

## Public Construction Projects - Angola

A need to fortify the barriers against corruption



A road under construction in Angola.  
Photo: Aslak Orre

Between early 2002 and 2009 the Angolan government invested around \$30.4 billion in new infrastructure, hospitals, schools and other public construction projects. These investments have been extraordinarily large against the backdrop of the substantial destruction done to the country's infrastructure during the 27-year civil war. As a yearly average, the reconstruction activities constitute around 10 per cent of GDP. The new infrastructure and public buildings are critically important for economic development. What we question in this brief is the degree to which the people and the government receive 'value for money' from these investments: What is the risk that some of these reconstruction investments disappear in corruption?

### **CORRUPTION IN THE CONSTRUCTION SECTOR**

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 are oftentimes kept confidential. In the face of unknown contractual terms, outsiders – e.g. journalists or civil society – 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.<sup>1</sup> These various characteristics, when combined with the ease with which politicians and high-ranking civil servants can justify interference in publicly-funded construction projects, also

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expose the construction sector to political corruption.

Angola's defence against corruption in public works needs to be strengthened.

#### THE RELEVANCE TO ANGOLA

In the case of Angola, the need for rapid reconstruction paired with weak institutional capacities is a combination that magnifies the particular risk of corruption in publicly-funded construction projects. Evidence of the problem is difficult to establish, especially in the absence of court cases involving corruption in public works. At the same time, there are multiple signs of weak governance over publicly-funded construction projects, and these signs can easily lead the general public to be suspicious about the prevalence of corruption. For example, in May 2009, a small square in Benguela acquired the popular name "Millionaire Garden" following the overallocation of money for its rehabilitation (USD 1,6 million).<sup>2</sup> Suspicion has also been raised around a contract awarded to Odebrecht, a multinational operating in Angola, for the rehabilitation work of an avenue in Luanda.<sup>3</sup> Also, the quality of construction for the Luanda's General Hospital, which was built by a Chinese company, has fuelled debate about the weaknesses in sector governance.<sup>4</sup> In a recent radio interview, the Governor of Luanda expressed great concern about the problems of corruption in construction contracts. He referred specifically to the road construction process in the capital and addressed challenges associated with fiscal arrangements as well as the quality of the roads. According to him, responsibilities can be placed on different players - local as well as foreign entrepreneurs. But, he also pointed to representatives of the political elite with significant ownership shares in the industry.<sup>5</sup>

#### THE CONSEQUENCES OF CORRUPTION

The direct costs of corruption in construction include the loss of public funds due to inflated prices, lower quality infrastructure, and the additional need for maintenance. For the sake of perspective, consider the roughly \$30 billion spent on public construction projects in Angola over the last 8 to 9 years. As a sheer speculation, if 20% of this value was lost to corruption and cost overruns - which sounds like a reasonable assumption given the results from other studies - the direct loss for Angola would amount to around \$6 billion. The risk of losing amounts of this size should be motivation enough for fortifying the barriers against corruption.<sup>6</sup>

However, the consequences of corruption are much bigger than the billions of dollars lost. Corruption reflects the fact that representatives at different level of government can be "bought" with bribes and are, therefore, willing to make decisions

that undermine the welfare of society at large. Public officials that place personal enrichment ahead of society's welfare do not just drive up construction costs. Their decisions about what to build and where to build it might also be based on the personal benefits rather than on investment analyses and assessments of societal needs. Citizens' trust in governance is, in turn, undermined, with potentially serious ramifications for democracy and societal integrity. The incentive problems associated with personal enrichment among decision-makers are obviously the main obstacle to introducing efficient anti-corruption barriers.

#### ANGOLA'S DEFENCE AGAINST CORRUPTION IN PUBLIC WORKS

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 taken seriously.<sup>7</sup> Besides, the recent increase in foreign entrepreneurs operating in Angola's construction projects does promote sound competition within the sector. There are, nevertheless, some clear indications that Angola's defence against corruption in public works needs to be strengthened.

#### LEGAL REFORM

The new procurement law (Lei de Contratação Pública N.20/10), which came into force in 2010, regulates all public procurement and is a step forward. Since the law organises the previously scattered legal framework, it is now easier to access one single reference point when judging whether

#### Examining Corruption in Public Works, Angola

The CEIC-CMI project behind this brief will study governance procedures at each step of the sector value chain: Who are the decision-makers? What structures are in place to secure value for money? What procedures should be improved?

