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promoting better use of public money”

**Report by the Comptroller and
Audit General on the ILEX Urban
Regeneration Company Ltd (ILEX)**

for year ended 31 March 2012

Report by the Comptroller and Auditor General

Introduction

1. Ilex Urban Regeneration Company Ltd (Ilex) is a company limited by guarantee which was established in July 2003 to promote the regeneration of Derry~Londonderry. Ilex is sponsored by both the Office of the First Minister and Deputy First Minister (OFMDFM) and the Department for Social Development (DSD) who fund and are accountable for the Company.

Background

2. As part of my audit, I am required to satisfy myself that, in all material respects, the expenditure and income shown in the financial statements have been applied to the purposes intended by the NI Assembly and the financial transactions conform to the authorities which govern them, that is, they are 'regular'.
3. My 2010-11 audit identified six consultancy projects which did not have the necessary approvals from sponsor Departments and from the Department of Finance and Personnel (DFP). As a result irregular expenditure of £404,687 was incurred during 2010-11 and I qualified my audit opinion on the regularity of this expenditure. My report on the irregular expenditure and other issues was considered at a meeting of the Public Accounts Committee on 25 April 2012.

Summary

4. Progress has been made by Ilex in 2011-12 in addressing the underlying management and governance issues that were highlighted in my report last year. An action plan has been developed including project management and compliance reviews which has been adopted by the Board. The Audit Committee reviews progress on a monthly basis and updates the Board. The Accounting Officers of both sponsor departments have also held monthly meetings with the Chief Executive of Ilex.
5. However a number of issues that first arose and were reported on in 2010-11 have continued to impact in 2011-12 and these have again led me to qualify my audit opinion on the regularity of expenditure:
 - An issue that I identified last year relating to the poor procurement of consultancy services for the Peace Bridge is now likely to result in the disallowance of European Union (EU) grant funding amounting to £312,573. This funding shortfall will now have to be met by additional funding from the Northern Ireland Executive. I consider that the effect of the disallowance is irregular because it arises from ineffective controls in previous years within Ilex.
 - For two projects which incurred irregular expenditure in 2010-11 because they did not have the necessary approvals from sponsor Departments and DFP, additional expenditure has been incurred in 2011-12 giving rise to further irregular payments of £278,906.

- In 2010-11 I also reported that the starting salary of a new Director had not yet received the necessary approvals from the sponsor Departments and DFP. Ilex has confirmed that approval for this salary has still not been received and this has resulted in irregular spend of £23,000 in 2011-12.
6. I have also reported on a number of other issues including an update on the position regarding irregular payments made by OFMDFM on the Ilex managed project at Ebrington parade ground and continuing delays in the completion of post project evaluations.

Qualified Regularity opinion

Peace Bridge - Disallowed European Union Expenditure

7. In my 2010-11 audit I reported on a business case for consultancy services to assist with the delivery of the Peace Bridge which had been approved by Ilex in February 2008 for £75,000 and awarded to the successful bidder at a cost of £63,784. This project was subsequently extended without tender and the total cost was in the region of £477,000. Ilex had previously expected that £422,600 of this expenditure would be funded by grants from the EU. However, because of the non-compliance with procurement rules it is anticipated that only £110,027 will be received in grant funding from the EU and therefore that £312,573 will be disallowed and as a result have to be met by the NI Executive.
8. It is my view that disallowance enforced by the EU is always irregular as it represents a shortfall in EU funding which will be met by the UK taxpayer and which has arisen through ineffective controls operating by the UK managing body. Therefore I have qualified my opinion in relation to the expected disallowance of £312,573.

Project expenditure without proper approvals

9. In 2010-11 I qualified my opinion in relation to payments made in respect of six projects which had not received the necessary approvals from sponsor Departments. In two of these cases payments have continued to be made and therefore the same issue has arisen in 2011-12 i.e. that the projects still do not have the necessary approvals and are very unlikely to receive such approval in the future. Consequently expenditure on these two projects during 2011-12 is irregular. Explanations of the background to each of the cases has been given in my 2010-11 report and details of the irregular expenditure on each of the projects are included in the table below:

	Contract	Spend prior to 2011-12	2011-12 irregular spend
		£	£
1	Ebrington Site – Design fees	897,690	221,618
2	Peace Bridge – Project Management Consultancy	420,083	57,288
	TOTAL	1,317,773	278,906

Director's starting salary not approved

10. As I reported last year, a new Director was appointed in September 2010 on a salary in excess of the normal expected minimum for such a post. Under the terms of its financial memorandum, Ilex should have received approval for the increased salary level from its sponsor Departments and DFP. A business case has now been resubmitted for approval for this salary but this has still not been received. As a result, the amount of salary paid in excess of the minimum is irregular and I have therefore qualified my regularity opinion in relation to this excess of £23,000.

