



Review of Contract Awarded to JCDecaux Ireland Ltd.



Audit Report

No. R07/09

October 2009

EXECUTIVE SUMMARY

Internal Audit Unit,
Floor 8, Block 1,
Wood Quay.
October 7, 2009.

Mr. Michael Stubbs,
Assistant City Manager,
Planning and Economic Development Department,
Block 4, Floor 3.

Internal Audit Report No. R07/09
Review of Contract awarded to JCDecaux Ireland Ltd.

Overall Audit Objective	<p>To give assurance to Management:</p> <ol style="list-style-type: none">1. that legislation and guidelines in the area of Public Procurement were adhered to and2. that an appropriate procurement procedure was used in the award of this contract.
Applicable regulatory Framework at the time this procurement took place	<ol style="list-style-type: none">1. National Public Procurement Policy Unit Public Procurement Guidelines ('NPPPU Guidelines') which incorporate the requirements of Directive 2004/18/EC of the European Parliament and of the Council of 31st March 2004.2. European Communities (Award of Public Service Contracts) Regulations 1998-2001.

Audit Conclusion

1. The rationale for linking the provision of public realm enhancements with the regularisation of outdoor advertising is in keeping with the practice in most major European Cities (and has been set out in various reports to the City Council).
2. The contract was a Services Concession and the NPPPU Guidelines outline that a procurement of a Services Concession contract is not subject to the full scope of the procurement directive but that the Treaty principles of non-discrimination, transparency, freedom to provide goods and services etc. must be observed. The Planning Department decided as a matter of good practice to voluntarily follow the Negotiated Procedure requirements as laid out in the NPPPU Guidelines.
3. The use of the Negotiated Procedure in the procurement of this contract was appropriate given the nature of the contract. It met the requirements for using this procedure in that the nature of the requirement did not permit overall pricing and it was not possible to specify requirements for a service with sufficient precision to enable candidates to respond with priced tenders.
4. The publication of a Prior Information Notice and Contract Notice in the OJEU provided maximum exposure and opportunity to the industry internationally to participate in the tender process, which in turn should have ensured optimal competition.
5. All candidates (5) with the requisite level of professional, technical and financial expertise and capacity were invited to tender.
6. The tenders submitted were evaluated by an Inter Departmental Team at Senior Management Level using a scoring system based on predetermined weighted award criteria, which had been set out in the Invitation To Bid.
7. Following selection of the preferred bidder and after the changes to the winning tender offering arising from the negotiation process, it would appear that the revised offering was still the Most Economically Advantageous Tender.
8. Post contract developments were managed by DCC in such a way as to ensure that value of the benefit being provided to DCC as per the signed agreement changed pro rata with the value attaching to the changed rights being granted to JCDecaux.
9. The Information and Communication System and the City Bike Rental Scheme are in place and the roll out of the Way Finding System is underway. 100 Billboards have been removed in Dublin City as a result of this contract.

This summary should be read in conjunction with the full report.

Joe Phelan

Administrative Officer

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Confidentiality Clause

In the contract between Dublin City Council and JCDecaux Ireland Ltd ("JCDecaux") "both parties agree to keep all business, financial and other confidential information provided to them by the other party ...secret and confidential and not at any timedisclose them or permit them to be disclosed to any third party..." This report may contain information considered commercially sensitive by JCDecaux.

1.0 INTRODUCTION

Since 1997 Dublin City Council ("DCC") had been attempting to rationalise the provision of outdoor advertising in the city. A Working Group examined the issue and concluded that in line with many other European cities outdoor advertising could best be regulated by DCC in such a manner as to realise a return in the form of a public realm enhancement scheme for the City of Dublin. In 2003 DCC advertised in the national press for a pilot project in this area and there was a poor/negative response from the advertising industry. The view was that a project of this type should encompass the entire city.

The Dublin City Development Plan 2005-2011 addressed the specific issue of outdoor advertising and street furniture. It acknowledged that well-designed advertising signs in selected locations and on an appropriate scale can contribute to the character and vitality of commercial areas of the city particularly at night.

The issue of outdoor advertising was re-examined and a decision was made to proceed with tendering a contract on a City – wide basis. The intention was that the successful tenderer would be permitted to utilise DCC property for the purpose of providing outdoor advertising facilities. The tenderers were to be invited to make proposals to DCC in relation to public realm enhancements they were prepared to offer to DCC as part of this contract.

