



REPUBLIC OF ZAMBIA

REPORT

of the

AUDITOR GENERAL

for 2005

on the

**ADMINISTRATION OF SELECTED CONTRACTS IN THE
MINISTRY OF WORKS AND SUPPLY**

Presented to the National Assembly

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INTRODUCTION

- 1.** This report on the administration of selected contracts in the Ministry of Works and Supply is submitted to the President for tabling in the National Assembly in accordance with the provisions of Article 121 of the Constitution of Zambia and the Public Audit Act Cap 378 of the Laws of Zambia.

The report covers two (2) building projects under the Buildings Department, namely, Katima Mulilo Bridge Border Infrastructure and New Chirundu Bridge Infrastructure and six (6) roads under the Roads Department namely Kaputa – Mununga, Chipata – Lundazi, Choma – Chitongo, Chitongo – Namwala, Kasama - Luwingu, Mongu – Kalabo and Nakonde – Kanyala roads.

AUDIT OBJECTIVE

- 2.** The objectives of the audit were, among others, to ascertain whether projects were administered in accordance with contract agreements and whether the expenditure was in conformity with the Laws of Zambia.

SCOPE AND METHODOLOGY

- 3.** The report is a result of an audit carried out at the Ministry of Works and Supply. The audit was planned and performed such that sufficient evidence, explanations and all necessary information were obtained to reach reasonable conclusions. In conducting the audit, tests of accounting records maintained at the ministry, such as accounting documents, tender documents, contracts, certificates of completed works, progress reports and other relevant records were reviewed.
- 4.** In the course of preparing this report, the Controlling Officer of the Ministry of Works and Supply was required to confirm the correctness of the facts presented. Where the comments were received and varied materially with the facts presented, the relevant items were amended appropriately.

EXECUTIVE SUMMARY

5. The Ministry of Works and Supply is responsible for, among other things, the effective facilitation of construction and maintenance of government infrastructure such as roads and buildings. It carries out this function through its Buildings and Roads Departments. During the period 2000 and 2005, the Ministry through Buildings and Roads Departments, entered into contracts with various contractors for various works. It was observed out of a sample of contracts examined that management and administration of these contracts was poor in that budgetary allocations and releases towards these works were often inadequate to meet contractual obligations during the period of project implementation. Consequently, contracts which could have been discharged at lower costs ended up being discharged at higher costs due to variations and fluctuations in labour and material costs and other contractors' claims such as interest on delayed payments, fluctuation in plant, foreign cost adjustments, and suspension entitlements, among others.

The variations and fluctuations resulted in additional commitments to government totalling K110,678,772,372 as shown in the table below:

Name of Project	Original Contract Price	Revised Contract Price/Obligations	Variance
	K	K	K
Construction of Freight Terminal-Chirundu	13,422,476,130	14,491,079,063	1,068,602,933
Construction of Passenger Control Building - Chirundu	5,216,631,609	5,216,631,609	
Construction of Road Works - Chirundu	10,564,580,588	43,504,145,233	32,939,564,645
Water Treatment Plant - Chirundu	871,471,082	1,686,157,170	814,686,088
Sewerage Disposal System - Chirundu	5,335,814,744	5,824,069,388	488,254,644
Construction of Border Infrastructure – Katimamulilo	14,561,051,235	14,561,051,235	-
Rehabilitation of Kaputa-Mununga Road –Supreme Construction Ltd.	692,112,600	692,112,600	
Rehabilitation of Kaputa-Mununga Road - Frog Enterprises Ltd	692,366,400	692,366,400	
Rehabilitation of Nakonde-Kanyala Road	1,232,493,154	1,248,113,169	15,620,015
Rehabilitation of Chipata-Lundazi Road Lot 1	7,061,152,340	8,258,218,018	1,197,065,678
Rehabilitation of Chipata-Lundazi Road Lot 2	14,122,281,406	17,236,416,052	3,114,134,646
Construct of Chitongo-Namwala Road	9,983,275,612	66,025,945,665	56,042,670,053
Reconstruct and Realignment of Kasama-Luwingu	<u>110,400,347,386</u>	<u>125,398,521,054</u>	<u>14,998,173,668</u>
Total	<u>194,156,054,286</u>	<u>304,834,826,657</u>	<u>110,678,772,372</u>

The K110,678,772,372 total variations in the above analysis are made up of the following variations and fluctuations in the contracts:

Type of Variation/Fluctuation	Amount (K)
Scope of work	13,875,307,689
Fluctuation in Material Costs	7,078,904,017
Fluctuation in Labour Costs	1,816,113,507
Fluctuation in Plant	11,100,242,191
Interest on late payment	1,649,689,125
Standby charges	6,725,379,155
Extension in time	146,884,615
Foreign Cost adjustment	20,957,821,530
Changes in low cost	431,215,261
Unexplained charges	<u>16,897,215,298</u>
Total	<u>110,678,772,372</u>

The above variations and fluctuations could have been avoided had the rights and obligations as provided for in the contracts been complied with by both parties to these contracts. Therefore, the payments of these variations and fluctuations are not a fair charge to public funds. There were other charges which could not be explained for lack of documentation on them. As regards to how each contract was administered, these are disclosed in the relevant paragraphs that follow.

AUDIT FINDINGS

An examination of records and other documents carried out between February and March 2006 at the Ministry headquarters revealed the following:

Contracts Under Buildings Department

Head: 64/02 Ministry Of Works And Supply – Buildings
Department

Unit: 2 Architectural

Programme: 13 Katima Mulilo Bridge Border Infrastructure

Activity: 02 Construction of Border Facilities

6. The construction of the Katima Mulilo bridge border infra-structure was commissioned in 2004 in order to provide an efficient flow of people and enhance trade and other socio-economical corporation between Zambia and Namibia that share the boundary at this point.

On 29th November 2004, the Zambia National Tender Board (ZNTB) conveyed its authority to the Ministry for the award of a contract to Nanshinga Construction Company Limited /Emsworth Investments Limited (Joint Venture) for the construction of the border facilities at Katima Mulilo Border Post at a contract price of K14,561,051,235 inclusive of VAT with a completion period of fifty (50) weeks. The contract was signed on 20th December 2004 and was to start on 7th February 2005 and end on 23rd February 2006.

