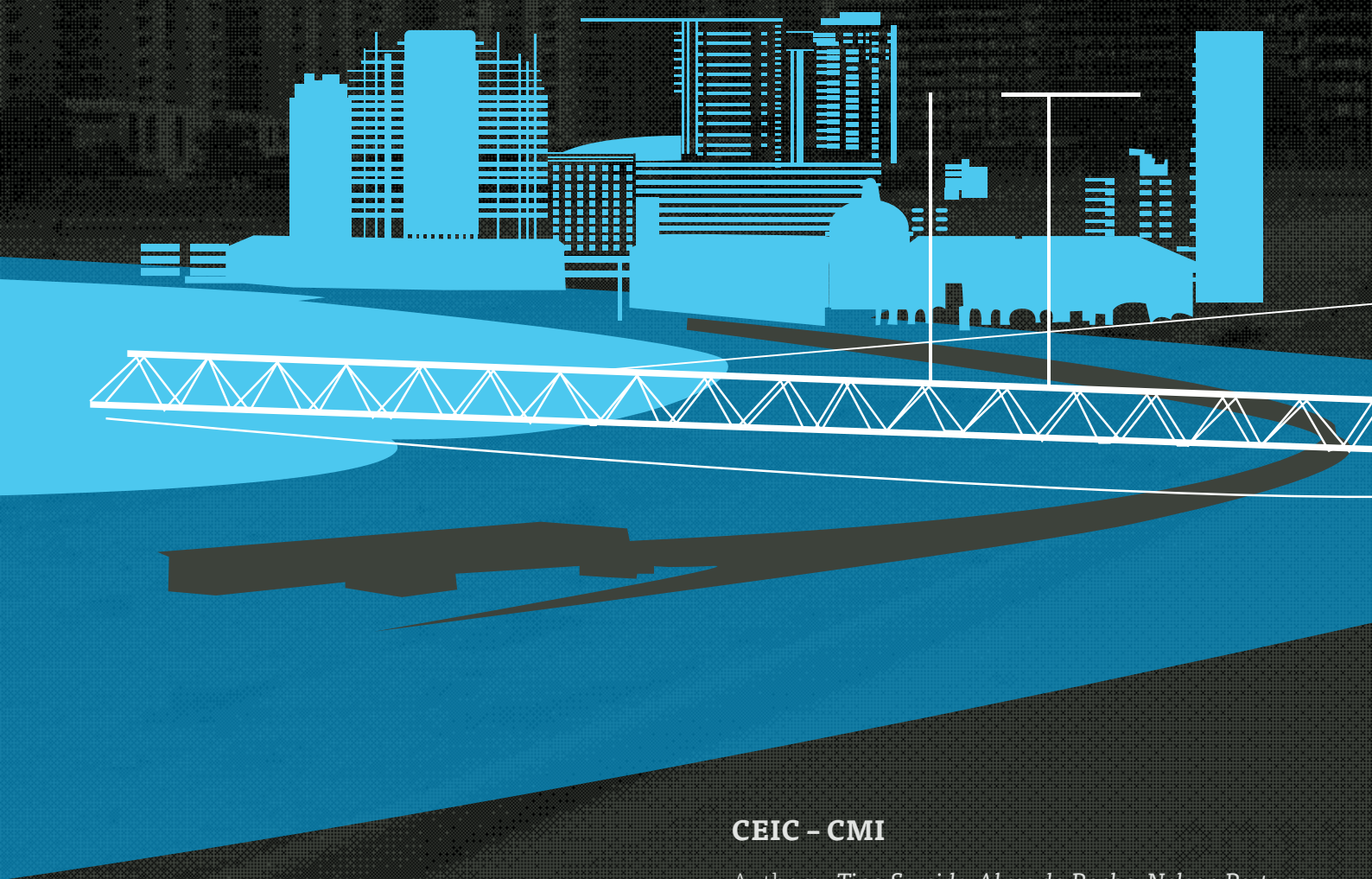


The Cost of Infrastructure Development in Angola



CEIC – CMI

Authors: *Tina Soreide, Alves da Rocha, Nelson Pestana,
Regina Santos, António Costa*

FICHA TÉCNICA

Original idea from Open Society Foundation, Angola

Elaborated by CEIC-CMI

Authors: Tina Soreide, Alves da Rocha, Nelson Pestana,
Regina Santos, António Costa

Title: The Cost of Infrastructure Development in Angola

Print run 1000 copies

Revision: Odd-Helge Fjeldstad, Aslak Orre, and Bruno
Machado

This report is available for download in the website of CEIC
(www.ceic-ucan.org) and CMI (www.cmi.no)

Funded by: Open Society Initiative for Southern Africa
(OSISA)

Table of Contents

The Cost of Infrastructure Development in Angola

•	Index	3
•	List of Tables	5
•	List of Figures	5
•	Acronyms and abbreviations	6
•	Preface	9
•	Introduction	11
•	1. Angola and the public works sector	15
•	The challenge of rebuilding and developing a country	15
•	A tool for social development	16
•	Imbalanced investment priorities	17
•	Construction-driven growth and macroeconomic stabilization	20
•	The connection between the revenues of the oil sector and the public works sector	21
•	2. Reasons to be concerned?	25
•	"Value for money" in public works	26
•	<i>Transparency</i>	26
•	<i>Competition</i>	27
•	<i>Predictable law enforcement</i>	28
•	<i>Accountability</i>	28
•	The fight against poverty—is it reflected in public construction?	29
•	The risk of corruption	31
•	3. Governance in the public works sector	35
•	Selection of projects and planning	35
•	<i>Clear rules keep facts hidden</i>	37
•	<i>Weak legal requests for needs and construction assessment ex-ante start-up</i>	37
•	<i>Planning for investment</i>	37
•	<i>Contracting</i>	38
•	<i>Differences between legal stipulations and practice</i>	39
•	<i>Project proposals—setting rules aside</i>	41



1 Hood Avenue
148 Jan Smuts Avenue
Rosebank PO Box 678,
Wits 2050 Johannesburg

Tel: +27(0) 10 590 2600



•	Project Funding	42
•	<i>National Budget</i>	42
•	<i>Credit Lines</i>	44
•	<i>Development funding</i>	47
•	Procurement	48
•	<i>The procedures as stipulated by the law</i>	48
•	<i>Details of the contracts as stipulated by procurement law</i>	51
•	Empirical investigation of how regulations are respected in practice	52
•	<i>Transparency test</i>	54
•	<i>Case studies</i>	55
•	Inspection	56
•	4. Politics: The structures for good governance	59
•	The political landscape	59
•	<i>What international governance indicators tell us about Angola</i>	60
•	Checks and balances for good governance	62
•	<i>Checks and balances in Angola's new constitution</i>	62
•	<i>National auditing services</i>	64
•	<i>Weak control of public procurement</i>	65
•	Concentration of powers and risk of political corruption	67
•	5. Challenges in the public works sector—an overview	71
•	Angolan practice and international best practice	71
•	Weaknesses along the value chain	74
•	<i>Why attempts of reforming the sector seem to have failed</i>	74
•	The costs of corruption	78
•	<i>Direct costs of corruption</i>	78
•	<i>The indirect costs of corruption</i>	80
•	6. Discussions and recommendations	83
•	Bibliography	85
•	Appendix	89
•	Kilamba Project	89

List of Tables

Table 1: Programme and execution of public investments in 2008	18
Table 2: Programme of rehabilitation and building of the basic economical infrastructures	20
Table 3: Loan value by creditor country	46
Table 4: Group of companies according to activity sector	52
Table 5: Evaluation of contract fulfillment	53
Table 6: Public projects selected	54
Table 7: Red flags in six sample cases	57
Table 8: The steps to realizing a construction project	73
Table 9: Comparison of construction costs	79
Table 10: The indirect costs of corruption	81

List of Figures

Figure 1: Public Investment concentration in Luanda/Bengo	16
Figure 2: Public Investments in % of the GDP	17
Figure 3: Concentration in Luanda 2006 and 2007	18
Figure 4: Fiscal deficit in percentage of GDP	19
Figure 5: Oil and construction sector rate of growth	21
Figure 6: Comparison between public investments and oil tax revenues	22
Figure 7: The construction sector value chain	27
Figure 8: Public Investments	38
Figure 9: Project Phases	39
Figure 10: Does the public works sector include transactions with public funds for members of the political elite?	67

Acronyms and abbreviations

•	AJPD	Associação Justiça Paz e Democracia (Association for Justice
•		Peace and Democracy)
•	BCCE	Building, Construction and Civil Engineering
•	BO	Bill of Order
•	CEIC	Centro de Estudos e Investigação Científica da Universidade
•		Católica de Angola
•	CEO	Chief Executive Officer
•	CIF	China International Fund Ltd.
•	CMI	Chr. Michelsen Institute
•	COMESA	Common Market for Eastern and Southern Africa
•	COSEC	Companhia de Seguro de Créditos
•	CRA	Constitution of the Republic of Angola
•	EFD/FED	European Fund for Development
•	EU	European Union
•	FDI	Foreign Direct Investment
•	FIL	Luanda International Fair
•	GDP	Gross Domestic Product
•	GEFI	Sociedade de Gestão e Participações Financeiras
•	GFI	Global Financial Integrity
•	GRN	Gabinete de Reconstrução Nacional
•	GSB	General State Budget
•	IBEP	Inquérito sobre o Bem-Estar da População
•	IFC	International Financial Corporation
•	IMF	International Monetary Fund
•		

INE	Instituto Nacional de Estatística (National Institute for Statistics)	•
INRO	Instituto Nacional de Regulação de Qualidade	•
LPP	Law of Public Procurement	•
MINARS	Ministério da Assistência e Reinserção Social	•
MP	Member of parliament	•
MPLA	Movimento Popular de Libertação de Angola (People's Movement for the Liberation of Angola)	•
NRO	National Reconstruction Office	•
OCDE	Organização de Cooperação para o Desenvolvimento Económico	•
OECD	Organisation for Economic and Co-operation and Development	•
OSISA	Open Society Angola	•
PCL	Public Contracting Law	•
PIP	Public Investment Programme	•
PMU	Procurement Management Unit	•
PPP	public private partnership	•
PPP	purchasing price parity	•
PPRA	Public Procurement Regulatory Authority	•
R&D	research and development	•
SADC	Southern African Development Community	•
SIGFE	Sistema Integrado de Gestão Financeira do Estado (Integrated Information System for State Financial Management)	•
ToR	Term of Reference	•
TSO	Technical Support Office	•
UCAN	Universidade Católica de Angola (Catholic University of Angola)	•
USD	United States Dollars	•
WB	World Bank	•



Preface

Due to the broad national discomfort concerning illicit, immoral, and even illegal enrichment practices, a “zero tolerance”-policy against corruption in the country was officially announced in 2009 by President José Eduardo Dos Santos at an MPLA Central Committee meeting. Later, it was reported that the President of the Republic warned at a meeting of the Council of Ministers that Angola might be spending too much and badly in public works.¹

It is well documented the international literature that the construction sector is vulnerable to corruption. The problem can take many different forms.² In some settings it might appear as if all rules and procedures are respected in a given tender competition, yet what has taken place is a collusion between the “winner” of the contract and someone on the tender board: The “winner” bought knowledge to undercut other bids – assured of the fact that after the contract has been signed the contract will be renegotiated to make it more

profitable. It is a general problem that access to information required to win a tender can be offered in exchange for a bribe. In some settings the rules of exception are taken too far, so that in practice, the ordinary legislation, such as procurement rules, does not really apply, or the legislation is simply violated with no significant consequences for those involved. Problems of corruption may affect not only procurement, but also the planning stage of public construction, project finance, control, as well maintenance.³ Each of these phases is dealt with in this report.

It is difficult to calculate the sum of public funds lost in inappropriate ways.⁴ This report was nevertheless motivated by this challenge. Even if we cannot estimate exact figures, we will describe the problem and place it in the context of the broader political and institutional landscape. The report presents data collected on the composition of public spending,

1 Indeed, a World Bank study on transparency in infrastructure in Angola (referred to in the following pages) reports differences around 100% when comparing the costs for road rehabilitation in Angola and Zambia.

2 For a general review of corruption and many examples from infrastructure, see Rose-Ackerman (1999), Della Porta and Vannucci (1999), Kenny and Søreide (2009) and Kenny (2006, 2007).

3 For a broad discussion of the status of research on corruption in utilities, see Estache (2007) and Estache and Trujillo (2009).

4 The World Bank has been studying the issue of corruption in public works in many developing countries, understanding that the lack of national technical capacity, institutional weakness, and the gaps in the legislation have been the major factors that make this sector more vulnerable to these practices of deviating public funds. This same institution estimates that about 20 to 25 per cent of the GDP is lost in the public works corruption circuit, damaging investments in social areas more directly related to the fight against poverty and for the improvement of living conditions. If this percentage would be applied to Angola, it would represent, in 2011, an amount of USD 17.8 billion. This is a huge sum, and even if it may be much lower, it may be possible that there are practices manifestly harmful to the majority of the population.

case studies, a literature review, and an assessment of the legal framework for public works and access to information.

The study has been hampered by the difficulty of access to information through official channels. Many attempts were made to obtain information that according to the Angolan legislation was supposed to be available to the public. Access to this information was frequently refused by the relevant public offices. Civil servants expressed fear and apprehension to talk about the risk of fraudulent deviation and money lost in public infrastructure construction. Our experiences from this study suggest that if any fraud takes place, the secrets are well kept.

Also private operators felt very uncomfortable about discussing even the risk of fraud and corruption, and certainly not with reference to any real cases. This attitude can possibly be interpreted as if the confidence between them and public agencies are violated, obtaining new works will be impossible or certainly more complicated.

Nevertheless, given the huge sums of public money at stake in public construction, it is critically important to ask how well the final value of the investments corresponds to the social and economic needs of the people of Angola. We hope this report will be seen as a useful response to national authorities' concerns about corruption and the high cost of public works in Angola – and as a contribution towards a major effort to clean up the sector so that also the poorer segments of the Angolan population will benefit from these investments. In other words, that they will also receive some value for their money – that is, the public investments made on behalf of all Angolans.

The report is the result of a joint research project between Centro de Estudos e Investigação Científica (CEIC) at the Universidade Católica de Angola (UCAN) in Angola and Chr. Michelsen Institute (CMI), an independent research institute in Norway. The initial idea to conduct the study came from OSISA (Open Society Angola). The idea was supported by the World Bank, which hired a consultant, Jill Wells, who gave useful inputs to the study.

The Ministers of Planning, Finance, Public Works (now the Ministry of Urban Affairs and Construction), and Economy, were duly communicated at the onset of the project. A response was received from the Minister of Economy expressing his interest in the study.

A coordinating committee was composed by Dr. Tina Søreide, Dr. Odd-Helge Fjeldstad and Dr. Aslak Orre from CMI, Dr. Elias Isaac from Open Society and the Director of CEIC, Dr. Alves da Rocha. The committee was also honoured by the guidance of the Rector of the Catholic University and the Norwegian Ambassador in Luanda, Jon Veia. We would also like to express our gratitude to those who have read and commented on this report. Finally we thank the students from Catholic University of Angola (Carlos Vaz, Nédio dos Santos e ...) leaded by Dr. Precioso Domingos, who contributed to the study by seeking information at relevant public institutions.

Introduction



Between early 2002 and 2011 the Angolan government invested around USD 54,4 billion in new infrastructure, hospitals, schools, and other public construction projects (5,5 billion a year⁵). These investments have been extraordinarily large, as one would expect, against the backdrop of the substantial destruction done to the country's infrastructure during the 27-year civil war.

As an annual average, the reconstruction activities constitute around 10 per cent of GDP. The importance of new infrastructure, utilities, and public buildings for economic development is well documented, and for these reasons, the government has been commended internationally for its prioritizations.⁶ We also know, however, that the construction sector globally is at a particular risk of corruption, involving or resulting in collusion, fraud, cost overruns, weak quality, and lack of maintenance. It is often a result of weak governance institutions and regulation.⁷

In the case of Angola, the need for rapid reconstruction paired with weak institutional capacities (post-war) is a combination that magnifies the particular risk of corruption in publicly funded construction projects. These concerns also motivated this CEIC-CMI report. Nobody questions Angola's need for infrastructure and housing. Compared to many other countries in the region, the volume and output of the country's investment in the sector are impressive. Some major construction projects have been successfully completed over the last years, such as rehabilitation and enlargement of many provincial airports, the rehabilitation of major highways between important cities (Benguela-Huambo, Luanda-Malanje, Malanje-Uige, etc.) which also included the construction of many major bridges, and not least the reconstruction of the Luanda and Benguela railways.

In addition to these major projects, thousands of smaller projects in water and sanitation, energy and telecoms,

⁵ IMF- Angola Anted IV Consultation and Post Program Monitoring, August 2012.

⁶ World Bank (2010)

⁷ See Flyvbjerg et al. 2003 for the various governance risks associated with planning and execution of public construction projects. For empirical support for theories on corruption and strategic planning on market structure, see the studies of privatizations in South America (Manzetti [1999]; Guasch [2004]) and Russia (Puntillo [1996]; Black, Kraakman, and Tarassova [2000]) and for corruption in the privatization process—Bjorvatn and Søreide (2005). See World Bank/Messick (2011) for a review of corruption and collusion in World Bank financed African roads.



government buildings, and public housing have been carried out. In order to mention but a couple of cases that can be considered as successful, we can highlight the construction of the new bridge over the Catumbela river on the road between Lobito and Benguela. The work was awarded to the contractor by a value of €26.2 million which results in a cost of €2439 per square metre. Compared to another project also used as a case study – the bridge over the river Giraul in Namibe – the Catumbela bridge project fares well. For the Giraul bridge the value of the public tender amounted to €3079 per square meter – 26% higher than of the Catumbela river bridge, even though it was to be built with a much less complex technique.

When the selection process and monitoring of the work complies with legislation, the result is in general a 20% reduction in the work in excess for the same time of the project execution

Nevertheless, what we question in this study is whether the government – and in a wider sense, Angola's citizens – gets value for money from the many construction projects. Indeed, the

culture of low transparency around government decisions not only creates suspicion of collusion and corruption, it facilitates these kinds of problems. Better governance of the construction sector is likely to lead to more and better infrastructure, boost development, as well as increase popular trust in government. The report should therefore be read as a constructive attempt to support the Angolan Government's strategy to achieve better outcomes of the investments in public construction projects.

Recommendations for investment priorities and regulation – including what utilities to develop where and when; what roads to construct with what maintenance plan; what forms of contracts stipulating what allocation of risks and pricing systems, and so on – are important questions and essential to secure value for money in the sector. Yet, such technical details will not be addressed in this report. Documentation of what works based on experiences from other countries, and recommendations matching the given budget and needs, are available from

other sources.⁸ Reports on Angola's construction sector performance as well as its development challenges in general depict a large scope for improvement in sector governance.⁹ What this report addresses are the reasons why there is such a scope for improvement. It complements the technical recommendations from the World Bank and other institutions by addressing the decision-making processes behind public investments in infrastructure and public works. In general (and therefore crude) terms, this report lists what appears to be some of the most serious challenges in the sector. If it is really to serve the people of Angola, addressing these challenges will be absolutely necessary. While detailed technical and sector-only priorities are important, it would be a huge error to focus on sector level details and ignore wider and more general governance challenges.

Although few cases of corruption brought to court in Angola, we find that many challenges identified by this study are consistent with the characteristics

of corruption. These concerns are referred to throughout the report. Given the lack of transparency and difficulty of getting facts about the sector, some of our assumptions might be sheer speculations. We mention them nevertheless because we consider them important risks, given weak structures for control and the substantial incentives associated with malfeasance. We therefore recommend the government to carefully examine all the identified risks of corruption (regardless of how malfeasance is documented) in order to enhance the value for money in public construction projects.

The report addresses governance procedures at each step of the sector value chain, from planning, finance, procurement, construction, quality-control, and maintenance: Who are the decision-makers? What structures are in place to secure value for money? What procedures should be improved? Our arguments are based on available data, analysis of the legal framework, case studies, interviews, and literature review.

The report is organized as follows: Facts and figures about the sector are presented in Chapter 1. Concerns about value for money are discussed in Chapter 2. The overarching governance system and why it matters to the construction sector Chapter 3 addresses. Chapter 4: Politics: The structures for good governance. Chapter 5 summarizes challenges along the value chain and discusses consequences of corruption. The final chapter discusses main conditions for reform and recommendations.

We hope the report will encourage debate, better understanding of how the sector can be improved, more investigation of the risks, and eventually, better value for money in Angola's construction sector.

⁸ We will underscore the quality of many World Bank publications, such as Pushak and Foster (2010) with specific reference to Angola; Foster and Brieño-Garmenia (2010) on infrastructure in Africa.

⁹ World Bank Development Report 1994; World Bank: Infrastructures at the cross road, lessons from twenty years of World Bank Infrastructures Experiences, 2006.

Angola and the public works sector



The challenge of rebuilding and developing a country

Despite the tremendous public works investments that already have been made in Angola over the last decade, and the many successfully completed construction projects, there is still an urgent need for construction or rehabilitation of roads, houses, schools, and industries. Shortage of housing is a chronic problem that has led to widespread slum expansion, particularly in and around the capital Luanda, a city built to sustain a population of 700,000 and now home to more than 4 million people according to some official sources.

Almost the entire road network, both primary and secondary, is in poor or very poor condition. Port infrastructure operates below capacity because of obsolete equipment and out-dated working practices. Less than 5 per cent of the railway system is currently operational. The main airports require considerable

upgrading and/or repairs. The urban water supply and drainage systems currently reach only a small proportion of the population, and the existing systems are in poor condition. The rural environment lacks infrastructure to support production and transportation. The housing stock is highly degraded, yet supply is way below demand.

The challenge for the government is to address these many urgent needs, while also having to cope with an annual population growth of around 3,2 per cent. Moreover, the domestic construction sector is far from capable of meeting these demands. The construction materials market is in its infancy and therefore undeveloped. Both materials and construction sector expertise are in short supply. With very little in the way of domestic materials production, construction companies in Angola currently have to import most of their own materials and equipment.

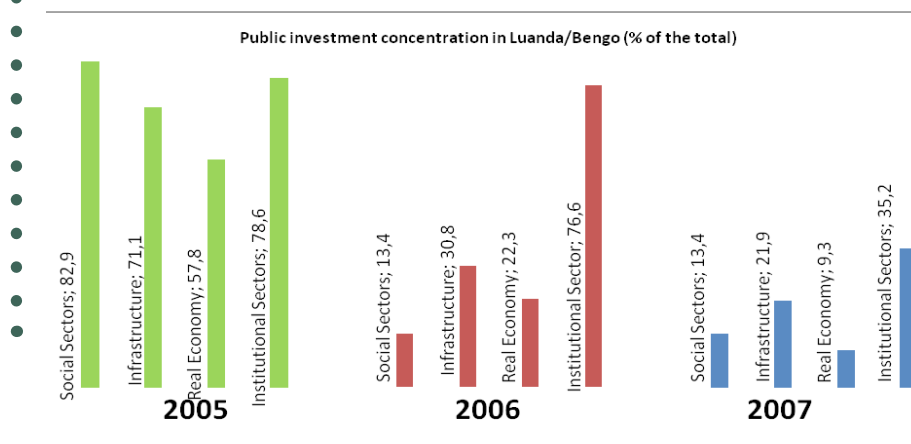
The most important players operating

in the Angolan public works market are foreign companies. Portuguese companies, for example, are well established in Angola's construction sector. The major companies are Soares da Costa, Teixeira Duarte, and Mota-Engil. In fact, these companies have in sum the largest share of the market for construction contracts. The Brazilian Odebrecht group, already present in Angola in other areas for several years, has been positioning itself in the construction sector and has won several important contracts. Another important company is Dar Consultants (UK) Ltd, part of the Dar al-Handasah Group and a member of the Building, Construction and Civil Engineering (BCCE). Dar is the government's favoured consultant on project construction and design, but in this project, it has proved difficult to identify its owners – who may well be Angolans.