A procurement process was initiated by DCC Planning and Economic Development Department ("Planning Department") in 2005, which lead to the award of a contract to JCDecaux in November 2006.

At the meeting of the Finance Strategic Policy Committee of DCC in December 2008 a question was raised in relation to the contract awarded to JCDecaux for the provision of Outdoor Advertising and Public Amenities. Following on from this meeting, Internal Audit was requested by the DCC Audit Committee to determine whether it might be prudent to carry out an examination of this contract and in particular the procurement process involved. It was decided by Internal Audit to conduct an audit of the procurement process.

2.0 OBJECTIVES

The objective of this audit is to give assurance to Management that legislation and guidelines in the area of Public Procurement were adhered to and an appropriate procurement procedure was used in the award of this contract.

3.0 SCOPE & METHODOLOGY

Internal Audit examined the procedure followed by the Planning Department in the procurement of this contract. The sequence of events following the award of the contract, which led to changes in the benefit being provided to DCC in return for the changes in rights being granted to JCDecaux under the contract, has also been examined.

4.0 OBSERVATIONS

4.1 Procurement Process

4.1.1 Procurement Regulatory Framework

All public sector bodies/organisations must comply with Procurement regulations. Procurement in DCC is governed by legislation and guidelines. Failure to comply with legislation and guidelines(which incorporate EU Directives) could lead to decisions being challenged in the High Court or the European Court of Justice. Moreover, compliance with these regulations is vitally important to ensure fairness, accountability and encourage competition.

The applicable procurement regulatory framework at the time this procurement was being conducted was:

1. National Public Procurement Policy Unit (NPPPU)¹ Public Procurement Guidelines ("NPPPU Guidelines"), which incorporate the requirements of Directive 2004/18/EC of the European Parliament and of the Council of 31st March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts ("Directive 2004/18/EC"). Whilst the NPPPU Guidelines incorporated the Directive 2004/18/EC, the Directive 2004/18/EC was not yet transposed into Irish law.
2. European Communities (Award of Public Services Contracts) Regulations, 1998 to 2001, SI 378 of 1998 and SI 334 of 2001. These Statutory Instruments were the transposition of European Directive 92/50/EEC and European Parliament and Council Directive No. 97/52/EC.

¹ The National Public Procurement Policy Unit is part of the Department of Finance

4.1.2 Selection of the Procurement Category and Procurement Procedure in accordance with regulations

The NPPPU Guidelines provide general guidance to contracting authorities. The NPPPU Guidelines state that it is essential that officials directly concerned with placing contracts are familiar with the provisions of the relevant Directives. The NPPPU Guidelines summarise the principal features and provisions of the revised EU procurement Directives for a EU Public Procurement Procedure. The NPPPU Guidelines state that for large or complex projects, or in the case of contracts with non-standard features, legal or other professional advice should be obtained if there is any doubt about the correct procedure to be followed.

The DCC Law Agent and Philip Lee Solicitors (a firm with expertise in Public Procurement and competition law) advised the Planning Department Management in the preparation of this tender and contract. The EU Directives classify contracts under the following categories:

1. Works – building and engineering contracts
2. Supplies – purchasing of goods and supplies
3. Services – all of the most commonly procured services, including advertising, maintenance and repair services, cleaning, etc.

Philip Lee Solicitors advised that the contract that was envisaged combined works, supplies and services elements. Philip Lee Solicitors advised that the contract was more likely a Service Concession Contract, which is defined as a contract of the same type as a public service contract except for the fact that consideration for the provision of services consists either solely in the right to exploit the service or in this right together with payment.

Further to the legal advice received the contract was categorised as a Service Concession rather than a Works Concession on the basis that the works element was incidental rather than the object of the contract. As per the Directive 2004/18/EC, a public contract having as its objective both products and services shall be considered to be a public service contract if the value of the services in question exceeds that of the products covered by the contract.

The NPPPU Guidelines state that procurement of a Service Concession contract is not subject to the full scope of the procurement directive (Directive 2004/18/EC) but that the EU Commission and European Court of Justice (ECJ) have ruled that the EU Treaty principles of non-discrimination, transparency, freedom of movement, freedom to provide goods and services, etc. must be observed.