The scope of work comprised the construction of one (1) office block, two (2) guard houses, external works, drive ways, car park, boundary walls, storm water drainage and water reticulation among others.

In 2004 and 2005, provisions were made in the Estimates of Revenue and Expenditure to cater for the project as follows:

	Provision	Releases	Variance
	K	K	K
2004	3,060,180,000	2,049,159,794	1,011,020,206
2005	<u>5,566,785,000</u>	<u>1,450,000,000</u>	<u>4,116,785,000</u>
Total	<u>8,626,965,000</u>	<u>3,499,159,794</u>	<u>5,127,805,206</u>

As can be seen from the table above, the project was under funded due to inadequate provisions and releases. In particular the releases of K3,499,159,794 against the provisions of K8,626,965,000 were less by K5,127,805,206. Further, a comparison of the total releases against the contract price of K14,561,051,235 revealed a shortfall of K11,061,891,441.

The following were also observed:

- a) The Ministerial Tender Committee, which evaluated the bids, had recommended Yangts Jiang Enterprise at a tender sum of K16,869,128,281 inclusive of VAT, as the most economically competitive bidder of those that were responsive in all stages of evaluation. Contrary to the recommendation by the Ministerial Tender Committee, the ZNTB awarded the contract to Nashinga/Emsworth Joint Venture at the contract sum of K14,561,051,235 inclusive of VAT.

Nashinga/Emsworth Joint Venture was initially found non responsive to the tender by the Ministerial Tender Committee due to the fact that they were in a lower category, Group IV, of contractors than Group V, as specified in the bid document.

The awarding of the contract to Nashinga/Emsworth Joint Venture, a bidder who was not eligible was irregular.

- b) The Ministry paid the contractor a total sum of K3,045,000,000 comprising an advance payment of K2,200,000,000 and K1,045,000,000 towards Interim Payment Certificates issued by the contractor as detailed in the table below:

Certificate No.	Date	Value of certificate	Amount Paid (K)
Advance 01	25/01/2005	2,200,000,000	2,200,000,000
2	2/6/2005	492,781,175	45,000,000
2	12/12/2005		270,389,501
3	12/12/2005	<u>529,610,499</u>	<u>529,610,499</u>
Totals		<u>3,222,391,674</u>	<u>3,045,000,000</u>

Interim completion certificate number 02 dated 19th May 2005 revealed that the value of executed works amounted to only K950,977,088 despite the advance payment of K2,200,000,000 paid to the contractor in January 2005, sixteen (16) weeks after the advance payment had been made.

- c) A site inspection carried out in February 2006, revealed that despite the Contractor having been on site for more than fifty (50) weeks (the full contract period), only earth works had been done as shown in the picture below:



Katima Mulilo Bridge Border Infrastructure – Executed Works



Katima Mulilo Bridge Border Infra-Structures-Executed Works

The contractor's inability to complete the works confirms the Ministerial Tender Committee's recommendation that the contractor did not qualify for the works.

Head:	64/02	Ministry Of Works And Supply – Buildings
		Department
Unit:	2	Architectural
Programme:	15	New Chirundu Bridge Infrastructure
Activities:	02	Construction of Freight Terminal
	03	Construction of Passenger Control Building
	04	Construction of Road Works
	05	Sewerage Disposal System
	06	Water Treatment Plant

7. The construction of the New Chirundu Bridge Infra-structure was commissioned in June 1999 in order to provide an efficient flow of people and enhance trade and other socio-economical cooperation between Zambia, Zimbabwe and other countries that would directly or indirectly use the infra-structure. The construction of the bridge border support infra-structure was part of the agreement that was made between the Governments of Zambia, Japan and Zimbabwe.

The Japanese Government constructed the bridge through a grant to the Governments of Zambia and Zimbabwe and the recipient countries were,

according to the agreement, required to undertake the construction of the border support infra-structure and these should have been completed at the time of commissioning the bridge in 2002.

During the financial years ended 31st December 2004 and 2005, provisions of K32,651,020,000 and K27,359,990,298 were made in the Estimates of Revenue and Expenditure for the New Chirundu Bridge Infra-structure to cater for the construction of various facilities of which amounts totalling K19,628,593,444 and K26,640,169,959 were released respectively, as shown below:

	Provision K	Releases K	Variance K
2004:			-
Construction of Freight Terminal	12,025,340,000	5,357,662,411	6,667,677,589
Construction of Passenger Control Building	4,527,440,000	4,273,735,082	253,704,918
Construction of Road Works	11,017,800,000	8,573,435,353	2,444,364,647
Water treatment Plant	780,440,000	227,994,832	552,445,168
Sewerage Disposal System	4,300,000,000	1,195,765,766	3,104,234,234
	<u>32,651,020,000</u>	<u>19,628,593,444</u>	<u>13,022,426,556</u>
2005:			-
Construction of Freight Terminal	6,469,974,500	6,669,011,067	(199,036,567)
Construction of Passenger Control Building	5,226,000,000	4,771,305,720	454,694,280
Construction of Road Works	12,012,000,000	11,168,374,340	843,625,660
Water treatment Plant	304,735,250	524,645,275	(219,910,025)
Sewerage Disposal System	3,347,280,548	3,506,833,557	(159,553,009)
	<u>27,359,990,298</u>	<u>26,640,169,959</u>	<u>719,820,339</u>

As can be seen from table above, there were shortfalls in funding of K13,022,426,556 in 2004 and K719,820,339 in 2005. Consequently, there were additional claims made due to delays in effecting payments to contractors caused by inadequate funding, as evidenced in this report. It is not clear why inadequate funds were released to cater for the works. It was also not clear as to why some projects like construction of freight terminal, water treatment plant and sewerage disposal system were over-funded in 2005.

An examination of financial and other records pertaining to the various works undertaken and physical inspections of the works done revealed the following:

a) Construction of Freight Terminal

On 8th December 2003, the Zambia National Tender Board (ZNTB) conveyed its authority to Ministry of Works and Supply for the award of a contract to China Jiangx Corporation for the construction of a Freight Terminal at a contract price of K13,422,476,130, for a period of 46 weeks which was later revised to 62 ½ weeks. The contract was signed on 19th January 2004.