Data on the composition of public spending will be collected. Case studies will be examined with an eye for planning, sources of financing, budgeting, procurement procedures, actual expenses and the final quality. A baseline study of the legal framework for public works will describe the relevant legislation and compare the framework to actual practices, as well as to international benchmarks and 'best practices'. This baseline study will include an assessment of laws governing the access to information.

The project is backed by a Steering Committee consisting of Angolan and international personalities, and presided by the Archbishop of Luanda, D. Damião Franklin.

(1) Based on an impressive dataset on construction projects worldwide, Flyvbjerg and Molloy (2011) find average cost overruns to be huge in all regions (44.7% for rail, 33.8% for bridges and tunnels, and 20,4% for roads).

(2) Manuel Francisco, the municipal administrator of Benguela at that time, was arrested following charges of embezzlement related to the construction works in the square. *O País*, 2010a

(3) The Avenida Murtalla Moamed Road Angola *24h.com* 2010

(4) *O País* 2010b

(5) Radio Luanda (15/5/2011, 5.05 pm)

(6) Kenny (2006) reviews various percentage estimates of the cost of corruption in construction. The most precise estimate refers to specific countries and sectors and cannot be generalised. The assortment of studies that Kenny refers to indicate that a loss of around 20% due to corruption in construction would be a reasonable assumption, although the losses are indeed bigger in countries where corruption is perceived to be widespread. Based on Transparency International's ranking, Angola is one of these countries.

a contract has followed procedures or should be probed for irregular practices. Among the most important assets of this law is its focus on improved competition and stronger procurement expertise.

When it comes to regulating publicly-funded construction projects, however, the previous procurement legislation seems to have been copied into the new law. Therefore, the reform is not expected to bring significant changes to this specific sector. The previous institutional procedures will continue while the individuals involved in the most important decisions are generally the same as before. This suggests that practices perceived as unfavourable from an anti-corruption perspective are likely to continue. For example, stakeholders in the sector inform us that, when starting up new construction projects, there is a high propensity for government departments to exploit the legislation's rules of exemption to the benefit of consultants, construction companies or those who finance the

deal with the whole range of anti-corruption risks in the construction sector. Hence, the establishment of a central procurement agency can be an important step, but much more has to be done to prevent corruption in public sector construction projects.

Deviating from the legal stipulated procedures is a way to facilitate corruption.

#### THE FINANCING SCHEMES

According to data from the Ministry of Planning and the Ministry of Finance, only 35 to 40 per cent of construction projects are executed according to initial intentions. For the general public, however, it can be difficult to get enough facts to compare details of the budget with the actual spending. The sources of funding for construction projects are listed on the website of the Ministry of Finance, but as a general perception expressed in the media, the administration of public works construction is not transparent enough. This is also confirmed by the Open Budget Index, an



construction. One of our worries is that these practices will be allowed to continue even within the new legal framework. Exemptions might be justifiable when rules are too rigid, for example. However, deviating from the legally stipulated procedures is also a common way to facilitate corruption and these decisions should always be followed by careful supervision.<sup>8</sup> We cannot see how the reform process will change the tendencies to deviate from the standard rules, unless the new central procurement agency takes this issue seriously.

#### THE ROLE OF A CENTRAL PROCUREMENT AGENCY

As established under the procurement reform, the central procurement agency (Gabinete da Contratação Pública) will be responsible for overseeing all procurement contracts, but it will be responsible only for the procurement process. Governing public construction, however, includes a series of important decisions about needs, financing schemes, quality controls and maintenance plans. A procurement agency primarily addresses entrepreneur selection, which is indeed important from an anti-corruption perspective. However, it will not be responsible for overseeing the whole series of events along the sector value chain (as illustrated in the figure above). Internationally speaking, experiences are mixed with respect to the ability of central procurement agencies to have a clear impact on corruption.<sup>9</sup> The agency might play an essential role in professionalising public procurement, but it cannot be expected to

international initiative established to assess how well countries perform on their budget procedures. According to the summary of their most recent report, "*Angola's OBI 2010 score is 26 out of 100, which is significantly below the average score (42) for the 94 countries surveyed. Angola's score indicates that the government provides the public with minimal information on the central government's budget and financial activities assessed by the Survey. This makes it extremely difficult for citizens to hold the government accountable for its management of the public's money.*" It should be noted, though, that Angola's score has improved significantly since the previous assessment in 2008 and this might reflect a positive trend towards more budget transparency.<sup>10</sup>

