REPUBLIC OF ZAMBIA

OFFICE OF THE AUDITOR GENERAL

SPECIAL AUDIT REPORT OF THE AUDITOR GENERAL ON THE PROCUREMENT AND MANAGEMENT OF PETROLEUM PRODUCTS FOR THE PERIOD FROM 1st JANUARY 2019 TO 31st DECEMBER 2022

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OFFICE OF THE AUDITOR GENERAL

VISION:	An independent and credible audit institution promoting transparency and accountability in the management of public resources for the well-being of the citizenry
MISSION:	To provide timely quality audit services to promote transparency and accountability in the management of public resources
CORE VALUES:	Integrity Objectivity Excellence Teamwork Confidentiality Professionalism

PREFACE

It is my honour and privilege to submit the Special Audit Report of the Auditor General on the Procurement and Management of Petroleum Products for the period from 1st January 2019 to 31st December 2022 in accordance with the Provisions of Article 250 of the Constitution of Zambia (Amendment) Act No. 2 of 2016.

The main function of my Office is to audit the accounts of State organs, State Institutions, Provincial Administration, Local Authorities, the Constituency Development Funds (CDF) and institutions financed from public funds. In this regard, the Report covers audit findings on the procurement and management of petroleum products in Zambia.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs) which are the standards relevant for the audit of Public Sector entities.

The Audit Findings mentioned in this Report are those which were not resolved during the audit process.

I wish to take this opportunity to thank the management and staff of the Ministry of Energy, Energy Regulation Board (ERB), Indeni Petroleum Refinery Company Limited, Office for Promoting Private Power Investment (OPPPI), TAZAMA Pipelines Limited (TPL) and Tazama Petroleum Products Limited (TPPL) for the support rendered to my office during the audit engagement.

Dr Ron M. Mwambwa, FCMA, FZICA, CGMA, CFE

ACTING AUDITOR GENERAL

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Executive Summary

This Report has been produced in accordance with Article 250 of the Constitution of Zambia (Amendment) Act No. 2 of 2016, Public Audit Act No. 13 of 1994 and Public Finance Management Act No.1 of 2018.

During the audit process, there were various levels at which the Office interacted and communicated with the Controlling Officer in the Ministry of Energy. The purpose of this interaction was to provide an opportunity for the Controlling Officer to clarify and take corrective action on the findings of the audit. The audit findings mentioned in this Report are those which were not resolved during the audit.

In addition, the Report contains audit recommendations which are aimed at addressing various findings observed during the audit process.

Some of the key findings raised in this Report are as highlighted in table 1 below.

Table 1: Highlights of Audit Findings

No	Details	Amount K	Amount US$
1	Over Payments to Suppliers of Petroleum Products		36,373,827
2	Loss of Funds due to Questionable Contract Clauses		34,349,962
3	Loss on sale of Petroleum Products		197,815,520
4	Failure to Pay Suppliers of Petroleum Products		898,440,122
5	Wasteful Expenditure on Penalties after Arbitration		40,895,182
6	Irregular Charging of Trader's Margin		58,550,400
7	Loss of Funds through Upfront Pricing of Feedstock		20,978,640
8	Overstatement of Invoices for Handling Fees		1,344,557
9	Wasteful Expenditure on Interest Charges on Petroleum products		11,586,172
10	Excess Inland Charges		3,178,172
11	Failure to Recover Debts from OMCs	344,513,942	
12	Excess Loss of Petroleum Products at Storage Depots	138,760,376	
13	Failure to Pay Contractors - Construction of fuel depots		33,981,304
14	Interest charges incurred - Construction of a fuel depot		58,617,910
	Total	**483,274,318**	**1,396,111,768.00**

Acronyms

ERB	Energy Regulation Board
FOB	Freight on Board
IDC	Industrial Development Corporation
ICT	Information and Communication Technology
LPI	Late Payment Interest
MoFNP	Ministry of Finance and National Planning
NFT	Ndola Fuel Terminal
OMCs	Oil Marketing Companies
OPPPI	Office for Promoting Private Power Investment
REA	Rural Electrification Authority
TPPL	Tazama Petroleum Products Limited
TPL	Tazama Pipelines Limited
ZRA	Zambezi River Authority
ZEMA	Zambia Environmental Management Agency
ZPPA	Zambia Public Procurement Authority

1. Introduction

The petroleum industry in Zambia is governed by the Petroleum Act, Chapter 435 of the Laws of Zambia, the Petroleum (Exploration and Production) Act No. 10 of 2008 and the Energy Regulation Act No.12 of 2019. Importation of petroleum products into the Country was in two (2) modes namely; the refinery mode where commingled feedstock specially tailored to the configuration of Indeni Refinery was imported and the finished product mode were finished petroleum products were imported through road tankers.

The Ministry of Energy is mandated to develop and manage the energy sector in relation to renewable energy sources, electricity, energy policy, nuclear energy policy, oil pipeline and refineries, petroleum and petroleum storage and pricing.

The Ministry is also mandated to provide policy guidance in the development and management of petroleum products to ensure security of supply. It is also responsible for the management of petroleum strategic reserves.

In addition, the Ministry provides technical guidance and support to Oil Marketing Companies (OMCs) and other stakeholder institutions in the petroleum sub sector.

2. Key Players in the Management of Petroleum Products

a. Ministry of Energy

The Ministry supervises statutory bodies such as the Energy Regulation Board (ERB), Zambezi River Authority (ZRA), Rural Electrification Authority (REA) and Tazama Pipelines Limited. The Ministry also provides guidance to state owned enterprises such as Indeni Petroleum Refinery Company Limited and Zesco Limited.

b. Energy Regulation Board

The Energy Regulation Board (ERB) was established in April 1995 under the Energy Regulations Act of the Laws of Zambia.

The Board's mandate is to regulate the energy sector. The ERB is also responsible for managing the Strategic Reserve Fund, Uniform Petroleum Pricing, Fuel Marking and Electricity Strategic Reserve Fund in accordance with the applicable law, guidelines or purpose for which the funds were established on behalf of the Ministry of Energy.

c. Indeni Petroleum Refinery Company Limited

Indeni Petroleum Refinery Company Limited was established in 1970 to mitigate the impact caused by the rising prices of petroleum products in the energy sector and is wholly owned by the Government through the Industrial Development Corporation (IDC). Initially, the Company's core business was to refine crude oil procured by the Government through the Ministry responsible for Energy. However, the company's business model has changed to fuel processing and blending to produce bio-diesel and blended diesel.

d. Office for Promoting Private Power Investment (OPPPI)

The Office for Promoting Private Power Investment (OPPPI), was established under the Ministry of Energy as a "One Window Operation" to facilitate private sector involvement in power development.

The OPPPI is responsible for articulating and promoting the framework and package of incentives, the implementation of power purchase agreements and transmission service agreements.

In addition, the OPPPI represents the interests of Government and acts as a focal point for coordination with other agencies such as the Zambia Environmental Management Agency (ZEMA) and the Water Resource Management Authority (WARMA).

e. TAZAMA Pipelines Limited (TPL)

The TAZAMA Pipelines Limited was incorporated in 1968 under the Companies Act of the Laws of Zambia. The core business was to design, construct, lay, own, operate and maintain a pipeline for the carriage of oil or petroleum products from Dar-es-Salaam in Tanzania to Ndola in Zambia. The pipeline covers a distance of 1,710 kilometres and has an annual throughput capacity of 800,000 metric tonnes.

f. Tazama Petroleum Products Limited

Tazama Petroleum Products Limited (TPPL) is a subsidiary of TAZAMA Pipelines Limited which manages the storage and supply of finished petroleum products in the country.

