnight.

Typical situations of technical captivity are the following:

- Provision of services with a strong link to proprietary software. Attempting to procure such services by calls for tenders is not as straightforward as it could seem. It would imply a thorough analysis of a given technical situation (normally through studies conducted by third parties) and a cost efficiency assessment. The principles of public procurement have to be seen in connection with the principle of sound financial management. An adequate balance between those principles must be found in order to find the best technically feasible solutions compatible with the Commission's infrastructure and information systems at the least financial cost.
- Maintenance of complex server configurations for which the original supplier is often the only company to have the know-how and the right to

provide these services. Such configurations usually host critical information systems and therefore need to run efficiently under all circumstances.

4.1.3. *The role of DIGIT*

Given that DIGIT caters for the common needs of the whole Commission, other DGs usually do not have to lead NPs on their own, even if they are main or exclusive users of the resulting contractual framework. The same logic applies to other participating institutions. The concentration of those NPs in DIGIT has a positive impact for the statistics of the other DGs or EUIs, at the expense of a significant negative impact for DIGIT. Attached as **Annex 2** is a table showing the breakdown by EUI's and EC showing the amounts awarded by Negotiated Procedure by DIGIT. This table shows that only 55.3 % of the total contractual volume awarded by NP in 2014 was foreseen to be consumed by the EC (DGs plus DIGIT), out of which only a marginal part belongs to DIGIT's own consumption under the relevant framework contracts.

5. TRENDS AND CONCLUSIONS

We note that there has been a remarkable positive evolution in the trend for 2014 in comparison with 2013 (see table in point 3.1) in terms of value.

In order to avoid or limit the resort to negotiated procedures, DIGIT will continue its active communication and consultation policy with the other DGs and EUIs along the following lines:

- permanent exchange of information via the monthly DIGIT stakeholders forum (ex CTI - *Comité Technique Informatique*) meeting with all IRMs as well as in the context of the CII (Informatics Interinstitutional Committee);
- permanent exchange of information with other EUI's via regular meetings of the GCIM (Groupe de Contact Interinstitutionnel des Marchés);
- ad-hoc surveys prior to the initiation of procurement procedures;
- better estimates of the needs for the Interinstitutional framework contracts and better monitoring of actual consumption rates, through semester consumption reports from each participating EUI, which is already an obligation imposed upon EUIs in the Memoranda of Understanding that EUIs submit to us to join DIGIT interinstitutional calls for tenders.

The fact that a new mechanism to streamline interinstitutional cooperation has recently been put into practice may alleviate the past situation where DIGIT had –on some occasions – to launch negotiated procedures aiming to increase the expenditure ceiling for a particular participating institution. It is indeed now possible – subject to certain conditions – to transfer quotas among participating institutions. We are confident that this mechanism (quota exchanges) contributes to reduce the number of negotiated procedures in the coming years.

It is worth noting that DIGIT has recently set up a permanent forum at Senior Management level. This new body, the DIGIT Procurement Board (DPB), would not only

oversee the preparation of specific procurement procedures and take note of their results, but also consider regularly, and as early as possible in the process, the strategic dimension of procurement as a key tool to achieve DIGIT's policy objectives.

Indeed, one of the purposes of the DPB is to provide a forum through which DIGIT Senior Management can define DIGIT's procurement strategy. To this end, the DPB will consider the procurement dimension of ongoing or planned activities as early as possible in the process and identify possible alternative approaches. It will evaluate to what extent each of the identified candidate approaches in each file is likely to be the most effective one in order to achieve DIGIT's policy objectives. In some cases, other dimensions will also come into play, such as the need gradually to reduce captivity (or increase actual competition) and to ensure that the results are sustainable in the medium and long term.

The DPB will particularly look into the cases of protection of exclusive rights or captivity situations, and takes commitment to evaluate the current situation in order to explore the feasibility of finding alternative products or technical solutions on the market. This will avoid approaching to the end of the contracts without having properly assessed the available procurement options and the potential migration costs directly or indirectly involved in the change of product or technology.

As a matter of fact, the procurement planning for 2015 and 2016 reflects already the fact that negotiated procedures will only be used in a limited number of cases and in a restricted manner.

In conclusion, DIGIT continues to take steps to limit the use of negotiated procedures as far as possible, whilst providing continuous service to the Commission and other EUI's.

[e-signed]
Stephen QUEST

Annexes:

Annex 1: Detailed justification per negotiated procedure

Annex 2: Table showing the breakdown of amounts by EUI's and EC resulting from negotiated procedures conducted by DIGIT

C.c: Mr S. Del Pino, Mr F. Morales, DIGIT R.3
Ms P. Van Waeyenberghe, Ms Z. Sziranyi, DIGIT R.1

ANNEX 1 – Detailed justifications for each negotiated procedure

Altogether the 3 negotiated procedures awarded in 2014 over 60.000€ amount to 155,244,045 €.

