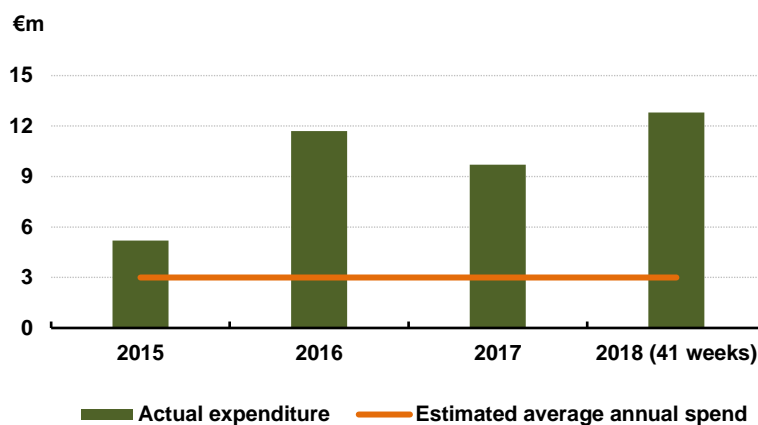


## 6 Expenditure under a maintenance contract

- 6.1 The Office of Public Works (OPW) has a nationwide portfolio consisting of in excess of 2,300 buildings of which around 600 are in the Dublin region. Many of the buildings are occupied by other government departments and offices, to whom the OPW also provides building maintenance services. The maintenance service is provided through
- the OPW's in-house direct labour workforce (the Building Maintenance Service), on heritage buildings and
  - a contract with a private contractor known as the measured-term maintenance contract, on other buildings.
- 6.2 The OPW estimates that maintenance and capital expenditure on property over the four-year period 2015 to 2018 was in the order of €760 million.
- 6.3 The measured-term maintenance contract awarded to the contractor was for a programme of works, comprising maintenance,<sup>1</sup> and minor construction works<sup>2</sup> not exceeding €500,000 in value (excluding VAT). Costs for individual work orders are assessed on the basis of a tendered schedule of rates. The contract covers both urgent and planned maintenance works that are identified from routine inspections and surveys of buildings, and routine day-to-day demands.
- 6.4 The current holder of the maintenance contract was first appointed in 2010. Following a re-tender in October 2014, the contractor was awarded a minimum three-year contract with provision for an extension of one year, which was exercised. The contract<sup>3</sup> states that OPW anticipated that the approximate contract value would be €9 million excluding VAT over three years — an annual average of €3 million. As shown in Figure 6.1, the total value of the work carried out over the four-year contract period was significantly in excess of the estimate, amounting to a total of €39.4 million — an average of just under €10 million a year.

Figure 6.1 Yearly expenditure compared to contract value 2015 to 2018



1 Maintenance includes the preservation of the fabric of a building or its working environment and is regarded as that work necessary to retain an item in, or to restore it to, an acceptable working condition and covers repairs or the replacement of an existing item on a like for like basis.

2 Minor works comprise improvements, alterations and modernisation of existing facilities.

3 Clause 3.1.

Source: Office of the Comptroller and Auditor General

Note: Expenditure of €48,000 was incurred in the 11 weeks from Oct–Dec 2014.

**6.5** This examination identified six projects carried out under the contract with a combined expenditure of €7.4 million and where the value of work undertaken ranged from €600,000 to €2.5 million. These were in excess of the €500,000 limit for individual minor construction works.

**6.6** The OPW has stated that it issued over 13,000 orders under the contract.

### **Contract monitoring**

**6.7** Office of Government Procurement (OGP) guidelines state that a procurement contract should be actively and effectively managed and monitored by the contracting authority. Active involvement in the management of the contract is essential to maximise value for money.

**6.8** The OPW employed a firm of quantity surveyors as contract administrator with a remit to review claims made under the maintenance contract. It stated that the contract administrator

- carried out site visits to ensure accuracy of measurements and value of works — these visits were recorded on monthly key performance indicator (KPI) reports by the administrator
- monitored the contractor's response times to ensure service was provided within agreed timeframes, and reported on it quarterly
- reviewed the property maintenance works carried out by the maintenance contractor each month and agreed the list of items and value of the works for payment to the contractor.