During the period under review, TPPL managed six (6) fuel depots located in Ndola, Lusaka, Mpika, Solwezi, Mongu and Mansa Districts.

The Ndola Fuel Terminal (NFT) is the main hub for the wholesale marketing of petroleum products in Zambia. The facility operates in such a way that finished petroleum products are received at the NFT for distribution to the local market from both Indeni Petroleum Refinery and through imports of finished petroleum products.

g. **Oil Marketing Companies (OMCs)**

Oil Marketing Companies (OMCs) are privately owned companies that are registered with the Energy Regulation Board (ERB) to distribute and market petroleum products across the Country. The products uplifted and distributed by OMCs were Petrol, Diesel, Jet-A1 and Kerosene.

3. Audit Objectives

The audit objectives were:

a) To ascertain whether all income/ revenue collected was properly brought to account by receipting, recording in the cashbook and depositing in the correct account.

b) To assess whether the activities undertaken by the Ministry were in accordance with rules and regulations or any other authorities.

c) To verify whether management satisfied the requirements of Zambia Public Procurement Authority and stores regulations set regarding public procurements.

d) To verify whether management satisfied the requirements set regarding payment systems, banking, periodic reconciliation, and system for receiving and storing monies and other securities.

4. Audit Scope

The audit covered the procurement and management of petroleum products during the period from 2019 to 2022. The audit was conducted at the Ministry of Energy Headquarters, Energy Regulation Board (ERB), Indeni Petroleum Refinery Company Limited, Tazama Pipelines Limited and Tazama Petroleum Products Limited.

5. Audit Methodology

The audit was conducted in accordance with International Standards for Supreme Audit Institutions (ISSAIs). These standards require to plan an audit, conduct risk assessment, design and conduct audit procedures and report on the audit findings. The standards require us to consider the following five (5) steps:

i. **Planning**

During planning, we focus on obtaining an understanding of auditee business, its challenges and risks, organisational structure, key business and financial reporting processes and trends to heighten the effectiveness and efficiency of the audit.

ii. **Risk Assessment**

This process includes meeting with the audit committee and key financial and other key personnel of the auditee. It also involves reviewing the financial reporting implications arising from strategic goals, objectives, business plans and risk areas. During risk assessment we consider how fraud or error could result in a material misstatement of the auditee's financial statements.

iii. **Evaluation and Internal Controls**

In developing an audit strategy, the standards require us to obtain an understanding of the entity and its environment, including its internal controls and work performed by the Internal Audit department. We begin this process by evaluating controls at the entity level that relate to financial reporting. This assessment includes aspects of control environment, risk assessment, monitoring, information system (including information technology) and financial reporting processes. We also obtain an understanding of controls over financial reporting activities such as the recording and processing of transactions. This helps us to:

- identify the types of misstatements that could occur whether due to error or fraud;
- evaluate the internal control deficiencies that may increase the risk of material misstatement; and
- design internal control testing strategies, where such an approach would be appropriate.

iv. **Audit Testing**

Our audit approach focuses our audit efforts on those financial statement assertions that have an increased risk of material misstatement. Based on our understanding and knowledge of the auditee, we expect to perform a combination of tests of controls, substantive tests of details and analytical procedures, such as testing high value, unusual and other key items and items selected through sampling routines recalculation, inspection, observation procedures analytical procedures, including trend, ratio, and reasonableness tests. At this stage, we use different Computer Assisted Audit Tools (CAATs) such as IDEA.

v. Concluding and Reporting

Reporting is normally done in a management letter to the auditee, but the ISSAIs allow for verbal communication as an alternative. The management letter should describe the misstatements clearly, and when appropriate include recommendations.

In the course of preparing the Report, the Controlling Officer for MoE was sent the Interim Management Letters. A verification was done upon providing explanations and documents supporting the explanations to the issues raised in the management letter after which a status report was issued to the Controlling Officers indicating the resolved and unresolved issues.

A Draft Audit Report Paragraph (DARP) was then issued to the Controlling Officer for comments and confirmation of the correctness of the facts presented. Where the comments varied with the facts presented, and were proved to be valid, the DARP was amended accordingly.

In order to ensure optimal utilisation of resources at my disposal, a risk-based audit approach was used to prioritise clients so that resources were targeted towards the most - risky areas of Government operations.

6. Financing of Procurement of Petroleum Products

The sources of funds for the procurement of petroleum products were from funding for subsidies to the Ministry of Energy by the Ministry of Finance and National Planning (MoFNP), the proceeds from the sale of petroleum products to OMCs and the Strategic Reserve Funds (SRF) which is maintained at the Energy Regulation Board.

Following the change of Government Policy on procurement of petroleum products, in October 2022, the Ministry of Energy disengaged from financing and procuring petroleum products for the Zambian market. This policy direction was aimed at enhancing private sector participation by OMCs in the fuel supply chain, with these companies now taking a leading role in meeting national petroleum requirements. Therefore, OMCs import petroleum products which they distribute and market at retail pump prices set by ERB.

The Ministry of Energy during the period from 2019 to 2022 received amounts totalling K38,064,124,388 from three (3) main sources as shown in the table below.

Table 2: Sources of Funding

Details	Amount K
Funding for Subsidies - Ministry of Finance	6,709,903,894
Proceeds from the sale of Petroleum Products	30,343,797,135
Energy Regulation Board (Strategic Reserve Fund)	1,010,423,359
Total	**38,064,124,388**

The details of the amounts received are as follows:

6.1 Fundings for Subsidies – Ministry of Finance

Since January 2008, the pricing of petroleum products in the country followed the Cost-Plus Pricing Model (CPM). The CPM was used to determine the wholesale prices by considering all expenses related to procurement, transportation, processing, storage and distribution of petroleum products.

The total cost was converted into the Kwacha using a projected exchange rate between US dollar and kwacha, assumed to be the rate applicable when the Ministry needed to buy US dollars to pay suppliers and service providers. Through the CPM, all procurement costs for petroleum products were intended to be covered by the sales revenue generated from the sale to the Oil Marketing Companies (OMCs).

However, during the period under review, losses were incurred because the wholesale prices that were set by the ERB were lower than the supplier’s landing costs (price differentials) and there were also losses due to exchange rate fluctuations.

In order to address this issue, the MoFNP intervened by providing subsidies to the Ministry of Energy to offset the losses resulting from price differentials and exchange rate fluctuations. The MoFNP also allocated funds to the Ministry of Energy to settle outstanding payments and interest charges incurred due to delays in payment to suppliers. In this regard, during the period from 2019 to 2021, the Ministry of Energy was funded amounts totalling K6,709,903,894. See details in table 3 below.

Table 3: Ministry of Energy Funding for Subsidies

Year	Amount K
2019	-
2020	2,607,492,337
2021	2,291,383,033
2022	1,811,028,524
Total	**6,709,903,894**

6.2 Proceeds from sale of petroleum products

Oil Marketing Companies (OMCs) deposited funds in any of the two (2) kwacha denominated escrow bank accounts administered by the Ministry of Energy Headquarters for petroleum products.