The terms of the contract and scope of works were among others:

- i) That the project was to start on 5th May 2005;
- ii) That the project was to be completed on 30th March 2006, and
- iii) The construction of a warehouse, customs offices, clearing agents' offices and a bank.

It was observed that the works only commenced on 6th June 2005 while the completion date was revised to 29th January 2007.

It is not clear why, contrary to the Appropriation Act, the Ministry budgeted for an activity in 2004 which was only going to commence in 2005. It is also not clear why the commencement of the works was delayed by seventeen (17) months. As a result of the delays in commencing the works, the contractor made claims in labour and material fluctuations amounting to K894,118, 717.

In his response dated 4th October 2006, the Controlling Officer stated that there was no specific release of any funds whatsoever towards this project in 2004.

Contrary to what the controlling officer stated, the funding profiles examined revealed that a total sum of K8,042,157,637 (K5,357,662,411 released in 2004 from GRZ and K2,684,495,226 released in March 2005 under the Japanese Government JNPGA Funds) was funded.

As of December 2005, the contractor had received payments in amounts totaling K6,569,628,977 as compared with the total releases towards the project of K14,711,168,704 (K5,357,662,411 in 2004, K6,669,011,067 and K2,684,495,226 (from JNGP) in 2005) which was K1,288,692,574 in excess of the contract price K13,422,476,130.

Although amounts totalling K14,711,168,704 had been released to the project during the period under review, it is not clear why works had not progressed much despite the contractor being on site for one hundred and four (104) weeks against the agreed duration of sixty two and half (62 1/2) weeks. As of February 2006, the ware house was at the foundation stage while the Customs and Clearing agents' office and the bank building were at wall plate level as shown in the pictures below.



Ware House at the Foundation Stage



Customs and Clearing Agents' Office at Wall Plate Level



Bank building at wall plate level

b) Construction of Passenger Control Building

On 13th January 2004, the Zambia National Tender Board (ZNTB) conveyed its authority to Ministry of Works and Supply for the award of a contract to Met-Weld Fabrication Limited for the construction of a Passenger Control Building at a contract price of K5,216,631,608 for a period of fifty-two (52) weeks. The contract was signed on 20th January 2004.

According to the contract, the works were to commence on 31st March 2005 and to be completed on 9th June 2006. The scope of works was, among others:

- i)** Site preparation, road works and paving, water and drainage services boundary walls and electrical installations and land scarping.
- ii)** Construction of a Passenger Control building and vehicle theft unit building together with the associated ancillary facilities
- iii)** Construction to be generally in concrete brickwork in foundations, blocks and fair face brick work in the super structure and slate tiled roofing on timber structure.
- iv)** Finishing, including terrazzo tile flooring, plaster and paint to walls and suspended mineral fibre board ceilings.
- v)** Electrical, air- conditioning services, plumbing and drainage services.

It is not clear why, contrary to the Appropriation Act, the Ministry budgeted for an activity in 2004 which was only going to commence in 2005. It is not also clear why funds totaling K4,273,735,082 were released towards the project in 2004 which did not take off during that year. Further, although the contract price was K5,216,631,608, a total authorised provision of K9,753,440,000 was made and a total amount of K9,045,040,802 was released, resulting in excess funding of K3,828,409,194 over the contract price.

As of February 2006, certified works amounted to K3,503,102,882. Out of the certified works, only K2,857,952,939 had been paid to the contractor as the funds released for this project had been diverted to other projects.

The diversion of the funds was contrary to the Appropriation Act.

A scrutiny of the progress report and a physical inspection of the project carried out in February 2006 revealed that works were progressing slowly. As can be seen in the picture below, the works were far from completion as the building was still at wall plate level despite the availability of the funds.



Passenger Control building still at Wall Plate level

c) Construction of Road Works

On 22nd October 2001, ZNTB conveyed its authority to the Ministry for the award of a contract to Apollo Enterprises Limited for the construction of roads, foot paths, cycle tracks, and related civil works under Chirundu Bridge Infra-structure Development. In this regard, the Ministry entered into a contract with the company on 12th December 2001 at a contract sum of K10,564,580,588 with a completion period of forty five (45) weeks commencing 12th December 2001. A scrutiny of certificate of site possession revealed, however, that the contractor took possession of the site on 26th November 2001, before the contract was signed.

In this regard, budget provisions of K13,008,000,000 and K14,013,910,788 in 2002 and 2003, respectively, were made under Sub-

Head 64/02/502/017- Chirundu Bridge Infrastructure Development comprising among others this project under review. However, there was no breakdown given to show the budget component for this project for 2002 and 2003. Consequently, it was not possible to ascertain the amounts released specifically for this project during the two financial years.

It was observed that the completion of the project was delayed for over four (4) years, thereby causing the original contract price to be revised on four (4) occasions as shown in the table below:

DATE	ORIGINAL CONTRACT PRICE AS PER CONTRACT DOCUMENT (K)	NEW CONTRACT PRICE AS PER ZNTB AUTHORITY (K)
12-Dec-01	10,564,580,588	10,564,580,588
30-Oct-02		12,134,173,220
28-Jul-03		20,134,173,220
10-May-04		31,151,973,220
27-Jun-05		43,504,145,233

It is evident from the table above that the contract revision resulted in an upward adjustment of over 311% (K32,939,564,645) from the original contract price of K10,564,580,588 which was made up as follows:

Description of cost	K
Fluctuations in plant	10,992,524,071
Fluctuations in labour	3,476,583,496
Variation in scope of work	2,173,088,592
Fluctuations in material	1,333,961,166
Standby charges	940,940,766
Interest on delayed payments	534,526,309
Unexplained Charges	13,487,940,246
Total	<u>32,939,564,645</u>

As can be seen from the table above, out of the K32,939,564,645, K10,992,524,071 was in respect of fluctuations in plant and K13,487,940,246 was in respect of unexplained charges. The basis on which the contractor claimed these amounts was not clear.

