

Chapter 4 Office of Public Works

4.1 River Nore (Kilkenny City) Drainage Scheme

Background

Very severe flooding occurred in many parts of the country in 1994 and 1995 with considerable damage to homes, businesses, and infrastructure. The Office of Public Works (OPW) was required by Government Decision of 7 March 1995 to take the lead role in responding to this. The Arterial Drainage (Amendment) Act was passed in 1995. The OPW drew up a list of over 200 locations around the country where there was a known flood risk. A Government Decision of 14 March 1995 approved a list of nine areas which should receive priority in terms of flood relief works. Kilkenny City was one of these.

Kilkenny City has a history of flooding associated with the high water levels in the River Nore and its tributary the Bregagh that joins the Nore at Kilkenny City. Flooding occurs most years and significant floods were experienced in 1990, 1995 and 2000. Following representations from Kilkenny Corporation and Kilkenny County Council, OPW commissioned a firm to undertake a study in 1995 on the urban flooding in the Kilkenny City area. The study included the re-examination of a preliminary report that the same firm had carried out for the county council in 1986. The consultants were also asked to draw up preliminary design options to alleviate the problems identified.

A separate company was also appointed in 1995 to carry out site investigations. It was evident early on in the scheme that numeric (computer) modelling was an inadequate method of dealing with the complexities of the river in Kilkenny, due to the interaction of the bridges and weirs in the City. In order to increase the accuracy of the design, it was decided to commission a physical model of the river stretch through the City. This was carried out in 1996 by a UK company.

Initial Scheme (€13.08 million)

A number of potential solutions were identified and were presented to the local authorities and the preferred option was chosen in July 1998. This consisted of a combination of river widening and deepening, flood walls, embankments, and associated drainage works. The proposed scheme met the relevant economic and environmental criteria. The scheme was designed to provide protection against the 1 in 100 year flood – in other words a flood of such extent that it has a 1% probability of occurrence in any year. This is the OPW standard for schemes in urban areas and is the standard applied in many other countries also.

With the approval of the Department of Finance the scheme was placed on Public Exhibition in July 1999 and unanimously approved by Kilkenny County Council and Kilkenny Corporation. Sanction was obtained from the Department of Finance in December 1999 to proceed with the scheme following the Exhibition at an estimated cost of €13.08 million.

Given the estimated cost of the scheme at this stage it was clear that the engineering consultants' fees would exceed the relevant EU threshold. As well as that, the first consultants appointed had been given a limited commission in the first place. A tender competition was held in accordance with the EU Directives and as a result of this a new firm of consultants was appointed in December 1999 to review the existing Outline Design, prepare Detailed Design tender documents for appointment of a contractor, and supervise the contract on site.

Detailed Design Estimate (€41.9 million)

The consultants completed a detailed appraisal based on the original specifications. The revised estimate put the cost of the project at €41.9 million in August 2000.

OPW was not prepared to accept the revised cost as it was a significant increase on the approved project budget. The consultants were instructed to prepare a report on alternative forms of construction with the objective of bringing the estimated project cost closer to the original project budget (€13.08 million). In particular, alternative types of retaining structures were to be considered for all areas of the works.

Revised Design Estimate (€24.38 million)

In November 2000 a revised project specification was submitted and sanction was received from the Department of Finance to proceed with the revised scheme for a maximum project budget expenditure of €24.38 million.

New Estimate (€34.8 million)

Tenders were invited from five companies in March 2001 to carry out the construction contract works. The five firms had previously been short listed from a list of eleven firms who had replied to an EU wide advertisement for the project. The accepted tender was approximately 25% above the revised specification costs approved in November 2000. The project was submitted to the Department of Finance at a cost of €34.8 million and approved in June 2001. The main contractor was appointed on 17 July 2001 and work commenced in August 2001.

Table 27 analyses the changes in the cost constituents as the project progressed.

Table 27

	€m	€m	€m	€m
Construction	10.3	37.0	18.07	22.5
Design team fees	1.2	4.1	2.07	3.1
Archaeology	0.63	-	0.65	5.1
Compensation	-	-	0.77	1.3
Other items	0.95	0.8	2.82	2.8
Total	13.08	41.9	24.38	34.8

Current Estimate of Completion (€47.8 million)

In August 2003 following a review of the project, a revised estimate was submitted for approval which put the cost of completion at almost €48 million. The increase in the final estimated cost was attributed to

- Payments to the main contractor for delays and down-time
- Price Variation Clause buyout
- Provision for compensation claims
- Costs associated with the removal of contaminated soil
- Additional professional fees
- Costs of ancillary remedial and stabilisation works.