The legal basis used in all cases was Article 134 (1) (b) of the Implementing Rules of the FR which allows launching negotiated procedures *"where for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract can be awarded only to a particular operator"*.

The requirements are met in different contexts in the 3 new framework contracts as follows:

1. DIGIT/R2/PN/2014/012 (STESTA continuation of services)

The decision to launch a negotiated procedure with the consortium OBS/HP is justified by the fact that the current telecommunication network is built on an infrastructure provided by OBS/HP. In order to guarantee the confidentiality and integrity of transported data, specific measures approved by security experts of the EC and the Member States had been implemented on top of the OBS/HP infrastructure. The whole infrastructure is operated by the OBS/HP's Security Operation Centre (SOC). It concerns dedicated components like encryption equipment and central services like mail relay, FTP, time protocol servers, etc.

All the equipment is installed and operated by OBS/HP on behalf of the Commission and currently there's no other player on the market that can provide a network of the same type and magnitude.

2. DIGIT/R2/PN/2014/013 (SAP)

This negotiated procedure was launched with the purpose to conclude a new framework contract with *SAP Belgium SA/NV*, ensuring continuity for the provision of SAP BO software licenses, maintenance and associated services for one year. The decision to launch a negotiated procedure is justified by the following reasons:

- (1) The operational continuity of information systems based on SAP Business Intelligence technology at the Commission;
- (2) The protection of the investments made in terms of purchased licenses;
- (3) The protection of the investments made in terms of reports and the related custom software solutions developed for the Commission Information Systems;
- (4) Guarantee the technical evolution of the Business Intelligence platforms at the Commission;
- (5) Guarantee the integration and interoperability of Business Intelligence solutions at the Commission.

Currently SAP Business Objects products are strategic for the implementation of the Commission Business. Many Corporate Information Systems create and distribute reports based on this software: SYSPER2, ABAC, SYSLOG, SMT...

Additionally, nearly all DGs have applications using Business Objects based reporting. It should be noted that numerous reports produced using these applications have become key assets for many business decisions.

There is no other solution in the market that can compete with SAP Business Objects regarding the area covered by the product range together with the ease of use and productivity of the applications. Moreover, the acquisition of Business Objects by SAP AG in 2007 has further strengthened the company presence in the domain.

At the moment, it is therefore technically not possible to port the Commission applications onto a different solution without:

- a complete re-build of all the reports,
- without loss of functionality,
- re-training the users,
- redefining and re-implementing an architecture.

This process would involve important delays and significant human and financial investments which cannot be afforded and are not available at this point of time.

3. DIGIT/R2/PN/2013/068 "FOAE" Microsoft services

The present procedure was chosen in the context of "Track one" of the agreed "triple track strategy" designed to ensure the necessary business continuity and scale economies flowing from the investments that have already been made. The High-level Services which will be provided under the new framework contract DI/07300 are related to the products covered under the Inter-institutional Licensing Agreement (ILA), namely:

Premier Support Services (i.e. Premier Tiers) - these are packaged services bundles to satisfy their needs in terms of support, a subset of EUI require Premier Support offerings (packaged services) at various tier levels, recommended for appropriately sized EUI (ranging from very big to very small EUI).

The **Premier Additional Services** contain several profiles, such as additional TAM or Proactive hours, or additional reactive hours. However, all of these profiles are only available within the framework of an active Premier Support Service.

The **Consultancy Services** required by EUI need to be of adequately high level. These consultancy profiles are typically used in the design phase of large complex projects, often requiring people with many years of experience in multiple domains, and having very specialised expertise. Only Microsoft itself can make available these high profiles. These support and consultancy services are intrinsically linked to the products covered by the ILA. They require an in-depth technical knowhow about those software products of such a high level that only the editor of the software can provide it. Hence it follows that, for technical reasons, Microsoft is the sole economic operator that can provide services for support and consultancy at the high level required by the Commission and other EUIs.

ANNEX 2

Breakdown EUI's and EC of amounts awarded by Negotiated Procedure conducted by DG DIGIT on behalf all DGs and participating institutions and bodies (EUIs)

Neg. Procedure	Subject	Total awarded (1=2+3)	Breakdown of total awarded amounts EUI's/EC			
			EUI's		EC	
			amount (2)	%	amount (3)	%
DIGIT/R2/PN/2013/068	FOAE" Microsoft services"	€ 44,000,000.00	€ 39,762,285.22	90.4%	€ 4,237,714.78	9.6%
DIGIT/R2/PN/2014/013	SAP	€ 2,271,500.00	€ 571,500.00	25.2%	€ 1,700,000.00	74.8%
DIGIT/R2/PN/2014/012	sTESTA	€ 68,972,545.00	€ 11,222,545.00	16.3%	€ 57,750,000.00	83.7%
TOTAL		115,244,045	51,556,330	44.7%	63,687,715	55.3%

EUI's: amounts allocated to participating institutions and agencies other than EC.

