

CHAPTER 7

**THE GOVERNMENT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION**

CAPITAL WORKS RESERVE FUND

GOVERNMENT SECRETARIAT

Home Affairs Bureau

GOVERNMENT DEPARTMENT

Home Affairs Department

**Rural Planning and Improvement Strategy
Minor Works Programme**

RURAL PLANNING AND IMPROVEMENT STRATEGY MINOR WORKS PROGRAMME

Contents

	Paragraphs
SUMMARY AND KEY FINDINGS	
PART 1: INTRODUCTION	
Background	1.1
Objectives of the RPIS	1.2
Transfer of responsibility for the implementation of the RPIS Minor Works Programme	1.3
Management structure for the RPIS Minor Works Programme	1.4
Measures taken by the HAD to speed up the progress of the RPIS Minor Works Programme	1.5
Project costs of the RPIS Minor Works Programme	1.6 – 1.7
Audit review	1.8 – 1.10
<i>General response from the Administration</i>	<i>1.11 – 1.12</i>
PART 2: ASSESSMENT OF FINANCIAL CAPABILITY OF CONTRACTORS	
Lists of approved contractors maintained by the HAD	2.1 – 2.2
<i>Audit observations on assessment of financial capability of contractors</i>	<i>2.3 – 2.6</i>
<i>Audit recommendations on assessment of financial capability of contractors</i>	<i>2.7</i>
<i>Response from the Administration</i>	<i>2.8</i>

Paragraphs

PART 3: EMPLOYMENT OF CONSULTANTS

Employment of consultants to supplement in-house resources	3.1 – 3.2
Appointment of Consultant A for Packages 1 and 2	3.3 – 3.4
Appointment of Consultant A for Package 3	3.5 – 3.6
Appointment of Consultant A for Package 5	3.7 – 3.8
Consultant A’s unsatisfactory performance	3.9 – 3.13
Monitoring of Consultant A’s performance	3.14 – 3.15
EACSB considered Consultant A’s performance was over-rated	3.16 – 3.17
<i>Audit observations on employment of consultants</i>	3.18 – 3.22
<i>Audit recommendations on employment of consultants</i>	3.23
<i>Response from the Administration</i>	3.24 – 3.25

PART 4: SPLITTING OF WORKS PROJECTS

Financial rules disallow splitting of works projects	4.1
Financial limits for the award of works contracts	4.2
Cases of splitting of works projects	4.3
Case 1 — Islands District Office: Village access road from Sham Wat to Sha Lo Wan	4.4 – 4.16
Case 2 — Sai Kung District Office: Reconstruction of a footpath from Ham Tin to Tai Long Au	4.17 – 4.20
<i>Audit observations on splitting of works projects</i>	4.21 – 4.24
<i>Audit recommendations on splitting of works projects</i>	4.25
<i>Response from the Administration</i>	4.26

Paragraphs

PART 5: PROJECT MANAGEMENT OF THE RECONSTRUCTION OF A FOOTPATH ON LANTAU ISLAND

Reconstruction of a footpath between Lai Chi Yuen and Ngau Kwu Wan	5.1
Initial complaint on rubbish dumped on site	5.2
Completion of project	5.3 – 5.4
Another complaint on constructional plant and materials left on site	5.5 – 5.6
Further complaint on constructional plant and materials left on site	5.7
Latest development	5.8
<i>Audit observations on project management of the reconstruction of a footpath on Lantau Island</i>	5.9 – 5.13
<i>Audit recommendations on project management of the reconstruction of a footpath on Lantau Island</i>	5.14
<i>Response from the Administration</i>	5.15

PART 6: REVIEW OF LONG OUTSTANDING RPIS MINOR WORKS PROJECTS

Creation of a new works programme after the completion of the RPIS Minor Works Programme	6.1
<i>Audit observations on review of long outstanding RPIS minor works projects</i>	6.2 – 6.5
<i>Audit recommendations on review of long outstanding RPIS minor works projects</i>	6.6
<i>Response from the Administration</i>	6.7

**PART 7: OPINION SURVEY ON MANAGEMENT
OF THE RPIS MINOR WORKS PROGRAMME**

Main functions of an NT District Working Group	7.1
Opinion survey	7.2
Results of the opinion survey	7.3 – 7.4
<i>Audit observations on opinion survey on management of the RPIS Minor Works Programme</i>	7.5 – 7.9
<i>Audit recommendations on opinion survey on management of the RPIS Minor Works Programme</i>	7.10
<i>Response from the Administration</i>	7.11

Appendix A: Expenditure of the RPIS Minor Works Programme from 1990-91 to 2000-01

Appendix B: Analysis of RPIS Minor Works Programme expenditure up to 31 March 2001 — BY PROJECT CATEGORY

Appendix C: Analysis of RPIS Minor Works Programme expenditure up to 31 March 2001 — BY RESPONSIBLE DEPARTMENT