A tool for social development

Public investment – in the different fields of activities in which they take place – is an essential mode of state intervention in the economy. The political priorities become a tool for economic growth and development, as well as an instrument for promoting social development. The Angolans are well aware of how public investment can be used by the State to mitigate

Figure 1: Public Investment concentration in Luanda/Bengo



Source: Ministry of Planning - Public Investment Execution Report, 2005, 2006, 2007

regional disparities, promote regional economic synergies, consolidate national reconciliation, and bring about a more integrated national economy. Nonetheless, how these investments are actually steered toward meeting social needs is a different matter.

In response to the housing and infrastructure problems, a series of social construction projects have been proposed and many also developed. In these projects there are three groups of beneficiaries: “the upper-class” that can buy houses at the cost of around USD 1 or 2 million in Talatona (a sort of Angolan style of London’s “Chelsea neighbourhood”); “the middle-class” people who cannot afford such an expensive house but who benefit from other initiatives, such as the project

referred to as The New Life Project (Projecto Nova Vida) located in the suburbs of Luanda; and finally “the poor” who have the so-called social houses with very different conditions from the others. There are some clear injustices in how the benefits from basic infrastructures are allocated. For example, all infrastructure constructed to serve the inhabitants of Talatona, was financed by the Government. Other segments of the population have benefitted from new infrastructure too, but the quality of the systems built for the middle class and the poor is inferior to what has been provided to serve the condominiums of the upper classes.

Imbalanced investment priorities

In terms of beneficiaries, there are also some injustices in terms of the spatial distribution of public investment. The government wants to focus investment expenses in the regions where economic activity and the population masses are concentrated.¹⁰ However, this policy has caused an exasperation of regional inequalities. There is too much concentration in areas where the aggregated mass of activity has already passed its critical point.

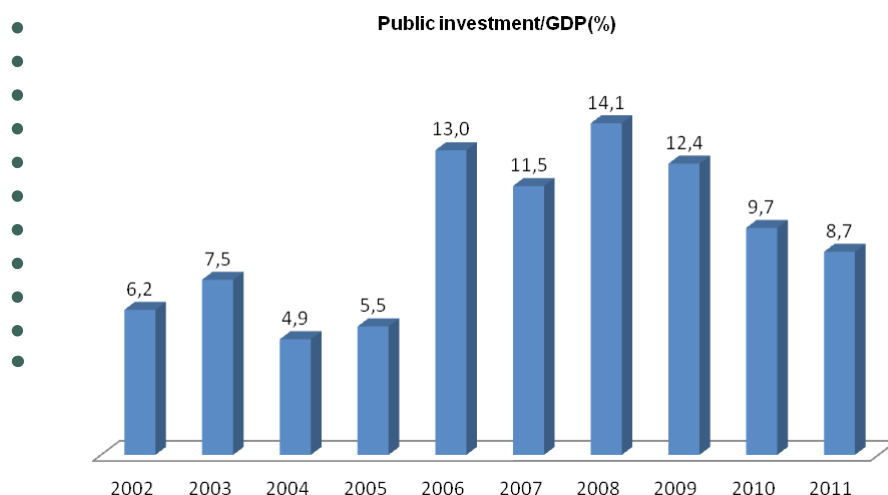
In addition, it has taken place at the expense of areas where large and poor segments of the population have urgent needs for better infrastructure and housing.

With regard to the disposal of the General State Budget for the provinces, the regional asymmetries are striking, with Luanda/Bengo particularly favoured, and similarly Benguela and Kwanza Sul, which are the most prominent provinces after the metropolitan axis of Luanda¹¹.

For example:

- In 2007 Luanda/Bengo absorbed 95.8 per cent of the national

Figure 2: Public Investments in % of the GDP



Source: Ministry of Planning - Public Investment Execution Report, 2005, 2006, 2007

budget expenditures in industry and mining, 98.4 per cent in transport, 87.4 per cent in housing and public utilities services, 71.2 per cent in social services and 52.2 per cent in energy and water (see graphic below).

- The overall index of concentration of the current budget expenditures in the Luanda/Bengo region was 55.3 per cent in 2007 (23.9 per cent in 2006).
- The Central/West region, headed by Benguela and Kwanza Sul, is the area where the State concentrates its second-largest portion of

current budget expenditures (18.1 per cent in 2007 and 29.6 per cent in 2006), thereby making it a preferred zone for private sector initiatives.

- The Central/East and South regions are those which receive the least of current budget expenditures.

Naturally, some of the previous numbers reflect the concentration of the population. This is likely to apply for public expenditure allocations to education, health, security, social services, and housing. The transport

¹⁰ The profitability argument is acceptable in a context of scarce financial resources (which is a basic situation of Economic Science). The profit of the State financial investments can be greater where there is a larger critical mass of economic activity. But the contrary argument has equal, if not even greater importance. In situations of evident and harmful regional imbalances, the public investments should be the counterweight to the logic of the geographical localization of private investments in areas of greatest potential for profitability. There is also the social argument, economically profitable in the long term.

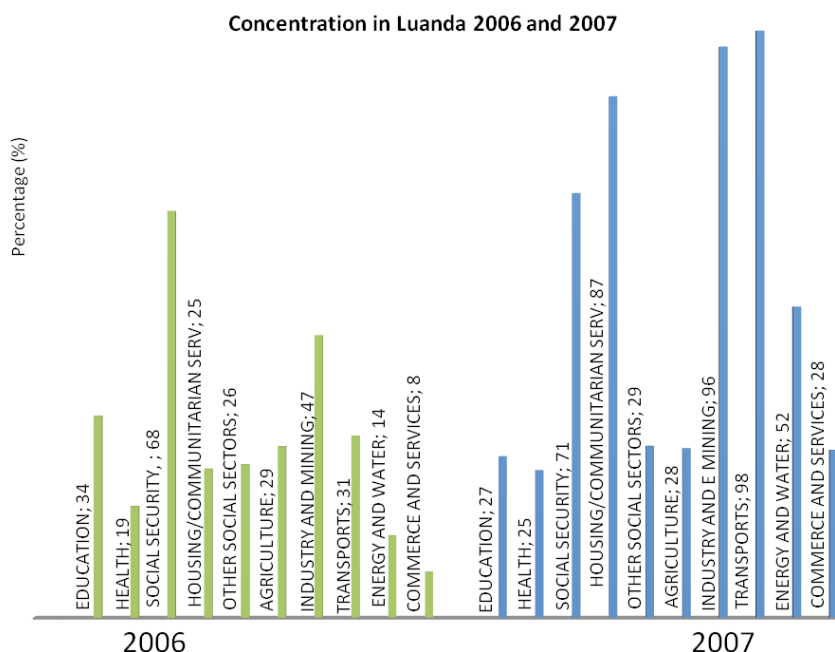
¹¹ See Rocha, Alves – Assimetrias e Desigualdades Regionais em Angola, 2.^a edição CEIC/UCAN, 2010

services – which increased its relative contribution to the Luanda/Bengo region's budget by 216 per cent – are likewise closely connected to the demographic increase of the respective provinces.

Considering the data, there seems to be some other imbalances as well. For instance, there seem to have been internal transfers of budget funds to the transportation and communication sectors from the other sectors. This is one of the explanations for an implementation rate (i.e., the fraction of what was implemented to what was scheduled) of 132 per cent. The other one could be the unspent funds scheduled from previous years. A low implementation rate in housing projects and the public utilities sector (only 46 per cent of what was scheduled and approved was actually invested) may indicate the existence of various problems related to the specificity and sensitivity of these endeavours (land availability, poor scheduling/programming of investments, etc.).

According to the Status Report of Implementation of the PIP of 2008, the sector-wide distribution of public investments privileged the sectors of transport and communication.

Figure 3: Concentration in Luanda 2006 and 2007



Source: Ministry of Planning - Public Investment Execution Report, 2005, 2006, 2007.

Table 1: Programme and execution of public investments in 2008

SECTORS	Structure of scheduled investments (%)	Implementation rate (%)	Structure of executed investments (%)
Transport and Communication	35.4	132.1	52.8
Housing and communitarian services	15.4	46.3	8.1
Fuel and energy	9.1	66.1	6.8
Other	40.1		32.3
	100		100

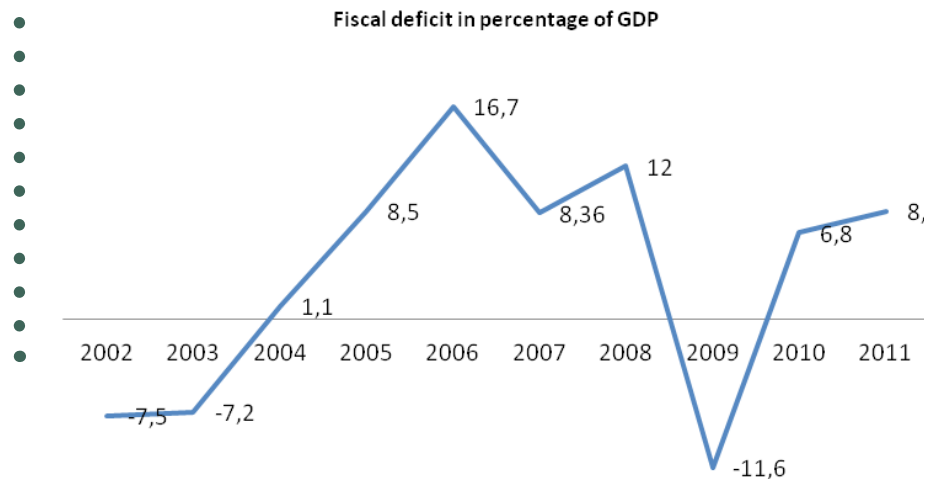
Source: Ministry of Planning – Report on Execution of PIP (Public Investment Programme) 2008, May of 2009.

Construction-driven growth and macroeconomic stabilization

The challenges in the construction sector must be understood in light of the civil war and rehabilitation needs. The year 2002 can be seen as a benchmark for a new economy in Angola since it brought about the most essential conditions for macroeconomic stabilization and the beginning of the rehabilitation process of the entire production line. Except for in the financial crisis of 2008/2009, the fiscal accounts present a tendency of constant surplus, at an average rate of 3 per cent of GDP. The funds made it possible to invest in development and not only to cover current expenditures and managing the external public debt. Even if there are social injustices in the infrastructure investment priorities, it has strengthened the economy in several ways.

The positive macroeconomic development is the result of a planned strategy. From 2002, after many years of erratic public investment, a programme was initiated for the recovery, modernisation and construction of physical infrastructures for the growth and diversification of the economy. The 2002 National Plan marks the beginning of this ambitious process, taking off with the General Government Programme

Figure 4: Fiscal deficit in percentage of GDP



SOURCE: Economic Report from Angola, CEIC/UCAN.



2003–2004. The reduction of inflation, the control of fiscal deficit, and the stabilization of the foreign exchange market were from now on considered the most appropriate instruments of the economic policy to promote GDP growth.

The programme had three main objectives, namely the rehabilitation and construction of:

- the transport infrastructure (road networks, railways, ports and airports) and an integrated intermodal transportation system;
- the water and electricity production and distribution systems;
- agricultural irrigation channels.¹²

This same document presents some impact indicators of the construction program, indicating a growth rate of the GDP of the construction sector of 16.9 per cent, the creation of 54,810 jobs and investment of USD 440.2 million—of which private investment in real estate accounted for a share of USD 234.6 million and public works USD 205.6 million.

For 2006, the same report stated the identified impacts on the construction sector:¹³

- growth rate of 30 per cent (a contribution of 1.2 percentage points

Table 2: Programme of rehabilitation and building of the basic economical infrastructures (In USD million at an exchange rate of 76.5 kwanza)

Subprograms of rehabilitation and building:	2007	2008	TOTAL
- Core network of roads and bridges (Ministry of Public Works)	1,750	920	2,670
On-going projects	1,350	780	2,130
New projects	400	140	540
- System for production and distribution of electricity (Ministry of Energy and Water)	592	232	824
On-going projects	425	93	518
New projects	167	139	306
- System for capturing and distribution of water (Ministry of Energy and Water)	216	81	297
On-going projects	195	36	231
New projects	21	45	66
Subprogram for promotion, support and development of productive activity (Ministry of Public Works and Transport and The National Reconstruction Office – GRN)	456	770	1,226
On-going projects	108	15	123
New projects	348	755	1,103

Source: Government of National Unity and Reconciliation – General Government Programme for 2007–2008.

to the global GDP growth rate of 18.6 per cent);

- 30,521 new jobs and an overall investment of USD 549.8 million, of which USD 238.6 million were invested by the private sector.

In these respects the public investment

programme was seen as a great success.

The General Government Programme for the Period 2007–2008 was organised differently from the previous ones, highlighting the integrated approach of the different areas of intervention of the economic policy.

¹² National Unity and Reconciliation Government: Government Programme for 2002 to 2004.

¹³ National Unity and Reconciliation Government – Execution Balance of the General Programme of the Government 2005–2006 (year of 2006), Luanda, April 2007.

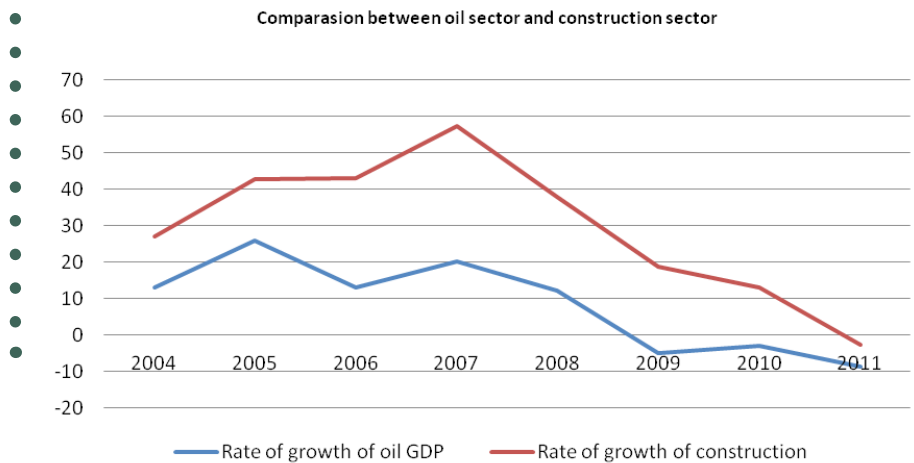
In the integrated programme of re-launching economic activity the economic infrastructure was assigned an amount of public investment of about USD 6 million, which distribution can be seen in table 2.

As can be seen in the table 2, the 2008 international economic crises impacted negatively the national programme of rehabilitation and building. The all spending in this programme fell down from an amount of 3,014 million USD in 2007 to 2,013 million USD in 2008, with special reference to electricity and water.

The connection between the revenues of the oil sector and the public works sector

All the economic sectors in Angola depend to a large degree on the functioning of the oil sector, by way of tax revenues; export revenues, which permit an accumulation of external reserves; service provision to the oil companies; and external financing (credit lines) guaranteed by oil as a collateral. The chain of effects of oil sector (positive and negative) are expanded to the public works sector not through an immediate and direct route¹⁴, but through the public

● **Figure 5: Oil and construction sector rate of growth**



Source: Angola Annual Economic Report 2011, CEIC-UCAN

investment and the private income generated by economic activities linked to the oil sector.

The graph above shows the close correlation between the GDP growth rates of the construction (in red) and of the oil sector (in blue).

As mentioned, Angola invested a considerable sum on its infrastructures between 2002 and 2011, estimated to more than USD 54,4 billion. This amount has been financed by the State's own resources (which rely heavily on petroleum taxes) and by external credit lines. Until now, the Chinese credit line has been the most relevant source of external financing

of the infrastructure construction and rehabilitation programme, specifically in the transport sector (roads, railways, ports, airports, bridges, and so on). What is more, the transport infrastructure absorbs approximately 70 per cent of all available Chinese credit line¹⁵.

In this context it seems evident that there is a connection between the investment expenses in infrastructures and the whole activity of the oil sector, as expressed in figure 6.

The challenges for the next ten years indicate the need for more investment in this sector of USD 2.1 billion per year.¹⁶

14 Although some civil construction companies have oil companies contributing to their capital stock

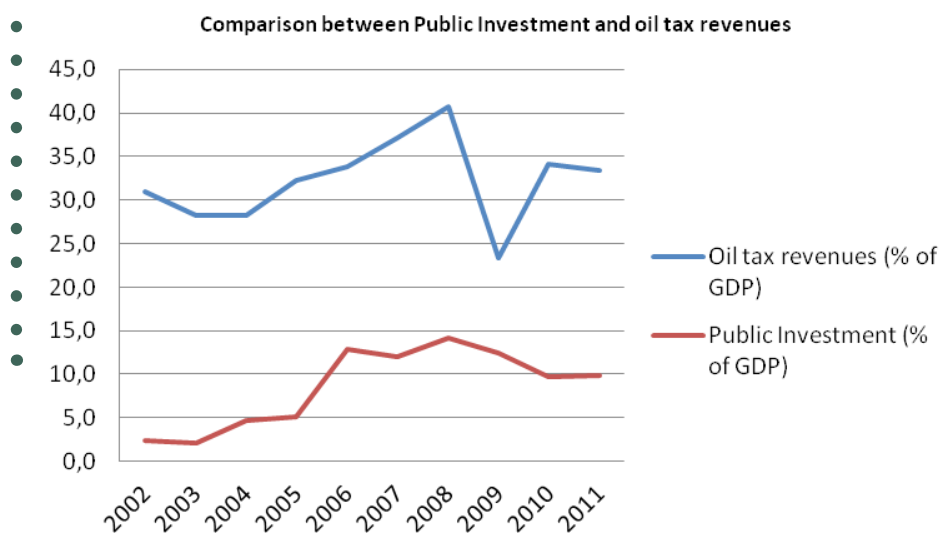
15 The Chinese credit line represents conditionality in terms of guarantees for petroleum deliveries, with 10,000 barrels due for repayment every day.

16 World Bank, Policy Research Working Paper 5813, September 2011: Angola's Infrastructure – A Continental Perspective by Natalya Pushak and

Aside from the two episodes of decline, one being an effect of the international economic crisis, and the other the occurrence of technical problems in some oil blocks, which implied reduction in production, the tendency is that oil revenues have steadily grown. That is why these fluctuations, with important social consequences in terms of negative effect on the value chain of investment, in the end turned out to have limited consequences. In a situation of greater scarcity of resources for investment in infrastructure, it is clear that the coverage of these institutional deficits and the lack of technical capacity present themselves in a very different manner and would offer less space for corrupt behaviour.

One can therefore predict that the oil revenues will continue to have a crucial weight in the overall financial management of this infrastructure programme, so much so that the recourse to debt accumulation (internal and external) has shown itself to occur to a lesser degree than in practically all other African countries, even compared to other oil producers.

Figure 6: Comparison between public investments and oil tax revenues



Source: Angola Annual Economic Report 2011, CEIC-UCAN

Conclusion:

As the precedent figures have shown there is a strong dependence of public investments on oil revenues. Even the public debt depends on the economic capacity to generate revenues, which is focused on the oil sector. If anything happen in the international oil market the national capacity of financing should be affected.

Table: Infrastructure containment needs

\$ Million per Year

Sector	New Investments	Rehabilitation	Total Capital Expenditure	Operations and Maintenance	Total Needs
ICT	169	0	169	119	288
Irrigation	1	16	16	2	18
Power	558	50	608	177	785
Transport	107	156	263	160	423
Water supply and sanitation	233	128	361	213	574
Total	1,067	350	1,417	671	2,088

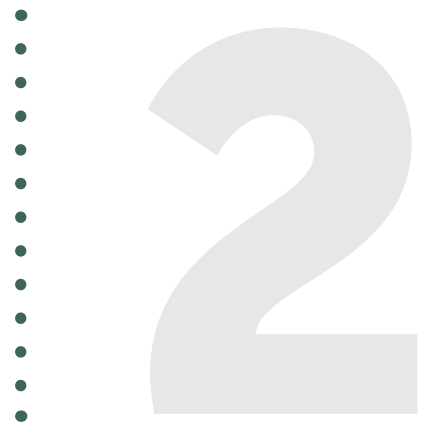
Source: Mayer and others 2009; Rosnes and Vennemo 2009; Curruthers, Krishnamani, and Murray 2009; You and others, 2009. Derived from models that are available online at www.infrastructureafrica.org/aicd/tools/models. Note: WSS = water supply and sanitation; ICT = information and communication technology.



Housing Project Kilamba



Reasons to be concerned?



Considering the huge pressure that the country's economic reality face in terms of infrastructure construction, reconstruction, and the essential basis for guaranteeing the same growth dynamics of about four years ago, there is some evidence that decisions were not always the best, what portends the existence of a broad space for corruption-related behaviour. One of the most paradigmatic cases is the expansion of the electricity generation capacity without adequate care of the problems on its transportation and distribution. Also in the case of the road sector there are signs that their construction has exceeded the national technical capacity for scheduling, monitoring, and inspecting.

The huge amounts invested in the construction and infrastructure sector warrant scrutiny into the question of whether the government and the Angolan people get as much value as possible from these expenses. Are the funds allocated for the best purposes? Does the quality of

the constructions hold sufficient standards to last? Are the investments prioritised according to a larger plan on how to develop the Angolan society and reduce poverty? Before we turn to more details in Chapter 3, this section discusses some of the more fundamental pre-conditions for the sector to deliver “value for money”, and what weaknesses have motivated a closer look at the sector. Moreover, it addresses some of the political priorities that are manifested in construction projects. Is “value for money” for the Angolan people at all a possible result without the Government adopting a more serious anti-poverty policy line?

“Value for money” in public works

Transparency

A main reason for being concerned about value for money in Angola’s construction sector is the lack of transparency throughout “the sector value chain”. Figure 9 below refers to the various stages of a construction project, from planning, financial set-up, procurement, construction, and eventually, final project and maintenance. At each of these steps it is very difficult to get detailed information about what is going on, including facts about project planning, needs assessments, and the award of contracts, as well as how the projects are being financed. Information about the allocation of funds across projects and the criteria for prioritizing some projects over others are rarely made publicly available.¹⁷ Without access to such information it is not possible for outsiders to assess the degree to which the Angolan people get value for money in these many investments, even if the results of construction projects are very visible. Moreover,

in cases where it is quite obvious that the construction projects do not really benefit the Angolan people, it can be very difficult to tell who the real beneficiaries are. For example, it is difficult to identify the allocation of ownership shares in the sector, which seems to be an important mechanism for self-enrichment for political and business elite’s members.¹⁸

The lack of transparency makes ordinary citizens particularly concerned about how well facilities most needed for basic services around the country are being prioritized, or if serious weaknesses in the construction of buildings or roads are observed and reacted upon for safety precautions. As noted by many observers, weak planning prior to construction and inadequate control during project execution have resulted in cases of low quality construction, such as the cases of several apartment blocks and the Luanda General Hospital that in less than five years after its construction the walls and the floor of the building started to crack and the Hospital was closed for rehabilitation.