Summary

11. The issues on which I have qualified my regularity opinion this year have all arisen from specific matters identified and reported in 2010-11 and are likely to continue to impact on my opinion for a number of years until the projects without the required approvals are completed. I am pleased to note that no new regularity issues have arisen this year and that Ilex and its sponsor departments have devoted considerable resources and energy into the ongoing action plan to address the problems that Ilex has had in previous years.

Other matters

Withdrawal of approval on Ebrington Barracks following lower than expected tender costs

12. As set out in note 3 to the accounts, Ilex manages certain projects on behalf of the sponsoring Departments including the Ebrington Barracks parade ground project. I reported last year that expenditure on this project had exceeded the amounts that had been approved by DFP and as a result all expenditure on this project is now irregular. As was the case last year, I have not qualified my audit opinion on Ilex in respect of this irregularity because, although OFMDFM hold Ilex accountable for the delivery of the Ebrington project, the irregular expenditure is not recorded in Ilex's accounts. All of the irregular expenditure in 2011-12, amounting to £4.6 million, was paid for and accounted for by OFMDFM and I have already qualified my audit opinion on OFMDFM'S 2011-12 accounts in respect of this matter. There may be further expenditure on the Parade Ground in 2012-13 and I will consider the impact of this expenditure on OFMDFM's accounts during my 2012-13 audit.

Tax and National Insurance contributions paid on home to work travel expenses claimed by non executives

13. In my 2010-11 Report I noted an issue in relation to a tax liability that arose on the Chairman's travel expenses and had been paid by Ilex. This issue of travel expenses and potential tax implications was subsequently considered by the Public Accounts Committee who made a recommendation that responsibility for payment of tax liabilities of non-executive board members should be agreed in advance of their appointment and that DFP should clarify the position regarding the tax position of travel expenses paid to non-executive board members. DFP has since written to all public sector bodies in

Northern Ireland explaining the HMRC position on home to work travel expenses claimed by non-executive directors.

Post Project Evaluations

14. Public sector bodies are required to complete proportionate post project evaluations to improve decisions and learn lessons that can be applied to achieve best value for money on future projects. In my report last year, I noted that 27 post project evaluations remained outstanding and Ilex told me it expected to complete these evaluations by June 2012. I am therefore disappointed to find that the number of post project evaluations to be completed has since increased. At 30 June 2012, 91 post project evaluations remained outstanding, including 12 with a value over £100,000. Ilex has told me that since June it has completed 27 of these evaluations and that it expects to complete a further 33 by the end of December 2012.
15. It is essential that these evaluations are brought up to date, particularly for projects where spending has significantly exceeded tendered costs. It is important that lessons are learned and shared within Ilex and the wider public sector. Ilex have told me that the completion of these evaluations is a priority action for the company.

Sponsor department arrangements

16. In 2010-11 I reported on a review by consultants that raised the need to consider streamlining the sponsoring Department relationship to improve accountability arrangements. The need for a single sponsor department was also one of the recommendations made when this matter was subsequently considered by the Public Accounts Committee. I understand that proposals have now been agreed that OFMDFM will be Ilex's single sponsor department from April 2013. I welcome this development which will improve accountability in future years.

Conclusion

17. The issues identified in this report arose from an earlier systemic breakdown within Ilex in the application of important spending controls. I am satisfied that Ilex has worked effectively with its sponsor departments during 2011-12 to put in place sufficient internal and governance controls to help prevent such lapses occurring again. I was therefore pleased to note that while irregular expenditure of £614,479 has continued to be incurred because of problems that have arisen in the past, no significant new failures have been identified. Nevertheless procurement and project management risks continue to exist and I will review these areas again as part of my 2012-13 audit.



KJ Donnelly
Comptroller and Auditor General
14 December 2012

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