As I was concerned at the significant cost and time overruns of the scheme I posed a series of questions to the Accounting Officer.

Accounting Officer's Response

- *Why did the initial estimate turn out to be so unrealistic?*

OPW recognises that it is not acceptable that the cost of a scheme can increase at the rate that it has in this case. It should be pointed out that Kilkenny is the first large urban flood relief scheme carried out in this country and, as such, there was no precedent to have regard to when assessing risks. The contract was complex in that it had to be framed around very stringent environmental considerations – archaeology and fisheries in particular. The practical effects of this on the ground are difficult to predict until work is in progress. Environmental considerations meant that work could only take place in the riverbed between the months of July and October. Weather conditions occasionally shortened this period even more.

As well as the difficulties posed by these factors the following specific issues have contributed to the cost increase

- Inadequacies in the initial design of structures and consequent post-contract changes and modifications to these designs resulting in delays and additional costs
 - Unfavourable ground conditions that could not have been anticipated; the presence of rock in the riverbed at levels that had not been anticipated
 - Delays and down-time due to noise interference and damage to properties and infrastructure, the extent of which could not have been anticipated
 - Delays and additional costs arising from the contamination of the riverbed with PCBs (chlorinated compounds)
 - The higher than expected costs arising from archaeology and the delays and additional costs incurred by the contractor as a result
 - Costs arising from the diversion of services that had not been mapped and consequently not provided for in the scheme.
- *What was the basis of the downward revision of the estimated cost of the scheme in November 2000?*

The initial meeting of the Cost Control committee for the project took place in July 2000. It was emphasised at this meeting that any adverse developments leading to unforeseen cost increases should be reported to the Committee as early as possible. OPW's consultant engineers were represented at this meeting and they pointed out that the findings of the detailed site investigations proceeding at this time were indicating findings different and more complex to those indicated by the information that was available at outline design stage. The consultants were asked to prepare a report on these findings, outlining the impact on costs. This report was received by OPW in August 2000 and its main findings related to the type of structures proposed at outline design stage for the construction of flood walls.

In October 2000, on OPW instructions, the consultants presented a report on the alternative types of structures. Each area of the works had been considered and an alternative design comprising a combination of structures was proposed. This is the design now under construction in Kilkenny.

The downward revision of the estimated cost of the scheme was initiated by OPW in response to its concerns over the estimated costs of the scheme following revisions to the design brought about by technical concerns.

- *Why did the €24.38 million estimate increase to €34.8 million?*

The increase was due mainly to the need to extend the works to three years to facilitate a substantially increased archaeological work requirement, thus incurring continuing overhead costs over an extended period and a general rise in the annual movement of construction costs and tender costs (estimated at 10% and 12% per annum respectively).

- *What factors gave rise to the increase in construction costs?*

In engaging a contractor to carry out the construction stage of the River Nore (Kilkenny City) Drainage Scheme, OPW used the Institution of Engineers of Ireland (IEI) Standard Form of Construction Contract.

The standard IEI contract is conducted on a measure and value basis. Unknowns or risks such as ground conditions, bad weather, project design revisions, quantity change/increases and delays are measured and valued during the contract and added to the final contract cost.

The use of this contract for civil engineering works by State bodies was Government policy at the time, as agreed with the construction industry. Variations on this contract are also on a measure and value basis.

It is highly unlikely, at the time of going to tender, that any contractor would have negotiated a fixed price on a contract of three years duration. The Construction Industry Federation (CIF) strenuously objects to fixing prices at tender stage for contracts in excess of 12 months. Nor are there any procedures in place at present for quantifying the many risks associated with a civil engineering contract of this nature.

OPW paid €2.9 million to the contractor for a Price Variation Clause (PVC) buy out. The contract itself provides for a lump sum buy-out post tender of price increases in labour and materials arising during construction. If this option is not exercised then increases are paid for as they arise during the course of the contract. Where OPW considers that the price negotiated with the contractor for the buy-out of the PVC is reasonable, it is the practice to proceed in this way. The benefit to the contracting authority of a PVC buy-out is the removal of a risk from the contract, with the potential for a saving on the overall contract amount depending on subsequent rates of inflation.