Proceeds from the sale of petroleum products were utilized to acquire US Dollars from commercial banks and subsequently deposited into of the three (3) US Dollar-denominated escrow bank accounts which were managed by the Ministry of Energy. Payments to suppliers of petroleum products were then made from these accounts.

During the period from 2019 to 2022, the Ministry of Energy through TAZAMA Petroleum Products Limited made sales to various OMCs which resulted in revenue from sales in amounts totalling K30,343,797,135 as shown in table 4 below.

Table 4: Revenue from Sales of Petroleum Products

Year	Amount K
2019	8,576,718,799
2020	6,287,270,056
2021	9,258,796,977
2022	6,221,011,303
Total	**30,343,797,135**

6.3 Energy Regulation Board - Strategic Reserve Funds (SRF)

The Strategic Reserve Fund (SRF) is a Government programme that was introduced in 2005, specifically to finance procurement of National Strategic Petroleum Reserves.

The SRF cost-line or fee was collected from fuel consumers through Oil Marketing Companies (OMCs), for the following purposes;

- Stabilization of fuel prices.
- Purchasing of Strategic Petroleum Reserves (SPRs).

- Development of petroleum infrastructure, particularly construction of storage depots for the SPRs.

During the period from 2019 to 2022, the Energy Regulation Board funded the Ministry of Energy amounts totalling K1,010,423,359 from the Strategic Reserve Fund to facilitate for the procurement of petroleum products. See details in table 5 below.

Table 5: Proceeds from Strategic Reserve Fund

Year	Amount K
2019	109,869,544
2020	281,397,206
2021	68,400,000
2022	550,756,609
Total	**1,010,423,359**

6.4 Payments made to Suppliers

During the period under review, payments in amounts totalling K34,268,988,420 (US$2,163,532,916) were made towards the procurement of petroleum products to various suppliers of commingled feedstock and finished products as at 31st December 2022. See table 6 below.

Table 6: Payments to Suppliers of Petroleum Products

Details	Currency	2022	2021	2020	2019	Total
Various Suppliers	US$	344,983,322	427,073,601	443,810,017	947,665,976	2,163,532,916
	ZMW	5,995,810,136	8,093,044,739	7,850,999,199	12,329,134,347	34,268,988,420

7. Audit Findings

An examination of financial and other records for the period from 1st January 2019 to 31st December 2022 maintained at the Ministry Headquarters, ERB, Indeni, TPL and TPPL revealed the following:

7.1 Procurement and Management of Petroleum Products

The following were observed:

a. Overstatement of Invoices on Density Factors

Section 15.1.4 of the contracts required that the specific gravity/density range to be used for the conversion of unit price from US dollar per Metric Tonne to US dollar per cubic meter (M^3) should be in the range of 0.710 to 0.785 for petrol and 0.82 to 0.88 for diesel.

However, a scrutiny of 589 invoices relating to three (3) suppliers, involving four (4) contracts revealed that petroleum products supplied and delivered at NFT and other designated fuel depots were invoiced using the upper density limit of 0.785 for petrol and 0.88 for diesel instead of the actual density obtaining at the time of delivery resulting in overstatement of the invoices by US$36,373,827. See table 7 below.

Table 7: Overstatement of Invoices due to use of density factors above the Actual

No.	Name of Supplier	Product Type	No. of Invoices	Invoiced Amount US$	Expected Invoice Amount US$	Overstated Invoices US$
1	World wide Energy and ER Industries Limited	Finished Products	126	147,568,522	139,572,386	7,996,136
2	Dalbit International Limited-	Finished Products	324	371,301,148	349,854,885	21,446,263
3	Dalbit International Limited-MEWD/G/05/16	Finished Products	30	17,659,348	16,612,711	1,046,636
4	Hass Petroleum Limited-MWED/SP/G/03/2016	Finished Products	109	100,471,137	94,586,345	5,884,792
	Total		**589**	**637,000,155**	**600,626,327**	**36,373,827**

As at 31st January 2024, the overpayment had not been recovered by the Ministry.

Although in their response dated 1st March 2024, the Ministry did not agree with the observation, no details were provided to support the basis for their disagreement.

b. Loss of Funds due to Questionable Contract Clause

A review of the price schedule in the contracts for three (3) suppliers revealed that the density was fixed at 0.785 and 0.88 for petrol and diesel respectively.

A comparison with other contracts signed by the Ministry revealed that the density was pegged at a range of 0.710 to 0.785 for petrol and 0.80 to 0.88 for diesel due to the fact that by nature, petroleum products do not have a specific density but rather a range.

Therefore, the decision by the Ministry to sign contracts and fix the density on the upper limit was questionable.

Consequently, the suppliers quoted the invoices of supply of petroleum products using the fixed densities as per contract instead of the obtaining density at the time of delivery. The decision to use the fixed densities resulted in 570 invoices being overstated by amounts totalling US$34,349,962 when compared with the actual densities. See table 8 below.

Table 8: Overstated Invoices

No.	Name of Supplier	Product Type	No. of Invoices	Invoiced Amount (US$)	Expected Invoice Amount (US$)	Overstated Invoices (US$)
1	Othniel Brooks	Finished Products	172	137,044,657	128,076,253	8,968,404
2	Delta Energy	Finished Products	219	266,406,288	250,700,419	15,705,869
3	BB Energy	Finished Products	179	158,533,318	148,857,629	9,675,689
	Total		**570**	**561,984,263**	**527,634,301**	**34,349,962**

c. Losses on Sale of Petroleum Products

A review of profitability and loss reports on commingled feedstock for the period from April 2017 to August 2021 revealed that funds in amounts totalling US$1,484,054,467 were realised from the sale of refined petroleum products against a total purchase cost of US$1,681,869,997 resulting in a loss of US$197,815,520. See table 9 below.

Table 9: Losses on Sale of Petroleum Products

Year	Sales US$	Purchase Cost US$	Profit/(Loss) US$
2017	269,892,523	290,690,551	(20,798,028)
2018	481,267,584	540,216,932	(58,949,348)
2019	495,852,280	553,602,614	(57,750,334)
2020	209,588,491	258,257,911	(48,669,420)
2021	27,453,589	39,101,979	(11,648,390)
Total	**1,484,054,467**	**1,681,869,987**	**(197,815,520)**

d. Failure to Settle Outstanding Bills

According to the signed contracts between the Ministry and suppliers of petroleum products, the Ministry was expected to pay the suppliers after their products were sold within a period of between 90 and 120 days from the date of issuing the invoice. Failure by the Ministry to settle outstanding amounts within the stipulated period attracted interest charges.

As at 31st January 2024, the Ministry had accumulated unpaid invoices in amounts totalling US$898,440,123.20. Included in the amount of US$898,440,123.20 were interest charges and risk premium in amounts totalling US$452,152,462.16 due to delayed payments. The interest charges and risk premium represented 50.3% of the outstanding amount. See table 10 below.