Although a Service Concession was not required to be subject to the full scope of the procurement directive, the Planning Department decided as a matter of good practice to voluntarily advertise the contract and comply with the Negotiated Procedure in so far as was possible and practical. The Negotiated Procedure is one of the four procurement procedures permitted per the NPPPU Guidelines. The following of this procurement procedure, whilst it was not obligatory, provided a benchmark against which the procurement process can be assessed as regards meeting the Treaty principles of non-discrimination, transparency, freedom of movement, freedom to provide goods and services etc.

The NPPPU Guidelines state that the Negotiated Procedure may only be used in limited circumstances. Two of the circumstances in which this procedure may be used are:

1. The nature of the requirement does not permit overall pricing
2. It is not possible to specify requirements for a service with sufficient precision to enable candidates to respond with priced tenders

This contract was put forward to the market via the Contract Notice as a contract with a concessionaire in relation to the utilisation of property for the purposes of providing outdoor advertising services, which should provide an opportunity to identify possible new forms of advertising in new locations. The Contract Notice stated that the contract may also involve the provision by the concessionaire of certain types of street furniture and other services designed to enhance the public realm. Therefore the contract met the conditions described above under which the Negotiated Procedure may be used.

4.1.3 Procurement Procedure Implementation

Prior Indicative Notice

The NPPPU Guidelines state that if a Contracting Authority publishes a Prior Indicative Notice (PIN) in the Official Journal of the European Union (OJEU) between 52 and 365 days before a Contract Notice is published it is possible to use the reduced timescales in the Directive for the submissions of expressions of interest and the submissions of tenders. DCC availed of this option.

A PIN was published in the OJEU on 25/04/05.

Pre-qualification for Negotiated Procedure

The NPPPU Guidelines state that a Negotiated Procedure should normally involve the submission of formal tenders by at least 3 candidates, which have been 'pre-qualified on the same basis as for a restricted procurement procedure' with negotiations on final terms in a competitive process.

The NPPPU Guidelines state that for 'Pre-qualification on the same basis as for restricted process' candidates may only be pre-qualified on the basis of criteria relating to personal situation, financial capacity, technical capacity, relevant experience, expertise and competency as set out in the revised Directive (Articles 45 to 48 of 2004/18/EC). Only those parties who meet minimum requirements in regard to professional or technical capability, experience and expertise and financial capacity to carry out a project are invited to tender. The two steps involved for pre-qualification on the same basis as for a restricted procurement procedure:

Step 1: Contract Notice for Expressions of Interest

The NPPPU Guidelines state that the requirements of the Contracting Authority should be set out through a Contract Notice in the OJEU and Expressions of Interest should be invited from potential tenderers.

The relevant information required was set out in the Contract Notice. The Contract Notice indicated the information that had to be submitted in the Expressions of Interest to establish if candidates had the requisite level of professional, technical and financial expertise and capacity to be invited to tender.

The NPPPU Guidelines state that 37 days should be allowed for receipt of Expressions of Interest. The NPPPU Guidelines refer to the Directive 2004/18/EC, Article 38(5), for the potential time reductions for responses when Contract Notices are transmitted electronically to the OJEU. This Article of the Directive 2004/18/EC states that the time limit for the receipt of the request to participate in Negotiated Procedures may be shortened by seven days when Contract Notices are transmitted electronically to the OJEU. A Contract Notice was published in OJEU on 12/07/05. (It was also published on e-tenders² and advertised in Irish Times and Irish Independent). Therefore the minimum time required for receipt of Expressions of Interest for this contract was 30 days.

The closing date for Expressions of Interest was 16/08/05. Therefore 35 days were allowed for receipt of expressions of interest.

Six Expressions of Interest were received. The candidates were short-listed on the basis of information supplied.

Step 2: Invitation to Tender/Invitation to Bid (ITB)

The NPPPU Guidelines state that the second step involves issuing the complete specifications and tender documents with an invitation to submit tenders to candidates with the requisite level of professional, technical and financial expertise and capacity.

The five candidates who were found to have the requisite level of professional, technical and financial expertise and capacity were invited to tender on 26/09/05. The ITB provided information to Bidders including the rules of the competition, DCC's requirements in relation to advertising facilities and a draft contract.

The NPPPU Guidelines state that the time allowed for receipt of tenders may be agreed between the two parties under the Negotiated Procedure.

The deadline for submission of tenders was initially 2/12/05.

The NPPPU Guidelines state that additional information must be issued at least 6 days before the latest date for receipt of tenders and requires that additional information supplied to one party should be supplied to all parties.