In this case, the initial approach in relation to PVC buy-out was made by the contractor. The OPW's consultants carried out an estimation of the total final payment that might be due to the contractor under the Conditions of Contract. Their estimate indicated that the contractor's offer of €2.9 million plus VAT for PVC buy-out was reasonable given the prevailing and predicted economic conditions in the construction industry.

It is relevant to note that Government policy in this area has now changed. In May 2004, the Government approved in principle, the introduction of lump sum fixed price contracts tendered on a competitive basis as the norm, along with appropriate arrangements to eliminate undefined design details covered by provisional sums and provisional quantities in tender documents on all types of contracts. It is, however, not yet certain when these new arrangements will come into force as they are subject to discussion between the Department of Finance and the construction industry.

- *How were the additional professional fees incurred?*

In procuring the required consultancy services OPW was fully in accordance with public procurement guidelines and regulations. The agreements in place between the State and the professional bodies at that time included the use of a percentage fee.

It should be noted that increases in cost in this form of contract are substantially due to the measure and value provisions rather than a failure to control costs i.e. the volume of work comprehended by the contract turns out to be greater than estimated for reasons that could not have been anticipated or in circumstances that could not have been measured in advance. As the works comprehended in the contract increase in this way, so the legal obligation on the consultant to supervise the works increases. In this way the consultant undertakes additional work for which payment is due.

In May 2004, the Government approved in principle, the introduction of competitive tendering on a fixed price lump sum basis as the norm for procuring construction consultancy services. Also approved was the introduction of Standard Conditions of Engagement for construction consultants with specific provisions to carry more risk and to discourage design mistakes through the introduction of penalties.

It is not clear, however, when these changes will be implemented as they are subject to discussion between the Department of Finance and the relevant professional bodies.

- *Why were compensation and archaeological costs so badly underestimated?*

Compensation

A sum of €1,269,738 was included in the budget at Tender Stage for compensation. This figure was a best estimate, based on experience garnered on previous schemes. Once work commenced on site, however, it became apparent that this figure was likely to be inadequate. The number of third parties affected by the scheme, with associated property issues; the difficulties and disruption caused by the works to individuals and businesses alike are significantly higher than anything experienced on previous schemes and are a reflection of the fact that this is the first scheme to be carried out in a large urban/city centre area.

The information available subsequent to the commencement of site work indicated that it would be prudent to increase the provision for compensation. It must be emphasised, however, that the increased provision merely reflects the best estimate that can be made at this point in time. Matters may arise in the final stages of the contract that give cause to review this estimate. OPW typically does not begin to accept claims until a scheme has been completed and in the normal course, claims can often take several years to resolve. It is likely, therefore, that the final cost of compensation will not be known for several years and it could be up to 12 months after work has been completed before any extrapolation can be made based on actual claims received.

The estimation of compensation in this case is intuitive rather than scientific. However, agreement and settlement of compensation payments is based on standard practice in valuation and assessment of compensation. There is provision for Arbitration as is the norm in this area. Legislation also provides that the benefit to be accrued from the scheme can be offset against any claim for damages. In a number of instances in Kilkenny where it is known that substantial claims will be submitted (one has been received to date) OPW has already begun the process of assembling information on disturbance and interference in order to be in a position to address the claims.

Archaeology

A sum of €630,000 was included in the original project budget for archaeology. This represented 6% of the construction cost element of the budget as estimated at that time. The budget for archaeology on previous flood relief and Arterial Drainage projects was between 5% to 10% of the construction costs. In estimating for archaeology, OPW also considered the number of sites identified in the Environmental Impact Statement and felt that it would be prudent to provide 6%.

There was no information available that pointed to the level of finds and significant archaeological structures that subsequently emerged as the scheme progressed. Water levels were artificially lowered, and the riverbed, bridges, and weirs were revealed for detailed examination by archaeologists for the first time.

As the project progressed, it became obvious that the number of archaeological finds was much greater than had been estimated as was the extent of the monitoring required. The long history of settlement in Kilkenny and the central position of the River Nore in the city has resulted in a very high number of finds of artefacts and significant structures in the river.

Underwater archaeology has also been more extensive than was anticipated at the outset of the scheme due to the number of structures of interest which had to be examined in-situ, before their removal. All of this had a consequential effect on the contract in that the contract period was extended to allow for increased monitoring and investigation and claims for delays and disruption have arisen from unanticipated finds of artefacts and structures.