Table 10: Outstanding Payments to Suppliers

No	Description of Petroleum Supplier	Amount for Old Supply (US$)	Outstanding Late Payment Interest (LPI) (US$)	Demmurage Charges	Risk Premium (US$)	Amount for New Supply (US$)	Balance b/f (US$)	Payments (US$)	Total Outstanding as of March 2023 with LPI (US$)
1	BB Energy					6,836,676.76	6,836,676.76	100,000.00	6,736,676.76
2	Dalbit International Limited	44,165,489.75	71,258,374.00	1,202,629.47		1,173,679.12	117,800,172.34	1,500,000.00	116,300,172.34
3	Delta Energy		6,802,065.28			39,918,462.32	46,720,527.60	400,000.00	46,320,527.60
4	E.R Industries	24,927,037.94	18,500,805.88				43,427,843.82	300,000.00	43,127,843.82
5	Othniel Brooks International					84,355,199.68	84,355,199.68		84,355,199.68
6	Sahara Energy Resources - Finished products	121,809,976.00	63,227,379.00	6,689,674.00	105,487,638.00		297,214,667.00	2,500,000.00	294,714,667.00
7	Sahara Energy Resources - Crude oil	122,608,835.00	70,106,386.00		116,769,814.00		309,485,035.00	2,600,000.00	306,885,035.00
	Total	**313,511,338.69**	**229,895,010.16**	**7,892,303.47**	**222,257,452.00**	**132,284,017.88**	**905,840,122.20**	**7,400,000.00**	**898,440,122.20**

In response, the Controlling Officer indicated that the outstanding debt was composed of non-payment of supplied fuel and the differential (subsidy) arising from the difference between the suppliers' landed cost and the ERB wholesale price, exchange rate losses and Late Payment Interest (LPI). However, there was no breakdown of the outstanding amount for subsidies, exchange rate losses and LPI, thereby making it not possible to establish the total amounts attributable to exchange rate losses, subsidies and LPI.

Further, the figures in the individual suppliers' ledgers availed for audit verification did not tally with the total outstanding amount of US$898,440,122.20 as at 31st January 2024 in that they added up to US$889,932,350.34 resulting in a variance of US$8,507,771.86. In this regard, the correctness of the outstanding amount could not be confirmed.

7.2 Payment of Inland Charges

Between June 2015 and April 2019, the Ministry entered into contracts with five (5) suppliers of finished petroleum products namely, Otheniel Brooks, ER Industries Limited, Delta Energy, Hass Petroleum and Dalbit International Limited for the supply and delivery of 1,036,150 m³ of diesel and 491,680 m³ of petrol.

In addition, the Ministry entered into three (3) other contracts with ER Industries Limited, Delta Energy and Dalbit International Limited for the supply and delivery of 606,598mt of diesel and 227,775mt of petrol. See tables 11 and 12 below.

Table 11: Contracted Quantities of finished Petroleum Products in Cubic Metres (M³)

No.	Contract Date	Supplier	Contract No.	Diesel (M³)	Petrol (M³)
1	Nov-2018	Otheniel Brooks	MOE/PSU/G/05/18	25,000	15,000
	Apr-2019	Otheniel Brooks-Addendum	MOE/PSU/G/05/18	117,000	45,000
2	Oct-2018	ER Industries-Addendum	MEWD/G/05/16	57,800	26,600
3	Nov-2018	Delta Energy	MOE/PSU/G/02/18	135,075	58,500
4	Nov-2018	Hass Petroluem	MOE/PSU/G/02/18	135,075	58,500
5	Jun-2015	Dalbit International	MMWED/DOE/02/2015	566,200	288,080
		Total		**1,036,150**	**491,680**

Table 12: Contracted Quantities of finished Petroleum Products in (MT)

No.	Contract Date	Supplier	Contract No.	Diesel (MT)	Petrol (MT)
1	Oct-2017	ER Industries	MEWD/G/05/16	125,000	45,000
2	Feb-2019	Delta Energy - Addendum	MOE/PSU/G/02/18	356,598	137,775
3	Sep-2017	Dalbit International	N/A	125,000	45,000
		Total		**606,598**	**227,775**

However, the following were observed:

a. Failure to Standardize Inland Charges

An examination of suppliers' invoices revealed that inland charges as a unit fixed cost varied between contracted suppliers from US$221.59 to US$351.84 for diesel and US$160.16 to US$359.28 for petrol for the same destination of Government fuel depots such as Lusaka, Mpika, Ndola and Solwezi,

In this regard, the non-standardization of unit prices for inland charges resulted in excess payment of inland charges in amounts totalling US$8,126,569 due to the variances between the lowest and the highest unit costs charged by suppliers. See table 13 below.

Table 13: Excess Inland Charges due to lack of Standardization of Unit Fixed Costs

Product	Destination	Otheniel Brook International	Delta Energy	Hass Petroleum	ER Industries	Dalbit International	Total (U$S)
Diesel	Lusaka	1,883,825	9,208	138,206	-	69,549	2,100,787
Diesel	Ndola	66,201	1,226	465,933		166,478	699,838
Diesel	Mpika	-	-	-	-	35,022	35,022
Petrol	Lusaka	2,718,420	107,633	147,463	-	-	2,973,517
Petrol	Ndola	1,179,756	291,143	781,079	18,351	-	2,270,329
Petrol	Solwezi	47,075	-	-	-	-	47,075
		Total					**8,126,569**

7.3 Procurement of Commingled Feedstock

During the period from 2012 to 2022, the Ministry had engaged four (4) suppliers of Commingled feedstock, namely Gunvor SA, Independent Petroleum Group (IPG), Sahara Energy Resources and Miroteks Zambia Limited.

The following were observed:

a. GUNVOR SA - Supply and Delivery of Commingled Feedstock

On 25th October 2012, the Ministry engaged Gunvor SA for the supply and delivery of 1,440,000 Metric Tonnes (MT) of commingled petroleum feedstock.

On 4th February 2015, an addendum was signed to increase the quantities from 1,440,000 MT to 2,160,000 MT.

The addendum also introduced inspection tests for the quantity and quality at load and discharge ports. Further, the addendum jointly appointed Intertek Testing Services (ITS) as the Independent Inspector for the duration of the contract.

During the period from December 2012 to June 2015, a total of 1,615,035.67 MT of feedstock had been delivered.

The following were observed:

i. Questionable Signing of an Addendum

During the period from May to July 2013, corrosion of equipment at Indeni Petroleum Refinery was observed due to increased acidity levels that were attributed to the feedstock supplied by Gunvor SA.

Despite the challenges that the refinery had encountered with the feedstock supplied by Gunvor SA, the Ministry entered into an addendum on 4th February 2015 for an additional quantity of 720,000 MT of commingled feedstock on the basis that the supplier had successfully supplied the Ministry with commingled feedstock. This decision was questionable as the supplier's feedstock was unsatisfactory in that the feedstock supplied before signing the addendum had caused corrosion of equipment at Indeni Petroleum Refinery.

Further, the additional feedstock that was supplied under the addendum was also not suitable, resulting in termination of the contract by the Ministry for which the Ministry was charged an amount of US$34,418,696.84 in penalties.

ii. Questionable Decisions – Wasteful Expenditure

In a meeting held on 5th August 2015, the Ministry indicated to the supplier that the commingled feedstock was to have specifications of one part per million (ppm) of organic chloride. However, the Ministry did not take measures to sign an addendum to include the requirement of 1ppm of organic chloride.

A review of the load port certificate for crude oil dated 10th January 2016 from the Independent Inspector revealed that the organic chloride content in crude oil supplied was 4 ppm which was above the recommended 1 ppm.

In a letter dated 21st January 2016, the Ministry wrote to the supplier rejecting the cargo to offload at the port of Dar-es-Salaam due to the fact that the cargo had over 1 ppm organic chloride content.

In response in a letter dated 26th January 2016, the supplier indicated that the organic chloride content in Gasoil and Naphta was below 1 ppm and only two (2) out of five (5) compartments for crude oil had more than 1 ppm of organic chlorides.

