

Vote 21. - Prisons

25. Management of Capital Projects

Capital expenditure incurred on projects at prisons and at probation and welfare centres is carried out either by the Department itself or on its behalf by the Office of Public Works (OPW). In 1997 some £34.6m was expended while £34m is committed for future years.

The guidelines for public procurement in relation to the award and management of public sector contracts, state that it is essential that every effort should be made to ensure that all aspects of the design are finalised before a project goes to tender, so that increased costs can be avoided at a later stage. At the outset upper costs and area limits should be set and a detailed brief prepared which is sufficiently comprehensive to establish clearly the services required and the relevant standards and constraints. The unnecessary use of provisional sums or quantities as a substitute for detailed planning should be actively discouraged. At the construction stage, proper supervision is essential to ensure that the works are being carried out as required under the specifications and within the time and cost limits for the contract. Adequate regard must be had to equity in the award of contracts.

Two major capital projects directly managed by the Department itself with the assistance of consultants for planning, design and supervision of construction were examined by my staff *viz.*

Project	Cost £m
Curragh Prison - conversion of existing old military detention cell blocks	3.3
Construction of kitchen in Portlaoise Prison	2.8

Prison building projects present difficulties over and above those arising on other public capital projects because of security considerations and the ongoing pressing urgency for the provision of extra prison places. The audit took account of these special factors and recognised that strict adherence to public procurement guidelines in all respects might not be possible.

The audit revealed a number of shortcomings in the way the projects were undertaken including

- lack of precision in the definition of individual consultants' roles in the design and construction process
- the depth and scope of the briefing of the building design teams
- the absence of detailed analysis and evaluation of tenders
- the appropriateness of the performance bonding arrangements,
- the failure to execute formal contracts until the work was almost completed.

In response to my inquiries the Accounting Officer informed me that the volume of activity in the prisons development programme had increased dramatically over the last 4 to 5 years. Arising from a number of Government decisions to increase prison accommodation, the Department had, as a matter of considerable urgency, embarked on a major, accelerated prisons building programme, aimed at producing 1,000 additional places by mid-1999 and a further 1,000 places by 2002. Simultaneously with the accelerated building programme, it had been necessary to press on with and, indeed, expand the programme for refurbishing, upgrading and extending facilities in the existing prisons. Most of the existing prisons are old. Generally, they are, at best, in moderate condition and certainly they are in urgent need of upgrading and modernisation to meet present day standards and to comply with current Safety, Health and Welfare at Work Regulations. It had, of course, also been necessary to continue with organised work programmes for the routine maintenance and servicing of all prisons buildings, plant and equipment.

He stated that all of this had led to a huge increase in overall workload for the Prisons Division of the Department. Through the efforts of the limited staff resource available in the Department for this work, it had been possible, up to now, to meet the very demanding timetables set for this multi-faceted programme.

He assured me that the Department was fully committed to the observance of all Government and Department of Finance regulations and procedures relating to public sector procurement and contracting. He is satisfied that there had not been any deliberate or intentional attempt to circumvent existing regulations and guidelines relevant to the management of the prisons capital projects, and he is equally satisfied that there had not been any misappropriation or wastage of the funds provided for this work. He accepted that, arising principally from the exceptional pressures of the rapidly increasing workload, there were some oversights and he felt it was important to point out that there was no suggestion that this resulted in unnecessary expenditure or loss.

He confirmed that new procedures had already been put in place to address certain shortfalls identified by the audit. Moreover, arising out of the audit, work is well underway on measures to improve and strengthen in-house procedures for monitoring progress and financial control of prisons capital projects. Expanded use of IT management systems will play a major role in achieving these required improvements.

In regard to the specific issues he stated that the Department from its involvement in prisons building projects over many years, and from its long standing working relationship with the OPW, has accumulated a significant amount of knowledge relevant to the organisation of a design team and the roles for the individual consultants constituting that team. Further consideration would be given to formalising the arrangements.

The approach to briefing design teams generally adopted by the Department is, following identification of a potential project, to engage all involved parties (Prison Management, Governor of Prison Works Office, in-house specialists - where relevant - and Prisons Planning personnel) in a series of discussions aimed at developing and fleshing out the initial concept and fitting into the overall project programme. At the end of this process, the Department will have clear vision of what is required, where and how the building(s) will be located, together with an approach to handling the construction phase in an operational prison, where applicable. This information is used as the basis for briefing the consultants (OPW or private sector). In the absence of in-house

building design experts, the Department's brief to the consultants does not contain any detailed guidance on type or style or layout of buildings envisaged and does not offer any costed estimates for the proposed project. Generally, a cost indication, based on previous project experience and having due regard to available funding, is provided to the consultants at the outset. The appointed consultants are required, as part of their terms of engagement, to prepare and present project budget estimates from the feasibility study stage onwards and to advise the Department on value for money aspects of the proposal.

He stated that it is the practice of the Department to engage a consultant design team appropriate to the requirements of each individual project. For major projects a Quantity Surveyor is included in the design team and an itemised Bill of Quantities is prepared and included in the tender documentation. The priced Bill of Quantities, returned by the tenderers, provides an acceptable basis for tender analysis and ongoing cost control measures in the construction phase and is used by the Department for these purposes. It is accepted that in the particular case of the Curragh Prison project, due to special circumstances obtaining, a Quantity Surveyor was not appointed and an itemised Bill of Quantities was not prepared. It is the standard practice of the Department to seek a detailed tender report from the consultant building design team and to be guided by the findings of that report in deciding on the award of a contract. In this practice, the Department's over-riding consideration is to obtain best value for money. It is accepted that, in the special circumstances of urgency surrounding the Curragh Prison project, the time made available to the consultants for completing tender assessment and reporting procedures was limited. As a result, the tender report was less detailed than normal.

The Accounting Officer also stated it is the standard practice for the Department, in accordance with the provisions of public procurement guidelines, to obtain bonds for main contracts having a value in excess of £200,000. In the case of the Curragh Prison Project, a conscious decision was taken to dispense with the requirement for bonding because of previous satisfactory experience of working with the appointed main contractor and in the interests of reducing project costs to an acceptable level. In relation to the Portlaoise Prison Kitchen Project, it is accepted that, while the original contract amount and duration were appropriately bonded, due to an oversight on the part of the Department, the bond cover was not adjusted to take cognizance of the amendment of the contract amount and duration, during the course of construction. Further, in the matter of protecting the Department's financial interests, it should be noted that all contract payments are executed one month in arrears and an appropriate level of retentions (generally 3% to 5%) are held by the Department pending completion.

He informed me that the delay in signing the formal contract documents arose due to pressure of work. However, a letter of undertaking issued before the work commenced and it was his understanding that this letter and its acceptance by the contractor, *de facto*, form the basis of a legal contract between the two parties.