The updated project budget contains an estimated figure of €4.82 million for Archaeology. The majority of high risk areas have already been excavated, although one area of potential sensitivity is scheduled for works in the summer of 2004. OPW's archaeological consultants state that the risk of a major discovery in the remaining areas of the scheme is low.

- *In light of the experience in Kilkenny have changes been made to OPW's approach to flood relief work?*

The scheme has remained extremely cost beneficial and OPW has obtained approval from the Department of Finance at all relevant stages. However, OPW recognised some time ago that this situation is not sustainable. There are 14 other schemes in urban areas throughout the country at various stages of planning that have a combined estimated cost of approximately €300 million. It would be completely unacceptable that the cost of these schemes could increase at a rate similar to Kilkenny. In April 2003, OPW carried out a review of the approach to these schemes. This resulted in the approval of a revised approach in September 2003.

In future, OPW will adopt a risk management approach to flood relief schemes. This approach includes consideration of the feasibility of a phased implementation of schemes i.e. schemes will be broken down into smaller, more manageable phases and each phase carried out separately. In some cases this may facilitate work being done directly by OPW and/or the relevant local authority and the local authority will be expected to take a much greater role in managing schemes. This methodology has worked extremely well in carrying out work on the Tolka River in Dublin and Meath in the last two years. In addition, use will be made of innovative new technologies and steps will be taken to reduce or eliminate cost risks in relation to dredging, archaeological, and environmental mitigation measures. Issues such as the potential of flood warning systems, flood hazard mapping, and enhanced maintenance programmes, all of which can reduce the need for structural works, will be considered.

This new approach is entirely consistent with methodologies now being developed and applied in the UK and mainland Europe. Since October 2003, OPW began to apply this methodology in the case of the three schemes in the Flood Relief Work Programme that are most advanced in planning – Carlow Town, Clonmel, and Waterford City, and these are now being progressed on this basis. This changed approach has been adopted in recognition of the need to take action swiftly while continuing to make progress in planning the schemes.

A Flood Policy Review Group was established by the Minister of State with responsibility for OPW in November 2002. The experience with the Kilkenny scheme as well as a recognition of the need to review the OPW flood relief work programme in the context of an overall State policy were factors in this decision. The Review Group completed its work in December 2003 and its Report is now with the Department of Finance awaiting submission to Government. The Report recommends an overall policy on flood management and sets a context for OPW's work. While not wishing to anticipate Government approval for the Report, the Accounting Officer is satisfied that OPW's revised approach to flood relief schemes is consistent with the Report's recommendations.

4.2 Flood Relief - Grants to the Irish Red Cross

Flood damage

An extremely high spring tide and accompanying adverse weather conditions on 1 and 2 February 2002 caused extensive coastal flooding. Among the worst affected areas were the East Wall/Ringsend / Irishtown areas of Dublin City, the centre of Cork City, Baltray in County Louth and Mornington in County Meath. In November 2002 prolonged and heavy rainfall during the month affected Athlone, Drumcondra and Glasnevin in Dublin, Meath, Cork City and parts of Kilkenny and Wexford.

Government Action

In response to the February 2002 flooding the Government decided to initiate an ex-gratia scheme of humanitarian assistance. The Office of Public Works (OPW) were to formally request the Irish Red Cross (IRC) to implement the scheme. It was to be emphasised to the IRC that the Government was providing humanitarian assistance to relieve hardship and not compensation. The scheme would include agricultural hardship and business losses if no other allocation was made for them but in that context only exceptional cases would qualify.

The Government approved an ex-gratia scheme of humanitarian assistance to relieve hardship arising from the November floods on 19 November 2002. Further extensive flooding resulted in the Government extending the scheme on 12 December 2002 to give humanitarian assistance to other parts of the country, particularly to areas of Cork. The Government decision for this scheme also specified that it be emphasised to the IRC that the Government was providing humanitarian assistance to relieve hardship and not to compensate for losses.

Administration of the Schemes

Role of the Irish Red Cross

The procedure for the operation of the Humanitarian Aid schemes is that OPW formally requests the IRC to implement such a scheme. The statutory basis for the OPW role is Sections 2 and 3 of the Commissioners of Public Works (Functions and Powers) Act 1996. OPW was given power under this Act to make arrangements to assist persons who suffer undue hardship or personal injury, or loss of or damage to land or other property, by reason of flooding subject to the consent of the Minister for

Finance. The IRC was given the sole responsibility of administering the schemes and in determining the levels of humanitarian aid allocated to those affected.