The failure by the Ministry to provide adequate financial resources to the project resulted in wasteful expenditure arising from interest charges as well as fluctuations in prices of materials, labour, plant and standby charges.

d) Construction of Water Treatment Plant

On 7th October 2002, the ZNTB conveyed its authority to the Ministry for the award of a contract to Apollo Enterprises Limited for the construction of a water treatment plant at Chirundu border post at a contract price of K871,471,082 with a completion period of twenty six (26) weeks. The contract was signed on 5th March 2003 and was to end on 3rd December 2003. The completion date was revised to 3rd August 2005, and then later changed to 2nd February 2006.

The scope of works comprised the construction of clarifier, intake structure, treatment works, reticulation, sluice scour and air valve chambers, marker posts, waste disposal, manholes, alum tank and house, sand filters, line dosing structures and pump house.

In this regard, a budget provision of K14,013,910,788 was made in the Estimates of Revenue and Expenditure for the year 2003 under Sub-Head 64/02/502/017- Chirundu Bridge Infrastructure Development comprising among others this project under review.

The following were observed:

- i) While the initial contract price was K871,471,082, with a completion period of twenty six (26) weeks, there was no breakdown given to show the budget component for this project in 2003. Consequently, it was not possible to ascertain the amounts released specifically for this project during the financial year of project implementation;

- ii)** The contractual obligations were not fully met resulting in claims in labour and material fluctuations arising from the delay in the completion of the project. Subsequently, the Ministerial Tender Committee in their letter dated 5th August 2004, approved an increment of a K679,000,000 in contract price and thus bringing the revised contract price to K1,550,471,082;
- iii)** There were delays in paying interim payment certificates by the Ministry as evidenced by the fact that the advance certificate number 1, issued on 18th November 2002 was only fully paid on 24th June 2003, while certificate numbers 5, 6 and 7 issued between October and December 2003, were only paid on 12th February 2004. This resulted in delays in the completion of the project. Consequently, the Ministry made further provisions in the years 2004 to 2005 to meet the revised contract price of K1,550,471,082.
- iv)** The project was only completed in August 2005, resulting in a delay of eighty (80) weeks.
- v)** A site inspection of the works carried out in February 2006 revealed that:
- there were defects which had not yet been attended to by the contractor despite that these defects were observed and reflected in the completion certificates;
 - the floatable crane on which the pump drawing water from the river was mounted was found to be faulty as it was not floating meaning that when the water level rises, the pump would be submerged.
 - the water treatment plant was out of use due to under ground water pipe leakages, which were spewing large quantities of water, as can be seen from the pictures below.



The leaking under water pipe and the dysfunctional water treatment plant are shown in the pictures above.



The Water Treatment Plant temporarily out of use

e) Sewerage Disposal System

On 8th March 2004, ZNTB conveyed its authority to the Ministry for the award of a contract to Apollo Enterprises Limited for the construction of the sewerage reticulation at Chirundu Border post at a contract price of K5,335,814,744 with a duration of thirty six (36) weeks. The contract was signed on 7th September 2004 and the works were to start on 8th April

2005 and end on 15th December 2005. The completion date was however, revised to 28th July 2006.

The scope of works in this contract comprised the construction of Trunk sewer, Sewer reticulation to police camp, Pump station 1, Pump station 2, Sewerage treatment ponds, and Power supply to pump stations.

In addition to the funding received from the government, amounting to K4,702,599,773, the Ministry in February 2005, also received a grant of K1,067,162,499 from the Japanese Government, thus bringing the total funding for the two (2) years 2004 and 2005 to K5,769,762,272

The following were observed:

- i) Despite the authority for the award of the contract having been conveyed in March 2004, the contract was only signed in September 2004, and there were no reasons given to justify the delay. The time lag resulted in fluctuations in labour (K6,397,133) and material (K141,134,207) costs, and other claims amounting to K167,294,248 bringing the total claims to K314,825,588 as per the interim payment certificate number 5 dated 5th November 2005;
- ii) Although the contract was signed in September 2004, the advance payment amounting to K1,067,162,949 was only made on 28th February, 2005, despite a release of an amount of K1,195,765,766 in the year 2004. It was also observed that the interim payment certificates numbers 2 and 3 issued between June and July 2005, were only paid in November 2005.

In his response, the Controlling Officer stated that the construction works only started in 2005, without justifying the delay since money to start the project had already been released in 2004.

- iii) A physical inspection carried out on 1st March 2006 revealed that the works had not been completed despite the project being funded

in full. However, there were some sewer pipes found on hand at the site as shown in the picture below:



Sewer Pipes Found On Site

Upon further enquiry, it was explained that there was a dispute over the land which had not been resolved at the time of inspection.

Contracts Under Roads Department

Head:	64/03	Ministry of Works and Supply – Roads Department
Unit:	01	Planning and Design Unit
Programme:	8	Rural Development Programme and Road Rehabilitation
Activities:	22	Kaputa – Munuga Road
	33	Nakonde – Kanyala Road
	59	Kasama – Luwingu Road
	60	Chipata – Lundazi Road
	61	Choma – Chitongo Road

The Roads Department is responsible for designing, maintaining and guiding construction of roads, bridges and management of hand operated pontoons, among others.

An examination of records and other documents carried out in February and March 2006 in respect of Kaputa–Mununga, Nakonde–Kanyala (Malawi Border), Kasama – Luwingu, Chipata – Lundazi and Choma – Chitongo-MII Roads revealed the following:

Kaputa – Mununga Road Lot 1 (Luapula Province)

8. In the Estimates of Revenue and Expenditure for the financial years ended 31st December 2004 and 2005, amounts of K500,000,000 and K800,000,000 were provided for the maintenance of Kaputa – Mununga road, respectively. The whole budgeted amount for 2004 was released, while nothing was released in 2005. The releases represented 38% of the budgeted amount.

The following were observed:

a) Contract with Supreme Construction Ltd

On 16th December 2003 the Ministry of Works and Supply Ministerial Tender Committee awarded Supreme construction Ltd the contract for works at a tender sum of K692,112,600. The contract, whose completion period was not indicated, was signed on 16th December 2003. The construction works covered a stretch of eighty six (86) Kms, and involved reshaping of the road, re-graveling, vegetation control and drainage works.

