



Northern Ireland Audit Office

The LandWeb Project: An Update



REPORT BY THE COMPTROLLER AND AUDITOR GENERAL
16 June 2020



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Comptroller and Auditor General

Northern Ireland Audit Office
16 June 2020

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Introduction

1. Land and Property Services (LPS) is responsible for the collecting, processing and managing land and property information for Northern Ireland. The services provided by LPS include maintaining Registers relating to land ownership i.e. the Land Registry¹, the Registry of Deeds, the Statutory Charges Register and the Ground Rents Register, providing up-to-date and accurate Land Information services and supplying mapping information for Northern Ireland.
2. Anonymous concerns from a member of the public were raised with us about a PFI (Public Finance Initiative) project managed by LPS. The concerns referred to over £100m being spent on the project, being wasteful of public money and lining the pockets of an IT contractor. These concerns prompted us to look back at recommendations made by the Northern Ireland Public Accounts Committee (PAC) some years ago.

The LandWeb project

3. LPS (formerly Land Registers of Northern Ireland) entered into a concession Agreement with British Telecommunications plc (BT) in 1999 for a £46 million PFI project called LandWeb to improve efficiency and customer service. BT was given responsibility for the development, installation, testing, operation and maintenance of this Information Computer Technology (ICT) infrastructure and managed service. The Agreement was for BT to finance the design, build, data conversion and operation of the service recovering their costs entirely by receiving a set transaction fee, forming part of the charges made by LPS directly to customers. LandWeb is a fee driven service.

The Concession Agreement

4. The original Agreement period was 17 years (two years development and 15 operational years) with a break option at year 12. The Agreement was due to run from 1999 to 2016. However due to unprecedented increase in business which required additional services and issues with converting maps from an analogue to digital format, LPS extended the Agreement with BT. This resulted in the implementation phase being extended from two to five years; the service commencement date extending from July 2001 to July 2004.
5. Under the terms of the Agreement, payments to BT were dependent on the number of transactions successfully processed through LandWeb. The total value of payments to BT increased from an estimated £46 million when the Agreement was signed to £78 million (adjusted to 2010 prices²) over its revised period (1999 -2019).

1 The Land Registry was established in 1892 and maintains a record of map based land registrations in Northern Ireland. The Registry provides a mechanical registration system and guarantees the validity of the legal title.

2 Adjusted using the Consumer Prices Index.

Northern Ireland Assembly Public Accounts Committee Report on Transforming Land Registers: The LandWeb Project

6. In 2008 we published a report on Transforming Land Registers: The LandWeb Project. This report examined the background to the project, the reasons for extending the original Agreement, the project management and governance arrangements and whether the system was delivering the expected benefits. The content of this report was considered at the PAC in March 2010.
7. The PAC had concerns and believed better value for money could be secured. The PAC made eight recommendations including:
 - The Department should undertake a market testing exercise to assess the value for money of the services being provided by BT and public bodies must be careful when making significant changes to agreements, with the presumption in favour of competition;
 - The Department should press BT to provide appropriate mechanisms, such as profit-sharing, benchmarking, market testing and open book accounting; which the public sector should have as a right and not have to bargain for at break-point negotiations;
 - Land Registry fees should reflect the cost of services and excessive surpluses should be avoided as they represent an indirect local tax; and
 - The Department should put in place arrangements to ensure the timely progression of legislation to enable appropriate fee charging to customers and avoid potential claims for compensation.

Agreement extensions

8. The LandWeb Agreement provided for LPS to exercise a break option in July 2014. If LPS did not exercise this option by July 2011 the Agreement would run until July 2019. The break option required BT to produce a report setting out proposals for ensuring the project provided value for money for the remainder of the Agreement. LPS set up a Contract Review Group³ (CRG) to manage the review of the break option, as recommended by PAC in March 2010.
9. BT in March 2011 reported to LPS. The CRG engaged with BT on a range of issues and advised that they were able to extract a number of concessions that reduced LPS operating costs and provided a series of other tangible benefits over the remaining Agreement period.
10. The concessions from BT included an annual 'Innovation Fund' worth up to £100,000 per year that the Department could use to make enhancements to the LandWeb system and the provision of 60,000 LandWeb searches without charge for LPS internal business use. LPS management have estimated the total value of this concession to be up to £400,000 on the basis of the current charge of £7 per search.

3 LPS following a recommendation from PAC set up a Contract Review Group of operational, finance and IT managers, and a Central Procurement Directorate representative, to manage the review of the break option.