The IRC had previously administered humanitarian assistance to victims of flooding in the Mid –West in 1996, in Limerick City in 1999 and parts of Cork, Tipperary, Carlow and Wexford in 2000.

Administration by the Irish Red Cross

A team of three independent assessors was commissioned on behalf of the IRC to assess each application and recommend allocation of humanitarian aid. These assessors had previously worked on the 1999/2000 flood relief schemes. An administration section was created within the IRC to help in the organisation and processing of applicants and the paying of claims. Those affected could claim eligibility for humanitarian aid under the following criteria in the February scheme

- Death
- Serious injury
- Damage to home
- Homelessness
- Loss of income
- Extreme hardship

The ‘loss of income’ criterion, which could include businesses, was subsequently dropped from the eligibility criteria for the November 2002 scheme. This was in order to target the aid specifically towards people whose homes had been affected.

The IRC decided, following guidelines from previous schemes, that no inflexible rules would apply. Each applicant would be assessed on an individual basis. However, humanitarian aid was generally assessed on the person’s need, their personal losses, stress, the value of their belongings destroyed, and their capacity to recover from their losses. The schemes were not restricted to householders but were open to all who had been affected.

Cost of the Schemes

Payments totalling €13.5 million were paid by the OPW to the IRC for the two schemes. The initial provision for the February 2002 scheme was €5 million which was increased to €8.5 million when the extent of the damage was realised. The full amount of €8.5 million was paid to the IRC in 2002. The Government approved €5 million for the November 2002 flood relief and this amount was lodged to the IRC special bank account on 12 December 2002 with the majority of payments being made by the IRC in 2003.

Payments totalling €7,952,807 were made for the February scheme to 725 claimants giving an average award of €10,969. Payments to 27 businesses amounted to €1.3 million. The average award excluding payments to businesses was €9,531.

Payments totalling €4,784,810 were made for the November scheme to 666 claimants giving an average award of €7,184. The November scheme did not accept claims from businesses.

The IRC received €478,078 for the administration costs of the schemes: this is 3.75% of grant expenditure. An additional amount of €221,732 was spent on advertising the two schemes.

Statistics

Table 28 summarises the main statistics in relation to the schemes

Table 28

<i>Description</i>	<i>February 2002</i>	<i>November 2002</i>
Number Of Applicants	725	666
Total Expenditure	€7,952,807	€4,784,810
Average Payments	€10,969	€7,184
% Insured	58%	54%*
% Uninsured	42%	46%*
Average Insured Payment	€8,746	€6,787*
Average Uninsured Payments	€13,922	€6,244*
Average Age	53	40*
% Tenants	23%	33%*
% Owners	65%	57%*
% Other	12%	10%*

* The November 2002 statistics are based on a sample of 100 applicants

Audit Findings

- No written agreement was made by the OPW with the IRC for the administration of the scheme.
- The February scheme did not make it a condition for applicants with insurance cover that they give the IRC permission to make enquiries of insurance companies so as to ensure that applicants would not be paid on the double for a loss claimed under the scheme. Payments for the February scheme were €7,952,807 of which 58% (€4,612,628) was paid to insured claimants.
- The November scheme allowed the IRC make enquiries of insurance companies but only limited follow up action was taken. Payments for the November scheme were €4,784,810 of which a sample surveyed found that 54% (€2,583,797) was paid to insured claimants.
- No formal procedures were established to check the accuracy of applicants' claims that they had no insurance cover.
- OPW did not complete, or have completed on its behalf, an assessment or audit of the administration of the scheme by the IRC.
- OPW did not supply to the IRC, or request from the IRC for approval, guidelines for the administration, monitoring and control of the schemes.
- No agreement was reached with the IRC before the start of the schemes for the administration charge or fee to be paid to the IRC.
- OPW did not provide guidance to the IRC on means testing and the relevant support documentation required to assess means.

As the amount allocated in 2002 for humanitarian aid to victims of severe flooding in Ireland totalled €13.5 million – far in excess of anything that had gone before – I asked the Accounting Officer if he was satisfied with the appropriateness of the control and governance arrangements put in place to administer the scheme.