The candidates raised a number of issues. All questions were required to be submitted in writing. Clarification meetings were held with the candidates individually on 19/10/05 and 20/10/05. Additional questions raised at the meetings were tabulated and answers were circulated to all tenderers with the revised ITB on 28/10/05.

The revised ITB and revised draft contract were issued on 28/10/05 and the closing date for receipt of tenders was extended to 15/12/05.

One company withdrew at this stage of the process.

The revised ITB document outlined the project as follows "the successful Bidder will be permitted to utilise property consisting of lands and/or buildings owned by the Council ("the sites") for the purposes of providing outdoor advertising facilities. This should provide an opportunity to identify possible new forms of advertising in new locations The project may also involve the provision by the concessionaire of certain types of street furniture and other services designed

² E-tenders is the National Public Procurement Website

to enhance the public realm... the concessionaire will be permitted to erect and retain outdoor advertising structures at the sites... Bidders will be required to identify a suitable quantum of sites.... It is envisaged that the concessionaire shall carry out certain works and services at those sites including the construction and maintenance of outdoor advertising structures and street architecture. It is also envisaged that the concessionaire would be required to apply for planning permission for the 100-300 sites it selects for the advertising structures...the Council makes no commitment or guarantee that any of the sites proposed by the Bidders will receive planning permission from the planning authority. Bidders are invited to propose, as part of their bids, the duration of the concession....”

The NPPPU Guidelines state that contracts may be awarded on the basis of price or the Most Economically Advantageous Tender (MEAT), and for projects being awarded on the MEAT basis the tender documents must state all the criteria being applied in the award process, giving the relative weightings for each criterion. The NPPPU Guidelines state the evaluation of tenders should be carried out by a suitably competent team and the evaluation and award process must be demonstrably objective and transparent and based solely on the published criteria. The NPPPU Guidelines state that this is best achieved by the use of a scoring system based on the relevant weighted criteria, indicating a comparative assessment of tenders under each criterion.

The Contract Notice stated that the award criteria for the contract would be the Most Economically Advantageous Tender and the criteria being applied in the award process (with corresponding weightings for each criterion) were stated in the Invitation To Bid document. The NPPPU Guidelines state that tenders, which do not comply with the requirements specified in the Invitation to Bid, should be rejected.

In the revised ITB, DCC indicated that bidders should set out the minimum number of years they proposed for the concession contract but that the preferred maximum was 10 years.

Tender Submissions

Four tenders were submitted by the closing date 15/12/05.

All four tenders identified potential advertising sites at different locations throughout the city. Various designs were proposed for the advertising structures and public amenities. Other information submitted included installation and delivery details including proposed maintenance and cleaning programmes.

All tenders included:

1. A minimum guaranteed revenue to DCC
2. A projected revenue share to DCC
3. Value of amenities/services offered

The tenders had varying proposed durations of 5, 10 and 15 years. Some parties included multiple options in their tenders.

The Head of Management Accounting, DCC, calculated the Present Value³ of the tender submissions. JCDecaux had the proposal with the highest Present Value in total and also per annum.

Tender Evaluation

An Assessment Panel was formed and evaluation of tenders took place on 12/01/06. The Panel consisted of six DCC employees, an Assistant City Manager, an Executive Manager, the City Architect, the Law Agent, the Dublin City Planner and a Senior Planner.

The Assessment Panel determined the Most Economically Advantageous Tender by using a marking scheme based on the predetermined weighted award criteria communicated in the Invitation to Tender.

The Award Criteria and weightings outlined in the Invitation to Bid were as follows:

1. Economic Criteria -30 points
2. Outdoor Advertising Design – 30 points
3. Public Realm Enhancement– 20 points
4. Duration of Concession – 10 points
5. Management, Maintenance and Cleaning for advertising structure and street furniture– 5 points
6. Delivery Programme - 5 points

The Invitation to Bid stated it was necessary to score 50% of the marks available for each award criterion to qualify for advancing to the next stage of the procurement process. The four tenders were assessed. JCDecaux and one other candidate qualified.