However, there are also problems with the financing schemes at the project level. Stakeholders in the construction sector inform us that projects are too often proposed by international entrepreneurs who hold financing options that are sometimes subsidised by the entrepreneur's home government.<sup>11</sup> These projects, where technical and financial aspects are combined, are sometimes too easily approved by the Angolan authorities, who fail to examine prices, quality and costs in light of alternative proposals. Besides, all too often public works in Angola seem to operate with nothing more than soft budget constraints. In many cases, in fact, it will be difficult to identify a cost overrun of a construction project because the prices have not been agreed upon up front, but are instead presented to the

Fig. 1. The public sector value chain

(7) In a November 2009 speech given at the 6th Congress of the MPLA, Angola's President declared "zero tolerance" toward waste and fraud (*Jornal de Angola*, 2009).

(8) See Sørreide (2006) for an overview of the risks of having procurement procedures manipulated for corruption.

(9) See Heilbrunn (2004) for a review of the anti-corruption impacts of procurement agencies.

(10) See the website of the The International Budget Transparency Partnership, where the Angola report is downloadable in Portuguese: <http://internationalbudget.org/what-we-do/open-budget-survey/>

(11) Consider for example the Luanda Soyo road (87% externally financed), the new road surrounding Luanda (100%), or the housing project Lar do Patriota (61,2%).  
(12) *Club K* 2010.

(13) See the CoST website: <http://www.constructiontransparency.org/>

The Angola Brief series is an output of the CEIC-CMI Cooperation Programme for research in social and economic issues concerning Angola. The series aims to contribute research findings and policy recommendations to enhance public debate in and about Angola.

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government after construction. There are also media debates about fake invoicing (and over-invoicing), funded through debt accumulation on behalf of the Angolan state. Some claim that multinationals collude with civil servants in ways that secure personal benefits, but drive construction expenses to levels that far outstrip the value society gets in return.<sup>12</sup>

Many of these challenges at the project level are understandable, given the country's post-war situation, its enormous construction needs, and its weak institutional capacity. At the same time, weakness in governance allows space for fraud and corruption to consume huge amounts of state funding. Therefore, better governance is decisive for securing value for money and constructing larger amounts of greatly needed infrastructure.

#### QUALITY CONTROL AND MAINTENANCE

In addition to the aforementioned challenges in administering finances, the government has insufficient capacity when it comes to ensuring quality control and maintenance. Completed construction projects sometimes have severe quality shortcomings. Consider for example the case of the Luanda General Hospital, where fissures in the building's construction made it impossible to use the building and eventually caused the hospital to close. Being well aware of the government's inability to control all steps of the processes, the entrepreneurs can easily profit by skimming on quality.

There is also the frequent problem of holding entrepreneurs responsible for quality after project completion. Common reasons for this are found in disagreements over the interpretation of warranties. The question is whether or not problems with quality are covered by the one-year warranty or are simply part of the government's maintenance responsibilities. Disagreements may give way to settlements that reflect problems of unequal bargaining positions, but they might also reflect corrupt deals between those involved. Similarly, weak control during construction could be part of a corrupt scheme where both parties profit, but this has not been sufficiently documented in Angola.

#### TOWARDS SECURING VALUE FOR MONEY

Securing the value for money in public construction requires a political willingness to do so on all governance levels. A first step towards securing broad political support for such an effort will be to estimate the magnitude of the problem. This brief is part of a project that focuses on that estimate (see the box). While the project is not yet complete, the following recommendations can safely be made at this stage.

**Investigations and sanctions:** The individual's propensity to be involved in corruption is a function of the likelihood of being detected and facing sanctions. A credible effort to reduce the risk of corruption should be followed by strengthening financial crimes investigation units.

**Transparency:** Civil society, the media and ordinary citizens must be able to tell if they get value for money from the government's investment in public construction. Therefore, information about each step of the sector's value chain should be available to all stakeholders. This is in line with international best practices, like standard procurement procedures and the CoST transparency initiative for construction<sup>13</sup>.

**Administrative capacity:** The capacity of public administration must be strengthened and the incentives of those with decision-making authority should be aligned with society's interests. Contracts can be designed to make it easier to keep entrepreneurs responsible for quality and maintenance. Investment analyses should be conducted prior to investment and those responsible for the projects should operate under harder budget constraints.

**Political:** Line ministers should be called to defend big projects and explain to the parliament how value for money has been secured. The Auditor General's annual report (Tribunal de Contas) on government spending should help the parliament in keeping the executive accountable for public construction projects.

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