Although only 33km of the contracted 86 Kms was done (from Mununga to Kaputa), the stage completion certificate number 3 dated 2nd August 2005 revealed that the value of certified works as claimed by the Contractor was K625,461,461 out of the total value of work of K674,943,500, covering a stretch of 60 Kms out of which K237,404,660 was paid. In his response to the inspection report, the Controlling Officer indicated that the contractor had done 60 Kms of light grading and 2 Kms of re-gravelling and he further indicated that the contractor had almost substantially completed the works.

Further inquiries revealed that the contract with Supreme Construction Ltd was terminated on 5th April 2005 following advice from the Anti Corruption Commission to the Ministry in their letter dated 23rd March 2005.

As of February 2006, the 33 Km stretch from Mununga to Kaputa had already exposed sharp rock out crops on the whole stretch hardly six (6) months after the works were certified, as shown in the picture below:



Portion of the Road works done by Supreme Construction Ltd

b) Contract with Frog Enterprises

Although in his response the Controlling Officer indicated that the contractor had done 60 Kms of light grading and 2 Kms of re-gravelling and further indicated that the contractor had almost substantially completed the works, it was observed that the Ministerial Tender Committee through a letter dated 7th April 2005 awarded the contract for the same works (86 Kms stretch, reshaping of the road, re-gravelling, vegetation control and drainage works) to another contractor (Frog Enterprises) at a contract price of K692,366,400. The contract was signed on 10th May 2005. The start and completion dates were again not indicated. The contractor started the project works from Kaputa to Mununga.

It is not clear why the Ministry awarded Frog Enterprises the contract which was more than the original contract price awarded to Supreme Construction Ltd when, according to the Controlling Officer, most of the works had been done by Supreme Construction Ltd.

As of September 2005, Frog Enterprises had been paid K376,017,280 through interim payment certificate numbers 1 and 2 for the works done on the 31 Km stretch of the road.

An inspection of the works carried out in February 2006 revealed that the works had not been completed as shown in the picture below:



Portion of the Road Works Done By Frog Enterprises Ltd

Nakonde- Kanyala Road (Northern Province)

9. In the 2003, 2004 and 2005 Estimates of Revenue and Expenditure, provisions were made for the maintenance of Nakonde – Kanyala road, against which releases were made as shown below:

	Provision K	Releases K	Variance K
2003	500,000,000	250,000,000	250,000,000
2004	1,200,000,000	1,200,000,000	-
2005	400,000,000	400,000,000	-
Total	2,100,000,000	1,850,000,000	250,000,000

The contract was awarded to ABS Distributors Limited by the Northern Province Tender Committee at a tendered sum of K1,232,493,154 and was signed on 22nd October 2003. The contract was to start on 29th November 2003 and was expected to end on 29th July 2004.

The scope of works included reshaping and re-gravelling of the road, vegetation control and drainage works and was to cover a stretch of 85 Kms from Nakonde to Kanyala (Malawi border).

The following were observed:

- a)** As of 31st December 2005, the contractor had been paid amounts totalling K570,107,643 through certificate numbers 1,2,3 and 4 although the works done were not commensurate with the amounts paid as evidenced in the progress report dated October 2005;
- b)** Out of the stretch of 85 Kms from Nakonde to Kanyala, only a 22 Km stretch was passable due to the bad state of the road. The quality of the works was not according to the specifications in the contract as vegetation control was scantily done while road formation was only done on a stretch of six (6) Kms from Nakonde, resulting in water passing through the road causing erosion and culvert wash aways. The main culvert wash-aways were observed at 12 Kms, 14 Kms and an impassable ditch at 22 Kms (Malawi stream) from Nakonde Boma as can be seen in the pictures below:



Wash away at 12km from Nakonde



Another wash away on 14 km



An Impassable Ditch At 22km (Malawi Stream)

Although the estimated completion date was 25th May 2004, as of February 2006, which was one hundred and ninety two (192) days after the completion date, the works done were negligible and of poor quality and the contractor had since abandoned the site.

Kasama - Luwingu Road (Northern Province)

- 10.** On 26th October 2001, the Ministry signed a contract with Sable Transport Limited for the reconstruction and realignment of 153 Kms stretch Kasama-Luwingu Road at a contract price of US\$28,453,698 (K110,400,347,386) for a duration of twenty four (24) months starting from 24th November 2001 to 24th November 2003.

During the financial years 2002 to 2005, amounts totaling K52,500,191,625 were provided in the Estimates of Revenue and Expenditure and releases made for the works as shown below:

	Provision K'	Releases K'	Variance K'
2002	4,000,000,000	5,500,000,000	(1,500,000,000)
2003	25,000,000,000	1,000,000,000	24,000,000,000
2004	12,000,000,000	17,000,000,000	(5,000,000,000)
2005	<u>11,500,191,625</u>	<u>11,500,383,250</u>	<u>(191,625)</u>
Total	<u>52,500,191,625</u>	<u>35,000,383,250</u>	<u>17,499,808,375</u>

The following were observed:

- a) Although the contract price for the works was US\$28,453,698 (K110,400,347,386), only K29,000,000,000 was provided for in the Estimates of Revenue and Expenditure for the years 2002 (K4,000,000,000) and 2003 (K25,000,000,000) out of which amounts totaling K6,500,000,000 (K5,500,000,000 in 2002 and K1,000,000,000 in 2003) was released. It is evident that the amounts budgeted for and the amounts released were inadequate to meet the contractual obligations in the two (2) years of project implementation.
- b) The original contract price was revised from US\$28,453,698 to US\$30,187,321 to include the rehabilitation of three roads namely; Zambian road, Mukulumpe road and the Airport road at an amount of US\$1,724,623. As of February 2006, the contractor had been paid amounts totaling K86,112,840,023 (US\$18,424,487) from Ministry of Works and Supply and direct payment of US\$ 9,645,984 (K34,243,242,099) from Ministry of Finance and National Planning, bringing the total paid to the contractor to US\$28,070,471 (K120,356,082,122).
- c) There were claims for Interest on delayed payments involving an amount of US\$8,375,608 and contingencies involving an amount of US\$283,776 which could not be substantiated as per certificate No. 23 dated June 2005;
- d) Although the total value of completed and certified works was US\$27,080,561 representing 89.7% of the total revised contract price, the works were far from completion in that out of the 153 Km stretch, 71 Km

representing 46.4% of the total works was still not done. 82 Kms was partly done and there were dams of gravel over a stretch of 6 Kms which had not yet been spread on the road surface as shown in the picture below:



Dams of Gravel over a Stretch Of About 6km

It was further observed that a stretch covering a distance of 18km of the formed road had not yet been stabilized and due to heavy rains, the gravel had been washed away as shown below.