JCDecaux was the preferred tenderer based on the marks awarded and was invited to enter negotiations on 13/01/06(letter). The tender was based on a 15 year period and the provision of 170 advertising sites. In addition to a share of net advertising revenue, the following non-cash items were offered:

1. City Bike Rental Scheme (450 bikes at 25 bike stations)
2. Way Finding System
3. Heritage Trail
4. Information and Communication System (128 panel faces)
5. Automatic Public Conveniences (4)
6. Removal of 100 48-sheet advertising hoardings(“billboards”)
(Refer to Appendix 1)

DCC had not set out exact public amenity requirements and JCDecaux stated in their submission that if their application was successful, and subject to negotiation, it would be possible to offer some inter-changeability between the listed public amenity services and/or product numbers.

The unsuccessful candidates were notified by letter on 13/01/06. Debriefing meetings were held with unsuccessful candidates before the end of January 06. The unsuccessful candidates were advised of their score and the preferred bidders score for each of the award criteria and were informed of the key differences between both.

³ Present Value is a valuation method to appraise multi year projects. It is used where cash flows are distributed over time and it allows the conversion of these cash flows at different time periods to a cash value at one specific point in time.

Negotiations with JCDecaux January 2006 to October 2006.

Negotiation meetings were held on various dates between 17/01/06 and October 2006.

Discussions took place on the type, number and location of advertising structures to be allowed and removal of billboards. DCC was not happy with some advertising sites identified by JCDecaux. DCC also rejected one particular type of advertising structure proposed by JCDecaux at thirty locations throughout the city, the Eicon design, as it was not considered appropriate for the city. Two types of advertising structure were accepted, Metropoles and Metropanels. Metropanels and Metropoles are scrolling units displaying four or eight panel faces each (Photographs in Appendix 1). The amenities to be provided by JCDecaux were also discussed.

Arising from the negotiations 120 potential advertising sites were identified and agreed. JCDecaux's offer of services to DCC was reduced in accordance with the reduction in number of advertising sites.

In addition to a share of net advertising revenue, the following non-cash items were offered:

1. City Bike Rental Scheme (450 bikes at 25 bike stations)
2. Way Finding System
3. Heritage Trail
4. Information and Communication System (66 panel faces)
5. Automatic Public Conveniences (4)
6. Removal of 100 48-sheet billboards

The duration of the Contract agreed was 15 years and the total projected future value of the proposal was €83.5M.

Post negotiation, the total projected future value of the proposal to DCC was still in excess of the under bidders total projected future value of the Contract and the annualised projected future value of the contract was also in excess of the under bidders annualised projected future value of the contract. Internal Audit carried out a Present Value calculation based on the revised offer from JCDecaux. This Present Value calculation of the offer showed that JCDecaux still had the highest total present value relative to the under bidder and also the highest present value per annum of the contract relative to the under bidder. JCDecaux essentially won the bid based on the extra points it was awarded under the Economic Award Criteria. The Present Value calculations combined with the fact that JCDecaux had the advantage in other areas that attracted additional points within the Economic Award Criteria indicates that the JCDecaux offering was still the Most Economically Advantageous Tender after the changes which arose from the negotiation process.

Order of the City Manager No. S1517 dated 21/11/06 approved the *'Appointment of JCDecaux for the provision of Outdoor Advertising and Public Amenities and the signing and sealing of the... Concession Contract as outlined in the report of the Executive Manager and Assistant City Manager'*.

The contract was signed by the City Manager and sealed on 23/11/06.

The NPPPU Guidelines require that contracting authorities publish certain information on contracts awarded within 48 days of the award in the OJEU.

The Contract Award Notice was published in the OJEU on 13/12/06.

JCDecaux was required to apply for Planning Permission in the normal way for the erection of the advertising structures and bear all costs associated with these applications. It was not possible to pre-empt the outcome of the planning process prior to planning applications going through the planning process. Each planning application was to be determined on its own merits, taking all issues including third party objections and submissions into account. The process allows for appeal to An Bord Pleanála (ABP). The role of DCC as Planning Authority in this process is totally separate from its role as Contracting Authority.

4.2 Post Procurement Events (i.e. after the signing of the contract)

The planning process began in December 2006 with planning applications for each of the 70 Metropoles lodged on 21/12/06. Planning applications for each of the 50 Metropanels were lodged in early 2007. A number of applications were subsequently declared invalid or withdrawn.

Planning permissions were granted as follows:

- 72 planning permissions were granted by DCC including 50 metropoles and 22 metropanels
- A further 24 planning permissions were appealed to ABP. The appeal to ABP was decided on 7th February 2008. The APB decision was that 6 were granted permission and 18 were refused.