Luanda General Hospital

Many of the buildings that have been built during the last decade show serious signs of structural damage. A government body, the INRQ (Instituto Nacional de Regulação de Qualidade) is responsible for certifying the quality of construction projects. In practice, however, they seem unable (or refused) to control the many construction projects.¹⁹ Whether this is due to lack of capacity, competence, or some form of corruption is not clear. But the result is in any case very serious for the users of the buildings and infrastructure.

Weak planning will usually lead to uncertainty about cost estimates. If a project lacks a solid feasibility study it will usually be difficult to estimate its right price and required quality. Unless good estimates have been developed and made known upfront, it also becomes impossible to detect whether there are cost overruns in the project. Many projects in Angola seem to have been launched without proper preparation. This implies not only that it has been too easy for many construction firms to get approval

17 According to the IMF approximately USD 5 billion was unaccounted for between 1997 and 2001. Demand for transparency is one of the reasons why collaboration with IMF was ended for several years.

18 Weak access to information in Angola is confirmed by numerous international rankings and surveys. See the box in Chapter 5 on “what international indices tell us about governance” in Angola for an overview of relevant results, including the very low rank on Transparency International’s Corruption Perceptions Index and Global Integrity’s report, which finds severe weaknesses in most parts of the country’s system of integrity mechanisms.

19 According to Hansen-Shino and Soares de Oliveira (2012:19): “Currently, the government has few accountability and safeguard mechanisms and the financial control institutions that do exist do not work properly.”

Figure 7: The construction sector value chain



Each step of the value chain is relevant to understand the results of public construction projects, including the harmful consequences of corruption. Decisions at different steps are interlinked. Corruption

might happen at one step while the consequences occur at a later step. To secure value for money in construction, the whole process from planning to end result must meet certain minimum accountability

standards. Access to information is essential for ordinary people as well as experts in control institutions to tell if the citizens of Angola get “value for money” in construction.

for start-up, but also that it may have been possible for some firms to demand payments that exceed actual expenses.²⁰

Competition

A further concern that warrants a “value for money” debate is the impression of weak competition in the sector. Competition is fundamental to secure the best price-quality combination, which is obviously consistent with the idea of “value for money.” In this sector, we have been made aware that many contracts are awarded without competition. Direct contracting is quite common; before the 2008 election it seems

to have been as high as 90 per cent of all projects. There is also very limited competition for design work. According to Corkin (2011), there is basically only one company for the Chinese-financed projects and one for others. As discussed in Chapter 3, case studies conducted for this report confirm flawed procedures in the procurement process. Even if a tender process is being organized for a project, a company may bid without any real competitors, and sometimes, no tender proposal has actually been submitted by the “competitors.” There is also a high risk of price-fixing. The total contract price is sometimes increased after the contract has been awarded.

As a result, the final cost of a project is often much higher than what has been indicated during the procurement process.²¹

Weak competition also has a more indirect consequence on the development of the industry. Given its overwhelming construction needs after 27 years of war, Angola could have better exploited the opportunity to develop competitive construction sector expertise. Angolan firms have not benefitted much in terms of arrangements that could have helped them reach a higher level of performance, for example, in terms of being offered better access to credit, electricity, and training.²² Brazilian,

20 In 2009 the government owed the construction sector as much as USD 9 billion in unpaid bills (now reduced to USD 4–5 billion) – in part the accumulated result of the slack practices. Payment delays hit the private sector hard, particularly Brazilian and Portuguese small- and medium-sized enterprises (the Chinese firms are paid directly from Beijing). Serious chain effects from delayed payments followed. While more frequent use of public private partnership (PPP) arrangements will reduce this problem in future contracts, there is still a big problem with current commitments.

21 Companies contracted to implement projects funded by the China Exim Bank must be Chinese and this is obviously a barrier to international competition (although there is competition for Angolan contracts in China). The risk of biased decision-making on the side of the Angolan government was one reason why the Chinese wanted to control the funds.

22 There have been attempts of demanding local contents—for example, the Chinese were supposed to use Angolan companies, but instead, they have gotten away with using Angolan labour.

Portuguese, and Chinese companies have now entered into competition also on smaller projects where Angolan companies do have a market. However, although this is a missed opportunity for the Angolan construction sector, it is not necessarily an indicator of low value for money, since a more protectionist policy could have prevented international firms from delivering better quality at a lower cost.

Predictable law enforcement

While Angola has a comprehensive set of laws and institutions regulating the sector, its compliance with existing laws is often a different story. Throughout the project cycle regulations are frequently violated without much of a consequence for those involved.

As will be described in more detail in Chapter 3, a new procurement act came into force in 2010. This is a step forward in the sense of organizing a scattered legal framework and promoting competition and procurement expertise. However, the new law is notable for its number of exclusions to its provisions for competitive tendering. Besides, few changes are expected since most of the previous laws have been copied into the new law while most decision-makers are still the same people.

A central procurement agency, organized directly under the executive/president and established by the new procurement act, will be responsible for the procurement process. However, it is not expected to deal with the whole range of weaknesses in construction sector governance. It is therefore not clear who has the overall responsibility for securing value for money in the sector, and thus, who can be held responsible ex-post when projects turn out to be less successful than promised.

Undeniably, however, a clear responsibility rests with the highest level of decision-making. What we find in Angola, in contrast to most democratic countries, is that the power to authorize public expenditures remains with the President of the Republic. Provincial government agencies can authorize expenditure only up to USD 1.8 million. Ministers can control projects in the area of USD 1.8–10 million. Everything above has to be authorized by the President of the Republic (i.e., the individual holding this position), and this allocation of authority obviously leaves him with a huge personal responsibility. There are other institutions involved too. Proposals from sectoral ministries and provinces are evaluated by the Ministry of Planning and the Ministry of Finance, but most importantly on how

they match political instructions from the highest level of the state.

In most democratic countries, the executive would prefer to have parliamentary support for large construction projects, and in that way share the political reward but also the burden if it fails. Angola's concentration of political authority implies that it has failed to develop a well-functioning set of checks and balances, including a de facto democratically elected Parliament. Moreover, there is no independent Auditor General even if such an institution is so critically important for securing "value for money" in government spending.

Accountability

For a decision-making process to be unbiased and focused on value for money, the administrative processes must be allowed to take place without influence from political players or high-ranking civil servants. Unbiased decision-making is critically important to allow market forces to secure value for money in these big investments.

What we know, however, is that there have been several incidents that confirm political influence for personal benefit on administrative processes, a problem addressed by the Governor of

Luanda in 2011.²³ Administrative and political processes are not sufficiently separated if, as an example, supervision of construction projects is outsourced to private Angolan companies that are owned by MPLA's business company (GEFI). Likewise, contracts have been allocated to the benefit of political allies, for example to companies controlled by the chairman and CEO of Sonangol. There are also cases where political allies have benefitted from the sale of apartment buildings in central Luanda²⁴.

The question of accountability is very much related to how the interests of the citizens are taken into account at the different levels of governance. Desperate poverty throughout the country (with 36, 6 per cent of the population living below the official poverty line)²⁵ calls for basic service delivery to these groups as a number one political priority. What we find, however, is that most of the USD 42 billion invested in public infrastructure have been concentrated in the areas around Luanda (as described in this chapter), and are primarily promoting the development of activities that benefit the elite. The investments have

not been much guided by an awareness of poor people's needs. It is also hard to find evidence of any "trickle-down" effects – often simply assumed – have been much felt by large segments of the population. The political priorities that are manifested in many of the construction projects clearly warrant concern about its "value for money" for the Angolan people.

The fight against poverty— is it reflected in public construction?

Lack of transparency in the use of State funds on infrastructure rehabilitation, and its consequence of lesser value added to the economy and society (negative opportunity cost) has to be considered in view of poverty reduction in the country.

All political statements and public communications by the Government advocate the necessity of eradicating poverty, making it therefore essential to unite some necessary conditions. GDP growth is, obviously, one of them. In this field Angola has presented notable achievements, ranking the country amongst the fastest growing

economies in Africa and even in the whole world. Meanwhile, that is not sufficient to give the majority of the population dignified living conditions that correspond to universal standards. Market mechanisms, which dictate – allegedly in the best possible way – the allocation of scarce resources to the preservation of economic efficiency, are not able to promote the distribution of national income in accordance with specific social necessities. Neither is it in line with a real and effective participation of the production factors in the productive processes. It is exactly here that it becomes important to question, not only the degree of transparency in the public construction process, but also how the sector serves to release or to transfer a bigger share of the state funds and how they are allocated to the improvement of social variables. The more that is lost at the different stages along the value chain in public construction, the less one can allocate to projects with a social (welfare) character that result in poverty alleviation.

Due to all the programmes focusing on this socio-economic variable, it is sometimes hard to tell if the

²³ *Radio Luanda* on 15.05.2011.

²⁴ The Spanish judicial authorities identified suspicious banking transactions of millions of Euros to accounts held by Angolans in Portuguese banks. The information was disclosed in 2010 and 2011 to the Portuguese Judicial Authorities (Ministério Público) through two rogatory letters relating to an investigation in which several Spanish companies are suspected of practicing crimes of corruption for the award of public works contracts in Angola. See Magazine *Sábado* of March 29, 2012. According to the same source top officers of the National Road Institute of Angola were dismissed on suspicion of embezzlement of more than \$ 4 million, in addition to exercise control of a BANIF account on behalf of society Pyzya, Marketing and Trading Ltd

²⁵ The well known magazine *Le Monde* in the «Le Bilan du Monde, 2012» refers a rate of poverty in Angola of 2/3 of population.

government has a specific strategy to fight the social exclusion of a good part of the population. One of the first was the Strategy for the Fight Against Poverty. Work on it was initiated in 2000 and the document was approved and disseminated in 2003, although it has appeared in various and amended versions. Then there were more transversal programmes in which this social curse was approached by way of investment programmes in the productive sectors (increasing production, employment, and incomes). After that followed the Programme to Increase and Improve the Supply of Goods and Services to the Population, and then still others of less public eminence, only to culminate with the current Integrated Municipal Programme for Rural Development and Fight against Poverty²⁶.

Meanwhile, the Government seems to be satisfied with the results of these different programmes, even if these cannot be seen as a real strategy to fight poverty and social exclusion. The poverty rate given by the IBEP is the most used standard.²⁷

Even so, and also because the basic

and structural conditions for the social reproduction of widespread poverty have not been abolished, the government defined and is applying the above-cited “integrated programme.”

The Integrated Municipal Programme for Rural Development and Fight against Poverty is not more than an attempt at giving some coherence and coordination to past programmes and projects, which aimed at alleviating poverty. This programme includes the provision of water, the construction of rural schools and health posts, the rehabilitation of secondary and tertiary roads to stimulate peasant family agriculture, the development of rural entrepreneurship, access to water and basic sanitary conditions, the promotion of electricity provision, the construction of housing in rural areas, and more. However, we have not come across with any studies which evaluate – either ex-ante or ex-post – the expected and factual results. Neither is there any studies known to us that have estimated the “value for money” of the different projects which constitute this important programme. In spite of this,

the Government has guaranteed that the programme already constitutes a success in terms of poverty reduction (see some different editions of *Jornal de Angola* 2011, the official daily newspaper). We underline – reinforcing the above reservations – that many schools and health posts function improperly, given the lack of technical conditions and lack of teachers and skilled health technicians, therefore not allowing for the full realization of its respective “value for money.” The respective share of this programme dedicated to combating poverty can be estimated to 4.6 per cent of the total volume of public investments.²⁸

Similarly, there exists a programme for the construction of social housing that aims to reduce the problems of the most underprivileged. Yet with the reservations noted earlier, or rather, the access is not always transparent, thereby existing beneficiaries who are more privileged than others. That is, not always who really need social housing is contemplated at the time of giving the houses to the beneficiaries.

The Fundo de Apoio Social [Social Assistance Fund] which for the last

26 According Louise Redvers (China/Africa Quarterly, September 2012), referring the high cost of Kilamba housing...“That is well beyond the reach of the vast majority of Angolans, two-thirds of whom live on less than US\$2 per day.”

27 The value of 36.6% for the poverty rate in Angola has been the subject of some controversy (see the Angola Economic Report 2010 and the Angola Social Report 2010), for not believing that only this percentage of the Angolan population live below the poverty lines. According to the BBC (February 13, news evening edition) there were more than 100 million poor in Nigeria in 2011, despite high rates of GDP growth that has presented. Considering a population of 150 million (Google, Index Mundi, [www.indexmundi.com / en / nigeria / population.html](http://www.indexmundi.com/en/nigeria/population.html)), the poverty rate is 63%, possibly consistent with the known levels of corruption in this country and with nature its model of income distribution.

28 According to the State Budget for 2012.

18 years joined budget funds and international donations, has been earmarked for the construction of schools, health posts, sanitary works and water provisioning, construction of marketplaces for agricultural products, housing for professionals, empowerment actions for peasants, and more. This programme represents only 0.2 percent of the total of public investments in 2012.

The general perception is that the country is very rich, but the people remain very poor.²⁹



Housing Project Kilamba

The risk of corruption

Corruption in Angola is perceived as one of the main problems, at all levels of the society, from the higher level of the government to the lower levels³⁰.

The risk of corruption in publicly funded construction projects is a relevant concern to the government of any country. Construction is claimed to be among the sectors most exposed to corruption, and globally speaking, governments are responsible for around 75 per cent of construction investments.

Why is this sector so exposed to corruption? One factor is that the uniqueness of particular construction

projects makes it difficult to compare prices to other projects. Procurement processes are easily manipulated when outsiders cannot tell what the price of a construction project such as a port or a hospital should have been. This factor also means that the construction sector is exposed to cartel behaviour, thus making it difficult for many governments to secure value for money through the use of competitive forces. Cartel behaviour is sometimes facilitated through bribes to government insiders and problems of corruption and collusion seem to reinforce each other.

Exerting independent control over “value for money” tends to be difficult in this sector, where contracts and the financing schemes are complex and often kept confidential. In the face of unknown contractual terms, outsiders – for instance journalists or civil society organisations – may be unable to verify if a project serves its intended purpose or meets agreed upon quality standards. At the same time, cost overruns seem to be the rule rather than the exception in big construction projects. According to recent research, the players involved seem to take advantage of soft budget constraints.³¹ These various characteristics, when

29 Prosensus, Centro de Estudos Estratégicos de Angola, Sensus - Eleições Gerais Angola 2012, Relatório Geral Temáticas Sectoriais, pag.11

30 Prosensus, Centro de Estudos Estratégicos de Angola, Sensus - Eleições Gerais Angola 2012, Relatório Geral Temáticas Sectoriais, pag.19.

31 Based on an impressive dataset on construction projects worldwide, Flyvbjerg and Molloy (2011) find average cost overruns to be huge in all

combined with the ease with which politicians and high-ranking civil servants can justify interference in publicly-funded construction projects, also expose the construction sector to political corruption.³²

In Angola, President Dos Santos's declaration of "zero tolerance" for corruption and the recent procurement reform both indicate that corruption in public works and elsewhere are unacceptable and should be taken seriously.³³ The recent increase in foreign entrepreneurs operating in Angola's construction projects may also be seen to promote sound competition within the sector. However, the severe challenges when it comes to transparency, competition, predictable law enforcement, and accountability suggest that Angola's defence against corruption in public works is far from solid enough.

The challenges discussed in the previous section are consistent with the characteristics of corruption in several ways. Consider the lack of transparency, for example. The more difficult to get information, the easier it is to hide corruption and the stronger the reason to suspect corruption: Why

should it be difficult to get information about public spending if there was nothing to hide?

Moreover, companies can profit from skimping on quality if they know that control is weak or absent—and if there is little "risk" of being held responsible for low quality construction work. Corruption can be one reason why the official control is not conducted more comprehensively and systematically.³⁴ Likewise, if there is limited knowledge of what should have been the price of a construction project, for example because of corruption, it is also easier for those involved to let costs escalate to their personal or company benefit.

When it comes to the issue of weak competition, we know that the more constraints there are on competition, the higher the rents available for rent-seekers, and the better the opportunities for cartel behaviour—often facilitated by corruption. Also the predictability of the legal framework is essential to prevent corruption. The opposite would allow for flexibility as to how the law should be interpreted in each and every case, and nothing is better for those who want to benefit from a deviation from the law.

Legal, as well as constitutional predictability is essential also to reduce the risk of political corruption. The Head of the Executive holds the formal responsibility for securing an efficient administration and allocating funds for contracting. However, without sufficient checks and balances and consistent application of the law, this power can be misused without any significant consequences. This is obviously relevant also to the risk of politicians seeking personal benefit through the influence they can exercise on business deals.

Weak accountability may well be related to corruption, but is a bigger problem in terms of reflecting "democratic deficit" and the following opportunity for self-enrichment. Totally unacceptable self-enrichment will not necessarily fit the legal definition of corruption (in non-legal discourse it is sometimes referred to as "legal corruption") if, for example, a non-constitutional regime has altered the regulatory framework to the representatives' personal benefit. A consequence will typically be neglect of pro-poor initiatives, as seen in Angola. However, pro-poor priorities will rarely

regions (44.7% for rail, 33.8% for bridges and tunnels, and 20.4% for roads).

32 For an overview of incentive problems in politics and how it may affect corruption in infrastructure, see Benitez et al. (2010) and Kenny and Søreide (2008).

33 In a November 2009 speech given at the Sixth Congress of the MPLA, Angola's President declared "zero tolerance" toward waste and fraud ((Jornal de Angola Edition of November 22, 2009 (http://jornaldeangola.sapo.ao/politica/tolerancia_zero_ao_esbanjamento))

34 Corruption has been listed as one of the reason why some buildings fall in earthquake-ridden areas, while other stand. For discussion and examples, see Kenny (2009).

serve corrupt interests (in terms of its legal definitions) and is likely to reduce the social rate of return for the poor.

What we have sought to underscore by this chapter is that the risk of corruption in construction cannot be estimated with a view to what happens in the sector alone. It has to be considered in light of the broader institutional and political situation; how does the broader set of integrity mechanisms work, what are the political priorities. If these indicate low accountability, the risk of corruption is high in any sector—and particularly those with significant government intervention and large budgets. In this chapter we have considered the sector-specific risks against this backdrop, and found that in Angola not only the governance indicators suggest high risk of corruption. The risks are severely amplified by the characteristics of the construction sector.

The following chapters go more into detail about the sector governance processes along the value chain. Hence, we describe how some of the listed “reasons to be concerned” addressed in this chapter hamper the construction sector in practice. Chapter 4 returns to the broader concerns about governance, while Chapter 5 provides an overview of sector governance weaknesses.



Luanda Bay

Governance in the public works sector



As will be discussed in this chapter, there are severe governance weaknesses at each step of this sector value chain (see figure 9 above). Though the legal framework for public works may be straightforward, how the rules to secure the main ambition behind them, namely “value for money” in public investment, is not so clear.

Selection of projects and planning

Clear rules keep facts hidden

For Public Investment is understood all State spending in the capacity building of national human resources in science and technology research, acquisition, adaptation and diffusion of technology and the creation of networks of information exchange as well as the rehabilitation or construction of economic, social or institutional

infrastructures . It is not considered public investment current expenses of the State applied to normal and cyclical maintenance of undertakings or projects.³⁵

Public investments—selection, programming, and financial coverage—are regulated by Presidential Decree no. 31/10,³⁶ a document that approves the regulation/ by law document Regulation of the Process of Preparation, Execution and Accompaniment of the Public Investment Programme. This regulation is supposed to set the “rules and procedures relative to the process of preparation, approval, eligibility, execution, accompaniment and the evaluation of the public investment projects” (article 1), and defines responsibility and decision-making powers in each of the phases from planning to final result. Officially, this

³⁵ See article 3º, nº 3, of Decreto-Presidencial 31/10, April 12, 2010.

³⁶ This Presidential Decree revokes all previous legislation, namely, Decree No. 120/03 of November 14

law aims at rationalising the use of public finances by making government priorities and procedures for State investments as well as the allocation of budget funds more transparent.

As described in Article 3, all public funds spent to rehabilitate and build economic and social infrastructure and buildings are covered by these regulations.³⁷ The scope of the rules is very clear and does not leave a large margin for deviation. In fact, the regulations cover the criteria and the established rules apply to the entire use of public resources aiming at the creation, rehabilitation, expansion, maintenance,³⁸ or renewal of the capacity for service provision and the supply of goods by direct or indirect public administration (article 3, no. 1).

In terms of Presidential Decree no. 31/10, only public investment projects are part of the Public Investment Programme (PIP) and the portfolio of projects. The portfolio of projects is a data bank containing information about all projects considered, prepared, and made eligible by the tutelary/oversight entity, ministries, and provincial governments or by the ministry department responsible for the programming and management of

development, that is, the Ministry of Planning.

However, no legal disposition can be found in this law that permits public access to the portfolio of projects, nor is any other disposition referring explicitly to the system of how priorities should be made³⁹—not even the definitions of the “eligible project” and the “analysis of eligibility” offer much help in defining how State priorities should be made. In reality, what is meant by an eligible project is a project submitted to the process of eligibility and apt to enter into the provincial, sectorial, or national project portfolio (article 2, no. 30). The analysis of eligibility (article 2, no. 26) is a verification made by the tutelary entity (the ministry or provincial government) that the project preparation was concluded adequately—being therefore apt to enter into the National Portfolio of Projects. What we find by considering carefully the choice of words in the most relevant legal framework for investment priorities is that the definitions and procedures are defined in a way that makes it possible to keep investment priorities secret, despite the official goal of “value for money.”

There are rules for transparency in the use of public funds, but they are not always respected with the ardour that is referred in the Regulation on Public Investment (article 12). In effect, making public investments without authorisation is prohibited. It is prohibited to execute, or include in the PIP, projects that have violated the principle of free competition. It is likewise prohibited to split projects and costs of public investment with the intent of lowering the hierarchic level of the decision-making entity required to make the decision to allocate resources to it. These precepts, when and if complied with, help to substantially improve transparency and to make the economic and social impacts of public investment projects more targeted.

Nevertheless, the technical capacity of staff in the ministries and planning offices of the provincial governments lacks in terms of quality and quantity. The PIPs of the last few years have included approximately 7,000 projects of State investment. This insufficiency opens space for consulting companies, especially foreign ones, to influence terms, and less lawful practices spread.

Consistent with the sector value

37 Clicking the Budget for 2011, we verified the existence of a general rubric for the maintenance of public infrastructure, estimated at 0.61% of total public expenditure, ie, about 278 million dollars. It is not found references to maintenance funds by ministries, not even listed in INEA.

38 In the Public Investment Programme (PIP) of 2012 there is an amount of \$ 100 million for maintenance of roads and 15 million for bridge maintenance.

39 Article 2, no 27 is not enough to clarify this aspect.

chain included in the beginning of this chapter, the cycle of the public investment project is composed of the following phases: preparation, which includes the identification and the project development; negotiation; execution; operation; and evaluation of the project (articles 13 and 14).

Weak legal requests for needs and construction assessment ex-ante start-up

Regarding the follow-up or accompaniment and evaluation of the project (article 2, no. 35), some aspects should be highlighted: the definition of evaluation emphasises checking the project's results throughout its cycle and deals with three types of evaluation:⁴⁰ ex-ante (evaluation of consistency), in course (evaluation of the performance or progress), and ex-post (impact evaluation). The definition of accompaniment underlines its systematic character and continued responsibility, divided between the promoting agency, tutelary entity, operating entity, and the Ministry of Planning. The results of applying these procedures are expressed in some indicators to be found in the execution reports of the PIP: comparison

between financial execution (general, provincial, per sector, and per project), and this is far from sufficient. To the public knowledge there are no reports to evaluate the macro- or microeconomic impacts of the public investment projects.