Gravel Washed Away.

It was also noted that Sable Transport later sub contracted part of the works to Tarcon Construction who tarred a stretch of 31 Kms from

Kasama, while Sable Transport started from Luwingu and tarred 20 Kms. Tarcon Construction however pulled out due to non payment.

As of February 2006, the tar on some parts of the road done by Tarcon Construction had already started coming out as shown in the picture below:



Parts of the road where the tar mark had started coming out

Despite the extension in completion dates, the works had not yet been completed as of February, 2006 and the contractor had partially demobilized.

Chipata – Lundazi Road (Eastern Province)

- 11.** In paragraph 41 of the Auditor General’s report on the accounts for the financial year ended 31 December, 2003 mention was made about the irregularities associated with the handling of the contracts for the rehabilitation of the Chipata-Lundazi road.

In this regard the Public Accounts Committee in their report for the Fourth Session of Ninth National Assembly attributed the problems of the Chipata-Lundazi Road Project to the Ministry of Works and Supply and the local community. They observed that Ministry of Works and Supply, when determining

that the road should be made motorable, the Ministry should have either proceeded with pothole patching of the road and then applied a slurry seal, or should have ripped-off the tarmac and graded the road to await re-tarring. They further observed that the problem of vandalized culverts and the issue of slurry sealing were matters that warranted an immediate variation to the contract and therefore recommended that:

- a) the controlling officer should vary the contract to include slurry sealing of the road to avoid it being a total waste of public funds as the appearance of potholes on the already completed portions was a serious development;
- b) the controlling officer should urgently proceed with the rehabilitation of the vandalized culverts ,which are a threat to road users; and
- c) pot hole patching on roads that are in a bad state such as the Chipata – Lundazi road should not be considered as a solution. If resources to carry out a full maintenance are not available, it is better to grade the road than to patch it.

12. A recent review of the financial records and a site inspection of the road project in February 2006 revealed that the situation had not improved as evidenced by the following:

- a) Although the contract price for Lot 1 was K7,061,152,340 only a provision of K4,000,000,000 was made in the Estimates of Revenue and Expenditure for 2003, out of which only an amount of K1,000,000,000 was released. Both the amount budgeted for and the amounts released were inadequate to meet the contractual obligations.

It was further observed that another contract for Lot 2 involving an amount of K14,122,281,406 was signed in 2004 thus bringing the total contractual obligation to K21,183,433,746;

- b) Although the Ministry of Finance and National Planning released funds which had accumulated to K22,806,676,000 for the two projects during the

period between November, 2003 and July 2005 the contractor was only paid amounts of K8,215,520,892 for work on Lot 1 and K12,882,259,190 for work on Lot 2 bringing the total payments towards the project to K21,097,780,082 leaving an outstanding balance of K85,653,664 as of February, 2006;

- c) Records showed that completion certificates for certified works issued for Lot 1 was K8,764,910,684, and for Lot 2 K16,829,350,071 bringing the total certified works to K25,594,260,755, against total contract price K21,183,433,746 out of which total payments of K21,097,780,082 had been made. As of February, 2006 the works certified were in excess of the total contract price by K4,410,827,009;
- d) It was observed that the contractor had stopped work in mid January 2005 during the execution of Lot 2 due to non payment and later resumed work on 12th May 2005 after government cleared the outstanding payments on 11th April 2005. However, the contractor claimed interest on the delayed payments amounting to K363,091,879 which was paid on 24th May 2005;
- e) It was further observed that the contractor claimed standing time costs amounting to K2,751,042,767 for the same period from January to April 2005 which had not yet been paid as of February, 2006.

A site visit in February, 2006 of Lots 1 and 2 of the road revealed the following:

Lot 1:

Although the contract was varied to include slurry seal as per the Public Accounts Committee recommendation, as of February 2006, this had not been done and the potholes have continued emerging on the road.

Lot 2

Only 56 Kms had been worked on representing 70% of the contracted work in contrast to 91.2% of the contract price paid to the contractor. It

was however observed that culverts in some places had been blocked while one section had a big metal culvert vandalized causing the road to curve in, resulting in the contractor having to redo the road work as shown in the pictures below:



Lot 2- Blocked Culverts



Lot 2 -Vandalized big metal culverts being replaced.

It was further observed that the base of the road from a 156km point from Chipata to Lundazi was damaged as can be seen from the picture below:



LOT 2- Some parts of the road completely damaged and cannot support any layer of Tarmac.

Choma - Chitongo - Namwala Road (Southern Province)

- 13.** In paragraph 89 of the Auditor General's Report on the accounts for the financial year ended 31st December 2000, mention was made of the construction of Choma – Chitongo – Namwala road which was later split into two projects namely; Chitongo – Namwala and Choma – Chitongo. It was then reported that the Ministry of Works and Supply engaged Astaldi International and C.A. Brand on 16th December 1994 and 17th May 1995 respectively at contract prices of K12,798,848,580 and K14,071,304,120 to construct Choma - Chitongo and Chitongo - Namwala roads. It was then mentioned that the contract with Astaldi International was terminated in April 1996 when the contractor had been paid an advance payment K1 billion. A further amount of US\$2,440,495 was paid as compensation towards the termination of the contract.

In this regard, the Public Accounts Committee, in their report for the First Session of the Ninth National Assembly noted the Controlling Officer's submission and requested that they be availed a progress on efforts towards the completion of the project and full discharge of Government's obligation.