Therefore the total number of planning permissions granted was 78. It was impossible to confirm the final number of advertising panels JCDecaux would be able to install as aside from receipt of planning permission, certain installations could prove impossible due to circumstances outside the control of both DCC and JCDecaux (eg. Interference with local utility networks).

It was a condition of the planning permissions that 100 48-sheet billboards be removed within 1 year of the grant of planning permissions.

The payment provision in the contract states that the financial offer is based on the erection of 70 Metropoles and 50 Metropanels at locations listed in the contract. The contract states that if the number of advertising units differs from what is laid out in the contract, the financial offer will be adjusted pro rata. Therefore the contract allowed for a reduction in public amenities if all the advertising sites were not realised after the planning process. Following further negotiations JCDecaux submitted a revised financial proposal to DCC on 12th June 2007, which showed a proportionate reduction in the value of amenities being provided to DCC in line with the reduction in the value of the advertising sites to JCDecaux, and this proposal was accepted by DCC. 40% of the advertising sites provided for in the contract were not granted planning permission and Projected Net Advertising Revenue for JCDecaux decreased by 42%. Accordingly the value of amenities offered by JCDecaux was reduced by 35%.

The revised offer was as follows under the contract:

1. City Bike Rental Scheme (Number of bike stations increased from 25 to 50)
2. Way finding system
3. Information and Communication Network (38 panel faces)
4. Removal of 50 48-sheet billboards.

4.3 Roll out Process

4.3.1 Removal of Billboards.

The contract that had been signed provided for the removal of 100 billboards. It was a condition of the planning permissions granted for the advertising sites that 100 billboards would be removed within 1 year of the final grant of the planning permissions.

As outlined above, during the negotiation process it was agreed that the contract would provide for 120 advertising sites in return for the provision by JCDecaux of a public amenity package including the removal of 100 billboards in Dublin City.

JCDecaux received planning permission for 50 Metropoles out of a possible 70 and for 22 Metropanels out of a possible 50. On this basis, it was agreed by DCC on 02/08/07 that, in accordance with the pro-rata reduction provided for in the contract, JCDecaux would provide a revised public amenity package which now included the removal of 50 billboards. On 6th June 2008 JCDecaux submitted a list of 50 X 48 sheet equivalent billboards that had been removed. The list was accompanied by before and after photographs to verify removal.

JCDecaux accepted that the removal of 100 panels was required in order to satisfy the planning condition and a further list of 50 X 48 sheet equivalent billboards that had been removed (and photographs) was submitted on 27 February 2009.

4.3.2 Roll out of Advertising Structures and Amenities

The contract stated that the concessionaire would commence the erection of advertising structures and rollout of amenities no later than 6 months following the receipt of grant of final planning permission from the planning authority and/or An Bord Pleanála in relation to the initial Advertising Structures. The final An Bord Pleanála decision was made 7th February 2008.

A Public Amenities Project Steering Group was set up in DCC to oversee the roll out of the public amenities provided for in the contract. This was an interdepartmental group at Executive Manager level drawn from Planning, Development and Roads and Streets Departments. Three Interdepartmental working groups, reporting to the Steering Group were established to liaise with JCDecaux on the following three public amenity elements of the contract.

1. Information and Communication System
2. City Bike Rental Scheme
3. Way finding system

1. Information and Communication System

During August 2008 DCC had exclusive use of all advertising panels, which had been erected at that time (circa 55 in total) for public information purposes. Two advertising campaigns were run, Anti litter and Water Conservation, both were considered to be hugely successful and generated positive feedback (as per the Report to Area Committee 09/08).

From September 2008 onwards and continuing for the duration of the Contract DCC has exclusive use for public information purposes of 38 panel faces of the units in place. An interdepartmental working group (comprising Press Office, Event Section and Area Offices) is in place to ensure that a continuous programme of public information is in place. Motor tax On Line, Dublin One City One Book, Culture in Dublin, Development Plan Review are some of the campaigns included in the programme for 2009. (Each campaign also features on the DCC Website home page).

The cost of all design work, installation and maintenance of this public information scheme is borne by JCDecaux with no cost to DCC.

2. Public Bike Rental Scheme

The contract provides for 450 bikes in 50 bike stations located in the city. DCC was required to advise JCDecaux on bike station locations.