What we also find is that investment projects are not necessarily subject to careful assessment of what is needed and how to best spend limited resources to the benefit of the population. In fact, it is impossible for outsiders to assess what preferences/priorities are reflected in public works in light of what citizens need. No matrix of shadow-prices that could facilitate such an evaluation is known. There is also no appropriate macroeconomic model (of the Keynesian type), not even national accounts⁴¹ (the elaboration process of which is still in course) to facilitate the calculation of such effects.

The legal request for investment assessment is very weak. Criteria for public investment have to be defined, but the decisions do not have to build on information about the effects of the project on the economy. There is obviously room for improvement

in how the government defines the criteria for choosing which public investments to make. The lack of it indicates a clear risk of corruption.

Planning for investment

During project identification, the promoting agency must present the basic idea of the project before its tutelary entity. This is done by filling in a project identification form which includes: the project's objective (the benefits it will provide to the population);⁴² justification (meaning its relevance and adherence to the objectives of the government programme); preliminary estimates of costs and longevity (here its useful life-cycle is presumed); duration of the construction period; activities for its development (project programming); financing or origin of the resources to fund it; and finally, the prospects for community participation in the development and execution of the project.⁴³

The tutelary entity analyses the eligibility of the proposed investment projects in accordance with the following criteria: the project's adherence to the national and

⁴⁰ Article 2, no 36.

⁴¹ The National Accounts were made available only in 2014.

⁴² It is a purely subjective opinion and in some cases private interests may coincide with that of the proposing entity. We cannot forget that public policy makers also defend private interests, theirs or another's. These aspects are treated well by James Buchman, in *Theory of Public Decision*.

⁴³ Another highly subjective criteria, as there are no studies on the ability and motivation of participation of local communities in the implementation of public investment.

sector-wide objectives and priorities; sufficiency, quality, and adequacy of the studies carried out; adequate formation of the logical framework matrix (a matrix that shows synergetic effects between the different investment projects); adequacy of costs and deadlines of the project execution; aptness of the cost-benefit analysis and other analyses.⁴⁴ However, the medium period of implementation for a public investment project is 40 months, excessive as compared to other countries. Practically speaking, three and a half years necessarily brings about adjustments in prices and, in the very project, adjustments in deadlines and eventually in the project specifications—each which can constitute a window of opportunity for corruption.

The process of routing the various budget units of the Public Investment Programme to the National Directorate of Investments at the Ministry of Planning is somewhat messy.

The decision-making responsibilities regarding the choice of public investment projects are defined in the following terms (article 32):

- Above USD 10 million approximately (that is one billion kwanza), the

Figure 8: Public Investments



responsibility is exclusively that of the Head of Government;

- Up to USD 10 million, the responsibility lies with the ministries;
- Up to USD 5 million, the responsibility lies with the provincial governments.

Contracting

The regulations include quite specific rules for the contracting phase of public works.

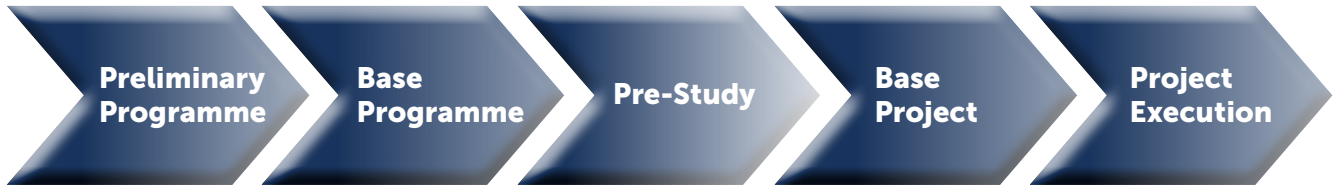
First of all, the contracting procedures should apply to all the conditions of project approval and respect the

legal diplomas in effect about the matter, that is, the Public Expenses, Service Provision, and Acquisition of Goods Regime as well as the Public Works Regime (Title V, PCL). In the contracting phase, the contracting entity should provide a preliminary programme defining its objectives, organic and functional characteristics, and financial requirements of the endeavour, as well as its respective costs and execution deadlines by which it should oblige.

The project designer should elaborate a base programme from the preliminary programme. The base programme

⁴⁴ It is very difficult to perform this type of analysis without a system of shadow prices. These are the prices that count for analyzing the economic and social impacts, and not market prices. Thus, even if there are few studies of this nature, one gets the feeling that the quality of the projects, its consistency and adherence are questionable.

Figure 9: *Project Phases*



should details points raised in the preliminary programme, such as verifying the project's viability and studying alternative solutions to eventually produce a programme that is better adjusted to the local conditions than that spelled out in the preliminary programme. Upon the owner of the work approval, the base programme should serve as a base for the development of the later phases of the project.

After the approval of the base programme, the project manager is supposed to conduct a pre-study that aims to develop the solution proposed in the base programme, essentially what concerns the general conception of the project. The base project is the development of the pre-study approved by the owner of the work (Ministries) —this is intended to clarify any aspects of the proposed solution, which could give room for doubts, and to present with a higher degree of detail alternatives to solutions that

were difficult to define in the pre-study and, in a general manner, outline the definitive bases on which the study should rest on its way towards an execution project.

As part of each project a document should be prepared to elaborate the pre-study or the base project approved by the project owner. This will constitute, together with the competition programme and the technical terms of reference (contract provisions), the documentation that will be presented for the adjudication/ award of the public works project or service provision. The documentation also will provide all the necessary elements for the good execution of the tasks. Technical assistance can also be part of the adjudication— complementary services to elaborate the project is given by its author to the project owner during the preparation of the competition to award the contract, the assessment of the proposals, and the execution of the public works.

This aims to produce the correct interpretation of the project, select competitors, and realise the public works according to the prescriptions in the terms of reference.

The project to be executed, as described in the official project document, should be presented in a form so as to constitute a coordinated packet of written information and designs for easy and unequivocal interpretation by the intervening agents in the project execution. The written part is composed of a descriptive note and justification, the calculations, the list of materials and its quantities, and general and specific technical conditions of the terms of reference—all details made easily available for third party monitoring.

Differences between legal stipulations and practice

In practice, there is severe deviation from these ideal procedures. In the majority of cases, there is no internal

capacity in the responsible organs to elaborate studies and projects, neither for their analysis nor approval. This is why these services are effectuated by external entities such as the consultancy companies. Normally the projects are outsourced to only one entity, thereby making it the responsibility of the project manager to carry out the technical studies considered necessary to develop the project. Such studies include topographic surveys, geological and geotechnical studies, hydraulic studies, and technical inspections of existing structures in the case of rehabilitation (this solution was particularly applied on the construction of new/rehabilitated bridges).

There are situations when the project is developed without the project owner having provided even a preliminary programme, thus leaving to the project manager's discretion the definition of the characteristics of the work to be done. In other cases in which an "emergency" was alleged or in zones that still were not demined not even a "project" was written up, only a "technical note." This was the case in the majority of road rehabilitation projects executed during the last few years. In the great majority of road rehabilitation projects the "technical notes" were elaborated by a single company and without a public tender and competition.



Maria Teresa – Caxilo Road

More than being a shortcoming of the law on public contracting, we are here dealing with a structural deficit in the national technical capacity. The argument that there is a lack of domestic or national technical capacity in matters of civil construction and its control and inspection, as well as the high costs involved, has led to establishing or contracting consultancy companies in the areas of projecting planning, execution, and inspection. In certain cases the law may have been broken too, particularly when one company has been hired for different stages, such as project elaboration, design, and consultancy—as in the cases of Dar Consulting and BDM.

What we find when assessing the legal framework for public works contracts

is that the players involved can easily take advantage of legal shortcomings in order to reinforce the circuit of value transfers and of value-added from the consultancy and construction companies to some of the members of the government apparatus who initially took the decision to award the public works and to finance them through the State budget.

Some of the consultancy companies who now operate in public works in Angola appeared through high level connections and political access, thus starting out with sizeable market muscles.

In these conditions the general cost estimate of a given project – prospecting and project design, project execution, administration, the

maintenance and conservation – is not carried out correctly or with the rigor that the management of public money requires. These estimates are normally significantly inferior to the final costs of the enterprise, thus making way for situations in which “project alterations,” “errors or omissions in the project,” and “excessive work due to unforeseen issues” occur. In some cases of road works, the final costs have more than doubled in relation to the values in the contract, for example in the cases of Maria-Teresa-Caxilo and Balombo–Alto Hama. Such practices constitute further reasons to suspect corruption.

Project proposals—setting rules aside

Another situation that sometimes occurs is that a construction company proposes a project with all details listed, simply for the government to sign⁴⁵. Hence, the construction contractor will, in addition to carrying out the construction itself, also be responsible for the planning and design of the project. On these terms, contracts are awarded without considering how it fits with a preliminary programme/plan and without a public tender and competition, thus leaving it to the

contractor’s discretion to define the characteristics of the work. Specifically, this was the case with some works executed at the helm of the credit lines.

As previously referred, the competent decision-making organs in contracting matters do not possess the human or material capacities to make technical decisions about the quality of the project, hence projects have been approved just as they were presented to these organs. Some of the projects come with the indications of superior entities without any technical qualification to the effect—and already with the stamp of approval, leaving it for the managing entity only to “sign below.” The managing entity’s limitations are also being felt at the level of technical and financial follow up or control of the works, thus creating opportunities for corruption with grave consequences with regard to structure and function of the construction work. The press has referred to examples of this kind of situation, such as the new General Hospital of Luanda and the Sports Centre and Pavilion of Cabinda constructed for the AfroBasket 2009, as well as some public roads works in Luanda. An interview published by Agency France Press and picked up

by other international publications indicates that the Chinese ambassador to Angola, Zhang Bolun, attaches to the Angolan debacle what happened to the Luanda General Hospital, which had to be closed four years after being inaugurated. The Chinese representative in the country rejected any responsibility in the Hospital Geral de Luanda affaire and blames the lack of quality manpower in Angola and the ambassador explained that China has loaned about 15 billion dollars since the end of the war.⁴⁶

Despite the law’s clearly stated limits and procedures for the programming of public investment, there are however known situations in which deviations have occurred—and are occurring—justified essentially by the political influence and administrative power, which break with established rules and regulations. There have been situations in which adjustments in costs frames and the modification of projects occurred after the approval of the PIP.

The Head of Government has the right and responsibility to approve the proposal of the Public Investment Programme, which has a multi-annual cycle (Presidential Decree 31/10, article 24). Yet, the control of the financial execution of the PIP

45 Usually this happens in so-called ‘design / build’ projects in which the contractor is responsible for construction or in projects with major deficiencies particularly in road projects.

46 See the article: Chinese blame Angolans for the closure of the General Hospital of Luanda (<http://www.diariodaafrica.com/2011/03/hospital-geral-de-luanda-fecha-e.html>)

belongs to the ministry department responsible for public finances (Directorate of Programming and Financial Management) in articulation with the planning organs, and the administration and management of sector and provincial budgets (Presidential Decree 31/10, article 36).

The expenses for projects in the Public Investment Programme should obey the defined priorities in such a way that they harmonise with the government programme for each financial year. Furthermore, the consolidated budget proposal should respect the cost ceiling fixed by the set of activities and project (the proposal for the budgetary cost limits for public investments are produced by the ministerial department responsible for public finances)⁴⁷.

One of the tasks of the National Directorate of Investment is to accompany and control the execution of public investment programmes and projects, and to participate in the quarterly and annual financial programming. A project should respect that it is part of the PIP; that its budget comes from allotted funds, that is, inscribed in the State Budget; and that it has an approved contract by the competent organ (Presidential Decree

24/10, article 10). For that, the budget units should provide evidence of a public tender notice, a pre-qualification document, a letter of invitation for the presentation of proposals, documentation of the proposal, an overview of quantities, a descriptive note of the project, a list presenting the proposals, and the report evaluating the proposals.

Every trimester the budget units should send the proposal of a Quarterly Financial Programme of the investment projects inserted in the PIP to the ministries of Finance and of Planning.⁴⁸ The payments incurred during the implementation process are only made against invoices of supplied goods and services.

In the projects implemented by means of credit facilities, the Budget Units should send a copy of all the contracts to the central treasury, duly stamped by the Tribunal das Contas (the Supreme Audit Institution).

Project Funding

As previously mentioned, the State's own revenue is the main funding source for the country's ambitious infrastructure programme, and the fiscal revenue derived from oil plays an important role for its coverage.

The way financing is obtained and managed, either by internal or external actors, is a source of creating opportunities for corruption, as it allows less control by the controlling organs and encourage the penetration of laxity and practice of conducting works of convenience for political, economic and financial elites of Angola and creditor countries.

National Budget

Presidential Decree 186/10 approves the instructions for the design of the General State Budget (GSB) and the Guidelines for the GSB Manual. In the design of the manual for the budget proposal for 2011 it is stated that the manual does not envisage instructions for Public Investment Programmes that is designed by the Ministry of Planning.

The set-up of important ministries involved in the budget process has undergone constant changes between 2008 and 2010, and the new

⁴⁷ contrary to what was previously established in Decree 120/03 of the Council of Ministers on 14 November that approves the Regulation of the Process of Preparation, Execution, and Accompaniment of the Public Investment in which these limits are produced by the Ministry of Planning.

⁴⁸ These Quarterly Financial Programmes are not available for the public.

Constitution has changed the role and the responsibilities of the different ministries. The largest legal changes were made at the Ministry of Finance and at the National Bank of Angola.⁴⁹

The responsibility of designing the GSB lies with the central body of the budget system (Ministry of Finance), the sovereign organs (the President of the Republic and the Parliament), organs of the central and local administration of the State, budget units and the implementation units (dependent units).

According to the new statutes of the Ministry of Finance (Decree 93/10 of June 7) the design of the budget proposal should be articulated between the Ministry of Economic Coordination,⁵⁰ the Ministry of Planning, and the Central Bank.

The Directorate of Treasury in the Ministry of Finance, which played the central role in the management of expenditures, is divided in two directorates supervised by the State Secretary of Treasury. Of these, the Directorate of Financial Management and Programming, which is responsible

for the budget execution, is the closest to the Treasury.

The State's capacity for funding is assessed by the Ministry of Finance, which establishes the yearly budget that will be observed by the budget units. The credit lines are made available and the respective amounts are then distributed among the dependent bodies according to the policy of priority sectors.

After the State Budget has been approved, the financial programming is completed by the Ministry of Finance and Ministry of Planning. They establish the financial amounts that have to be observed by the sectors. These amounts can never be exceeded, but can be subject to internal readjustment, that is, internally they can replace a project by another project, without increasing the amount of the overall budget. This possibility allows pipeline projects to be replaced by projects of a political nature that may be subject to appropriate preparation. The financial quotes may be assigned without observing the financial planning. According to the

findings, other stakeholders cannot challenge the quotes; the sectors accept the lines and ceilings available, otherwise the project will not be implemented. However, depending on the estimates of project costs that are usually improperly predicted, it is very difficult to correctly detect the excess of costs at the end of the projects.⁵¹

Considering the State's financial capacity and volume of resources required by the budget units, the Ministry of Finance designs the quarterly financial plan and the monthly cash plan, and submits them to the economic team for evaluation and approval by the President of the Republic (Presidential Decree 24/10, article 2).

The Ministry of Finance supervises all requirements through a computing platform called the Integrated Information System for State Financial Management (SIGFE). SIGFE provides the budget design process with a structure for data processing, according to modern IT-tools.

The Council of Ministers' Decree 73/10 of 12 October, 2010, on Public

49 See *The Reform of the Angolan Budget Process and Public Financial Management: Was the Crise a Wakeup Call?* (2011) Soren Jensen, and Francisco Paulo

50 The first deep adjustment in the government organic occurred in 2009, before the approval of the present Constitution, with the creation of the Ministry of Economy, which, to some extent, performed duties of economic coordination. After the approval of the Constitution and through the Executive Decree No. 1/10 the Ministry of Economic Coordination headed by a Minister of State was created, designated precisely Minister of State and Economic Coordination. After almost one year this position was terminated and returned to create the Ministry of Economy which coexisted with the post of Minister of State for Economic Coordination for which he was appointed in February 2012, Manuel Vicente, ex-chairman of Sonangol.

51 Interview made in Luanda, November 2011.

Expenditure and Contracting Services, establishes the guidelines and procedures for the General State Budget execution, which must be complied by all budget managers. The payment of expenditures carried out following the issuing of the Bill of Order (BO), which is duly signed by the top manager of the budget unit (BU) (article 12).

During the discussion of the General State Budget for 2012, members of the Angolan Parliament protested against the lack of transparency, and they pointed out the omissions made in the document that provides the rationale, mainly in regard to follow up, evaluation, and assessment of activities implemented by the government, including public investment.⁵²

These criticisms were conveyed in the meetings between the government economic team and the second, fourth, and fifth specialised committees of the National Assembly, specifically by the Committee on Economy and Finances, captured in a document of recommendations read by MP Ruth Mendes. The issues highlighted regarding the lack of clarity can be summarized as follows:

- Priorities are listed without quantifying the targets.

- Budget rules are violated because clusters of expenditures are presented without any functional classification (residual), but entailing very large amounts in total.
- The coding of items is not presented, which in the opinion of the members of parliament, makes it difficult to analyse and evaluate the budget and leaves the impression that the accounts are not structured according to the existing technical assumptions.
- The disproportion between the central government and the local government expenditure is high and estimated at 70 per cent. If clarity and transparency are not golden rules, this excess of concentration may open grounds for deviations in the allocation of state financial resources.
- Lack of transparency, in some cases, makes it unclear what projects are under the central government, provincial government, or municipality control, thereby making follow-up and control by the appropriate bodies more difficult.
- Some programmes of GSB are excluded without an appropriate explanation, such as fight against juvenile delinquency, media, etc.

- The allocation criteria for funds to the different departments in the ministries are obscure, opening way for complaints by the respective heads of department.

Therefore, taking into consideration the general upcoming elections envisaged for 2012, Parliament requested the government, with retroactive effect, to set indicators that can be objectively checked, so that there could be a correct perception of achievements during the three years of the current legislature.

Credit Lines

With peace in 2002, rebuilding infrastructure destroyed by war and the provision of basic services for the population became two priorities. The international financial agencies imposed demands regarding stabilisation and reporting, which were not accepted by the government. Therefore the Angolan President turned to China, which through the Eximbank provided a loan of USD 2 billion in 2004. This was followed by two other credit agreements of USD 500 million and USD 2 billion to fund the projects envisaged in the Public Investment Programme.

Though funding had already been

⁵² The State Budget for 2012 was 44 billion dollars, supported by about 72% by fiscal oil revenues, the average price per barrel was set at \$ 77. The growth rate of GDP initially forecasted in 2012 was 12.8% (in the absence of a clearly international crisis scenario), corrected in the presentation of the State Budget 2012 to 9.8%, with an estimated nominal value of 98 billion dollars, putting the Angolan economy as the 35th largest in the world.

earmarked for infrastructure projects, these funds from China had to be used to cover public works projects due to improper design of these projects (studies, executive projects, and building contracts) and insufficient identification of various collateral components, such as access roads, water, and energy.

China's credit line was seen as the major tool to fund the reconstruction of the transport infrastructure and social equipment (schools, institutes, hospitals, and health facilities). Consequently, other Eximbank loans followed between 2004 and 2010, to a total amount of USD 14.5 billion, backed by a constant delivery of oil. According to the terms of this funding the Chinese companies were hired to carry out the works and were paid directly by China Eximbank.⁵³ For each project there was a competition between three and four Chinese companies proposed by the Chinese government. The loan functions as a current account. Ordered by the Ministry of Finance, the Eximbank transfers the agreed amounts directly

to the contractors' accounts. Since the establishment of the Technical Support Office (TSO) in 2004 as an ad hoc technical multi-sectorial structure, the office has played a very important role in the implementation of projects funded by that credit line. One of the objectives of that office was the coordination and follow-up of the financial execution of commercial and physical contracts of the respective investment projects. The TSO, which designs quarterly reports, only dealt with the Eximbank credit line, that is, the public loans from the Chinese government. The China International Fund Ltd. (CIF), a private institution, made an additional credit of USD 2.9 billion available in 2005. The management of these credits fell under the responsibility of the National Reconstruction Office (NRO).⁵⁴ It was established in 2003 to support reconstruction and integrate former military personnel coming out of war, and it reported directly to the President of the Republic.⁵⁵ "Angola's dealings with China are for the most part shrouded in secrecy, and the complex

relationships between private and state companies in both Angola and China add to that opacity"⁵⁶.

Many of these projects have been paid for via an estimated US\$ 15 bn of credit handed to Chinese companies by Chinese lenders, especially China Exim Bank and China Development Bank. The money stay in Beijing, and Angola repays China with crude oil.

Apart from China, which represents 20 per cent of all credit lines to Angola, there are other funders, namely Brazil (13 per cent), Germany, Spain, Portugal, and Canada.⁵⁷

Brazil has a privileged relationship due to the common language and cultural ties which have strengthened its presence. Its credit line could reach up to USD 5 billion. Currently, there are about 100 companies and 30,000 workers from Brazil in Angola. The concession of credit is aligned with the penetration of Brazilian products and the investment of Brazilian companies in the mining, real estate, and energy sectors.

Spain and Germany have also signed

53 Corkin Lucy 2011, China and Angola: Strategic partnership or marriage of convenience, Angola Brief, Volume 1 number 1, January, Chr Michelsen Institute(CMI) and Centro de Estudos e Investigação Científica (CEIC)

54 On transparency of credits managed by GRAN there are many clouds, see Ana Alves - China Communication Conference in Africa March 2009, Universidade Católica de Angola

55 It should be noted that currently ongoing projects administered by this office are gradually shifting to managing of the GAT; interview with a senior executive of the state, Luanda June 2009.

56 Louise Redvers, Infrastructures in Angola, Winners and Losers, China/Africa Quarterly, September 2012.

57 Most of these credit lines for at least 10 years, is intended to finance investment in public works. They are guaranteed by production of oil and interest rates do not exceed by more than 3% to LIBOR.

loan agreements with the Angolan Government. Spain granted 200 million Euros in 2009, which added to the previous €600 million granted in 2008. In November 2009 a new credit line, amounting to €500 million, was opened. It aimed at boosting exports between the two countries. In 2011 Germany provided USD 1.7 billion for construction programmes, water, construction oversight, and supply of equipment.

Portugal has started to enter the Angolan market with force. In 2004, the Companhia de Seguro de Créditos(COSEC) line initially provided €100 million, followed by successive increases. The most recent credit line to fund public investment projects and infrastructure was €1 billion (March 2011), after the previous one of €500 million. According to the features of the projects, the approval is made according to the priorities established by the Angolan government. The credit should respect the OCDE discipline, namely in regard to the initial payment (a minimum of 15 per cent), local costs, and the disbursements and the deadline of disbursement should not exceed seven years.

The Canada's Export Development Bank signed an agreement to provide

Table 3: Loan value by creditor country

Creditor country	Loan value (USD million)
China	14,400*
Germany	2,200
Portugal	1,900
Brazil	1,800
Canada	1,160
Spain	600
South Africa	255
US	120
UK	70
India	50
Total	22,555

* It includes 10.5 billion from the China Eximbank, 2.9 billion from China International Fund and 1 billion from China Development Bank.