Accounting Officer's Response

Role of the IRC

The practice of delegating the operation of the schemes to the IRC had its origins in the earlier disbursement of European Union (EU) humanitarian aid in 1995 to victims of the severe flooding which occurred in late 1994/early 1995 throughout Ireland. EU aid is channelled to victims through the local organisation of the International Red Cross, in this case the IRC. The International Red Cross is recognised as one of the world's largest humanitarian organisations and is a voluntary relief movement. The IRC has an established record of administering emergency aid to victims of disasters in Ireland. All applications for humanitarian aid are dealt with on a strictly confidential basis in accordance with the International Red Cross fundamental principles of impartiality, humanity, independence, neutrality and voluntary service and its wide experience in disaster relief both nationally and internationally.

When Government approval is received for OPW to set up a humanitarian relief scheme in response to serious flooding, the OPW immediately calls in the IRC to brief them. The criteria for eligibility of applicants for aid and the size of the overall aid fund available (which is normally determined on the basis of experience of previous such schemes) are also communicated to the IRC at the briefing. The IRC is then given sole responsibility for administering the scheme and determining the levels of humanitarian aid allocated to the individuals affected. A special bank account is set up by the IRC to receive and distribute the aid. The IRC publicises the aid scheme in the media and also attends local public meetings in the affected communities. Independent expert assessors are commissioned by the IRC to assess each application and recommend allocation of aid to each individual depending on their differing levels of need. The IRC regards the precise details of individual claims as confidential between them and the applicants. An administration section is also created by the IRC to help in the organisation and processing of applications. The IRC reports to OPW on a regular basis regarding progress of the scheme e.g. number of applications received to date, number assessed, geographical breakdown of applications etc.

The aid was intended to help victims overcome the immediate hardship caused by flooding by providing some relief that would assist the victims in restoring their lives to some semblance of normality. The schemes were not compensatory but were governed by a humanitarian ethos. The aid was not designed to put victims in the position they were in before the flooding but to alleviate extreme hardship. The schemes were essentially dealing with disaster and crisis situations that could in their immediate aftermath result in serious hardship for people, irrespective of their means. The schemes could be more correctly described as disaster relief.

OPW Management of the Scheme

The drafting of a formal written agreement between OPW and the IRC before the commencement of schemes was not considered necessary largely because of the reputation, professional expertise and proven track record of the IRC as the recognised independent intermediary body responsible for distribution of EU and State disaster funds for flood victims.

Subject to the main criteria for eligibility the IRC was instructed to administer the schemes based on its own expertise and experience. OPW would, in fact, be concerned that a detailed written agreement may have restricted the IRC in its response to individual applicants and may also have added to administration costs.

One of the fundamental principles under which the IRC operates is that it is a voluntary relief movement not prompted in any manner by desire for gain. The IRC is driven by a humanitarian ethos and it has an established record in dealing compassionately, impartially, effectively and in a timely fashion with the

disbursement of humanitarian funds. OPW has absolute confidence in the IRC's role in administering the schemes and in the IRC's determination to keep administration costs as low as possible so that the maximum amount of aid is distributed to applicants.

The OPW did not consider it necessary to complete, or have completed, an independent audit of the administration of the schemes by the IRC. At the conclusion of a scheme, the IRC submits a comprehensive report on the scheme to the Minister for Finance and copies of such reports are placed in the Oireachtas Library. During a scheme the OPW and IRC maintain regular contact, often on a daily basis. The IRC produces regular updates regarding the progress of the scheme, keeps records of all its activities, and also has its own independent auditors.

The relationship between OPW and IRC is one based on trust, founded on the undoubted integrity and ethos of the Red Cross organisation. In the circumstances, and given the close contact and open communication maintained between both organisations at all times during a scheme, OPW does not consider that an independent audit of the administration of the schemes is warranted.

Payment to insured claimants

Provision for information in relation to insurance cover was first introduced to the application forms in 2002. This was done on the basis of the experience learned from previous schemes since 1996. It does not follow that the question of insurance was not taken into account in assessing applications under the February scheme. This would have been considered by the IRC assessors and explored in their meetings with applicants. When the OPW and IRC met to commence work on the November scheme it was agreed that it would assist the assessors and save time in examining applications if the issue of insurance was explicitly dealt with in the application form. The IRC is satisfied that it had appropriate procedures in place to check people's insurance details and also that the appropriate level of follow-up action was taken.

The IRC has also confirmed that it is satisfied that no "double" payments were made to people with insurance. While family income and insurance provision were taken into consideration by the IRC in assessing a person's ability to cope with and recover from the flooding and in determining the level of aid in individual cases, they did not per se exclude humanitarian aid. It has to be stressed that insurance was only one aspect in the overall consideration of a claim for relief. Some applicants were only insured for structures and not contents and in a flooding situation a considerable amount of contents would be destroyed or damaged beyond repair.