Throughout 2008 a working group comprising of representatives of the Roads and Traffic and Planning Departments carried out a rigorous assessment and evaluation of 120 potential sites. This included ground testing for services. Extensive consultation took place with all relevant DCC works departments i.e. Road Maintenance, Construction, Drainage, Traffic, Area Offices and external agencies such as The National Council for the Blind and the Dublin Transportation Office.

As a result of this process, a total of 40 bike station sites were identified, and signed off on by DCC in April 2009. Work started towards the end of April 2009 on the construction of the bike stations and the finished scheme, which is known as 'Dublin Bikes', was launched on 13th September 2009. There is a nominal charge for bike rental. Any income from bike rental will be paid to DCC. However it has been noted that such schemes in other cities do not generate significant income.

The cost of the installation of the bike scheme, together with its management and maintenance over the duration of contract will be borne by JCDecaux with no cost to DCC.

3. Way Finding System

This scheme will consist of signs (directional), information panels and maps at key pedestrian locations throughout the city.

An interdepartmental working group (Planning, Traffic, Events and Areas) is involved in the planning of this scheme. The location of Bike Stations had to be finalised before the Way Finding Scheme could be progressed.

The cost of developing, designing, installing and maintaining the system to a value of €4.106 M will be borne by JCDecaux.

JCDecaux has agreed to gift the scheme to the City at the end of contract.

4.4 Review of Contract

The contract clause that deals with Contract review/audit states that:

- the performance of the Concessionaire under this Agreement shall be subject to review on an on-going basis.
- the Council shall have reasonable access to the Concessionaire's premises, books, records, documents, equipment and other property it may reasonably require in order to check the Concessionaire's compliance with this agreement.
- the Concessionaire shall implement reasonable recommendations and comply with audit findings to the extent necessary to meet the requirements of the contract.

5.0 CONCLUSIONS

- The rationale for linking the provision of public realm enhancements with the regularisation of outdoor advertising has been set out in various reports to the City Council over the past 5 years and is in keeping with the practice in most major European Cities.
- Whilst the contract was a Services Concession and the NPPPU Guidelines outline that a procurement of a Services Concession contract is not subject to the full scope of the procurement directive, the Planning Department nonetheless voluntarily followed the Negotiated Procedure requirements as laid out in the NPPPU Guidelines. In respect of the Treaty principles of openness, transparency etc DCC appears to have fulfilled these principles by following the requirements of a Negotiated Procedure laid out in the NPPPU Guidelines in terms of advertising the contract in OJEU, timeframes allowed, short listing of candidates, evaluation of contracts etc.
- The use of the Negotiated Procedure in the procurement of this contract was appropriate given the nature of the contract.
- The publication of a Prior Information Notice and Contract Notice in the OJEU provided maximum exposure and opportunity to the industry internationally to participate in the tender process which in turn should have ensured optimal competition.
- All candidates with the requisite level of professional, technical and financial expertise and capacity were invited to tender.
- The tenders submitted were evaluated by an Inter Departmental Team at Senior Management Level using a scoring system based on predetermined weighted award criteria, which had been set out in the Invitation To Bid.
- Following selection of the preferred bidder and after the changes to the winning tender offering arising from the negotiation process, the relevant factors indicate that the revised offering was still the Most Economically Advantageous Tender.
- Post contract developments were managed by DCC in such a way as to ensure that value of the benefit being provided to DCC as per the signed agreement changed pro rata with the value attaching to the changed rights being granted to JCDecaux.

- The Information and Communication System and the City Bike Rental Scheme are in place. The roll out of the Way Finding System is underway. 100 Billboards have been removed in Dublin City by JCDecaux.

Joe Phelan, Administrative Officer

Audit Team
Carmel Watters, Staff Officer

Reviewed By
Anita McGeever, Administrative Officer

Copies of this report will go to:

- John Tierney, City Manager
- Kathy Quinn, Head of Finance
- DCC Audit Committee members
- Richard Murphy, Principal Local Government Auditor

Appendix 1

Samples of Metropoles, Metropanels and Billboards

Metropoles and the Metropanels are scrolling units displaying 4 or 8 panels each.

Metropoles

Metropole formats are widely available across continental Europe. This is the first time they have appeared in Ireland.



Appendix 1 continued

The Metropanel is a bespoke design for Dublin, incorporating a city skyline at the base of the unit.

Metropanels



Appendix 1 continued

48 Sheet Billboard (Surface Area 18sqm)