In this regard, the supplier suggested to discharge the crude oil compartments that met the specifications together with the proportional volumes of Naphtha and Gasoil in order to mitigate damages. The supplier further indicated that they were going to replace the cargo balance with the crude oil on another ship.

However, on 4th February 2016, the Ministry terminated the contract and consequently the Supplier took the matter to the court of Arbitration in London, England.

The Arbitration process commenced in February 2017 and the final award was granted on 2nd October 2019 in favour of Gunvor SA.

The supplier was awarded damages in amounts totalling US$34,418,696.84. As at 31st December 2022, the Ministry had paid the full amount to Gunvor SA, resulting in wasteful expenditure.

In addition, the Ministry incurred costs in amounts totalling K5,645,038 paid as legal and arbitration fees, subsistence allowances, air tickets, sitting allowances and conference facilities for the legal team and other witnesses.

7.4 Independent Petroleum Group (IPG) Limited – Supply of Commingled Feedstock

On 30th December 2015, the Zambia Public Procurement Authority (ZPPA) granted authority to the Ministry to direct bid IPG Limited. The reason for direct bidding was that the Government was to pay damages and/or compensation in amounts totalling US$681,139 (K7,500,000) to IPG on an earlier contract on which the Government had defaulted and to avoid paying the compensation of US$681,139 a contract was awarded in place of the claim.

Consequently, on 3rd February 2016, the Ministry of Energy entered into a contract with Independent Petroleum Group (IPG) Limited for the supply and delivery of 1,440,000MT (16 Cargos of 100,000MT each) of commingled petroleum feedstock at a contract sum of US$484,686,907 for a period of two (2) years through direct bidding.

The following were observed:

a. Wasteful Expenditure - Contract Termination Penalty

The Ministry in a letter dated 27th June 2018, sought legal guidance from the Attorney General to terminate the contract with IPG due to the losses incurred and the Attorney General approved the termination on the basis that the cost of termination was US$4,260,711.

However, the supplier claimed US$7,157,625 and in a letter dated 6th May 2019, the Attorney General gave a "No objection" on the basis that the recalculation was consented to by both the Ministry and IPG.

In this regard, the Government lost amounts totalling US$7,157,625 (K78,812,383) in contract termination penalties rendering the basis to award a contract worth US$484,686,907 in order to avoid paying compensation of US$681,139 questionable.

b. Unauthorised Contract Amendment

Section 58 (1) and (3) of the Public Procurement Act No.12 of 2008 states, "all amendments to a contract shall require the prior amendment authorisation of the appropriate approvals authority and any amendment to a contract purportedly effected without the approval of the Attorney-General, shall be void."

On 23rd May 2017, the Ministry signed an addendum to the contract which introduced the following clauses:

- To revise the mode of payment from letter of credit to Open Account as per price schedule;
- The financing charges of 3.85% to be applied on the value of each cargo and the final invoiced value (i.e. inclusive of the financing charges of each cargo);

- The procuring entity to make advance payment of 10% of each cargo value or advance payment guarantee for such sum from a first international bank which can be rolled over to the full contractual period; and
- The Ministry of Finance of the Republic of Zambia to provide a letter of undertaking/guarantee in a format acceptable to the financing bank.

Contrary to the Act, the addendum was issued without authority from the Attorney General.

c. Irregular Charging of Trader's Margin

A trader's margin is paid to a trader who procures petroleum products from the refinery on behalf of the supplier.

Clause 27 of the contract between the Ministry and IPG Limited stipulated that "the supplier shall not sub-contract without prior written approval of the client and that subcontracting shall not alter the supplier's obligation on the contract."

An examination of the price schedule revealed that the supplier included a trader's margin cost component in the price build up and consequently was paid US$58,550,400 as trader's margin.

However, the inclusion of the trader's margin in the price build up was irregular in that there was no subcontracting approved by the Ministry. As at 31st January 2024, the trader's margin paid to the supplier had not been recovered.

7.5 Sahara Energy Resources - Procurement of Commingled Feed Stock

On 21st January 2020, the Ministry entered into a contract with Sahara Energy Resources of Dubai, United Arab Emirates to supply 360,000 MT of commingled petroleum feedstock at a contract sum of US$235,207,890.

The following were observed:

a. Loss of Funds through Upfront Pricing of Feedstock

On 10th January 2020, the Ministry requested Sahara Energy Resources for an upfront price of crude oil for cargo number 8. On 21st January 2020, the supplier replied with a proposed fixed price of US$67,850,510 for cargo 8, which was agreed to by the Ministry in a letter dated 4th February 2020.

However, a review of the official selling prices (OSP) for crude oil on the international market between December 2019 and April 2020 revealed that the prices for crude oil declined by 75% for Murban, 9% for Oman, 79% for Naphtha and 67% for Gasoil. See table 14 below.

Table 14: International Oil Market Prices per MT

Month	Murban	Oman	Naphata	Gasoil
	USD/MT	USD/MT	USD/MT	USD/MT
Dec-2019	528.38	442.31	526.64	567.30
Jan-2020	517.31	461.03	514.70	548.78
Feb-2020	428.04	480.70	449.89	474.45
Mar-2020	271.48	476.29	246.26	311.55
Apr-2020	134.59	400.84	108.30	185.25
Unit Price Decrease (FOB	393.78	41.47	418.34	382.05
Percentage Decrease	**75%**	**9%**	**79%**	**67%**

In this regard, the decline in the prices resulted in Government losing funds in amounts totalling US$20,978,814 through upfront pricing.

Further, the decision of the Ministry to fix an upfront price at a time when the oil prices were declining was questionable as it disadvantaged the Government. See table 15 below.

Table 15: Loss of Public Funds through Upfront Pricing

Product	Invoice No.	Murban/Oman	Gasoil	Naphtha	Total
Loading dates		**Mar-20**	**Apr-20**	**Apr-20**	**USD**
Unit Market Price (USD/MT)		621.56	315.12	243.37	
Fixed Unit Price (USD/MT)	INV047839	662.92	735.72	728.69	
Varinace		**41.36**	**420.60**	**485.32**	
Quantity (MT)		54,696.09	35,098.34	8,147.66	
Overpayment/overpricing		**2,262,230**	**14,762,362**	**3,954,222**	**20,978,814**

b. Unauthorised Adjustment to Contract Price

Section 58 (1) of the Public Procurement Act No. 12 of 2008 provides that all amendments to a contract shall require prior authorization by appropriate approvals authority and the Attorney General.

Contrary to the Act, the contract prices on cargo number eight (8) were adjusted without approval from the Procurement Committee and Attorney General. In addition, no addendum was signed rendering the amendment irregular.

In response to the management letter, the Controlling Officer indicated that there were no amendments to the contract. However, adjustments of the contract unit price on cargo number eight (8) from the "prevailing Unit Market Price (USD/MT)" as stated in the contract to the fixed unit price (USD/MT) amounted to contract price adjustment which resulted in the loss of US$20,978,814.

7.6 Sahara Energy Resources DMCC – Supply and Delivery of Commingled Feedstock

On 22nd September 2020, the Ministry entered into a contract with Sahara Energy Resources DMCC for the supply and delivery of 1,000,000 MT of comingled feedstock at a contract sum of US$490,000,000.

In addition, a review of the contract schedule of requirements and specifications for commingled feedstock revealed that the required specifications for Organic Chlorides was a maximum level of 1 ppm. The cargo was to be rejected if the specifications were not met.