A review of the status of the project in February 2006 revealed the following:

a) Budget Provisions for the Project

There were no separate budgetary provisions towards the project over the years apart from those for Choma – Namwala as tabulated below:

Year	Budget Provision
	(K)
1995	1,356,329,000
1996	1,000,000,000
1997	6,000,000,000
1998	6,000,000,000
1999	5,500,000,000
2000	4,000,000,000
2001	5,000,000,000
2002	4,000,000,000
2003	6,000,000,000
2004	4,000,000,000
2004	4,600,000,000
2005	11,000,000,000

Although the total contract price for the two roads was K22,782,124,192, only provisions totaling K2,356,329,000 were made for the years 1995 and 1996. The amounts budgeted for were therefore, inadequate to meet the contractual obligations in the two (2) years of project implementation.

b) Choma – Chitongo Road (Southern Province)

On 16th December, 1994 the Ministry entered into a contract with Astaldi International Inc for the construction of the Choma - Chitongo road covering a stretch of 89km for a contract sum of K12,879,799,000. The contract was for a period of 18 months from January 1995. The works involved gravel surfacing to class 1C bituminous surface and road re-alignment.

An examination of records pertaining to the project and a site inspection carried out revealed that there were no separate budgetary provisions

towards this project over the years apart from those for Choma – Namwala as detailed in the table below:

Year		Provision (K)
1995	Choma - Namwala	1,356,329,000
1996	"	1,000,000,000
1997	"	6,000,000,000
1998	"	6,000,000,000
1999	"	5,500,000,000
2000	"	4,000,000,000
2001	"	5,000,000,000
2002	"	4,000,000,000
2003	"	6,000,000,000
2004	"	4,000,000,000
2004	Choma - Chitongo	4,600,000,000
2005	"	11,000,000,000

However, in 1995 the Ministry requested the contractor to omit the road re-alignment part of the contract in order to reduce construction costs, which the contractor was not willing to do and this, coupled with lack of funds for the project resulted in the termination of the contract in May, 1996. The Contractor was paid a sum of US\$2,440,495 as an agreement for breach of contract.

c) Contract With Basil Read (Z) Limited

In November, 1997 the Ministry entered into another contract with Basil Read (Z) Ltd for the same project at the contract sum of US\$17,214,556.72. The project was for a period of 26 months commencing July 2000.

The contract for the construction of 77 Kms of the Chitongo - Namwala road to Class 1C standard at an original contract price of K14,071,304,120 was later revised to exclude the construction of bridges at Kabulamwanda spillway and Naminweh causeway. Accordingly, the contract price was reduced to K9,983,275,612 vide an agreement signed on 17th May 1995 for a period of 18 months from March 1995. The works were to be supervised by a consulting Engineer engaged by the Ministry.

It was observed however, that contrary to the agreement; the contractor only took possession of the site on 23rd June 2000 two and half years later. It was

further observed that the contractor did not shift the camp at Kabulamwanda used for Chitongo – Namwala to a new location as agreed in the contract.

It was further observed that the contractor had only done 50km of bush clearing by August, 2000 and in December 2000, he demobilized and abandoned the project. It was not possible to ascertain the certified works done by the contractor in the absence of progress reports and certificates for payments.

As of February 2006, the road was in a deplorable state as can be seen from the pictures below.



*The end of the gravel Choma –Chitongo Road
And the beginning of Chitongo - Namwala*



A Section of the Choma – Chitongo road with a blocked Culvert



A Narrow Bridge on the abandoned Choma-Chitongo Road Project



A bad job done on the abandoned Choma – Chitongo road project

From the foregoing it is evident that:

- a) The payment of US\$2,440,495 to Astaldi International was a waste of public funds as the contractor did not do any work but just mobilised and later demobilised.
- b) The Ministries of Works and Supply and Finance and National Planning did not commit adequate funds towards the project to ensure its execution within the contract period. It was also noted in this respect that during the period under review, the Ministry of Works and Supply made budgetary provisions towards the project, which funds were diverted to paying the outstanding bills on the Chitongo – Namwala road.
- c) The Ministry lacked control over the project when it became clear that the contractor was not executing the work and had abandoned the site by not terminating the contract and instead left it valid for six (6) years without being executed.

The contract with C.A. Brand was later awarded to Basil Read (Z) Ltd on request by the holding company, Draggers et Travaux Publics (DTP). Mention was also made that the total cost of this road project had risen to K50,220,520,568 as of October 2000 out of which an amount of

K33,661,903,131 had been paid to Basil Read as of December 2000, leaving a balance of K16,558,617,437.

d) Over Payments to The Contractor and Consulting Engineers

Although the agreed contract duration was eighteen (18) months commencing March 1995, the contract instead took sixty (60) months to complete. It was also observed that there were forty six (46) certificates issued for payment on the project between 1996 and June, 2000 totaling K43,042,683,428. However, the computation by the consulting Engineers showed a total claim of K46,370,565,528, resulting in an excess claim of K3,327,882,100 which had not been adjusted as of February.

A further analysis of the claims by the consulting engineer revealed the following:

- i)** The claims for foreign cost adjustment amounting, interest on overdue payments, suspension entitlement claims, and changes in law costs claims as reflected above were a waste of public funds as they could have been avoided had the Ministry exercised its rights and obligations as provided for in the contract.
- ii)** The authenticity of the claim for foreign cost adjustment amounting to K20,957,821,530 which is higher than the original contract price is questionable.
- iii)** The rise and fall in material and labour costs totaling K3,113,222,634 would have been minimized if the contract execution were done within the contract period of Twelve (12) months instead of the sixty months.
- iv)** Subsequent claims certified by the resident engineer on the project as at September 2005 totalled K66,025,945,665 out of which the Ministry had paid a total of K40,306,254,112 leaving an

outstanding amount of K25,719,691,554 made up of K21,589,932,283 interest and K4,129,759,271 principal.

- v) Equally claimed on the project were fees for the consulting engineer, Sheladia Associate, Inc. amounting to K8,298,526,446 as at 31st, May 2005.
- vi) As of 30th December 2005, the contractor claimed a total of K66,025,945,665 as can be seen from the table below:

	Amount K
Certified amounts	43,577,341,382
Variation order	858,672,000
Interest	21,589,932,283
Total Claimed	66,025,945,665
Total paid	40,306,254,111
Outstanding amount	25,719,691,554
Outstanding amount broken down as follows:	
Principal	4,129,759,271
Interest	21,589,932,283
	25,719,691,554

It is evident from the above that the project was poorly managed in that the cost of the project increased from the original contract amount of K9,983,275,612 to K66,025,945,665 as claimed by the contractor.