**6.9** The OPW stated that KPI reports were reviewed by it at monthly meetings with the maintenance contractor and administrator. Expenditure for larger projects delivered via the contract were monitored on a project-by-project basis.

**6.10** No periodic reports were produced that compared actual expenditure on the maintenance contract to the €9 million anticipated expenditure. The OPW has stated that the expenditure was monitored at the monthly meetings and while it was conscious of the increased level of service usage and spending under the maintenance contract, it was considered that the use of the contract, in the particular circumstances, provided best value for money. The OPW acknowledges that processes could be enhanced in estimating the volume of work over the long term rather than on an annual basis.

**6.11** The OPW also stated that there was no allocated split between the type of work activities undertaken on the contract e.g. pre-planned preventative maintenance, new capital works, conservation projects and routine day-to-day maintenance. It stated that work carried out via the contract was primarily for routine reactive maintenance and was funded from a property maintenance budget. Minor capital works carried out were funded from capital budgets under its various capital programmes.

**6.12** The OPW stated that budget holders closely monitor contract expenditure in consultation with their colleagues in the other regions and delivery units using monthly valuation reports. Budget holders attend monthly budgetary meetings which are chaired by an OPW Commissioner. Maintenance contract expenditure is also monitored at monthly meetings and at fortnightly Dublin North and Dublin South regional meetings.

## New maintenance contract

- 6.13** In advertising a contract, the OPW is required under legislation<sup>1</sup> to publish the estimated value of the contract. OGP guidelines issued to public bodies state that the estimate of the contract value should be a realistic estimate of the total value being procured, including any contract extensions allowed for and any other options.
- 6.14** Re-tendering of the maintenance contract commenced in December 2017 using a restricted two-stage tender process. At that time, the level of spending was running at around €9 million a year.
- 6.15** The published notice issued in December 2017 advertising the contract estimated the total value of the new contract at €15 million (excluding VAT) for a three-year duration i.e. an average of €5 million a year. Only firms with a turnover from construction, maintenance and minor works activities equal to or greater than €7.5 million in each of the previous three years were eligible to apply.
- 6.16** In estimating the value of the new contract, the OPW stated that a substantial increase in the anticipated value was required based on its use of the maintenance contract during the previous four years. It stated that a new strategy was adopted which took into account the Government's recognition that the small and medium enterprise (SME) sector is very important to the economy and that public procurement can be an important source of business for SMEs. In addition to increasing the anticipated contract value, the OPW decided to explore the possibilities of implementing other procurement processes for delivering minor and capital work in the Dublin region. This strategy was intended to reduce the demands on the maintenance contractor and give the SME sector an opportunity to tender for smaller contracts. This approach is in line with EU policy to increase SME participation in public procurement.
- 6.17** Only two expressions of interest were received by the closing date of 26 March 2018. Following a detailed evaluation of the submissions, the OPW determined that one of the applicants failed two of the eight preliminary evaluation criteria — the turnover threshold was not met and a professional indemnity insurance certificate was not provided.
- 6.18** Following final evaluation, the OPW awarded a new three-year contract to the existing contractor commencing in October 2018. The new contract provides that the maximum value of any one order under the contract would be €750,000, or €1 million for conservation works.

## View of the Accounting Officer

- 6.19** The Accounting Officer stated that, traditionally, organisations like the OPW employed direct labour to carry out maintenance and minor capital work. This had the advantage of direct control with a flexibility in the application of resources to meet the changes in priorities. However, the previous experience of maintaining a workforce of over 250 people in the OPW was demanding and introduced risks and inefficiencies, which were difficult to fully eliminate. The challenge for the OPW was to deliver on this work with a contract that was flexible and adaptive.
- 6.20** He stated that the OPW provides for a shared service to other government departments and offices by utilising a number of delivery options, one being the use of the maintenance contract. This contract was deemed to be a cost effective practice, providing value for money.