A review of records revealed that 98,221 metric tonnes costing of US$48,172,943 was delivered in October 2020.

The following were observed:

a. Contrary to the contract, the supplier supplied unsuitable feedstock in that the organic chloride content ranged between 4 ppm and 9 ppm above the agreed level of 1 ppm.

b. As at 31st January 2024, the Ministry had not engaged the supplier over the unsuitable feedstock that was supplied and no action had been taken against the Agent (Tazama Pipelines Limited) for accepting feedstock that did not meet the required specifications.

c. Although the contract required the inspector (Intertek Testing Services) to cut samples from the ships' tanks before discharge to be forwarded by the Agent to the Refinery within ten (10) days of discharging, no samples were submitted to Indeni Refinery Company Limited.

d. In order to mitigate the high levels of acidity, the Refinery increased the dosing of the neutralizer chemical resulting in excess expenditure in amounts totalling K275,946.

7.7 Miroteks Zambia Limited – Supply and Delivery of Crude Oil

On 24th March 2020, the Ministry entered into a contract with Miroteks Limited Liability Company of Russia for the supply and delivery of 200,000 MT of pure crude oil at a contract sum of US$112,353,040. On 19th November 2020, an agreement (Novation) was signed to transfer the contract from Miroteks LLC of Russia to Miroteks Zambia Limited.

a. Questionable Justification to Direct Bid

On 4th February 2020, the Ministry sought for authority from the Zambia Public Procurement Authority for a 'No Objection' to direct bid Miroteks LLC of Russia to supply pure crude oil on the basis that the company had access to pure crude oil from the Russian Federation.

However, on 9th April 2020, the Ministry wrote to Abu Dhabi National Oil Company of the United Arab Emirates to facilitate the sale of 200,000 MT of pure crude oil to Fleet Energy Inc which was a partner of Miroteks LLC which was in turn expected to supply to Zambia.

In this regard, it was questionable as to why the Ministry engaged a company that did not have the crude oil.

b. Questionable Contract – Procurement of Pure Crude Oil

A review of documentation at the Ministry revealed that the design and configuration of the Indeni Petroleum refinery was to process commingled feedstock.

However, the Ministry entered into a contract to procure pure crude oil that could not be refined at Indeni Petroleum Refinery. In this regard, the signing of a contract for the supply and delivery of pure crude oil was questionable.

c. Failure to Conduct Due Diligence on Suppliers

A review of documentation revealed that the Ministry did not conduct a due diligence on the suppliers to establish whether both companies had the capacity to execute the contract.

In addition, there was no evidence to show that the Ministry had dealt with the supplier before, thereby making it difficult to establish how the supplier was identified.

In particular, the following were observed:

i. On 13th January 2021, Miroteks Zambia Limited requested for a variation on the quantities from 100,000MT per cargo to 50,000 MT per cargo;

ii. On 11th February 2021, Miroteks Zambia Limited requested the Ministry to issue a letter of comfort to the Head of Crude Oil Department at Abu Dhabi National Oil Company to facilitate and agree to sale crude oil to their registered partner Fleet Energy Inc who was the supplier to Miroteks Zambia Limited;

iii. Miroteks wrote to White Horse Commodities Limited requesting for crude oil and received a letter of regret dated 18th June 2021 indicating that they were unable to secure the quantities requested for from their suppliers as they needed to book at least two (2) months in advance; and

iv. Despite amending the contract to reduce the quantities from 100,000 MT to 50,000MT per cargo, Miroteks Zambia Limited only managed to deliver 42,454.37MT of commingled feedstock on 3rd and 4th August 2021, leaving a balance of 7,545.63MT on the first cargo.

In this regard, it was not clear how Miroteks LLC and Miroteks Zambia Limited were engaged without establishing whether they had the capacity to execute the contract.

7.8 Procurement of Finished Petroleum Products

During the period under review, the Ministry entered into contracts with eight (8) suppliers of finished petroleum products namely Worldwide Energy and ER Industries (Pty) Limited, Sahara Energy Resources, Othniel Brooks International Limited, Trafigura PTE Limited, BB Energy, Delta Energy, Dalbit International Limited and Hass Petroleum Zambia Limited.

a. Othniel Brooks International Limited – Supply and Delivery of Diesel and Petrol

On 6th December 2018, the Ministry entered into a contract with Othniel Brooks International Limited for the supply and delivery of 25,000 m^3 of diesel and 15,000 m^3 of petrol at a contract sum of US$37,911,027.

The following were observed:

i. Irregular Variation of Contract

In a letter dated 22nd November 2018, the Ministry sought authority from Zambia Public Procurement Authority (ZPPA) to direct bid Othniel Brooks International Limited for the supply and delivery of 25,000 m^3 of diesel and

15,000 m³ of petrol during the period from 8th October 2018 to March 2019 when Indeni Refinery was shut for maintenance works.

On 29th November 2018, ZPPA granted a 'No Objection' to direct bid the said supplier and guided the Ministry to negotiate on commodity prices.

On 26th April 2019, addendum No. 1 was signed to effect an upward adjustment in the quantities by 142,000 m^3 of diesel and 60,000 m^3 of petrol at an additional cost of US$50,141,680.

However, the signing of the addendum was outside the stated period of maintenance of the refinery and the quantities were increased by over 75%. No justification was provided for not conducting an open floatation or bidding process that would have allowed for competition. See table 16 below.

Table 16: Increase in Diesel and Petrol Commodities

Suplier	Contract No	Product	Contract Quantity (m³)	Additional Quantities (m³)	% increase
Othniel Brooks International Limited	MOE/ORD/DB/G/05/18	Diesel	25,000	142,000	82%
Othniel Brooks International Limited	MOE/ORD/DB/G/05/18	Petrol	15,000	60,000	75%

ii. Overstated Invoice Amounts on Handling Fees

According to the contract price schedule, the total price per line was to be calculated based on the unit price per metric tonne which was US$86.1 per metric tonne.

However, the invoices were based on cubic metres (units which are more when compared to metric tonnes) in amounts totalling US$5,494,639.54 instead of US$4,150,082.94 resulting in an overstatement of US$1,344,557.

b. BB Energy - Wasteful Expenditure on Payment of Interest

On 3rd December 2018, the Ministry of Energy entered into a contract with BB Energy (GULF) DMCC for the supply and delivery of 135,075m^3 of diesel and 58,500m^3 of petrol at a contract sum of US$161,728,972.72.

During the period from December 2019 to May 2021, three (3) addenda were issued. Addendum no. 2 signed on 17th December 2020 introduced late payment interest of LIBOR (3 months) plus 7% per annum prorated on invoices which remained outstanding for over 150 days. In addition, the addendum included a risk premium of 5.25% on all outstanding invoices.

In this regard, the Ministry incurred amounts totalling US$6,565,111 as interest on overdue invoices resulting in wasteful expenditure.

c. Sahara Energy Resources (DMCC) - Supply and Delivery of Diesel and Petrol

On 1st December 2018, the Ministry of Energy entered into a contract with Sahara Energy Resources of United Arab Emirates for the supply and delivery of 135,075m^3 of diesel and 58,500m^3 of petrol at a total contract sum of US$161,839,245.