11. It was therefore concluded that LPS should continue with the Agreement.
12. Whilst Value for Money within the LandWeb contract was initially established through an open and competitive procurement process and later confirmed by the CRG analysis in 2011, our report in 2008 'strongly encouraged LPS to press BT to provide, in the spirit of current guidance, appropriate value for money mechanisms such as benchmarking, market testing and open book accounting'. The review of the Agreement by CRG considered Open Book Accounting⁴ (OBA) and Benchmarking⁵ as potential revisions to the Agreement however neither were subsequently deemed appropriate.
13. CRG considered the potential costs and benefits of OBA in the light of the arrangements for other NICS digital service contracts in place at that time and concluded that OBA would not be particularly advantageous in the context of the LandWeb Agreement as most of the costs were contractually fixed. CRG determined it was therefore more appropriate to pursue greater transparency on the costs of change requests.
14. CRG considered the organisations against which LandWeb could be benchmarked were very limited and there were potential procurement law constraints on contract changes resulting from any benchmarking exercises. On this basis CRG decided it was not appropriate to consider formal benchmarking further.
15. At the PAC in March 2010 the Accounting Officer said, 'I can say, with the benefit of hindsight, that if we were doing it now, we would do it differently. We would certainly take account of the guidance that is around and incorporate those types of conditions into the contractual position.' In our opinion it is regrettable that such mechanisms were not pursued further at the time of the break option, especially given the need for another extension to the Agreement from July 2019 to July 2021. Such mechanisms, if they were in place, would have helped inform the Department of Finance's (the Department) negotiations with BT on the Agreement extension.
16. A report by the National Audit Office on Open-book accounting and supply-chain assurance July 2015 highlighted, through a survey of public organisations, that Open book accounting can be particularly useful in supporting negotiations. For example the Department for Work and Pensions said 'it used the data to decide whether to terminate or extend contracts.' The NAO report also suggests that 'contracts where government would expect open-book accounting and third-party audit rights if it were procuring today then it should seek to negotiate the retro-fitting of such rights as far as possible.'
17. The Department informed us that despite not having full disclosure or transparency of BT's underlying costs and profits, it secured a 30% reduction on the transaction charges paid to BT for the term of the 2019-2021 extension. The Department has estimated that this will reduce total payments to BT during the extension period by £1.8 million. However, the Department has been unable to revise the Fees Order (an issue which we address later in this report), so there

4 Open Book Accounting is a type of supply chain assurance where suppliers share information about the costs and profits of a specific contract with the client.

5 The process of benchmarking involves comparing information about the current service provider's provision with comparable sources but alternatively you could use market testing which invites other suppliers to compete with the incumbent in an open competition.

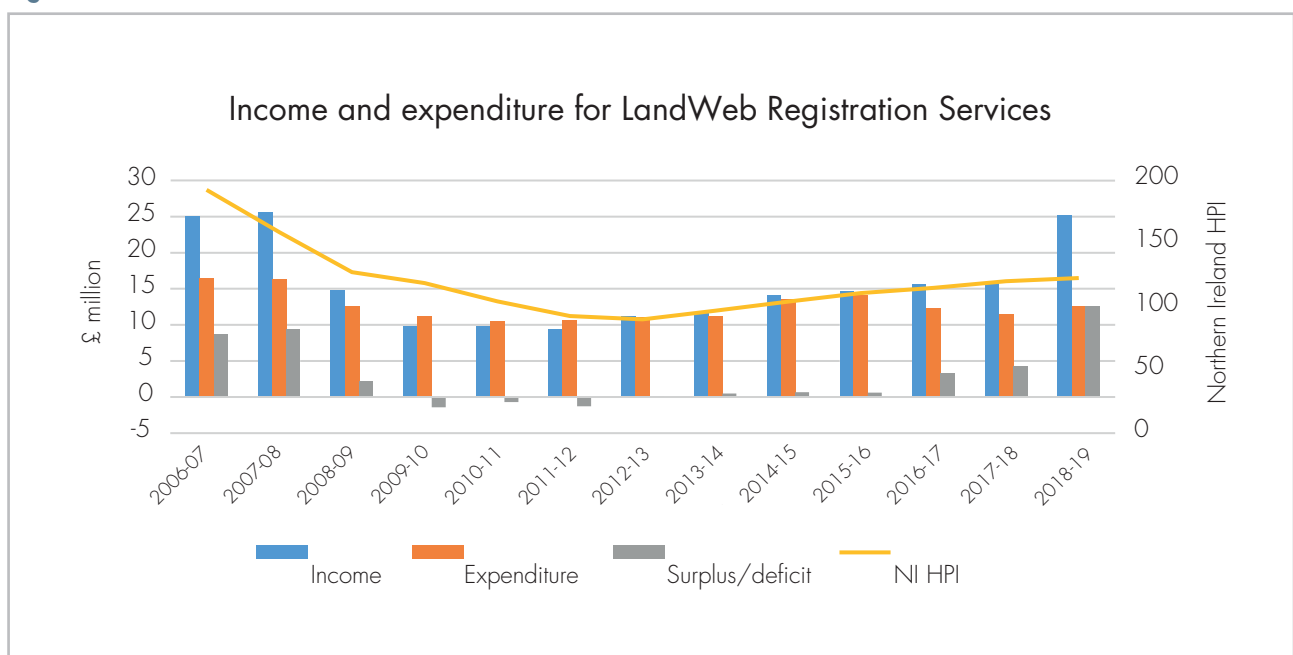
is little evidence to demonstrate how these and previous considerations have flowed through to benefit and deliver value for money for the end user.