<sup>1</sup> SI 329/2006 *Award of Public Authority Contracts* applied until April 2016 when it was updated by SI 284/2016.

- 6.21** He stated that transparency and cost control is maintained through the 'schedule of rates' which is at the core of the maintenance contract. This schedule covers some 3,000 construction items in a document of 250 pages and is used as the reference point for the OPW, its contract administrator, and the maintenance contractor in pricing individual tasks covering approximately 300 owned/leased government buildings.
- 6.22** He stated that the maintenance contract differs in general from other contracts in that the overall value of the contract quoted is an indicative estimate of the services to be provided. It states in its terms that the value of work to be carried out under the contract is approximate, and has been included for information purposes only. It also stipulates that the OPW accepts no liability if the actual value of the works ordered is at variance with the stated minimum or maximum value. The 2014 contract provided an approximate contract value based on historical information.
- 6.23** The Accounting Officer has stated that the OPW's intention was at all times to obtain value for money for the State while responding quickly to urgent situations. The OPW recognised the increasing demand for projects to be delivered using the maintenance contract and is seeking to develop alternative delivery models for urgent and larger construction projects. Some early ideas trialled working with the OGP were, unfortunately, not successful. However, the OPW is satisfied it is making good progress and a group of experienced staff are engaged in working on this matter. There are a number of live projects now underway, including
- fit-out and refurbishment framework contract — the tender is imminently due and a framework contract should be in place by the end of October 2019
  - design/build framework contract — additional external resources are being procured for the preparation of the tender and the framework contract should be in place by mid-2020
  - a review of the current maintenance contract, primarily taking on board the lessons from the 2018 procurement process, the growing scale and complexity of the process for prospective tenderers, and looking at alternative mechanisms — it is essential that the models chosen will facilitate a competitive process to any new contract.

## Conclusions and recommendations

- 6.24** OPW engages a private sector contractor to provide maintenance services and to carry out minor capital works on part of its Dublin portfolio.
- 6.25** The contract anticipated expenditure would be of the order of €3 million a year. Total expenditure incurred under the contract was €39.4 million for the period 2015 – 2018, an average of €10 million a year.
- 6.26** The OPW has processes in place to monitor works carried out under the contract but did not have a detailed view on the level and different types of activity being undertaken under the contract, which included pre-planned preventative maintenance, new capital works, conservation projects and routine reactive day-to-day maintenance. This is an important element of contract monitoring, allowing the OPW to assess the cost pressures of the different activities and works being commissioned under the contract.
- 6.27** The 2014 maintenance contract also set a maximum value of €500,000 for any one order commissioned under it. The examination identified a number of instances where this threshold was exceeded.

### **Recommendation 6.1**

In order to ensure timely monitoring of the costs arising under the contract, the OPW should prepare periodic comparisons between contract expenditure and the estimated value, split between the various activities undertaken.

#### **Accounting Officer's response**

Agreed.

The OPW undertakes to refine its internal procedures to ensure that comparisons are made between the contract estimates and contract expenditure, split between the various activities undertaken.

- 6.28** Public procurement guidelines require the contracting authority to make a realistic estimate of the value of contracts advertised and awarded. The advance publication of accurate contract value information may assist firms in considering whether to bid for public contracts.
- 6.29** Re-tendering of the maintenance contract commenced in December 2017. The total value of the contract was advertised at €15 million (excluding VAT) for a three-year period i.e. an average of €5 million a year, even though the level of spending at that time was approximately €9 million a year.
- 6.30** Only two firms applied under the procurement process. The OPW considers that the contract value specified in relation to the measured-term contract did not contribute to the low level of interest from bidders.

### **Recommendation 6.2**

The OPW should review the processes it has in place for estimating contract values taking account of the public procurement requirement for accurate estimation of contract value.

#### **Accounting Officer's response**

Agreed.

The OPW undertakes to ensure that the most accurate estimates for contract values are published at the tender stage. The OPW provided the best estimate available at the point in time of the tender based on certain assumptions. It does recognise that, in estimating for future use and spend on the measured-term contract, enhanced processes should be put in place and has commenced reviewing its procurement strategy.