Source: Compiled from US State Department media reports and cited in Corkin (2011b) and Wells (2011).

USD 1, 16 billion to fund government infrastructure projects in 2011.⁵⁸

According to Corkin (2011) and World Bank consultant Jill Wells, who wrote a report for this project, the situation of the other funding is as follows in table 3:

All these credit lines are mainly aimed at exported goods and services, namely equipment, materials and services, and all of them impose the use of companies, and goods and services of the creditor's country. These companies may be more efficient than the domestic industry – and thus, better able to produce “value for money.” However, it the lack of requests for “local contents,” i.e., the use of Angolan companies and work force, has made it very difficult to develop an

Angolan construction industry. In the longer run, this may have an impact on the “value for money”. By not investing in local contents, costs become higher in the long-term since foreign companies tend to be more expensive than local companies.

Is Angola getting value for money from the credit lines? As previously referred, all credit lines are subject to conditionality criteria (competitions restricted to companies from the country providing the credit line, as is the acquisition of supplies and equipment). Thus, it is reasonable to think that the final cost of the public works could be far higher than it would have been in a situation of free contracting.⁵⁹

⁵⁸ Corkin (2011a).

⁵⁹ The discussion of credit lines must be deepened in Angola to improve the value for money of public construction projects. Moreover the Government has publicly raised this issue.

Development funding

The European Union is currently the largest grant-giving donor to Angola. Together with the government it develops a multiannual cooperation programme (2008–2013) under the Tenth European Fund for Development and from the European Commission's Budget, totalling more than €250 million.

The Practical Guidelines for European Union contract procedures describes the procedures for awarding contracts, which applies to all contracts in the context of EU external aid, funded by the EU general budget and by the Tenth European Fund for Development (EFD/FED).

The basic rules of these guidelines read that “the contract awarding is subject to strict norms that ensure not only a non-biased selection of awardees with appropriate qualifications, but also the best price-quality ratio and full transparency demanded in the use of public funds.”

The Ministry of Planning (currently it is the Minister herself) manages the contracts and the results. She also does the follow-up of the funds' management. The Ministry of Planning,

together with the beneficiary ministry prepare the Terms of Reference (ToRs), following the identification of the project. All projects are advertised, the technical specifications are submitted to the European Union Branch, and the bid is launched in a specific site. The procedures are very strict and a technical team hired by competent bodies from the European Commission supervise all contracts for works. However, there are difficulties in finding companies working for the government and not the contractor. There is close follow up, evaluation, and auditing.⁶⁰

Another problem is that the government has failed to establish a structure to ensure maintenance, and in the contracts only 90 per cent of the total cost of the works is paid, and 10 per cent is retained for a year.

Since peace has been attained, the European Union recognizes that Angola has been able to assign funds for reconstruction, and has therefore been reducing funding for infrastructure. Within this policy there is also sustainability and ownership issues of project results. This position is equally defended by the Minister of Planning, who has been stressing

the need for institutional support. All European Union cooperation programmes in Angola usually privilege training and capacity building—about two thirds—leaving a small portion for infrastructure and equipment.

In February 2005, the World Bank (WB) approved five structuring investment projects: (i) the Social Action Fund, (ii) the emergency project for infrastructure rehabilitation, (iii) the ex-combatants reintegration project, (iv) actions to fight malaria and HIV/AIDS, (v) and finally, institutional strengthening in macroeconomic management, through the provision of technical assistance to the Ministry of Finance, Central Bank, National Institute for Statistics (INE), and other institutions in this area. Until 2008 the WB strategy focused on strengthening institutional capacity and improving management skills.⁶¹ It covers the second stage of the infrastructure programme, as a capacity-building component within organisation and planning, as well as a supporting programme for the private sector in order to improve the business environment and strengthen good governance.

60 Interview, Luanda, January 2012

61 Economic Management Technical Assistance Project - (USD 16.6 million credit); HIV/AIDS, Malaria, and Tuberculosis Control Project (HAMSET) - (USD 21 million grant); Emergency Multisector Recovery Program (EMRP1) - (USD 24.9 million credit and USD 25.8 million grant); Emergency Multisector Recovery Program (EMRP2)(USD 102 million credit); Market-oriented Smallholder Agriculture Project (MOSAP)(USD 30 million credit); Water Sector Institutional Development Project (WSID) (USD 57.0 million credit)

Procurement

The main provision of authority and administration of contracting is envisaged in Law 20/10 of September 7, the so-called Public Contracting Law (PCL),⁶² which establishes the “general grounds and legal regime regarding public contracting” (article 1, PCL), that is, “the contracting of public works, renting and acquisition of services by a public contractor” (article 2, 1)—and with due adaptation, the establishment of concessions and public services (article 2).⁶³

Following a specific need of acquiring material for contractors, the contracting public entity⁶⁴ chooses (article 32) one of the procedures of public contracting envisaged in the law (“public bid” or “negotiation”) and requires authorization of expenditures (article 34 and annex II) to the Holder of Public

Power, who is the one holding the power of administration over public contracting⁶⁵ and in effect holds the “Public Contracting Office.”⁶⁶

The procedures as stipulated by the law

The public bid procedure applies for public contracting and can unfold in three types: a “public bid” as such, a “bid limited by previous shortlisting”, or a “limited bid without applications”.⁶⁷ However, public contracting can also be carried out by negotiation.⁶⁸ This procedure can be adopted when, whatever the object of the contract:

- a) there are strong, urgent reasons, resulting from unpredicted events, non-assignable to the respective contracting entity;
- b) the nature of works, goods

or services to be acquired, or contingencies inherent to them, do not allow for the establishment of the price;

- c) for reasons of technical or artistic skills, or regarding the protection of exclusive rights or copyrights, the contracting, renting, or service provision can only be carried out by a few contractors, out-letters or service providers; or finally
- d) as long as there are neither applicants in a previous bid, nor change of the specifications (article 28).

“Negotiation” can also be adopted in the case of renting or acquisition of goods or equipment when the change of a usual supplier of these demands changing its technical features (article 29).

The contracting procedures are conducted by an “Evaluation

62 The LCP revoked Decree 40/05 of July 8, Decree 26/00 of May 12, Decree 07/96 of 16 February and other legislation contrary to the rules set forth in this law (Article 361, LCP).

63 “Current procurement practices in Angola tend to favor connected individuals that are friendly to and supportive of the regime” DFID 2007 (cited in Hansen-Shino & Soares de Oliveira, 2012).

64 Are “public contracting entities”: the holder of executive power, bodies of central and local administration of the State, the National Assembly, the Courts and the Prosecutor, the Local Authorities, institutes, associations and public funds as well, public enterprises, wholly funded by the State Budget (Article 4, LCP).

65 The Holder of Executive power may delegates the power to authorize expenditure up to 1000 million kwanza, the Ministers of State and Ministers, to 500 million kwanza in Provincial Governors highest organs of Government Institutes, Public Companies, Services and Funds autonomous (Annex II, PCL).

66 Public procurement is made by the Holder of the Executive, through the “Bureau of the Public Procurement” but also a “Portal and other electronic platforms” and “Purchasing Centers”.

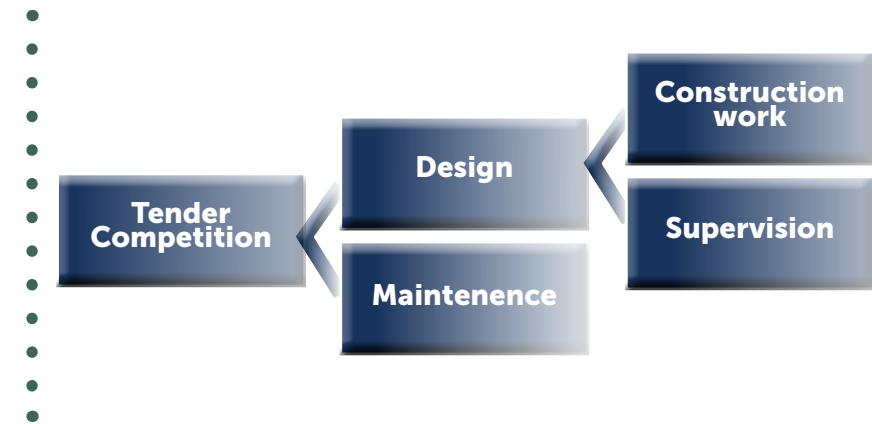
67 The law defines “public competition” itself as an “open procurement system” in which “all entities can compete domestic or foreign, public or private, which meet the requirements in the abstract, in the notice or program” (Article 23, paragraph a). The “restricted procedure with pre-qualification” is defined as an “open system but requires prior selection of competitors, by the contracting entity. The “restricted without proposals” is the system in which the contracting authority invites the natural or legal persons that it considers most suitable and specialized, to submit their proposals (Article 23, paragraph c).

68 The procedure by negotiation is the “procurement system consisting of inviting interested parties to submit their nominations or proposals which are then discussed and negotiated in order to harmonize with the public interest (Article 23, paragraph d).

Committee” chaired by a representative of the Ministry of Finance or at the provincial level, by the Provincial Governor (article 41, 1).⁶⁹

All public contracting is preceded by “technical specifications” which is “the part of the procedure containing, in an articulated form, the legal, administrative, financial and technical general and special clauses to be included in the contract that will be celebrated” (article 47, 1)⁷⁰.

In the specific case of “public works contracts,” it is also mandatory to define the location of the work, volume and type of works, the estimated amount, the nature of the plot, the general outline, and other construction and technical details needed for appropriate execution of the works (article 48, 1). The proposals should also contain, apart from other elements, the descriptive note, the measurement map containing the estimation of quantities and the quality of necessary work for the execution of works, the working programme indicating the deadlines and eventual intermediary deadlines



(article 48, 2). From the pieces designed there should be “the location sketch, the plans, the elevations, the cuts, the elements defining speciality projects, the indispensable details for construction for the accurate definition of the work the finishing maps, and whenever they exist, the surveying plans and geologic profiles” (article 48, 3). Technical specifications can be complemented by a prototype of the material or the element, which should be clearly identified in the bidding documents (article 49, 2). The “public works” contractors are typified (article 184–223) according to the distribution mode stipulated in three categories: (a) by global price, (b) by series of prices, and c) by percentages.⁷¹

The bidding process for the execution of a specific contract may involve a series of acquisition of goods and services through the value chain. The entity responsible for contracting can and should launch four competitions: the project, the contracts for supervision and maintenance, and inspection.

Advertisement for public bid should follow a specific model⁷² and must be advertised in the *Diário da República (Official Gazette) (III^a series)* and in a major circulation newspaper within the country (article 59, 1). Only the “summary of the most important elements of the model” will be advertised (article 59, 2).⁷³ In cases where foreign entities can apply, the

69 Cannot appointed a Member of this committee any person having an interest, direct or indirect, in the procurement process or “owns or has financial or otherwise, direct or indirect interest in any company, organization or enterprise that participates in the contracting process” (Article 41, 5, LCP).

70 For the most frequent contracts, tender documents can be prototype, to be approved by the responsible ministry (Article 47, 2, LCP).

71 The matter over “Contracts and Public Works” is regulated in Title V of the LCP, divided into eight chapters: “General Provisions” (Articles 180 – 183), “type of contract” (Articles 184 – 223); “Performance of the contract” (224 Articles – 287), “payments” (Articles 288 – 302), “reception and settlement work” (articles 303 – 319), “rescission and cancellation of the conventional of the contract” (Article 320 – no 3); “Litigation of contracts” (Articles 329 – 339) and “subcontracting” (Articles 340 – o3).

72 The tender model appears in Annex IV of the LCP.

73 This publication shall be communicated by the public contracting authority to the Office of Procurement, for the purpose of publication the aforementioned announcement in the Public Procurement Portal (Article 59, 3, LCP).

respective advertisement should also be disseminated through channels that manifestly reach international markets (article 59, 5). In addition the “contracting entity is obliged to communicate its decision of opening a public bid to the Public Contracting Office, so that it can be published on the Public Contracting Office Website” (article 59, 3).

Interested parties provide their proposals in accordance with the terms in the technical specifications⁷⁴ and the evaluation committee opens the proposals—or when sent electronically, the de-codification or download—in a public act on the first working day after the deadline for presenting proposals (article 75, 1).⁷⁵ The committee starts by assessing the “professional skill and the technical and financial capacity of bidders” (article 85, 1)⁷⁶ and then the merits of the proposals.⁷⁷ Thereafter the committee writes a preliminary report and ranks the proposals in order for the purpose of awarding (article 89). Finally it proceeds to “a preliminary hearing of bidders” (article 90, 1).⁷⁸

The proposals of shortlisted/eligible bidders are analysed, only according to the awarding criteria (article 86, 2). This is done in accordance with what is stipulated in the bidding programme, taking into consideration the proposal which is most “economically viable” or has “the lowest price” (article 99, 1). It looks at quality factors, technical merit, aesthetic features, technical assistance, hand-over or execution deadlines, and the price. It also looks at margins of preferences (i) in relation to the fact that the goods will be extracted, cultivated, or produced in Angola, or (ii) in the case of service provision, the fact that these are provided by Angolan bidders or entities with headquarters within the national territory (article 99, 3) or else (iii) in favour of goods produced, extracted, or cultivated in COMESA or SADC countries, or bidders with headquarters in those countries (article 98, 6). Upon the award of a contract, a written contract should be signed (article 108).

The tender competition “limited by pre-qualification” is governed by

special rules and, additionally, by the provisions of the public bids with the necessary adaptations (article 117). In the Limited Tender Competition, without presenting applications, the contracting entity invites at least three entities to provide written proposals (article 130) within a timeframe of a minimum of six months (article 131). Apart from these issues this bidding is governed by the provisions of the public bidding with the necessary adaptations (article 129).

The Negotiation Procedure has rules that apply specifically to it, but it is equally governed, with the necessary adaptations, by the provisions, which regulated the limited bid by Pre-Qualification (article 132). This starts with the advertisement inviting proposal applications in the *Diário da República* (III^a series) and a newspaper with country-wide circulation⁷⁹ (article 59, 1), as envisaged in annex VI of the PCL (article 135). After receiving and evaluating the proposals the Evaluation Committee notifies the bidders, with at least three days’ notice, of the date,

74 They may also, if the program of the competition (Article 60, LCP) admits this, submit a variant tender with alternative conditions (Article 64, LCP).

75 For a justified reason, the public entity contractor can determine the opening of the bids on the other day over the 30 days after the day indicated in the tender notice (Article 75, 2). At that time, are not accepted the proposals which do not contain the essential elements required in the tender program, or are not accompanied with all the required documents or do not comply with the rules of tender submission (Article 83).

76 All competitors who do not prove to have the needed qualifications they are excluded (Article 85, 2). In fact, competitors must “at any stage of the procedure, have the legal, professional, technical and financial qualifications necessary to perform the contract” (Article 55), noted “the essential elements required in the tender program” and submit all required documents (Article 83).

77 The evaluation committee for its review and evaluation, may request additional information to competitors on proposals submitted (Article 88).

78 The deliberation of the committee can be appealed to the ministerial department of guardianship be filed within five days from the date of delivery of the certificate, the minutes of the public act (Article 84). Contestants have five days to claim, in writing, the draft final decision (article 90, 2).

79 In this case, according to Article 59, 2, one can publish only the “summary of the most important elements” of that model.

time, and venue of the first negotiation session, scheduling the remaining sessions in convenient terms (article 138). Having assessed the proposals, the Evaluation Committee designs a report ranking the order of the proposals. For the remaining, the provisions on limited bid by pre-qualification should apply (article 139).

Despite this general regime, there are special procedures that can be followed to contract conception work, and “they follow the approach of public or limited competition by pre-qualification” (article 141). These are competitions that allow the contracting public entity to acquire “a plan or project” selected by a jury, with or without assigning an award (article 140, 1). This bid starts with the decision to select one or more conception works, authorizing the expenses regarding the awards or due payments (article 142).⁸⁰

The contracting entity can also adopt a special procedure in relation to the means used, though not in relation to the subject of the contract. This is the case when it is “signing contracts”

through electronic procedures and resorting to electronic auction “for the acquisition of mobile goods or services” (article 91, 1), or the “dynamic electronic acquisition system” (article 156). In this case, after the advertisement of the system (article 159), an “electronic catalogue” will be settled for all interested who present “initial versions of proposals” (article 161, no 1), in “terms and conditions” of the specifications (article 161, 3). The award goes to the final version bid with the lowest price (article 162)⁸¹.

However, there are important exceptions to these procedures of public contracting. These apply in cases where the contracts:

- result from international agreements or conventions;
- result from rules of international organizations that Angola is part of;
- are declared as secret or whose execution should be followed by special security measures;
- are governed by special law or celebrated with contractors, service

providers or goods suppliers who are a contracting public entity; acquire financial services;

- acquire services of intellectual nature and, finally;
- acquire goods subject to large price volatility on the international market (article 5).

As we will see later, we concluded that in two thirds of the case studies the rules established by law were not followed. We do not know if these cases could be considered as exceptions, as no such information was available.

Details of the contracts as stipulated by procurement law

The signing of written contracts follows meeting minutes approved by the competent decision-making body after verifying the provision of the guarantee by the awardee (article 111, 1) to whom it is sent (article 111, 2). The awardee has five days to accept or complain (article 112). The contract is signed within 30 days following the acceptance or resolution of a complaint. Fifteen days before the granting ceremony, the

⁸⁰ It must also be advertised in the Official Gazette, as the model adopted by executive order of the Minister of Finance and the Minister who is in charge the construction (Article 145, 1). Afterwards, it must be advertised by any convenient means, including electronic platform used by the public authority contractor (Article 145, 2). Must also be previously approved the terms of reference of the work, including, in particular, the identification and choice of mode competition, the procuring entity, the fullest possible description of the work, the body that made the decision to select the identity of members of the jury, the specific professional qualifications of competitors, the documents to provide, the time and place of presentation, the selection criterion adopted, the total amount of any premiums, the number of jobs and the value of the prize to be awarded to each competitors (Article 146) that can display various design works (Article 149). The competent body shall appoint a selection board composed of an odd number of members who hold the same specific professional qualifications required of competitors (Article 147). These should contribute anonymously, with their identity known only after the prize awarded and prepared the final report of the competition (Article 148).

⁸¹ The “electronic auction” has the sole criterion, the price (Article 91, 2) and is processed by inviting all the competitors (Article 93), indicating the score and the ranking of proposals.

awardee should be informed of the date, time, and venue (article 114).

The contract should identify the parties and their respective representatives, as well as the role in the course of awarding and the approval of the minutes, the description of contract matter, the price, the implementation deadline of the main provisions of the contract and the reference to the guarantee provided by the awardee (article 110, 1). Without these requirements the contract may be invalid. The owner of the public works and the contractor are part of the public works contract (article 181). Whether written into the contract or not, the specifications – with clarifications and rectifications – as well as the awarded proposal and the clarifications provided by the awardee about the awarded proposal (article 110, 2) are always part of the contract.

There is no need for a written contract “in the case of leasing/renting contracts for the acquisition of mobile goods or acquisition of services which price does not exceed 5 million Kwanzas” or “in the case of contracts for public works which price does not exceed 18 million Kwanzas” (article 109, 1). The same applies when the competent body that decides about the contract, based on reasons of “internal or external public security reasons” dispenses of it, or when for “highly urgent reasons,

● **Table 4:** Group of companies according to activity sector

Sector	Quantity	Average invoicing amount 2010 (in USD millions)	% public works	Number of workers
Consultancy	1	2	95	5
Construction	4	43	87	165
Electricity	1	1	100	12

resulting from unforeseen events by the contracting entity, there is need to immediately execute the contract” (article 109, 2).

In the exceptional regime contracts there are special rules applied, and only thereafter the rules of the public contracting regime apply. However, these special rules do not yet exist. As it used to be in the past, the contracting entities at times lack, when it comes to the selection process for the establishment of the contract, the structures and capacity to respond to the high demand for works. It happened between 2006 and 2008 due to the elections in 2008, and this might happen again this year, 2012, for the same reason.

Empirical investigation of how regulations are respected in practice

Taking into consideration the contracting procedures described above, we prepared questionnaires

designed to determine the perceptions of the various agents who are directly or indirectly linked to the contracting process have about the practice of the contracting entities. Two types of questionnaires were designed: One for contractors and consultancy companies (in order to get information on the fulfilment of the contracts), the other for civil society organisations (with the aim of determining the general perceptions on transparency in the public works sector). Fifteen of these questionnaires were sent by e-mail, and six others were answered in face-to-face interviews. Out of the forms sent by e-mail only six answers were obtained. Due to fear of retaliation and harm to their businesses, participants were very reluctant and reserved in their answers. All participants were assured confidentiality, without which the number of answers would have been even fewer.

In total we received only six answers, as listed in the table below. The answers provided describe the respondents’

perception of the contract selection process and how it fits with the procedures stipulated by the law (as discussed above).

The analysis of the inquiries was conducted in a scale between “ALWAYS” and “NEVER” and a coefficient between -1 and 1 was assigned, according to the contribution provided from each answer for the perception of transparency in the works. The coefficient “-1” indicates answers provided negatively for the perception and “1” indicates that a positive answer was provided.

An analysis was carried out based on the interpretation of inquiries and the application of weights. The result achieved was -0.45, meaning a relative absence of transparency in the awarding of contracts for public works.⁸² In practical terms this obscurity certainly will have translated in corrupt practices.⁸³

Naturally this sample of inquiries is not representative and we cannot draw conclusions on the results obtained. However, the results indicate that there is a general conviction that most of the works are assigned without public bidding, which denotes lack of compliance of legislation and a window of opportunity for corruption.

Table 5: Evaluation of contract fulfilment

Questions	Always	Frequently	Indifferent/ Not applicable	Not very frequently	Never
Awarding is through public competition				2	4
Only one or two bidders		2		2	2
50% or more of the companies who join the bidding processes do not provide proposals			3	2	1
20% or more of the shortlisted companies do not bid			3	3	
Difference between the 1st and 2nd bidder is less than 2%	1		1	1	3
Amount in contract is higher than 10% of the lowest bidder's price	2		2		2
Period between the opening of proposals and signing of contract is higher than 7 months	1			2	3
Amount in contract is higher than 20% of the basic price of the bid	1		1	1	3
Deviation between the awarded and executed amount is higher than 20%	3			1	2
Time deviation between the contractually stipulated and execution is higher than 20%	2	1		1	2
75% or more of the presented unit prices are higher than the prices for an equivalent work	1			3	2

⁸² This indicator varies within an interval between 1 e -1, and the value of 1 corresponding to transparency and the value -1 to totally non-transparent

⁸³ A change in the value of some weights may result in a different but no a significant result.

Table 6: Public projects selected

	Luanda Hospital	11th of November Stadium	Ondjiva - Cuvelai Road	Marginal Luanda	Cabinda Pavilion Sports Centre	M'bridge Bridge	Kwanza Cabala Muxima Bridge	Dondo N'dalatande Road	Kilamba	Polytechnic Institutes
Cost	-	145 M	32 M	-	-	-	-	-	-	-
Information supply	-	Yes	Yes	-	-	Yes	-	-	-	-
Competition	-	Yes	-	-	-	-	-	-	-	-
Consultancy company	-	-	WML	-	-	-	-	-	-	-

Yes = obtained, – = not obtained, WML = consultancy company, M = Million USD

Transparency test

In addition to the questions raised with stakeholders, as discussed above, we organized a “surprise inquiry” carried out by four students from Universidade Católica de Angola (UCAN). It exclusively aimed at checking the level of access to basic and supposedly public information on some public investments in different works. The students visited the most relevant institutions and simply asked for information to check if they received it or not.