Means Test

The schemes were not in the same category as social assistance / social insurance schemes, grants, nor schemes to compensate for losses, where a means test would not be untypical. The schemes were essentially dealing with disaster and crisis situations that could in their immediate aftermath result in serious hardship for people, irrespective of their means. While family income and means may not have been explicitly provided for in the applications process they were certainly taken into account by the IRC assessors in making a judgment on a person's ability to cope with and recover from the flooding and in determining the level of aid in individual cases. Income and means did not per se exclude an applicant – the individual circumstances, losses, trauma suffered, and ability to recover were all crucial factors.

There is no evidence to suggest that applicants with significant means and who were undeserving of payments from the schemes, actually received payments.

Policy Review

On 27 November 2002 the Minister of State at the Department of Finance with special responsibility for OPW announced a review of national flood policy and established a Group to carry it out. Among the terms of Reference for the Review were “Establish criteria for the initiation of any future Humanitarian Aid Schemes”. The Report of the Review Group is currently with the Department of Finance awaiting presentation to Cabinet. The Report contains important recommendations as to the administration of any Humanitarian Aid schemes in the future.

4.3 Procurement Procedures in Dublin Castle

The Dublin Castle Business Unit

The Dublin Castle Business Unit of the OPW is a Unit within the Property Management Division of OPW and would typically organize over 500 events annually. The Unit incorporates the Facilities Management Unit that manages the facilities provided for events in the North Wing of the Royal Hospital, Kilmainham and provides facilities management services at the Department of Education and Science campus in Marlborough Street. The Unit is recognised as the State’s event manager and is called upon to organise the facilities for meetings and events across the country.

The EU Presidency

From January to June 2004 the Unit managed events associated with Ireland’s Presidency of the EU. The Unit was required to provide a range of services to Government Departments in connection with the Irish Presidency of the EU. The Unit was informed in 2002 that not more than 7 informal ministerial council meetings would be held during the Presidency and a number would be held outside Dublin Castle.

The EU Presidency necessitated the provision of additional and enhanced audiovisual equipment, simultaneous interpretation equipment, conference desking and booths. The Unit developed a roadshow to ensure consistency of standards across all venues. This involved the acquisition of new equipment and various other supplies that were stored centrally and transported to each location as required.

The number of ministerial level meetings held during the Presidency was 36.

Audit Concerns

Questions were raised, in the Dáil and in the media, about the procedures applied by Dublin Castle management in relation to its requirements for audio visual equipment and other wider services arising from meetings and events associated with the Ireland EU Presidency. The specific concerns related to

- Formal tendering procedures had not been applied to the provision of audio visual services which had been acquired from a sole supplier since 1997
- No tender process was applied for the appointment of Mechanical & Electrical consultants (€395,065)
- Only a restricted tender process was applied for the acquisition of temporary structures for the Punchestown and Tullamore meetings (€302,994 and €503,034 respectively)
- Only a restricted tender process was applied for the acquisition of electrical goods and services including €350,000 for one meeting in Galway

- Only a restricted tender process was applied for the acquisition of labour services for loading and unloading trucks, movement of equipment (€1,487,249)
- A possible conflict of interest in the procurement function.

External Consultants

The OPW appointed external consultants to review these matters in January 2004.

In their report in April 2004 the consultants recommended that OPW

- Apply open competitive tendering procedures according with EU procurement requirements in the Dublin Castle conference centre
- Tailor these procedures to the particular needs of the centre including advice on the standard of documentation to be retained
- Train Dublin Castle personnel in the application of these procedures
- Provide specialist support in relation to procurement matters for all OPW business units and divisions particularly for those not regularly involved in procurement
- Regularly review procurement procedures and incorporate checks to ensure compliance particularly where procurement activity is outsourced
- Establish a mechanism to give assurance to the Board of the OPW that procurement procedures are being followed
- Strengthen procedures in relation to the declaration of outside interests.

I sought information on the circumstances in which the deficiencies in procurement occurred and on the extent to which the consultants' recommendations had been implemented.