The following were observed:

i. Excess Inland Charges on Finished Products

An examination of invoices issued for the period from 20th February 2019 to 26th June 2020 revealed that Sahara Energy Resources charged the Ministry inland charges ranging from US$181.50 to US$420.94 for both petrol and diesel. However, these charges were in excess of fixed contract inland charges which ranged from US$141.59 to US$336.41 resulting in excess inland costs in amounts totalling US$3,005,677.83.

d. Hass Petroleum Limited – Wasteful Expenditure on Payment of Interest

On 30th November 2018, the Ministry of Energy entered into a contract with Hass Petroleum Limited for the supply and delivery of 135,075 m^3 diesel and 58,500 m^3 petrol at a contract sum of US$160,798,393 with a delivery period of one (1) year commencing on 30th November 2018.

Special Conditions of Contract GCC16.1.1 provided that payment to the supplier shall be settled through the bank after 120 calendar days from the date the product is received at the GRZ depots.

During the period from December 2019 to February 2020, Hass Petroleum Limited supplied and delivered 103,550.02 m^3 of diesel and 27,865.70 m^3 of petrol.

However, the Ministry delayed to pay the supplier by six (6) to 366 days incurring interest charges amounting to US$5,021,060.96 which would have been avoided if the supplier had been paid on time.

7.9 Contract for Laboratory Testing Services - Irregular Acceptance of Contaminated Commingled Feedstock

On 1st January 2018, Tazama Pipelines Limited entered into a contract with Interteck Testing Services EA (Pty) Limited of Tanzania at a contract sum of Tsh13,913,652.50 for the provision of laboratory testing services for the refinery feedstock at the Port of Dar-es-Salaam. The contract was for a duration of five (5) years from 1st January 2018 to 31st January 2023.

Clause 23.2 of the SCC provided that Inspection tests shall be conducted on board the marine tanker or vessel and from the supplier's premises or its appointed and approved subcontractor's premises. Third party laboratories that will be used shall conform to the requirements of this contract.

Further Section V (1) of the Schedule of Requirements provided that the delivery period for provision of Laboratory Testing Services for Refinery Feedstock at the Port of Dar es Salaam in Tanzania shall be forty eight (48) hours.

A review of records revealed that on 27th October 2020, a ship commenced discharge of commingled feedstock supplied by Sahara Energy DMCC which was completed on 29th October 2020.

Contrary to the terms of the contract, Interteck Testing Services EA (Pty) Limited of Tanzania only issued the results of the inspection on 3rd December 2020, forty-one (41) days after discharge.

Consequently, TAZAMA pumped contaminated feedstock which contained Organic Chloride content that ranged between 4 ppm to 9ppm, above the recommended maximum level of 1 ppm.

In addition, clause 24.1 of the GCC provided that the liquidated damages shall be 2% per week and the maximum amount of liquidated damages shall be 10%.

However, TAZAMA did not claim liquidated damages estimated at K2,179,372 representing 10% following the delay to issue results by six (6) weeks.

Further, it was questionable as to why TAZAMA pumped the feedstock in the absence of an inspection report showing the test results.

7.10 Tazama Petroleum Products Limited

During the period under review, amounts totalling K57,852,329,067 were generated by TPPL from the sale of 6,287,652.71 m^3 of various petroleum products. See table 17 below.

Table 17: Sales Revenue

Year	Fuel Qty (m3)	Amount K
2017	1,327,604.26	8,557,347,829
2018	1,472,616.70	11,805,879,859
2019	1,691,587.79	14,684,925,058
2020	659,489.57	6,676,183,394
2021	802,308.39	9,906,981,625
2022	334,046.00	6,221,011,303
Total	**6,287,652.71**	**57,852,329,067**

The following were observed:

a. Failure to Recover Debts

During the period under review, TPPL had extended credit facilities to twenty (20) Oil Marketing Companies (OMCs).

As at 31st January 2024, amounts totalling K344,513,942 remained uncollected from seven (7) OMCs, some of whose debts had been outstanding for periods of over eight (8) years. See table 18 below.

Table 18: Unrecovered Debts

No.	OMC	Outstanding Amount K
1	Kapesika Energy and Petroleum Limited	328,709,574
2	Lake Petroleum	7,241,407
3	Caliber Energy Limited	3,971,124
4	LBM Investment	2,992,689
5	Midlands Zam-Mal Petroleum Oil Ltd	1,083,946
6	Jaf Petroleum & Logistics Limited	321,227
7	Sepo Nek Limited	193,975
	Total	**344,513,942**

In response to the query, the Controlling Officer stated that the Ministry had referred the matter of debt recovery amounting to K333,545,900 for four (4) OMCs to the Ministry of Justice.

However, there was no documentary evidence to show that the Ministry had engaged Ministry of Justice for debt recovery of amounts totalling K333,195,900 from four

(4) OMCs. Further, there was no evidence to show that amounts totalling K11,318,042 had been recovered from the other three (3) OMCs.

b. Excess Losses of Petroleum Products at Fuel Storage Depots

i. Loss of Petroleum Products

Clause 5.4 of the Agency Agreement signed between the Ministry and Tazama Pipelines Limited on 1st August 2020 stated, "the allowable losses during the storage of finished petroleum products at Ndola Fuel Terminal/GRZ Depots, shall be a maximum of 0.5% for Petrol and 0.3% for Diesel, Kerosene and JET A1. The agent will compensate the Principal for any losses exceeding the allowable amounts. The same will be deducted from the Agency fee accruable." However, a review of the Material Balances reports prepared by TPPL covering the period January 2019 to December 2022 revealed that the loss on petroleum products exceeded the allowable percentages which resulted in a monetary loss of K138,760,375. As at 31st January 2024 the Ministry had not recovered the loss from the Agent. See table 19 below.

Table 19: Excess Losses

Year	Amount K
2022	79,879,610.00
2021	21,304,268.38
2020	17,440,705.94
2019	20,135,792.16
Total	**138,760,376.48**

7.11 Energy Regulation Board (ERB) - Strategic Reserve Funds (SRF)

The SRF is a government programme that was introduced in 2005 specifically to finance procurement of national strategic petroleum reserves. The programme was managed by the ERB on behalf of the Government.

The SRF cost-line or fee was collected from fuel consumers through Oil Marketing Companies (OMCs) for the following purposes:

- Stabilization of fuel prices;
- Purchasing of Strategic Petroleum Reserves (SPRs); and
- Development of petroleum infrastructure particularly construction of storage depots for the SPRs.

During the period from 1st January 2017 to 31st December 2022, amounts totalling K4,816,643,487 were collected under the SRF. See table 20 below.

Table 20: SRF Collections

Year	Amount K
2017	836,356,072
2018	996,901,276
2019	1,045,086,002
2020	998,985,513
2021	388,558,015
2022	550,756,609
Total	**4,816,643,487**

The following were observed:

a. Construction of Strategic Fuel Reserve Depots

On 24th November 2010, the Government through the Ministry of Energy entered into a contract with Dalbit International Limited for the refurbishment and construction of Provincial depots in Lusaka, North-Western, Western, Southern, Eastern, Northern and Luapula provinces.

The following were observed:

i. Questionable Awarding of the Construction Contract to Dalbit International Limited

A review of the company profile for Dalbit International Limited revealed that the business of the company was procurement, trading, transportation and management of petroleum products.

Although ZPPA authority was obtained to direct bid Dalbit International Limited, it was questionable how the Ministry identified the contractor as construction was not part of the company's profile.

ii. Failure to Operationalize the Chipata Depot

During the period from 2018 to 2022, Dalbit International Limited was engaged for the construction of a depot in Chipata at a contract sum of US$37,591,347.48.