The following table shows what projects the students sought to get information about, and the results of the inquiries.

What we found in this study, was that:

- There is a lot of fear and reservation among the civil servants when it comes to providing information about public construction projects. This situation was found in the National Reconstruction Office (which is responsible for many high cost projects), the National Directorate of Public Buildings and Monuments at the Ministry of Urbanism and Construction, and partially INEA.
- There was a strong agreement that only with formal requests addressed to the directors the requested information could be provided.
- There were institutions where openness and access to information was good, as was the treatment of

the enquirers. However, a lot of the information provided by people responsible in these official bodies does not coincide with information disseminated by the media, for instance, in terms of projects costs

- There were cases of successive deferral of responsibility for information provision, such as the Sports Centre of Cabinda for the Afro-Basquet tournament.
- Normally, information on the total cost of works was not provided, allegedly for confidentiality purposes.
- No information was provided on the Kiliamba project; the inquired did not want to identify himself as a Sonangol Imobiliária worker and referred to the website of

the intermediary company, Delta Imobiliaria which is responsible for the trading of the apartments, as the source of information, but with no positive results.

Case studies

Six case studies where it was possible to get information on the procedures for the formulation of the contract⁸⁴ were also considered, namely: The Bridge over the Catumbela River (Catumbela), Bridge over the Kwanza River (Cangandala), the Balombo/Alto Hama Road, the bridges between Balombo and Alto Hama, the bridge over Cavaco river (Benguela), and the bridge over Giraúl de Baixo River in Namibe. In the assessment of the cases, we investigated the number of indicators of violation of procurement law. Specifically, we investigated the presence of “red flags,” each representing a possibility that in a certain project a window of opportunity for corruption existed.

The table below shows red flags in each of the projects considered. There are on average about 6.67 red flags in each of the six cases investigated. In only two cases there were public competitions while in the remaining four cases contracts were awarded based on direct settlement or award. The results are listed in the table below.



The 11th of November Stadium

We should stress that in case 1, where there was a public bid, the number of red flags is much lower than in the remaining. In case 5, despite the fact that there was a public competition, five constraints were identified (the initial project was cancelled and the company selected for the initial competition presented a new proposal for a new project, but this time without competition), which led to the existence of the same number of red flags. The situation referred to in case 5 is a typical situation, particularly in road works.

It should also be noted that one of the causes of the situation referred to above has to do with the contracting entities’

lack of technical capacity to analyse projects. Only later “project changes,” “errors and omissions of the project,” and “extra work due to unpredicted situations” were detected, normally by the contractor or at the contractor’s initiative. This demands changes in the project with consequences for the prices and timeframes.

The data collected and the red flags assigned denote a high probability of corruption, mainly due to the fact that there is no public bid and no clear priorities and control, where the remaining red flags are the consequence of there not having been a tender competition.

84 The surveys conducted and case studies refer to contracts executed even under the Legislative Decree 40/05 of June 8, however the current Law on Public Procurement, the Title V establishes the same system of contracts public works.

Inspection

Inspection is aimed at providing the physical, technical, and financial control of the contract, without disturbing “the normal course of work or without decreasing the initiative and associated liability of the contractor” (article 268, 3).

These individuals are responsible for monitoring the implementation of the work; overseeing and verifying full compliance of the project, contract, specifications and work plan in force (article 266); as well as “giving orders to the contractor, serving him/her with notices and notifications, conducting checks and measurements and performing all other acts required” (article 268, 1). The owner assigns different people (or businesses) to oversee, on his/her behalf, the execution of the work, the work and the contractor (article 265). Just as employees, agents, or other public office holders who have a direct or indirect interest in the tender may not be part of an evaluation committee, anyone (individually or collectively) who has a direct interest shall not monitor or supervise the work or the contractor, nor should intermediaries be used. On the same token “the

supervisor appointed to monitor the work shall, under no circumstances, be the designer” (article 265, 5).

However, although the functions of the inspection agent are physical, financial, technical, security control, and monitoring of the contract, the contractor shall be liable for all errors and deficiencies relating to the execution or quality of the work, and shape and dimensions of the materials used (article 215).⁸⁵ The owner of the works or contractor shall be liable for technical deficiencies and errors in project design as well as other elements specified in the terms of reference of the tender or that may be defined subsequently, depending on whether those parts are submitted or originate from the former or latter (article 216).

Upon reception of the works, the representative of the owner shall carry out an inspection for provisional acceptance (article 303). Should they find deficiencies resulting from breach of contractual and legal obligations on the part of the contractor, the representatives of the owner must specify such deficiencies; they will equally issue a statement of non-acceptance with the respective reasons. Then, they shall notify the contractor and set up a deadline to carry out the

necessary modifications or repairs (article 304).⁸⁶

Three years later, after the warranty period, by the initiative of the owner or at the request of the contractor, a new inspection shall be carried out of all the work. Should there be nothing new to report (deficiencies, deteriorations, signs of disrepair or lack of solidity) on the contractor's liability, then the works shall finally be accepted (article 313).










































If the contractor fails to complete the work within the period contractually agreed, plus any legal or agreed extensions, the following daily penalties shall be applied by the end of lead time or termination of the contract, if the contract does not specify other penalties: a) one per thousand of the value of the awarding amount, during the first period equal to one tenth of that period, b) for each subsequent period of equal lengths, the fine shall be increased by 0.5 per thousand, reaching a maximum of five per thousand without, however, and as a whole, exceeding 20 per cent of the contract amount (article 287, 1).

In the contract types analysed (from the Ministry of Public Works), in accordance with Law 40/05, penalties are imposed for the late completion

⁸⁵ The responsibility ceases when the errors and vices of implementation have resulted from obedience to orders or written instructions given by the inspection agent or have obtained expressed agreement from this (Article 215, 2).

⁸⁶ When the building contractor does not complains and does not do, in established periods, the changes or repairs ordered, assists the owner of the work the right to have them perform for contractor triggering guarantees specified in the contract (Article 304, 4, LCP).

Table 7: Red flags in six sample cases

Red flag issues	Case 1	Case 2	Case 3	Case 4	Case 5	Case 6
The awarding procedure is done by public tender competition						
Only one or two bidders						
50% or more of companies who acquire bidding papers do not present a proposal						
20% or more of the shortlisted companies do not participate in the bid						
Difference between the 1st and 2nd bidders is less than 2%						
Contract amount is 10% higher than the price of the lowest bidder						
Period between the opening of proposals and signing of contracts is greater than 7 months						
Contract amount is higher than 20% of the basic price of the bidding						
Deviation between awarded and executed amount is higher than 20%						
Deviation between envisaged time in contract and executed time is higher than 20%						
75% or more of unity prices presented are higher than the prices for an equivalent work						

of work and an obligation to provide a bank guarantee to execute the contract. Normally, contracts are defined according to price series and modes of payment to the contractor. They also have clause providing a review of the prices (the contract terms are not consistent with what is expressed in

the law). In the area of supervision one finds situations in which a) there is no supervision, and b) the rules of public contracting are not followed.



Politics: The structures for good governance



The review of decision-making procedures and financial solutions in Chapter 2 reveal sector governance challenges along the whole sector value chain (see Figure 9). In terms of policy priorities, planning, finance, and allocation of contracts, the challenges addressed do not occur only at the sector-level, detached from the overarching governance structures. They are also closely intertwined with decision-making at the political level. For this reason, we cannot expect the sector to improve much unless it is done in terms of a reform steered from the political level. In order to understand challenges in the construction sector and their solutions, we have to understand the political landscape, its checks and balances, and in the case of Angola, how revenues from the petroleum sector may distort

attempts of better sector governance in infrastructure.

The political landscape

Angola is perceived as an autocratic one party state where the incumbent government controls huge revenues from the export of non-renewable resources.⁸⁷ This control has been used to bolster political power through patronage and the country is now governed by a group of the President's allies.⁸⁸ As we shall argue, executive authority has been maximized, and the “social contract” between citizens and Parliament – that allows the government to rule and claim taxes on behalf of citizens – is severely violated.⁸⁹ As a result, the government does not seem to answer to the needs of the people in all regions and segments. Instead, it channels most benefits to

⁸⁷ Democracy Index 2011, The Economist.

⁸⁸ Hansen-Shino and Soares de Oliveira (2012), Vines et al. (2005). See also the many international rankings and indicators consistent with the given characterization of the political landscape.

⁸⁹ See Brautigam, Fjeldstad and Moore (2008) for further explanation and empirical analysis of the decisive importance of respecting this “social contract” for successful state-building and taxation in developing countries.

a limited number of stakeholders. Given the incumbent's control on the parliament and the political recruitment processes, democracy is unlikely to fix these severe challenges in the short run.

For several reasons, these characteristics of the political landscape are likely to affect “value for money” in public construction, particularly if investment in public construction and the governance of the sector are influenced by the executive's interest in securing power. As a way of rewarding allies and securing executive power, members of the elite may be given benefits through regulatory decisions at the political level. If the power is already concentrated at the executive, there are few hindrances for allowing companies owned by allies to operate with a good share of market power—and hence obtain higher profits than what a competitive market would have allowed. Likewise, rents can be generated in the construction sector also by allowing firms to collude.⁹⁰ Opacity around sector governance decisions is the best way for the executive to prevent reactions

against such forms of corruption, and this is also very much consistent with observations made in this and other studies.⁹¹

Despite limited trust in democracy, the August 2012 elections are at centre of much debate. The President is seen to make strategic choices and populist investments in order to generate support. Strategic choices include reshuffling several ministerial posts. In January 2012 the long-standing head of state oil company, Sonangol, Manuel Vicente, was appointed Minister of State and Economic Coordination, and given wide political controls.⁹² His business experience may attract some voters, but in terms of building trust in democracy the step is not convincing. Vicente is not only among President Dos Santos's nearest allies and perceived as Dos Santos's hand-picked successor, he also has a wide range of business interests, given his stakes in the telecom sector, banking, and energy.⁹³ In a country where civil servants are prone to allow their business interests affect the decisions they make in office,⁹⁴ this step is not necessarily one that will convince voters.

Big excitement about the upcoming election in a de facto autocracy may seem a bit ironic if few (if any) observers expect any political change as a result. However, for the political opposition (that do exist) the election is important to have democratic weaknesses revealed, including election fraud, executive-steered recruitment, and oppositional resistance. The more weaknesses revealed the more political resistance it mobilizes. For the President, on the other side, the election is important to minimize the perception of democratic deficiency, and may thus improve his image internationally and moderate the potential threats to his position, if only indirectly.

We will now take a more detailed look at constitutional realities and consider how and why the country's checks and balances have been set so out of function.

What international governance indicators tell us about Angola⁹⁵

According to The Economist Intelligence Unit's Democracy Index,

90 Cartels in the roads sector have been a huge problem in several African countries, according to a World Bank report (World Bank/Messick, 2011)

91 References on lack of transparency.

92 The President dos Santos assigned broad powers to Manuel Vicente to coordinate the manufacturing sector (areas of oil, gas, energy, diamonds and other mining, manufacturing) finance, planning, and in particular the coordination of important commissions (Economic Bilateral Commission, Commission Angola-China, Angola, Brazil, Angola, France, Angola-Cuba).

93 *The Economist Intelligence Unit: Angola – Recent Political Developments*, 8 February 2012.

94 See Hansen-Shino and Soares de Oliveira (2012).

95 Economist Intelligence Unit February 2012 Angola Report

Angola is an autocratic one-party state. The President holds absolute control on governance. In its latest Angola report, the same source points to corruption, mismanagement, opacity in the use of public resources, and political uncertainty as factors that increase political risk, while a high level of fiscal dependence on oil revenues and a lack of diversification threaten economic stability.

International indicators tell us that Angola's tremendous growth has abated, yet it continues to be high—with an estimated 8 per cent for 2012 and 7 per cent for 2012.* Angola's population counts 19 million and GDP per head for 2012 is estimated to be USD 7,296 (USD at PPP). However, as indicated by a Gini coefficient at around 59, the benefits are shared far more unfairly in Angola than in almost any country on the globe. According to the United Nations, the richest 20 per cent of the population received eight times higher registered revenues than the poorest 40 per cent. The lack of transparency in financial matters may indicate that the disparity is even worse, and what we do know is that large segments of the population live in extreme poverty. Life expectancy at birth is now at 50 years, up from 49 in 2007. Child and mortality rates are among the highest in the world, with

almost one child in five not surviving to age five. The education system has severe weaknesses in terms of both outreach and quality. Officially the literacy rate is at around 70 per cent, but the percentage of those who are really able understand a text and write is likely much lower.

When it comes to the World Bank indicators of governance, which are based on information from a large amount of other indicators, Angola has improved on absence of violence and political stability since 2002, but these are almost the only good trends observed in the country's governance system over the last decade. Governance effectiveness and regulatory quality are very weak according to most observers, and as a consequence, the Cost of Doing Business is extraordinarily high, according to a World Bank (IFC) ranking based on a comprehensive set of indicators. When compared to 53 other "Lower Middle Income countries" (as defined by the World Bank), Angola is ranked number 53, just before Congo (Rep.), and far behind Pakistan, Nigeria, and Sudan.

Compared to an international average as well as several African countries, Angola performs very weakly on the World Bank Voice & Accountability Index, which includes transparency

matters as well as freedom of speech. Access to information is found to be extremely low according to Global Integrity's 2010 Angola report. Reporters Without Borders' Press Freedom Index ranks Angola number 132, among the worst in the world—and they find the situation to be getting worse. Government representatives and state administration hide facts about governance failure and sanction those who nevertheless manage to reveal such facts.

Transparency International's 2011 Corruption Perceptions Index ranks Angola 162 out of 182 countries, which means that national as well as international stakeholders, citizens, and observers consider the country as one of the most corrupt in the world. Mo Ibrahim's ranking of African leaders places President Dos Santos as one of the worst leaders, even when compared to the leaders of other petroleum-rich economies, and behind countries like Nigeria, Libya, and Algeria.

Significant parts of the elite's financial benefits are exported to be hidden in secrecy jurisdictions/tax havens, according to Global Financial Integrity (GFI). GFI and its Task Force on Economic Development & Financial Integrity found that almost USD 6 billion, nearly a sixth of the country's entire annual budget, flowed illicitly

out of the country in 2009. These are funds that cannot be accounted for in terms of trade or investment (most transactions were done as trade mispricing). “Corrupt money” brought out of the country that can be accounted for, such as investments in property in other countries, comes on top of this figure.

What these many indicators tell us is that low political accountability has distorted governance in a number of ways. Revenues from the country’s huge natural resources could have been used to develop the whole country, but has instead created huge income differences and caused endemic corruption.

Checks and balances for good governance

Democratic regimes are organized according to the principle of separation of (legislative, executive, and judicial) powers to prevent power being concentrated with one person. Some constitutions are in favour of the strict separation of powers, whereas others, while providing for this separation of powers, allow, at different levels, some to exercise control over others. The legislature, a collegiate body, representative of the nation, is usually

exercised by a parliament made up of members of parliament (MPs) elected by the citizens and has the powers to enact the law and monitor the executive. The executive materializes the laws into government action and leads the national policy to satisfy the community needs. To this end the executive has a regulatory and administrative power, and controls the defence and security forces. This power may be exercised by the collegiate or a unipersonal body. The judiciary is the organ responsible for applying the law to enforce the established order, solving conflicts between the State and individuals or between the latter. Its independence is essential because it guarantees its impartiality. It is usually the Constitution, which defines its powers and guarantees its independence. The Constitution also defines the organization of local government, specifying the responsibilities of the (central) government and those of local authorities.

Checks and balances in Angola’s new constitution

The 2008 parliamentary elections gave rise to a constitutional process that resulted in the adoption of a

new Constitution. In the section on “fundamental principles,” this Constitution includes, as one of the foundations of the Republic, the separation of powers into the legislative, executive, and judiciary. However, the system of government as set out by this Constitution fails to ensure separation and balance of powers between the organs of sovereignty, particularly between the legislative and executive. There appears to be a concentration of power by the President, who is the leader of the executive. The President controls the Parliament, which is a mere legislative chamber. It is in a weak position to check or instruct the President or his executive. Most centres of decision-making lie with the President of the Republic, something which seems to provide continuity with the philosophy of running a State according to a single chain of command typical of the early post-independence years where there was a single party constitution.⁹⁶

By establishing an executive power embodied by the President⁹⁷ the new Constitution of the Republic of Angola (CRA) is a disappointment with regards to previous democratic gains. The President is the one who is “defining the political orientation of the country”

⁹⁶ See Ruling of the Supreme Court, in the robes of the Constitutional Court, on “Head of Government”

⁹⁷ “Confirming the president as the supreme arbiter of political affairs and underlining its inability to block or influence government policy” Economist Intelligence Unit: Country Report Angola (February 2012).

(article 120, paragraph a, CRA) and runs it through central⁹⁸ and local⁹⁹ advisory bodies¹⁰⁰ appointed by himself (article 119, section k). In addition to the executive and legislative power he holds (article 120, section h), the President of the Republic also holds legislative power: he exercises this power through “provisional presidential legislative decrees” (article 126) and legislative power delegated to him by the National Assembly, which is exercised through “presidential legislative decrees” (article 125, paragraph 2). Moreover, he also resorts to the informal power at his disposal which is to pressure the National Assembly in its legislative work with the power to initiate legislation vested in him (article 167, paragraph 1) and, above all, by virtue of the veto mechanism (article 124, paragraph 2) granted to him for enacting laws.

We are therefore faced with a weak parliament, politically and in terms of internal organization, administrative resources, access to information, and technical expertise for supporting the MPs. The Angolan parliament operates in a building that is not its own¹⁰¹ and lacks true financial independence. In formal terms, the



Housing Project Kilamba

budget is approved by Parliament itself but its implementation depends on allocations made by the government (executive). Also the resources made available for the operation of the National Assembly, in terms of time and amounts, have also limited the performance of the MPs.

In addition to the obvious subordination of the National Assembly to the President of the Republic as the holder of the executive power, Parliament has been dominated by the ruling party, which, after the

2008 elections, now has a qualified majority of 85 per cent of the 220 MPs.¹⁰² Parliament is a mere legislative chamber at the service of government and MPs have a poor relationship with their constituencies.

In its relation with the judiciary, the executive cultivates a spirit of hierarchical subordination of high-level judges and prosecutors because it is the President who chooses (directly or indirectly) and appoints the judges of the High Courts, judges

98 The Council of the Republic Council of Ministers or The Cabinet, the National Security Council and other (Article 134 et seq, CRA).

99 Provincial governors and deputy governors, municipal administrators and others.

100 The Council of the Republic Council of Ministers or The Cabinet, the National Security Council and other (Article 134 et seq, CRA).

101 Since mid-2010, the headquarters building of the National Assembly is being built and it is scheduled for completion in 2012

102 With the results of the parliamentary elections of September 5, 2010, the ruling party now has 191 seats in the parliament out of 220.

of the Constitutional Court¹⁰³ (article 180), judges of the Supreme Court (article 181), judges of the Court of Auditors (article 182) and judges of the Supreme Military Court (article 183). It is the President who appoints the State Prosecutor and the deputy state prosecutors. Even the composition of the Higher Judicial Council and the Superior Council for Public Prosecution is strongly determined by the President of the Republic, as it is he who (directly or indirectly) appoints many of its members and controls the mechanisms that affect their careers, either through placements, transfers and promotions, or by taking disciplinary action against them, or even through investigations, inspections, and inquiries on the services run by them. This state of affairs not only casts suspicion on the independence of the judges and prosecutors, but also results in political control of the executive over the judiciary.¹⁰⁴

National auditing services

Of particular importance to the issue of transparency in the public works sector and its value chain is the Court

of Auditors. The Court of Auditors¹⁰⁵ is defined by the Constitution as “the supreme supervisory body responsible for overseeing the legality of public finances and judging such accounts as the law may require to be submitted to it” (article 182, 1). As part of the preventive control mechanism, the Court of Auditors must determine whether public acts and contracts submitted to it are consistent with the legislation in force (article 8, 1, Law 6/96 of 12 April).

After checking the information and data contained in the dossier, as well as the contracts submitted for early inspection, and coming to the conclusion that they do not meet the requirements of legality and regularity for the execution of the expenditure or contract, the Court of Auditors will not approve it or will request, as it normally does, additional information and clarification. Failure to comply with legal procurement and public tender procedures shall render the process null and void, and grounds for refusal of approval by the Court of Auditors. However, there have been cases in which the court felt pressured by the

executive and gave its approval without complying with the legal requirements for public tenders “given the superior interests of the Nation.”¹⁰⁶ In fact, these cases of emergency, considered the “best interests of the State”, were related to the elections of 2008 (encompassing projects in 2007 and 2008). This practice has determined 90 per cent of direct and immediate awards, without complying with established rules and laws. In these circumstances the estimated overall cost of the project is not done correctly or with the rigor required by the use of public money. The preliminary costs estimates are much lower than the final cost of the works determined by modifications in the design, errors and omissions of the project, and additional work from unforeseen situations.

The Court of Auditors, in its capacity as the Auditor General of Public Accounts has the obligation to produce an annual report on public accounts and to submit it to the National Assembly and forward it to the various bodies which exercise sovereign power (article 182, 4). However, despite our attempts to obtain a copy of the Annual Report

103 Out of the eleven members of the Judges composing the Constitutional Court, the President appoints four, including the presiding judge. Four other judges, including Vice President are chosen by the National Assembly; the other two are chosen by the Superior Council of the Judiciary and is provided by Academic tender.

104 It is nonetheless interesting to note that at the level of the rituals of state, superior judges lining up alongside with the President of NA, Vice-President, Ministers of State, Ministers and Secretaries of State, in the official ceremony of reception of the President at the airport when he returns to the country after a trip abroad.

105 This court was established by the Constitution of September 1992, but only on April 12, 2001, after much political and social pressure, was created.

106 See Resolution No. 65/FP/08, of the Court of Auditors, in Decisions by the Court of Auditors (2003-2010), volume 1, p. 642-643.

on Public Accounts, we could not gain access to it, neither from the Court of Auditors nor from the National Assembly.

This contributes to confirm the court's already weak status in the government system.¹⁰⁷ However, as a result of a campaign aimed at moralizing the public administration at an intermediate level, the Court of Accounts has been trying and condemning, in the first instance, “public managers and those responsible for funds managing public finances” on cases of corruption,¹⁰⁸ under the new Public Procurement Law.

Summing up the above, it is difficult not to conclude that the above shortcomings – lack of transparency, concentration of power, weakness of the supervision and control systems – combine to foster impunity in the decision-making chain of public projects. Their “value for money” is therefore likely to be diminished.

Weak control of public procurement

The form of control conducted only “at the top” by the court differs from the reality of other SADC countries such

as Tanzania, where there is a Public Procurement Regulatory Authority, which has the task of:

Monitoring and reporting on performance of procuring entities, setting training standards and professional career paths for procurement personnel, building capacity of personnel, developing standard documents, conducting procurement audits, enforcing observance of regulations and investigating non-observance. These functions are taken very seriously in Tanzania, with the PPRA conducting regular audits of the 300 or so procuring entities in the country, the results of which are published in their weekly newsletter and annual reports.¹⁰⁹

The Law of Public Procurement (LPP) provides for the centralization of “public procurement,” which is consistent with the concentration of power with the executive, enshrined in the new Constitution (2010). The new legislation, contrary to the

previously differentiated system, establishes a unified procurement system that prioritizes negotiation of public entities with contractors and service providers, also through economies of scale, ensuring that the best market prices, internal or external, are obtained. For materialization of its principles (equality, competition, impartiality, transparency, and probity) and towards public interest, the LPP introduces three innovations in the spirit of serving the public interest, a perfect management system (economical, effective, and efficient).