Accounting Officer's Response

The deficiencies in procurement outlined in the consultants' report arose primarily because of the special nature of Dublin Castle's operations and the particular demands of the EU Presidency. The consultants recognized the pressures brought about by having to respond at short notice to changing circumstances and client requirements and in having to ensure the highest possible standards of service and facilities in relation to significant and important State events such as those surrounding the EU Presidency. In these situations it was essential that quality or standards were not compromised by using unknown or untried suppliers.

In recognition of its absolute commitment to ensuring that the consultants' recommendations are fully implemented in a timely way, the OPW Board has allocated dedicated staff resources to carry out this task. A senior official with procurement experience has been assigned responsibility, under the direction of senior management, for the work required to give effect to the report's recommendations in relation to procurement arrangements and procedures in Dublin Castle. The Management Advisory Committee in OPW will receive regular reports on progress on the implementation project and will ensure that steps are taken to address any issues or problems that may arise.

Work has commenced on organizing an open-tender competition for the supply of audio-visual and simultaneous interpretation services in the Dublin Castle Conference Centre. It is envisaged that a full open EU procurement procedure will be followed in line with the recommendation in the consultants' report. It is planned that the open tender competition for the procurement of audio visual and simultaneous interpretation services will also cover the selection of suppliers of such services, including equipment hire, for inclusion on a supplier list for both Dublin Castle's own needs and for any supplementary requirements for such services of clients of the Dublin Castle Conference Centre.

Work has commenced and good progress is being made on the organisation of an open tender competition to select suppliers of catering services for inclusion on a list of caterers for use by Dublin Castle Conference Centre. It is envisaged that this list of caterers will also be used in relation to events in Farmleigh and in the Royal Hospital in Kilmainham. An independent expert with considerable experience in the catering business in both the private and public sector has been engaged to assist in the tender process.

In line with the guidelines in the current revised edition (May 2004) of the Public Procurement Guidelines, a formal open tender process will be conducted where expenditure on any service exceeds €50,000 per annum. An examination of the expenditure and purchasing profile of Dublin Castle for 2003 is being carried out to identify the services to which open tendering will be applied. As part of the profiling exercise, the question of aggregating expenditure on services in Dublin Castle, Farmleigh and other areas of the Facilities Management Unit is being considered with a view to running tenders where appropriate for the award of a single supply contract or the maintenance of a single list of suppliers for all these areas. This would allow for more efficient and cost effective management of the procurement needs and process for the unit as a whole.

The tailored procurement procedures for Dublin Castle will specifically address the need for proper documentation and record management forming a critical and essential part of the procurement process.

Procedures for informing and training staff in all new developments in the public procurement area have been implemented and the ongoing need for training in procurement will be continuously monitored by senior management and the Training Unit.

A new Office Notice was issued reminding staff of the importance of avoiding conflicts of interest by way of a requirement to make a written declaration of any interest, real or perceived.

A risk assessment of OPW's operations across all its business units has been completed. The management of risks associated with procurement activity in each area is being addressed as part of this process.

Internal Audit

As I noted that the internal audit unit had carried out examinations of procurement in Dublin Castle in 1999 and 2002 and had recommended, inter alia, that

- Line management in Dublin Castle should prepare proposals to increase the use of competitive tendering and
- The Dublin Castle facility should institute a system of control and compliance self-assessment to determine that proper procedures are being operated within the facility

I asked the Accounting Officer why these recommendations weren't acted upon.

The Accounting Officer pointed out that follow-up action was taken in relation to the findings of the two Internal Audit Reports in question. The two Reports contained a total of 13 recommendations. Most of these concerned details on the methods and practices employed in placing orders and processing invoices, such as, for example, that orders placed orally should be confirmed in writing shortly thereafter. However, two of the recommendations in the Internal Audit reports of direct relevance to the matters reviewed in the consultants' report had not been properly addressed.

In relation to the first recommendation, the Accounting Officer informed me that all main services supplied to Dublin Castle will in future be subject to a formal competitive open tendering process in line with the recommendations in the Internal Audit reports and the consultants' report.

In relation to the second recommendation, the assessment of compliance with proper procurement procedures has been included as a specific element for action in the risk management programme for the procurement advisory unit. This programme includes a detailed plan assigning responsibility and a timeframe for the implementation of each specific action recommended in the programme. The integration of procurement compliance assessment into the overall risk management programme will ensure that a formal system exists to monitor and report on the operation of proper procedures in Dublin Castle and all other areas within the Facilities Management Unit.

A system to monitor the implementation of recommendations of reports of the Internal Audit Unit has been put in place as an integral part of the risk management programme.