As at 15th February 2024, the contractor had been paid amounts totalling US$33,682,013.84 leaving a balance of US$3,909,333.64.

A review of records revealed that the depot was handed over to the Ministry and commissioned in August 2022. However, as at 15th February 2024, the depot had not been utilised seventeen (18) months after it was commissioned.

iii. Failure to Secure Title Deeds – Mansa and Chipata Depots

Section 41 (4) of the Public Finance Management Act No. 1 of 2018 states that "A controlling officer shall ensure that all public properties under the controlling officer's charge are secured with title deeds."

Contrary to the Act, as at 31st January 2024, the Ministry had not secured title deeds for the land on which Mansa and Chipata Fuel Depots were constructed.

iv. Construction of Fuel Depot in Lusaka

On 13th March 2019, the Ministry entered into a contract with Gulf Stream International FZC for the design and construction of a 120,000m³ capacity Fuel Depot in Lusaka District, at a contract sum of US$123,925,000 (inclusive of US$1,525,000 - cost of land), with an initial completion date of 31st October 2020 which was later revised to 31st October 2023.

According to addendum No. 6, the Ministry had incurred amounts totalling US$190,716,894.21, including variations and interest charges due to delayed payments. See table 21 below.

Table 21: Total Contract Sum

No.	Details	Amount US$
1	Contract sum	123,925,000
2	Variation no. 1	18,392,776
3	Interest charges as as of July 2023	48,399,118
	Total	**190,716,894**

As at 30th November 2023, the project was 99% complete with the remaining works being the laying of pavers around truck packing areas.

As at 30th November 2023, amounts totalling US$103,991,166 had been paid to the contractor, leaving a balance of US$86,725,728 which had been outstanding for over twelve (12) months.

However, the following were observed:

- **Irregular Direct Bidding**

  Section 32 (2) (a) of the Public Procurement Act No. 12 of 2008 states, "Direct bidding may be used where the goods, works or consulting or nonconsulting services are only available from a single source and no reasonable alternative or substitute exists."

Contrary to the Act, although the Ministry was granted a "No objection" by ZPPA to direct bid on the justification that the contractor was the only one who had a piece of land in the area suitable for the construction of a storage facility with a capacity of more than 100 million litres, the Ministry did not carry out a survey to establish that the land was only available from the contractor and there was no reasonable alternative or substitute that existed. In addition, there was no valuation report to support the amount of US$1,525,000 paid for the land.

- **Failure to Secure Funds Prior to Engaging the Contractor**

  Regulation 31 (1) of the Public Procurement Regulations of 2011 states, "A Procurement Unit shall ensure that adequate funds are budgeted, prior to initiating procurement proceedings, taking into account all costs involved in the procurement."

  Further, Regulation 122 (1) states, "A procuring entity shall, after a contract award decision by an approvals authority, commit the required funds before proceeding to award the contract."

  Contrary to the Regulations, the Ministry initiated the procurement process which led to the engagement of the contractor prior to securing funds. Although the Ministry intended to finance the project through the Strategic Reserve Fund (SRF), there were no funds ringfenced under the SRF specifically for the project.

  Consequently, interest charges in amounts totalling US$58,617,919.59 had been incurred as at 31st January 2024 due to late payment of the outstanding principal amount.

  In addition, a scrutiny of the contractor's ledger revealed that amounts totalling US$1,920,000 had been incurred as care and maintenance costs as at 31st January 2024 despite not being provided for in the contract.

- **Failure to Provide Information**

  Section 73 (1) of the Public Finance Management Act states, "The Auditor General and an office holder, agent or specialist consultant authorized by the Auditor General, shall in the performance of duties under the

Constitution, or any other law, have access to all books, records, returns, reports, other documents and financial management systems, in electronic or any other form, relating to the accounts of public bodies as the Auditor General considers necessary."

Contrary to the Act, the following documentation/Information as per addendum number 6 was not availed for audit:

- Addendum number 2 titled "variation of works" with completion date of 30th April 2022;
- Documentary evidence of commitment of funds prior to issuance of variation; and
- BOQ for the varied works.

b. Construction and Management of Filling Stations

In September 2010, the Ministry implemented a Uniform Petroleum Pricing (UPP) programme which was aimed at ensuring that the fuel prices across the country were uniform.

To ensure that the UPP was adequately implemented throughout the country, the Ministry embarked on a programme to construct filling stations in rural areas. The first phase of the programme was to construct two (2) filling stations in Mporokoso and Luwingu Districts in Northern Province which were expected to be commissioned by the end of 2018.

The following were observed:

i. Over Payment to the Contractor – Construction of Luwingu Filling Station

On 30th December 2014, the Ministry of Mines, Energy and Water Development entered into a contract with Astor Investments Limited for the construction of a filling station in Luwingu at contract sums of K4,123,780 with a completion period of eight (8) months. In August 2018, the contract was revised to K5,136,232 with a revised date of completion of six (6) months.

As at 15th May 2019, the contractor had been paid amounts totalling K5,636,991 which resulted in an overpayment of K500,759.

As at 31st January 2024, the overpayment had not been recovered by the Ministry.

ii. **Failure to Submit the Final Report/Certificate - Contract for Consultancy Services to CM Architects and Consortium**

On 24th December 2018, the Ministry engaged CM Architects and Consortium to provide consultancy services for the completion of construction works of Luwingu and Mporokoso filling stations at a contract sum of K1,464,420 with a completion period of six (6) months.

The contract provided for the consultant to issue monthly reports during the duration of the project and one (1) report after the defects liability period.

As at 30th November 2023, the Consultant had been paid amounts totalling K1,127,853 leaving a balance of K336,567.

Although the defects liability period expired on 31st March 2021, the Consultant had not issued the final report/certificate as at 31st January 2024, thirty four (34) months after the end of the defects liability period.

8. Conclusion

This report has highlighted various weaknesses and irregularities in the procurement and management of petroleum products by the Ministry of Energy resulting in loss of public funds due to questionable contract clauses, wasteful expenditure on interest charges and penalties, over statement of invoices and failure to recover debt from OMCs. It is imperative that these weaknesses are addressed in order to avoid such losses.

9. Recommendations

i. The Ministry should submit procurement plans for the procurement of petroleum products to the Zambia Public Procurement Authority (ZPPA) in line with the Public Procurement Act No. 8 of 2020 to avoid uncompetitive/emergency procurements.

ii. The Ministry should ensure that before engaging in direct bidding, all alternative options are exhausted to avoid contravention of public procurement guidelines and elimination of competition.

iii. The Ministry should ensure that funds are secured before commencement of projects to avoid incurring interest charges due to delayed payments.

iv. The Ministry should put in place mechanisms to ensure that terms and conditions of contracts are thoroughly scrutinized by the Ministry Procurement Committee and the Attorney General before final award of contracts to successful bidders in order to mitigate loss of public funds through onerous/ambiguous contract clauses.

v. Management in the Ministry should ensure accurate and effective invoice verification to reflect the actual densities at the time of offloading petroleum products and after inspection by the Independent inspector to avoid overstatement of invoices by suppliers. Further, consolidated cost components on invoices such as other inland charges must be broken down for transparency and accountability purposes.

vi. The Ministry should institute measures to recover all overpayments made to respective suppliers.

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