EC: amounts forseen for the European Commission

ANNEX 4: Materiality criteria

DIGIT has assessed that it would be adequate to apply the standard quantitative materiality threshold of 2% for expenditure, i.e. when the value of the transactions affected by the deficiency represents more than 2% ("at risk"/"exposure") of the budget of the ABB activity for the DG concerned.

The qualitative criteria applied when assessing the significance of any reputational event take into account:

- the extent of the event (number of affected stakeholders)
- consequences of the event (measured directly as the severity of impact on other EC Institutions, Member States administrative bodies, external suppliers/beneficiaries or the general public)
- the duration of the event (number of months until the situation is restored to business as usual and the effects of the event have been corrected).

ANNEX 5: Internal Control Template(s) for budget implementation (ICTs)

1. PROCUREMENT DIRECT MANAGEMENT

Stage 1 – Procurement

A - Planning

Main control objectives: Effectiveness, efficiency and economy. Compliance (legality and regularity).

Main risks	Mitigating controls	How to determine coverage frequency and depth	How to estimate the costs and benefits of controls	Control indicators
<p>The needs are not well defined (operationally and economically) and the decision to procure was inappropriate to meet the operational objectives</p> <p>Discontinuation of the services provided due to a late contracting (poor planning and organisation of the procurement process).</p>	<p>Publication of intended procurements / Work programme.</p>	<p>100% of the forecast procurements (open procedures with prior notification) are published in the OJEU (Prior Information Notice) and justified in a note addressed to the AO(D).</p>	<p>Costs: estimation of cost of staff involved.</p> <p>Benefits (qualitative): better value for money, deterrent effects, efficiency gains, system improvements and compliance with regulatory provisions, no litigation.</p>	<p>Estimated average cost of control of a procurement procedure.</p>
	<p>Validation by AOD of the justification (economic, operation) for launching a procurement process.</p>	<p>100% of the forecast procurements.</p>		
	<p>General orientation, objectives of the procurement and means are discussed in management meetings.</p>	<p>All major procurement procedures are discussed at management meeting.</p>		
	<p>Multi-annual planning.</p>	<p>100% of the forecasted procurements.</p>		

B - Needs assessment & definition of needs

Main control objectives: Effectiveness, efficiency and economy. Compliance (legality and regularity).

Main risks	Mitigating controls	How to determine coverage frequency and depth	How to estimate the costs and benefits of controls	Control indicators
The best offer/s are not submitted due to the poor definition of the tender specifications.	AOSD supervision and approval of specifications.	100% of the specifications are scrutinised.	Costs: estimation of cost of staff involved. Benefits (qualitative): better value for money, deterrent effects, efficiency gains, system improvements and compliance with regulatory provisions, no litigation.	Estimated average cost of control of a procurement procedure.
	Publication of intended procurements / Work programme.	100% of the forecast procurements (open procedures with prior notification) are published in the OJEU (Prior Information Notice).		

C – Selection of the offer & evaluation

Main control objectives: Effectiveness, efficiency and economy. Compliance (legality and regularity). Fraud prevention and detection.

Main risks	Mitigating controls	How to determine coverage frequency and depth	How to estimate the costs and benefits of controls	Control indicators
The most economically advantageous offer not being selected, due to a biased, inaccurate or 'unfair' evaluation process.	Formal evaluation process: Opening committee and Evaluation committee.	100% of the offers analysed. Depth: all documents transmitted.	Costs: estimation of cost of staff involved in financial circuits. Benefits (qualitative): better value for money, deterrent effects, efficiency gains, system improvements and compliance with regulatory provisions, no litigation.	Estimated average cost of control of a procurement procedure.
	Opening and Evaluation Committees' declaration of absence of conflict of interests.	100% of the members of the opening committee and the evaluation committee.		
	Exclusion criteria documented.	100%. Depth: required documents provided are consistent.		
	Adequate communication to unsuccessful tenderers.	100%.		
	Standstill period, opportunity for unsuccessful tenderers to put forward their concerns on the decision.	100% when conditions are fulfilled.		
	Consultation of the GAMA advisory body.	Random selection by the GAMA body.		
Litigations harm the reputation of the Commission.	All pending legal challenges are closely monitored.	100% of litigation cases.		