First, it removes the direct adjustment clause from the previous law, introducing greater transparency in the public procurement process, which now requires the publication of a public tender notice allowing all interested parties, not just some as was the case in the past, to submit proposals. Also, early payments should not be above 15 per cent of the contract cost.

Secondly, it creates an electronic procurement system¹¹⁰ that allows suppliers to have better information on the needs of the government. At the same time, it allows the government to obtain knowledge on suppliers' legal status, property and asset ownership,

¹⁰⁷ In this respect the independent media have dubbed the Court's “Court of make-believe.”

¹⁰⁸ In a press release dated December 30, 2011, the Court listed all processes that were running on its instance, a total of 35 processes.

¹⁰⁹ OECD/DAC (2011) p. 72

¹¹⁰ See www.governo.gov.ao

and tax compliance. An “electronic catalogue,” which is available to all contractors, provides the government with knowledge about the suppliers’ capacity to supply and their overall level of seriousness. Thirdly, it gives primacy to the Angolan businesses, an act of positive discrimination that brings fairness among competitors by allowing foreign companies, who are differently equipped, to apply as well.

However, the practical effects of this legislation have so far not been felt, despite the fact that authorities have placed great importance on its publication. Only now its provisions have apparently begun to be implemented, namely the publication of public tenders in the *Jornal de Angola* (newspaper) and the creation of the suppliers’ website, where all interested companies are being registered.

In addition to the concentration of power, the other critical point of the system is the rules of exception, which is applied to a broad range of public contracts, thus giving rise to less transparent practices. Indeed, there are further exclusions to the rules forbidding negotiated contracts. Competitive bidding by

negotiation¹¹¹ is allowed if (i) the project is urgent (ii) the price can’t be fixed in advance (which might apply to most construction projects) (iii) only a few companies can provide the required service and (iv) if the contract has been tendered once but there were no bidders (article 28). For service contracts negotiation is allowed if what is required is a repetition of a similar service provided within the past three years, if it is an extension of existing work, or if the service can’t be defined (article 30). These exclusions allow deviation from the standard rules and are all too easily applied to contracts for works or services related to construction projects. As addressed by Jill Wells “by comparison the Procurement Act in Tanzania only allows competitive tendering and in certain specified cases restricted invitation to tender”.

The situation in Angola is very different from other SADC countries. For example, “In Tanzania and Zambia the comparable agencies are afforded a significant amount of independence and are placed under the Ministry of Finance.”

On the other hand, on the concentration of powers, Jill

Wells¹¹² notes, “Authority in Tanzania is much less concentrated with professionally staffed Procurement Management Units (PMUs) set up to manage the procurement process at all levels of government down to the very lowest. This does not mean that decentralization is necessarily appropriate in all circumstances. In Tanzania decentralized procurement has created a tremendous and continuous capacity development challenge.”¹¹³

111 A call for Expressions of Interest is made; selection is based on the initial bid followed by negotiation either individually or with all bidders together, with minutes to be kept and a report drafted.

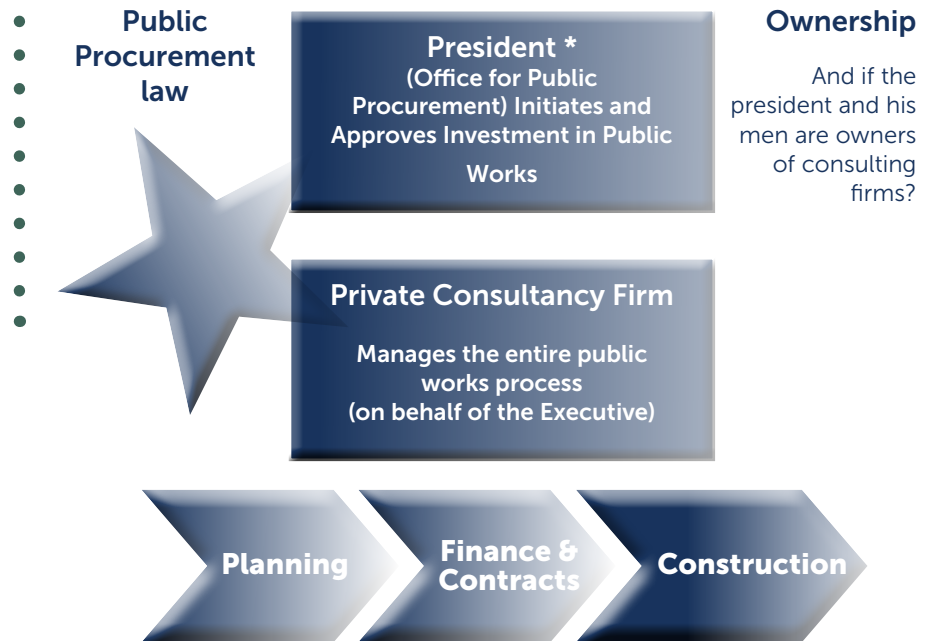
112 Construction in Angola doc review _Jill Wells December 2011

113 OECD/DAC (2011) p. 72

Concentration of powers and risk of political corruption

This background information on the institutional system of checks and balances does not confirm political corruption, for which we have little documentation (since there is no access to information). What is confirmed is that the system of checks and balances is either paralyzed or not sufficiently effective to prevent political, economic, and moral corruption. Hence, it is possible for the government to manipulate governance in the public works sector for personal benefits and power since most obstacles for such attempts have been effectively removed or set out of function. If corruption involving the political level takes place, it may come in different shapes, e.g., such as that illustrated in Figure 10. Let us consider a case in which the President initiates and approves construction projects. Approval for the construction is then taken to a private consulting firm, which is requested to handle the entire process of planning, procurement, and inspection of the construction. This firm – which is likely to be well paid for each project – could be owned by government officials or other allies of the President.¹¹⁴ Should this be the

● **Figure 10:** Does the public works sector include transactions with public funds for members of the political elite?



case, these government individuals (possibly politicians) would receive a portion of public funds allocated for public works in each project managed by the consulting firm. Now, consider a situation where market agents are also allowed to operate with market power or in collusion, revenues – possibly shared with decision-makers who allow it – would be even greater.

This situation could be considered legal given that the laws allow members of the political elite to have quotas required. A parliament controlled by the executive is likely to pass such

laws. In short, what we are saying is not that political corruption happens in this way in practice (it is so difficult to get any kind of information), but that loopholes in the country's checks and balances allow this to occur. *There are no structural obstacles in place that can prevent political corruption from influencing the public works sector.*

Recently, a new piece of procurement legislation relating to contracts was introduced, with OECD-type regulatory elements. In reality, however, this legislation is so full of opportunities for exceptions that it does not make

114 What happens if you investigate the ownership structure of the consultancy firm Dar, for example? It is possible to find the identity of the true owner and chairman

much difference to procurement decisions. Regardless of this new law, the responsible consulting firm still controls, on behalf of the government, the whole process from planning through to the construction.

Figure 10 illustrates the role of consulting firms and expertise in public works in the procurement cycle, in the light of the Public Procurement Law. This law requires the existence of a Public Procurement Office as a support organ to the President of the Republic who holds the power to manage public procurement. Various public tenders are made by various public entities, but for implementation they need funding authorization from the executive, represented by the Public Procurement Office, which is still being established. A working team from the Ministry of Finance has been established to organize this office at the central level and its branches in the provinces. As usual, the various contracting entities lack the technical expertise. So, they hire consulting firms that normally intervene in two of the stages of the public construction value chain: project design and inspection of the works. Project design is based on a preliminary programme supplied by the public entity requesting the work. This does not happen often.

Inspection is carried out by the public body or a consulting firm hired for this purpose in relation to the project already prepared.

Under the new Public Procurement Law, the project designer should not qualify to supervise the project. But in most cases, this is what happens in practice. For some companies (e.g., Dar Consulting), they design the preliminary programme of the project and also supervise it themselves. Some consulting firms even conceive public works projects, for which, through their networks and influences, they mobilize outside funding and secure their involvement in the management of the whole process of public works.

The results of this analysis of the political landscape and its implications for the constructions sector are confirmed by many of the studies of Angolan politics, listed in the references, as well as sector-specific studies. Moreover, in a study conducted by the Associação Justiça Paz e Democracia (AJPD) - Association for Justice Peace and Democracy)¹¹⁵ the following forms of corruption and lack of transparency in Angola were identified:

- The Regra dos Sócios “Membership Rule” 20 or 30 per cent, or cabritismo (bribery), according to which

recurrently central-level or local-level government officials and public company managers will approve execution of large investments only if they are made shareholders in the companies concerned or in exchange for provision of services by their own businesses in areas in which they work.

- Signs of instant wealth: improvement of the living standards of many public officials immediately is notorious after they become managers of public resources (luxury cars, high standard apartments, partnerships in national companies and abroad, etc.).
- Increased influence from which they obtain benefits and favours in the course of their public service.
- Phony public tenders for hiring of public works benefiting relatives or businesses in which the public officials concerned have a stake: although there are legal and public procurement procedures in place, many regulations and phases of the procurement process are violated. In an interview with the Radio Nacional de Angola in January 2007, the President of the Court of Auditors, Julião António, said that “it is in procurement where the way is open to corruption (...) where there is no other reason for the unlawful

115 AJPD a Topografia da Corrupção e da Falta de Transparência em Angola (Topography of Corruption and Lack of Transparency in Angola), Dezembro de 2011.

enrichment of one or another manager other than the unlawful award of contracts.”

- Management of public funds by relatives and/or friends from the Party: usually, public managers tend to choose their children, relatives, or friends to manage strategic areas of the sectors they manage.

The findings of this chapter seem to confirm general perceptions of weaknesses in the Angolan government, as expressed more generally by civil society organizations, the media, and researchers domestically and internationally, as well as the results of surveys and rankings. Despite the difficulties of getting access to reliable information, this sector study reveals severe governance failure.



Barra do Dande Bridge



Challenges in the public works sector—an overview



Angolan practice and international best practice

When comparing international best practice for construction sector governance (from needs assessment to project design, funding, selection of firms, and construction and quality inspection) to what is known to be the norm in Angola, we easily identify many shortfalls and opportunities conducive to corrupt practices and improper use of resources.

This is what we show in the table 8 below, prepared for us by Jill Wells, which allows us to reach the following conclusions:

- Identifying the needs: Internationally, project selection is done at various levels, after consultation with stakeholders and usually in accordance with the needs of the economy and of the citizens. On this item, in Angola there are suspicions as to the transparency: a number of public investment projects are identified and proposed by the

construction companies, and there is very limited access to information on the projects. Sometimes only 60 to 70 per cent of the projects are funded through credit lines under the PIP.

- In project design, international best practices underscore the importance of recognizing the project cycle and operating with as much information as possible, including proper feasibility studies. Many projects in Angola do not follow the right sequence of preparation because of poor national technical expertise, the urgency that public authorities put on certain activities (especially in electoral periods), and the lack of information on projects, etc. Clearly, the many deviations from proper processes and procedures make it difficult to reveal corruption.
- As for funding mechanisms for public investment projects, internationally, the financial feasibility studies are considered in the chain of preparation and programming of the

projects. In Angola, cost estimates are not being made in a rigorous manner (it seems to be easy to make cost adjustments in the later stages of the project, especially during construction). In many cases it is impossible to determine ex post cost overruns because there is no ex ante estimated cost in the first place. This of course, gives space for corruption and fraud since nobody is able to tell ex post what the expenses should have been.

- In terms of tenders and selection, in Angola many contracts are awarded without public bidding (i.e., through direct adjustments). International best practice procurement rules, by contrast, require that criteria (and how they are ranked), main contents of the bids, and results of tenders be made public, with quite detailed information. Skipping these procedures makes it easy to favour one supplier, while it also effectively prevents market mechanisms to deliver the best price-quality combination, i.e., value for money.
- Finally, contract inspection in Angola is poor, fraught with conflicts of interest, and the true expenses are impossible to detect (again due to opacity of information). According to international best practice, inspection should be conducted by independent firms with the required



Luanda Bay

expertise at regular intervals and ex ante determined lead dates. Payment for the works should be done in a timely manner and according to a contract and upon delivery of services as agreed.

The many deviations between international best practices for construction sector governance and those currently being applied in Angola—despite the existence of good legislation—open up space for corruption and prevent the country from getting “value for money” in construction projects. The consequences to development for the society at large and the potential multiplier effects on economic growth are likely to be severe.

Table 8: The steps to realizing a construction project

	Accepted good practice	Angolan practice	Risks of corruption
Identification of need	Select projects from national, local, or sector plans, prioritized according to need Consult with the public	Little information on the allocation of funds across projects Many questions on the process of project approval with some projects believed to be identified by firms Only 60–70% of projects funded by Chinese credit line are in the PIP	<i>Political influence that biases selection to suit private (individual or company) interests</i>
Project preparation	Conduct feasibility studies/evaluations and consider alternative ways to meet the need Develop an operation and maintenance strategy for the project	Many projects (particularly those funded by credit lines) are launched without proper preparation There is no capacity for feasibility studies and no projects in the PIP have good evaluation studies	<i>Inadequate preparation leaving room for changes, which can be manipulated to benefit participants Costly designs which increase consultants' fees and contractors' profits</i>
Finance	Estimate costs and set aside funds to enable prompt payment Consider the whole life cycle of the asset Identify a source of funds for operation and maintenance	Estimates of costs are often not prepared and adequate funds not set aside Costs of alternatives are seldom evaluated No funds identified for maintenance	<i>High estimate to provide a cushion for diversion of funds Low estimate and inflated returns to justify a project</i>
Tender and selection	Advertise calls for bids for design, works and inspection contracts Open bids in public Publish results and establish a channel for complaints	Many contracts awarded without competition Little information on whether there is tendering for contracts funded by credit lines Some published evidence of conflicts of interest in tender awards	<i>Inadequate competition, collusion among bidders, bribery, and interference to favour specific firms or individuals</i>
Construction & quality control	Set up procedures for independent inspection to ensure project built as specified Inspect work at regular intervals Pay promptly and put a cap on variations	Inspection is weak with likely conflicts of interest Quality control function not properly fulfilled Cost overruns are impossible to detect when estimates are not prepared in the first place Serious level of payment arrears	<i>Collusion between supervisor and contractor to approve substandard work Variations to increase the contract sum (can be to offset bribes or low prices to win the tender)</i>
Handover, operation and maintenance	Inspect prior to handover Retain funds to remedy defects with appropriate liability period Ensure funds and capacity to maintain constructed assets	Evidence of completed projects with structural defects Defects liability periods are as short as 12 months Funds not set aside for maintenance Questions over local capacity to maintain	<i>Collusion between supervisor and contractor to accept poor quality work below specification Lack of funds for maintenance as new construction takes precedence</i>

Weaknesses along the value chain

In the preceding chapters we made references to the value chain of public works projects (more generally known as public investment projects, despite the fact that the latter concept is more ample and comprehensive than the former as it includes government initiatives in other areas of intervention in the economy, such as research and development [R&D], skills and human capital capacity-building, defence, environmental preservation and protection, and others¹¹⁶), which, if followed in accordance with the legislation and within a culture of transparency, would produce much greater results from public spending in response to the needs of the economy and the population by maximizing the social utility of the projects.

As we have pointed out above, there are in practice deviations from the economically rational and legal procedures. One should not forget that the country is a State under the rule of law – therefore, if there is a law it should be complied with at all levels of the institutional hierarchy of the government – and that, from the point of view of the market economy (with more or less State intervention) the opportunity cost of government

investments should be one of the core criteria for deciding how to allocate the country's financial resources.

So, we have made an attempt to identify the major bottlenecks for a realization of “value for money” of the public investments in infrastructure construction. We prepared and completed a correlation table of the phases of “value for money” and a differentiated set of variables that are present in the value chain of public investments. This effort, in addition to allowing us to organize and guide our reasoning (the possible situations can be found in the table cells) helps, on the other hand, to identify deficiencies and barriers to achieving the value for money of government investments.

Why attempts of reforming the sector seem to have failed

The mechanisms and channels for accountability and the population's participation in construction sector governance are scarce and out of function. One way to increase the social value of public works investment is to try to better match public investment decisions with the actual needs of the country's economy and citizens. Within the current institutional, constitutional, and legal framework this is devalued and retracted. As

can be seen, there is a high degree of concentration of decision-making power on the allocation of State financial resources.

The excessive *concentration of decision-making power* contributes to the lack of transparency in the award of public works contracts and increases the propensity for non-compliance with all legal provisions approved by the National Assembly. Therefore, it is reasonable to assume that a combination of excessive concentration of decision-making power and poor democratic participation in the value chain of public works investment may encourage corrupt practices.

The *credit lines*, which on average account for 30 to 40 per cent of funding for public works, are tied to different conditions that undermine the value chain of public investments. In the preceding chapters we have made reference to some of such contingencies and restrictions and we have highlighted the modalities that determine the choice of government-funded projects and explained the weaknesses. The Government has been concerned with some of the pernicious influences of external credit lines and is working on the development of an external debt strategy that values direct

¹¹⁶ Their representation in the GDP is absolutely marginal (because they are insignificant) and the rules of their programming are different from those in the existing legislation.

access of the country to international financial systems and markets.

There is an overlap of responsibilities in some stages of the value chain of public investments. For example, the selection of construction companies – a critical aspect of transparency and “value for money” – is guaranteed by the same entities that make decisions on public investment projects. In theory, the recently established Public Procurement Office may make a positive contribution to optimizing decisions along the value chain and clarify who is responsible for what. However, its ability to maintain the independence required by the legislation is doubtful because of a series of unlawful political interference at almost all steps of the value chain.

The direct influence of construction and consulting companies and projects throughout the entire public sector value chain has been enhanced due to the weak and limited national technical capacity (number of Angolan technicians and specialists) and direct relations they have with many political and institutional decision-makers. This increases the risk of favouring certain suppliers while providing them with profitable terms of operation, accordingly decreasing “the value for money” in these investments for the society at large.

Some of the weakest links in the public investment value chain was found to be inspection and final evaluation of



Housing Project Zango

works. Too easily new public facilities are declared satisfactory and in line with the contract. Given that this is the stage that is closest to the end user, greater transparency and rigour would help to increase the value for money of the investments.

Hence, it is rather easy to understand that non-compliance and violations of the legislation result in construction market distortions and failures (opportunity cost), with obvious damages on the value-added and social utility of the facilities, as they increase their overall cost and worsen the quality and ability to meet social needs as initially planned. This is clearly a direct cost of corruption.

The table below describes weaknesses in the decision-making processes along

the value chain and provides some indicators why reform so far has failed to secure the voters' confidence that they get value for money and a fair share of development impact in public construction projects.

Questions and Concerns	Decision	Financing	Procurement	Construction	Quality
Processes of Decision making and corruption risks	Report needs, listing priorities and make investment decisions	Sources of funding for public works and conditions for loans	Selection of the company Details of contract and allocation of responsibilities	Project performance: Delivery time, quality, cost overruns	Regulation of service delivery (quality, accessibility, and affordability) maintenance of the works
Actors and responsibilities: Who will be held accountable for the decisions?	the President Ministers Provincial Governments	OGE (the President, Ministers Provincial Governments Funding through Sonangol External financing (Minist. Fin; Plan.) Donations (Minist. Fin; Plan.)	The President Ministers Provincial Governments	Ministries and Public Institutes	Ministries and Public Institutes
Rent-seekers Who can influence decisions for their own benefits?	Ministers Governors large companies elites	the President Ministers Governors Large companies (through credit lines) Diplomats (through credit lines)	Constructors Consultants Public managers	Consultants (Inspection) Public managers	Consultants (Inspection) Public managers
Value for money What can prevent the project delivered is what was supposed to?	Lack of Planning Lack of technical capacity political influences Collision of functions Delegation of powers	Conditionalities of credit lines audit capacity	Law on Public Procurement	Technical training	Technical training
Corruption What problems are possibly the result of corruption?	(Political influences) Interference in decisions Prioritization according to the elites Works in excess (addenda)	Use of public funds to private interests;	Technical capacity Political influences Interference on Public Managers Overlapping institutions	Technical capacity Political influences Interference of Public Managers Inspection	Technical capacity Political influences Interference of Public Managers Inspection

Legal and Institutional framework What laws and structures already exist to prevent corruption?	LCP * Purchasing Central RPPEA PIP	LCP * Purchasing Central RPPEA PIP	LCP * Purchasing Central	Law on Public Procurement	Law on Public Procurement
Successful Good Governance Initiatives What already works well?	LCP * LPP **	LCP * LPP ** Single Treasury Account SIGFE	LCP * LPP ** SIGFE SIGIP	LCP * LPP **	LCP * LPP **
Reform Failures What initiatives have failed and why?	Failure to fulfill obligations of Probity Law				
Global markets and domestic governance What can be seen as the responsibility of external actors? (companies, governments, development banks)	Donors Conference	Conditionalities of credit lines IMF	Competitiveness of the sector Production of National Raw Material		
Procedures for better results in public works What can easily be done and make a difference?	Law Enforcement efficient governance autonomy Decentralization of power from the President Better control of parliament Technical capacity Collective political will of the structure of the MPLA Strengthening of Civil Society	Law Enforcement Horizontal accountability and transparent	Compliance with the Law	Compliance with the Law	Compliance with the Law
For an Accountable State Public Works Dealing with the underlying obstacles to reform?	Strengthening of Civil Society	Strengthening of SIG ***	Strengthening of the Civil Society	Strengthening of the Civil Society	Strengthening of the Civil Society

* LCP-Law on Public Procurement, ** LPP Law on Public Probity, *** SIG - Integrated Management System

The costs of corruption

The weaknesses discussed in this report easily lead to concerns about the implications of “value for money” for the Angolan society. What are the costs of corruption?

The costs of corruption are obviously linked to deviation from what is welfare-enhancing in the many sector governance decisions listed above and will usually come to expression in the form of higher expenses and weaker sector performance in terms of access to services and lower quality.¹¹⁷ Given the many values and roles of infrastructure provision, the implications of corruption for a society are problems of a very different scale and time dimension. For example, if poor infrastructure prevents children from attending school, the economic consequence will be associated with the future work force, and more so than current economic developments. How can this loss be measured? Low quality of roads, as another example, will come to expression a few years after construction, if not earlier. Regardless of the impaired quality of the roads due to corruption, however, the size of the construction projects—as well as the needed repairs—will count positively in the country’s GDP. Moreover, how do

you separate the loss due to corruption from the loss caused by other inefficiencies, such as low competence or a lack of suppliers in the market?

The different scale and character of the consequences—in terms of biases in the many different governance decisions along the sector value chain—makes the exercise of estimating the costs of corruption in infrastructure extremely complicated. In addition, access to reliable information will usually decrease inversely with the level of corruption in society, an assumption well confirmed by the case of Angola. In countries where corruption in infrastructure is perceived to be a significant problem, there might be very limited fact-based information to verify such a suspicion—possibly not even one single court case on corruption. How are the consequences of corruption to be estimated if it is impossible to establish the magnitude of the corruption itself? If we cannot even list the cases of corruption, in lack of court cases or other evidence, how is it feasible to document their implications?