Mongu – Kalabo Road (Western Province)

- 14. In paragraph 40 of the Auditor General’s Report on the accounts for the financial year ended 31st December 2003, mention was made of the construction of the Mongu – Kalabo road which Government embarked on to provide an all weather road between Mongu and Kalabo. In particular, mention was made about payments to Consolidated Contractors Company which the controlling officer confirmed as K81,492,915,065 out of the contracted amount of K135,646,112,006 (US\$37,401,251) for the works which were considered as a waste of public funds

since the 34 Kms of the road that passes through the Zambezi flood plain was severely damaged by the floods of the 2003/2004 rain season.

In his submission to the Public Accounts Committee, the controlling officer stated that the amount of K81,492,915,065 paid to Consolidated Contractors Company was not a waste of public funds, as the contractor had accepted liability to repair the road at his own cost using the insurance claims for the works that were damaged by the flooding. The controlling officer further stated that the other works especially from Kalabo to Tapo were still standing and the road was in use.

In this regard, the Public Accounts Committee in their report for the Fourth Session of the Ninth National Assembly and after their tour of the project recommended among others that:

- a) In view of the fact that the cost of repairs to the washed away sections of the road is to be borne by the contractors, they resolved to wait for an update on the Insurance claim and;
- b) Delays in making payments for completed certified works are resulting in wastage of public resources with respect to interest as these are avoidable, and therefore, urged the controlling officer not to delay in making payments for completed certified works to avoid paying interest.

A review of the records pertaining to the project and a site inspection conducted in March 2006 revealed the following:

i) Project Status

A progress report dated February 2006 by the Roads Department revealed that the contractor's working method contributed to the damages of the road as he left the works in the flood plain unprotected and concentrated on facilitating the movement of the plant and equipment to the other side of the Zambezi river and subjected the embankments to damages through the wash aways.

ii) Insurance Cover

In their report for the Fourth Session of the Ninth National Assembly, the PAC resolved that since the cost of repairs to the washed away sections of the road was to be borne by the contractors, they resolved to wait for an update on the insurance claim.

A site visit made in February 2006 revealed that the damages had not been rectified as can be seen from the picture below:



Damaged Mongu- Kalabo road near Mulamba Harbour

Further, as of the time of audit, the insurance policy had not been made available for audit scrutiny contrary to Financial Regulation No. 28(n).

iii) Payments to the Contractor

As of November 2005, the contractor had issued twenty nine (29) interim payment certificates valued at K136,864,817,474, out of which a total of K112,138,296,410 had been paid leaving a balance of K24,726,521,064:

iv) Interest on Delayed Payments

A scrutiny of interim certificate number 31 of February 2006 revealed that interest claims by the contractor had accumulated from K2,269,415,232 to K3,143,697,831, an indication that there were still delays in effecting payments to the contractor's claims contrary to the recommendations of the Public Accounts Committee. The continued payments of these interests are a waste of public funds for which a loss report will be required.

v) Disputes and Attempted Termination of Contract by the Contractor

A scrutiny of the report by the Director, Road Development Agency of February 2006 revealed that there was a dispute between the contractor and the employer due to non settlement of the contractor's claims by the employer. Although the employer later on settled the claims, the contractor insisted on terminating the contract. The report further indicates that the contractor demobilised on 29th November 2004 by removing plant and equipment from the project site enroute to Namibia without authority from the employer. However, the Police intercepted and impounded eight (8) of his trucks.

When the contractor was requested to resume work, he demanded to be paid an amount of US\$5 million as money required to remobilise by bringing his equipment back to the contract site. However, the consultant settled for US\$2.6 million (K9.7 billion) as money for remobilisation. Although the US\$2.6 million had been agreed, it had not yet been paid as of February 2006. In view of the fact that the contractor demobilised without authority, the claim for remobilisation is highly questionable and should not have been accepted.

- vi) A site inspection of the project carried out in February 2006 revealed that the 34 Kms from Tapo - Kalabo and the Kalabo access road were 100% completed as can be seen from the picture below:



Tapo – Kalabo road properly tarred

However, the section of the road from Tapo village to the Mulamba Harbour, which lies in the Zambezi flood plain and was washed away by the floods of the 2003/2004 remained damaged and getting worse over the years with grass growing in some parts as it awaited the construction of the bridges in this flood plain as seen in the pictures below:



Grass grown at a point where the road was washed away



Cattle wading through a flooded point where the road was washed away



A culvert on a portion of road which was washed away seen as an island



Another culvert in deep flood waters with the road it once supported washed away



Huts built by locals on portions of the damaged road

Due to disruptions of works in 2004, the completion date for the 41km Kalabo - Tapo road section was revised to December 2005 (and this has since been completed), while the 34km lying mainly in flood plain was to be redesigned and was to be completed by December 2007.

Outstanding Bills to Roads Contractors

15. It was generally observed that the Ministry accumulated outstanding bills in favour of road contractors for contracts entered into for construction or

rehabilitation of roads in the country over the years. These outstanding bills were made up of the unpaid principle contract prices and interests accrued on unpaid certified works.

It was however noted that the details of these outstanding bills to contractors maintained at the Ministry's accounts department were different from those maintained at Roads Department and Ministry of Finance and National Planning. Whereas the records maintained by accounts department showed the outstanding bills as at 31st December 2005 of K239,977,187,081 inclusive of interest, the records at Roads Department and Ministry of Finance National Planning showed an amount of K427,619,752,844 inclusive of K79,923,914,612 accrued interest on unpaid certificates. The differences in records between the Ministry and those held by Roads Department and Ministry of Finance National Planning is highly irregular and evidence of weakness in control over outstanding bills.

Conclusion

- 16.** From the foregoing, it was evident that the projects were not being administered in accordance with contract agreements. It is also evident that the budgetary provisions and the associated releases were inadequate to meet contractual obligations during the project implementation period. Consequently, the Government suffered substantial amounts of money arising from interest charges on delayed payments, variations in scope of work, fluctuations in prices of materials and labour and other claims.

It is necessary that Government takes control measures to ensure that internal control systems are put in place to encourage efficient and economical use of scarce resources and prevent abuse and mismanagement of public funds.

**AUDIT HOUSE
HAILE SELASSIE AVENUE
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