Stage 2 – Financial transactions

Main control objectives: Ensuring that the implementation of the contract is in compliance with the signed contract

Main risks	Mitigating controls	How to determine coverage frequency and depth	How to estimate the costs and benefits of controls	Control indicators
<p>The products/services foreseen are not, totally or partially, provided in accordance with the technical description and requirements foreseen in the contract and/or the amounts paid exceed that due in accordance with the applicable contractual and regulatory provisions.</p> <p>Business discontinues because contractor fails to deliver.</p>	Operational and financial checks in accordance with the financial circuits.	100% of the contracts.	<p>Costs: estimation of cost of staff involved.</p> <p>Benefits: better value for money, deterrent effects, efficiency gains, system improvements and compliance with regulatory provisions.</p>	<p>Cost of control on the financial circuit / Number of financial transactions done during the year.</p> <p>Cost of control on the financial circuit / Value of financial transactions executed during the year.</p>
	Operation authorisation by the AOSD.	100% of the contracts.		
	Dedicated ex-ante verification by a Financial Verifying Agent (FVA), who is a member of the Financial Unit in the Resources Directorate. For the other lower value commitments, this verification is performed by the Authorising Officer by sub-delegation (AOSD).	Commitments >= 50.000€.		

Stage 3 – Supervisory measures

Main control objectives: Ensuring that any weakness in the procedures (tender and financial transactions) is detected and corrected

Main risks	Mitigating controls	How to determine coverage frequency and depth	How to estimate the costs and benefits of controls	Control indicators
<p>An error or non-compliance with regulatory and contractual provisions, including technical specifications, or a fraud is not prevented, detected or corrected by ex-ante control, prior to payment.</p>	<p>Ex-post publication (possible reaction from tenderer / potential tenderer such as whistle blowing).</p>	<p>100%.</p>	<p>Costs: estimation of cost of staff involved. Benefits: better value for money, deterrent effects, efficiency gains, system improvements and compliance with regulatory provisions.</p>	<p>Total value checked by control ex post / Cost of ex post controls. Cost of ex post controls / Total number of transactions checked by control ex post.</p>
	<p>Review of ex post results.</p>	<p>100% at least once a year. Depth: look for any systemic problem in the procurement procedure and in the financial transaction procedure and any weakness in the selection process of the ex post controls.</p>		
	<p>Review of exceptions reported.</p>	<p>100% at least once a year. Depth: look for any weakness in the procedures (procurement and financial transactions).</p>		
	<p>Review of the process after each procedure.</p>	<p>100%. Depth: review any significant problem that occurred.</p>		

2. REVENUES (CHARGE-BACK)

Main risks	Mitigating controls	How to determine coverage frequency and depth	How to estimate the costs and benefits of controls	Control indicators
<p>Services not charged-back when due or services charged-back when not due leading to budget not being used for the intended purpose.</p> <p>Inaccurate calculation of costs of services resulting in mismatches between services delivered and amounts charged-back.</p>	<p>Costs of IT services are calculated on the basis of cost models that are regularly maintained and updated by an external consultant.</p>	<p>All services provided by Directorate C.</p>	<p>Costs: estimation of cost of staff involved.</p> <p>Benefits: better value for money, deterrent effects, efficiency gains, system improvements and compliance with regulatory provisions.</p>	<p>Cost of control of charge-back activities / Amount charged-back.</p>
	<p>Services, costs and performance indicators are defined and described in technical documents (services catalogues, Service Level Agreements (SLAs), hosting proposals, etc.) and administrative and budgetary provisions are set up in memoranda of understanding (MoUs) approved by the Customer and by DG DIGIT, service supplier.</p>	<p>All services funded using sub-cross and co-delegations and recovery orders.</p>		
	<p>Information on the IT services and their costs are available on line on DIGIT web pages as well as on request.</p>	<p>All services.</p>		

Main risks	Mitigating controls	How to determine coverage frequency and depth	How to estimate the costs and benefits of controls	Control indicators
	Specific information on the IT services delivered can be found in specific technical (SLAs, hosting proposals, etc.) and administrative (MoUs) documents.	All services.		
	For sub-cross delegations, DG DIGIT provides the Authorising Officer by Delegation (AOD) with a report to be annexed to the AAR.	100% of sub-cross delegations.		
	In some cases, a detailed report ("Rapport de gestion") is provided regularly, summarising the achievements and the use of resources (HR and financial execution).	For some specific services and activities.		
	Arrangements for monitoring of DG DIGIT's performance include systematic use of progress reports and Key Performance Indicators (KPIs).	100% of SLAs.		

ANNEX 6: Performance information included in evaluations

No evaluation was foreseen in the Management Plan 2014 to be run in 2014. The final evaluation of the ISA programme will be carried out in 2015 thus performance information regarding this programme will be available in the Annual Activity Report 2015.

ANNEX 7: ITIC user satisfaction (KPI-2)

The below graph supports the positive trend indicated for KPI-2 concerning the satisfaction level of DGs enrolled in IT Infrastructure Consolidation (ITIC). It should be noted that during the period May 2013 – March 2014 the ITIC user satisfaction was a bit lower than usual (but always higher than the KPI target) due to an extremely intensive enrolment of DGs in ITIC.