For the reasons explained, a figure on the consequences of corruption will never be accurate if estimated for a whole sector in a country. However,

the two tables included in this section list the most important problems that corruption in infrastructure can cause. Based on these ideas of consequences, we can discuss how the magnitude of these specific forms or aspects of the problem can possibly be estimated. There will often be divergence between what could optimally be an estimate and what is practically achievable. Nevertheless, the exercise of reaching a second-best indicator, even if inaccurate, can sometimes be useful to give policymakers and citizens an idea of the possible dimension of the problem. A list of the many forms of consequences adds nuance to the debate and may guide the anticorruption agenda.

Direct costs of corruption

Due to the difficulty of obtaining information relating to public works contracts, as referred to above, it is impossible to obtain estimates of the direct costs of corruption in this sector in Angola, which should be provided by the commissions paid by the implementing and supervisory institutions. The -0.45 indicator of transparency in the award of public works contracts shows that there are possibly high losses in the value chain

¹¹⁷ A bribe can be seen as a compensation for a government official for the risk and inconvenience of deviating from the goal of the institution that she or he represents—which is usually associated with higher welfare for the society. If no deviation exists from what is welfare-enhancing, there would not have to be a bribe, and thus conceptually, the damage of corruption follows by simple logic. For empirical support for a link between corruption and infrastructure sector performance, see Seim and Søreide (2009) and Estache et al. (2006).

Table 9: Comparison of construction costs (in USD millions)

	Road rehabilitation in kilometres	Road maintenance in km/year	Social housing in metres ² In USD	Bridges in metres
Angola	900.0	26.2	950	44.1
Portugal	232.0	4.1	540	10.9
Zambia	484.6	18.2	740	39.5
Mozambique	-	-	-	12.9

of public investments. However, it is extremely difficult to quantify these losses.

We can make a rough estimate by making an international comparison of the costs involved in various types of construction. The table below contains some of this information.

Some conclusions:

- The average cost of rehabilitation of roads in Angola is four times that of Portugal and about twice that of Zambia.
- In terms of bridge construction, the cost in Angola is 242 per cent higher than that of Mozambique.
- The discrepancy between Angola and Portugal in terms of the cost of road maintenance is huge—six times higher in Angola.

Although it may be valid to say that only ten years ago the country came out of a 27-year military conflict, there have to be other explanations for the differences above, including the commissions that are known to be paid throughout the value chain of public works. What is also worrying is that the countries listed for comparison are not free from corruption. The expenses in those countries too are likely to be affected by the problem. Nevertheless,

the expenses in Angola are far higher.

Throughout this study we have mentioned the difficulty of obtaining information relating to public works projects. However, we have managed to obtain a sample of public construction projects (some 50 projects) for which an estimate of about 25 per cent can be drawn of the unexplained difference between the estimated costs and the final payments.

This figure varies depending on the nature of the projects. In fact, according to information obtained,¹¹⁸ inspection of irrigation project works is associated to commissions of about 20 per cent, whereas for provincial hospitals commissions may reach as high as 45 per cent.

On 28 December 2011, the Court of Auditors/Supreme Audit Institution (Tribunal das Contas) released a list of public managers convicted during the

year (2011) due misappropriation of State funds. From the list submitted by Julião António, President of the Tribunal das Contas, the following individuals were tried: Jose Manuel Moreno from the Municipal Administration of Viana, José Francisco Correia from Kilamba Kiaxi, Maciel Jacinto Neto from Rangel, and Pedro Ambrósio dos Reis Fançony from Samba, Anibal Rocha ex-governor of Luanda, Manuel Rabelais ex-minister of Information.

According to Julião António, who was speaking to journalists at a New Year's Eve ceremony for officials and members of the Court of Auditors/Supreme Audit Institution, the list of people convicted includes the staff of Angolan embassies in Greece and Zimbabwe, represented by Isaías Jaime Vilinga and Nelson Neves de Lima, respectively. Included were also Maria do Céu do Sá from MINARS, Mateus

118 Privileged source.

Claudino dos Santos from the Malange Agricultural Institute, Walter Virgílio Rodrigues from Business Restructuring Office, and José Guerreiro de Lima and Eduardo André from the Benguela Water and Sanitation Company. From the Luanda International Fair (FIL) Matos Cardoso and Leonilde Ipanga Fernandes were also convicted.

The list further includes managers from TAAG, the Angolan Airlines company: Mateus Francisco Sebastião Neto, Ernesto Miguel Monimambo, José Alves Andrade, José Manuel Machado Jorge, and António de Jesus Marcolino Pombal.

With regard to financial responsibility penalty, António stated that managers of the Caculama Administration, Malanje, were sentenced to paying fines. Fines were also applied to Miguel Serrote Gio from the Ministry of Interior, Hermenegildo José Félix from Nancova Administration in Kuando-Kubango, and José Vinhemba and António Dala Cassanga from INE-Chitembo.¹¹⁹

The indirect costs of corruption

These kinds of costs listed above are relevant to understand the dimension of the losses due to corruption in public construction. However, these kinds of figure cannot be summarized

and seen to capture the true costs of corruption in the sector. We have to keep in mind how the consequences of corruption depend on the distortions created in the economy. At each step of the value chain, corruption might distort decisions away from what is perceived as welfare enhancing for the society. Some of the consequences, like those associated with the bidding process or the need for maintenance, for example, can sometimes be estimated. However, the problem will rarely occur at one step only, but instead be associated with decisions throughout the value chain. Consequences may materialize only in the long run, and the co-existence of challenges may have multiplier effects. Moreover, we cannot isolate what happens in one sector from the rest of the government system, and an attempt of capturing the full costs of corruption in a large sector that is so incorporated with political budgeting processes and also interlinked to other sector easily gets meaningless. As mentioned in Section 4.1, therefore, we have to include the indirect costs of corruption to understand its full dimension, and for that dimension we are significantly short of figures. To some extent there are indicators that document that the losses are real, yet it is impossible to put a figure on the

amounts. The table below lists what kind of costs we refer to.

What this table indicates, is that the losses associated with corruption affects the whole governance system, and may cause severe constraints to development. Angola's period with high GDP growth is definitely no "proof" that the economy is not hampered by corruption. What GDP reflects is simply the level of activity (including repairs of roads that should have been conducted better in the first place and possibly at places more to the benefit of the poor). Development is a much broader term and refers to how life has been improved for citizens in the society at large. Most indicators suggest that Angola's development is seriously thwarted by corruption, and it is likely that to a large extent corruption is related to public construction and utility provision, since this is where large investments are being made. In this perspective, the corruption in construction – considering both direct and indirect consequences – becomes so great it becomes difficult to imagine how serious it is.

¹¹⁹ See Novo Jornal, Suplemento de Economia 30 de Dezembro de 2011

Table 10: *The indirect costs of corruption*

What	How	Suggested indicator	Alternative indicator
Investment	Reductions in foreign direct investment Low involvement of international well-rated financing vehicles	FDI developments National private investment, patterns	Cross-country surveys of corruption as preventive factor for FDI Estimates of the effect of corruption on domestic investment
Influence	Efforts placed into “positioning” and networks/connections rather than productive activities	Interview decision-makers (for example, how did they get their job?)	Survey/Perceptions-based
Market	Adverse selection of players Higher risk of collusion, higher public expenditures on infrastructure in general Weak ability in private sector to compete against foreign enterprises—given low domestic competition due to corruption and collusion	Home-country of foreign firms in light of bribe paying indicators Development of prices. Independent assessment of quality of goods and services	Results of studies on how corruption affects the selection of players in a market
Governance	Sector regulation of prices to the benefit of bribing companies Weaker oversight of sector performance and limited access to information for the general public Manipulation of the management and financial control of state-owned enterprises	Presence of competition authority and independent regulation: their role and function in cases of corruption	Indicators of the welfare-effect of antitrust efforts and independent regulation
Democracy	Politicians get in position to grab instead of welfare-orientation Reduced trust in government institutions/low trust in the value of respecting the rules of society	Assessment of ties between players in the infrastructure sectors and politicians or civil servants with sector oversight responsibilities	Assessment of the function of democratic mechanisms (several relevant governance indicators)



Discussions and recommendations



When it comes to recommendations for Angola's construction sector, we could have listed a range of needed improvements along the sector value chain, including issues relating to planning, cost-estimates, procurement, construction processes, and maintenance. This would lead to cost savings and more “value for money.” However, if the observations listed in table 8 are correct—and if the weaknesses identified in this report are linked to challenges at the political level; who would then benefit from the cost savings in construction?

Improving governance “from the sector level,” which is what some development partners tend to prefer in cases of a political corruption, will not automatically benefit society. We cannot assume that construction sector can be “treated” in isolation from the rest of the government system. Unless the sector is strengthened in parallel with the overall governance system, there is not much point in

trying to secure “value for money” for development. It will not reach the poor anyway.

Most development partners in Angola do not currently confront Angola directly with the problem of corruption. This was not the case in the past. Apparently, the turning point for this attitude was at the end of the civil war, that is, when the oil income soared and the GDP growth rates became much higher. Angola is currently a very attractive country for foreign investors given the enormous opportunities to earn a profit, including that of construction. The significant values tied up in investments (or intended for investment) makes it unlikely that these partners – even the institutional partners such as the UNDP – will assume open stances in this matter.

Development partners avoid the challenging political questions because they do not want to “put the dialogue with the government at risk”. But what do they potentially put at risk? Does it

have to do with their governments back home that want their companies to win contracts in the petroleum sector? In this perspective, it is possible that problems in Angola's construction sector will continue due to collusion between international actors and the Government of Angola, where they all benefit at the expense of the majority of Angolan citizens.

The existing laws and regulations at the sector level are not bad. Thus, a sector level approach would not change much in terms of legal reforms. This implies that changes have to come from new ways of practicing the existing set of laws and regulations. The laws have to be respected. For this to happen, there must be better control. Monitoring of how the laws are practised is a management decision that would have to come from the Government. A sector level approach, designed with a view to address the real challenges in the sector, must involve the political level. If not, the strategy risks ending up as window dressing, which unfortunately is the case of the new procurement law.

An initiative to strengthen control would imply that the government's checks and balances are put into function. This is our most important recommendation for securing "value for money" in construction. All the other technical details about how the different steps in the value chain

should be improved are secondary issues. The major and much needed step relates to accountability at the political level, in terms of allowing control on spending – led by an independent Auditor General – increasing transparency and citizens' access to information and their right to free speech, establishing an independent parliament, crack down on corruption at all levels, and when this is done, improving government efficiency including in the construction sector.

Bibliography

Alves da Rocha, M. J. – Desigualdades e Assimetrias Regionais em Angola, CEIC/UCAN, 2010.

Auriol, E. and Blanc. 2009. "Capture and corruption in public utilities: The cases of water and electricity in Sub-Saharan Africa." *Utilities Policy*. 17 (2): 203–216.

Auriol, E. And S. Straub. 2011. "Corruption and Collusion in Procurement: Strategic Complements." Forthcoming in S. Rose-Ackerman and T. Søreide. *The International Handbook on the Economics of Corruption – Volume II*. Edward Elgar Publishing.

Ayogu, M.D. 2000. "The political economy of infrastructure investments in Nigeria." Paper presented Annual World Bank Conference on Development Economics in 2000.

Benitez, D., A. Estache and T. Søreide. 2010. "Politics for money and power in infrastructure." Policy Research Working Paper Series, World Bank,

Washington, DC.

Bjorvatn, K., and T. Søreide. 2005. "Corruption and Privatization." *European Journal of Political Economy* 21: 903–14.

Black, B., R. Kraakman, and R.A. Tarassova. 2000. "Russian Privatization and Corporate Governance: What Went Wrong?" *Stanford Law Review* 52: 1731–1808.

Boehm, F., and J. Polanco. 2003. "Corruption and Privatization of Infrastructure in Developing Countries." Transparency International Working Paper, Berlin.

Campos, Indira and Alex Vines (2008) "Angola and China: A pragmatic partnership", Center for Strategic and International Studies, Washington D.C. http://www.csis.org/media/csis/pubs/080306_angolachina.pdf

CEIC-CMI. 2011. *Public construction projects – Angola: A need to fortifying the*

barriers against corruption. Angola Brief 1(5). Prepared by Tina Søreide with the support of Alves da Rocha, Regina Santos, Antonio Costa and Nelson Pestana.

Corkin, L. 2011a. China and Angola: Strategic partnership or marriage of convenience. Angola Brief, Volume 1 number 1, January, Chr. Michelsen Institute (CMI) and Centro de Estudos e Investigação (CEIC)

Corkin, L. (2011b) "Chinese Construction Companies in Angola: A Local Linkages Perspective", Making the Most of Commodities Programme (MMCP) Discussion Paper no. 2, March, University of Cape Town and Open University

Dal Bo, E. 2006. "Regulatory Capture: A Review." *Oxford Review of Economic Policy*, 22(2): 203–225.

Dal Bo, E. and M. Rossi. 2007. "Corruption and Inefficiency: Theory and Evidence from Electric Utilities." *Journal of Public Economics*, 91(5-6): 939–962.

Deininger, K. W. and P. Mpuga. 2005. "Does Greater Accountability Improve the Quality of Public Service Delivery? Evidence from Uganda." *World Development*, 33(1): 171–191.

Della Porta, D. and A. Vanucci. 1999.

Corrupt Exchange: Actors, Resources, and Mechanisms of Political Corruption: Walter de Gruyter.

Estache, A. and L. Trujillo (2009). "Corruption and infrastructure services: An overview". *Utilities Policy*. 2: 153–155.

Estache, A. 2007. "Infrastructure and Development: A Survey of Recent and Upcoming Issues." In F. Bourguignon, and B. Pleskovic, eds., *Rethinking Infrastructure for Development – Annual World Bank Conference on Development Economics*, Global: 47–82

Estache, A. and M. Fay. 2010, "Emerging issues in infrastructure." In D. Leipziger, ed., *Globalization and Growth: Implications for a Post-Crisis World*, Commission on Growth and Development, pp151–193.

Estache, A., A. Goicoechea, and L. Trujillo, 2006. "Utilities Reforms and Corruption in Developing Countries." World Bank Policy Research Working Paper 4081. World Bank, Washington, D.C.

Estache, A., V. Foster, and Q. Wodon. 2002. *Accounting for poverty in infrastructure reform: learning from Latin America's Experience*. Washington D.C.: World Bank Institute.

Flyjberg, B. 2008. "Public Planning

of Mega-projects: Overestimation of Demand and Underestimation of Costs." In *Decision-Making on Mega-Projects: Cost-benefit Analysis, Planning, and Innovation*, eds. Hugo Priemus, Bent Flyvbjerg, and Bert van Wee. Edward Elgar Publishing.

Flyvbjerg, B. and E. Molloy. 2011. "Delusion, Deception and Corruption in Major Infrastructure Projects: Causes, Consequences and Cures." Chapter 3 in S. Rose-Ackerman and T. Søreide. *The International Handbook on the Economics of Corruption – Volume II*. Edw. Elgar Publishing.

Foster, V. And C. Briceno-Garmendia. 2010. *Africa's infrastructure: A time for transformation*. Washington D.C.: The World Bank

Gasmi, F., O. Nomba Um, and L. Recuero. 2009. "Political Accountability and Regulatory Performance in Infrastructure Industries: An Empirical Analysis." *World Bank Economic Review*. 23(3): 509–531.

Guasch, J. L. 2004. "Granting and Renegotiating Infrastructure Concession: Doing It Right." WBI Development Studies, World Bank Institute, World Bank, Washington DC.

Hawkins, John, Camilla Herd and Jill Wells (2006) "Modifying infrastructure procurement to enhance

- social development", Engineers Against Poverty and Institution of Civil Engineers, London, www.engineersagainstpoverity.org and www.ice.org.uk
- Heilbrunn, J. 2004. *Anti-Corruption Commissions Panacea or Real Medicine to Fight Corruption?* Washington DC: The World Bank.
- Keefer, P. and S. Khemani. 2003. "Democracy, public expenditures, and the poor: understanding political incentives for providing public services." *The World Bank Research Observer*. 20(1):1–27.
- Kenny, C. 2006. "Measuring and reducing the impact of corruption in infrastructure." World Bank Policy Research Working Paper 4099, Washington DC: The World Bank.
- Kenny, C. 2007. "Infrastructure Governance and Corruption: Where Next?" Policy Research Working Paper 4331. World Bank, Washington, DC.
- Kenny, C. 2007. "Infrastructure Governance and Corruption: Where Next?" Policy Research Working Paper 4331. World Bank, Washington, DC.
- Kenny, C. 2009. "Measuring Corruption in Infrastructure: Evidence from Transition and Developing Countries." *Journal of Development Studies*: 45 (3): 314–332.
- Kenny, C. and T. Søreide. 2008. "Grand Corruption in Utilities." Policy Research Working Paper Series 4805. World Bank, Washington, DC.
- Kenny, C. and T. Søreide. 2008. "Grand Corruption in Utilities." Policy Research Working Paper Series, World Bank, Washington, DC.
- Kenny, C. 2009. Why Do People Die in Earthquakes? The Costs, Benefits and Institutions of Disaster Risk Reduction in Developing Countries. Policy Research Working Paper 4823, Washington DC: World Bank.
- Manzetti, L. 1999. *Privatization South American Style*. New York: Oxford University Press.
- Olken, B. 2007. "Monitoring Corruption: Evidence from a Field Experiment in Indonesia." *Journal of Political Economy* 115 (2): 200–249.
- Puntillo, R. 1996. "Mass Privatization in Poland and Russia: The Case of the Tortoise and the Hare?" *Journal of Emerging Markets* 1: 7–28.
- Robinson, J.A., and R. Torvik. 2005. "White Elephants." *Journal of Public Economics* 89(2–3): 197–210.
- Rose-Ackerman, S. 1999, *Corruption and government. Causes, consequences and reform*. Cambridge University Press.
- Seim, L., and T. Søreide. 2009. "Bureaucratic complexity and impacts of corruption in utilities." *Utilities Policy* 17: 176–84.
- Serven, L. and C. Calderon. 2010. "Infrastructure and economic development in Sub-Saharan Africa." *Journal of African Economies*. 19: 13–87.
- Søreide, T. 2006. "Grey Zones and Corruption in Public Procurement: Issues for Consideration." In *Fighting Corruption and Promoting Integrity in Public Procurement*, Paris: OECD.
- Soren, Kirk Jensen and Paulo, Francisco Miguel – *Reformas ao Processo Orçamental e Gestão das Finanças Públicas de Angola: A crise foi um sinal de alarme?*, CMI/CEIC 2011.
- Stansbury, N. 2005. "Exposing the foundations of corruption in construction." *Global Corruption Report 2005*. Berlin: Transparency International.
- The International Budget Transparency Partnership. Their report on access to information in Angola is downloadable in Portuguese: <http://internationalbudget.org/what-we-do/open-budget-survey/>
- Vagliasindi, M. 2011. "Public versus private governance and performance:

evidence from infrastructure service provision." *The International Handbook on the Economics of Corruption – Volume II*. Edward Elgar Publishing. Forthcoming.

Vaglisasindi, M. 2009. "Improving the Performance of Infrastructure State-owned Enterprises." Processed. World Bank, Washington, DC.

Vines, A. and M. Weimer. 2011. *Angola: Assessing Risks to Stability*. Washington DC: Center for Strategic and International Studies (CSIS).

Wells, Jill. 2011. Draft note on construction in Angola. Desk study and literature review prepared by Jill Wells, involved in the project as independent consultant financed by the World Bank. She represents Engineers Against Poverty: www.engineersagainstopoverty.org

World Bank Open Database: <http://data.worldbank.org/>

World Bank/ V.Foster and C. Briceno-Garmendia. 2010. *Africa's Infrastructure: A Time for Transformation*. Washington, DC: World Bank.

World Bank /R. Messick. 2011. *Curbing Fraud, Corruption, and Collusion in the Roads Sector*. Integrity Vice President (INT). Washington DC.: World Bank.

Appendix

Comparison of the Construction Cost between Selected Countries

	Construction of roads (usd/km)	Roads maintenence (usd/km/year)	Social housing(usd/ m2)	Bridges (usd/m)*
Angola	900000	26235	950	44065
Portugal	232000	4130	590	12960
Zambia	484550			
Moçambique	-			10140

* Cavaco bridge: 52948 usd/m; Catumbela bridge 80659 usd/m.

Kilamba Project: Emblem of Angola-China relation¹²⁰

Kilamba is the first of several "satelite cities" being built by Chinese constrution companies in Angola. The country's 27 year civil war ended a decade ago, but new housing is still badly needed. Millions of the people live in sprawling slums made from home-set concrete, mud bricks and metal sheeting, often without acess to water and electricity. In the run-up to the 2008 parliamentary election, the ruling party pledged to build 1m homes, and it asked Beijing to help. Four years later, Kilamba stands as an indelible symbol of China's relationship with Angola, its largest trading partner in Africa. But the giant housing estate sprouting from Luanda's deep-red earth also raises knotty question about the nature of that relationship, and the responsibilities that it entails¹²¹.

Citic has worked at breakneck

120 Revista China-Africa: China Economic Quarterly, September 2012, pg. 29 e seguintes
121 China Economic Quarterly in The big idea China and Africa , September 2012, pg. 28.

soeed, importing nearly all labor and materials, and finishing much of the project within three years. On paper, Kilamba appears to be the answer to Luanda's chronic housing shortage: it is designed to provide organized, clean and affordable living, far from the chaos of the city center. But some question the wisdom of replicating China's mega-estate, tower-block model in Africa. Angolan families are large, and many prefer to cook and socialize communally.¹²²

The housing project Kilamba is currently the largest Engineering and Construction project of similar projects carried out abroad by Chinese contractors.

According to data provided by the builder in its website the project includes 2,000 apartment buildings, 24 nursery-schools, 9 elementary schools, 8 middle schools, water supply system, sewerage, power, roads and other infrastructure support structures in the area with a total value of USD 3.5 billion. The project is scheduled for completion in October 2012. At the peak period of construction the contractor will use 12,000 Chinese workers and brings equipment and export of material valued at USD 700 million.¹²³

The New Centralization of Kilamba,



official name, by the end of 2010 was the then Office of National Reconstruction (GRN), in September 27, 2010 President José Eduardo dos Santos formally transferred all responsibilities about Kilamba the project and other similar projects in Luanda from GRN to Sonangol Real Estate, a subsidiary of the State oil company.

In his speech of partial inauguration of social housing Kilamba, President José Eduardo dos Santos regarded him as “the biggest housing project ever built in Angola ... and on a global scale, a profound example of social policy undertaken in the country to solve the housing deficit.”

However, the prices charged by the

company in charge of sales, a Delta Imobiliária, Sociedade de Promoção, Gestão e Mediação S.A, whom is assigned the responsibility for the sale of social Kilamba apartments, ranging between USD 125,000 and USD 200,000 per apartment frustrating housing expectations for low-income people created around the project and the social objectives disclosed. The company Delta Real Estate is about to get fabulous profits from the sale of apartments in the form of commission that will receive the same business.

The Angolan authorities have invited several foreign dignitaries visiting the project Kilamba, giving him notoriety and presenting it as an example of solving housing problems.

122 China Economic Quarterly in The big idea China and Africa , September 2012, pg. 29.

123 http://www.cici.citic.com/iwcm/null/null/ns:LHQ6LGY6LGM6MmM5NDgyOTYyMDEzNmlwMzAxMjAxMzdYzA1YTAwMDEscDosYTosbTo=/show_vsm accessed on November 20, 2011