18. However it has now been drawn to our attention that the procurement of a replacement for the LandWeb system is still at an early stage and it will be necessary to consider extending the LandWeb Concession Agreement beyond July 2021. The Department has told us that it has approached the Complex Transactions Team in the Cabinet Office for help with assessing all the available options, planning the approach to this further extension and conducting the negotiations with BT. We welcome the use of commercial capabilities within the Cabinet Office by the Department in future negotiations with BT.
19. Information provided by the Department shows that as at April 2019, a total of £97.89m has already been paid to BT by way of unitary charges, which is inclusive of transaction fees. LPS estimates that the total payments made under the contract up to July 2021 will reach £106.89 million – 138% more than envisaged when the original Agreement was signed (at 2019 prices).

Fees Charged for Services

20. It was expected the LandWeb project would achieve significant reductions in the fees charged by LPS for its services. The Department provided the following details on the income and expenditure associated with LandWeb Registration Services:

Figure 1



21. It is evident that considerable surpluses have been generated again from 2016-17 onwards. The Department expects a further surplus in 2019-20 estimated at £9m. Since 2006-07 a net surplus of approximately £39 million has been earned. Although the excess is absorbed into public finances as part of the Departmental budget monitoring processes, LPS customers nonetheless continue to pay too much for the services provided. As stipulated in our report in 2008 'these excessive surpluses can be viewed as a form of taxation'.
22. The chart shows that there has been a reduction in expenditure by the Land Registries since 2015/16 due to a combination of the conclusion of a project to align the Land Registry maps to the modern OSNI digital mapping database and a reduction in staff numbers. However, the surpluses are primarily a product of increased income generation. Land Registration Services through LandWeb are demand led and the general trend is matched with the movement in the Northern Ireland House Price Index (NI HPI)⁶. The improvement in the Northern Ireland Housing Market has consequently increased the demand for land registration services. The spike in 2018-19 income was caused by a further increased demand for land registration services arising from three additional special projects.
23. Our 2008 report also raised concerns over the delay in introducing the 2007 Fees Order. This was revoked by the 2011 Order, which was subsequently revoked by the 2014 Order which remains extant. A Fee Order review by the Department in October 2018 recommended the need for a new Order which would include a reduction of fees. However, in the absence of a functioning NI Assembly, LPS was unable to introduce a new Fee Order. Available evidence indicates that income levels will continue to grow and outweigh the costs of delivering the services giving rise to ongoing surpluses to the detriment of customers.
24. The Department has told us that, following the return of the NI Assembly in January 2020, it has convened the statutory Land Registration Fees Committee to agree the new fees to be included in a revised Fees Order. We would, however, stress the urgency of progressing a revised Fee Order.

Conclusions

25. Poor strategic planning by the Department has given rise to a series of extensions to the LandWeb Concession Agreement. The original Agreement period was 17 years from 1999 to 2016, subsequently extended to 2019, and then to July 2021. The Department has advised us that the Agreement will have to be extended again beyond July 2021. Sufficient time should have been allowed to explore, negotiate and put in place alternative arrangements to enable termination of the Agreement.
26. Value for money mechanisms such as benchmarking, market testing and open book accounting were not part of the original LandWeb Concession Agreement nor were they introduced at the break option stage of the Agreement. Such mechanisms could have helped inform negotiations

⁶ Northern Ireland House Price Index – The index is designed to provide a measure of change in the price of a residential property sold in Northern Ireland.

with BT, although we recognise the Department negotiated estimated cost savings of £1.8 million for the term of the 2019-2021 extension.

27. Users of the LandWeb Registration Services are being overcharged as the Fees Order 2014 is out of date with fees set too high.
28. In summary, although the supplier provided a fully functional and consistent IT service, we found no evidence to clearly demonstrate that the LandWeb project has delivered value for money. The extension of the LandWeb Concession Agreement for an additional two year period (to July 2021) in the absence of alternative mechanisms for service provision is indicative of poor strategic planning by the Department, reflecting similar concerns outlined in our report on 'Management of the NI Direct Strategic Partner Project - helping to deliver Digital Transformation' published in June 2019.

Recommendations

1. For future Agreements strong contract management controls should be in place to ensure any procurement process is completed before an Agreement expires.
 2. Agreements should clarify the mechanisms for Value for Money and be included as contractual conditions.
 3. A new Fee Order with the appropriate level of fees should be introduced urgently.
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