Appendix D: Projects implemented by NT District Offices under the RPIS Minor Works Programme up to 31 March 2001

Appendix E: Financial criteria applicable to contractors on the WB's List of Approved Contractors for Public Works

Appendix F: Consultants appointed to undertake consultancies for the RPIS Minor Rural Improvement Works

Appendix G: Appraisal of Consultant A's performance for Packages 1, 2, 3 and 5 during the period July 1995 to December 2001

Appendix H: Status of projects under the supervision of Consultant A as at 31 December 2001

Appendix I: Results of opinion survey on management of the RPIS Minor Works Programme

Appendix J: Acronyms and abbreviations

RURAL PLANNING AND IMPROVEMENT STRATEGY MINOR WORKS PROGRAMME

Summary and key findings

A. **Introduction.** In March 1989, the Executive Council endorsed a “Rural Planning and Improvement Strategy” (RPIS) for formulating a coherent strategy for the implementation of a 10-year programme of infrastructural development and environmental improvement in the rural areas of the New Territories (NT). The RPIS covered major works projects and minor works projects, both of which were originally administered by the Territory Development Department (TDD). Projects costing less than \$15 million each were classified as minor works projects. A sum of \$1.6 billion was provided for implementing the RPIS Minor Works Programme over the 10-year period 1990-91 to 1999-2000. In late 1994, the Home Affairs Department (HAD) took over from the TDD the responsibility for the implementation of the programme. Up to 31 March 2001, the total expenditure incurred under the programme amounted to \$1,589 million (paras. 1.1, 1.5 and 1.6).

B. **Audit review.** Audit has conducted a review of the RPIS Minor Works Programme to examine the progress of implementation and to ascertain whether there is room for improvement in contract management and project administration of the programme (para. 1.8). The major audit findings are summarised in paragraphs C to H below.

C. **Improvement needed for assessment of financial capability of contractors.** Audit reviewed the HAD’s assessment of the financial capability of contractors on the HAD’s lists of approved contractors, using the criteria adopted by the Works Bureau (WB) for admitting contractors to the WB’s List of Approved Contractors for Public Works. Audit found the following inadequacies in the HAD’s assessment of the financial capability of its contractors for admission to and retention on its lists of approved contractors: (a) the working capital of an applicant seeking admission to the HAD’s lists of approved contractors has not been properly assessed; (b) the minimum level of employed capital of an applicant is not specified; (c) the HAD does not perform a profitability trend analysis to assess the financial capability of its contractors; (d) the HAD does not carry out periodic reviews of its contractors’ financial capability after their admission to its lists; and (e) the HAD has not taken into account the value of outstanding works undertaken by a contractor in setting the minimum level of working capital. Audit considers that the HAD has not adequately monitored the financial capability of its contractors (paras. 2.3 and 2.4).

D. **Award of consultancies for a large number of projects to a consultant whose performance was barely acceptable.** Audit found that the performance of the consultant for RPIS Minor Rural Improvement Works, Packages 1 and 2 for the period July 1995 to June 1996 had been assessed as barely acceptable. However, his “moderate” performance had not been properly reflected in the assessment of his tender submissions for Package 3 in March 1996 and for Package 5 in September 1996. Audit also found that, notwithstanding the consultant’s unsatisfactory performance

for Packages 1 and 2, in June 1996, it was decided to award to him the consultancy for Package 3. In about one year, consultancies for a total of 59 projects were awarded to the consultant. In November 1996, the Highways Department decided that consultancies for Package 5 covering 28 projects under the RPIS Minor Works Programme should also be awarded to the consultant. Audit considers that the slow work progress and the delay in completing the projects were mainly due to the award of consultancies for a large number of projects to the same consultant whose performance had all along been barely acceptable. Had the consultancies been awarded to more consultants, each consultant would have handled a smaller number of projects, thereby evening out the workload. The project works would have been better monitored and the work progress would have been more satisfactory (paras. 3.18, 3.20 and 3.22).

E. Splitting of project works so as to circumvent the financial limits on works projects.

Audit found that the estimated cost of \$42.3 million for the construction of the access road from Sham Wat to Sha Lo Wan on Lantau Island had exceeded the financial limit of \$15 million for works projects under the RPIS Minor Works Programme. Apparently, the construction works of the access road were split into four phases to circumvent the financial limit. Audit considers that the HAD should have strictly followed the rules for seeking funding approval of the RPIS minor works projects. Under the prevailing regulations, the award of a works contract exceeding \$3 million requires the approval of the Public Works Tender Board (PWTB). Audit noted one case in which the estimated cost of the project works exceeded \$3 million, but the HAD split the project works into two phases so that the works contract could be awarded without seeking the PWTB's approval. Audit considers that the HAD should have strictly followed the regulations on the specified financial limits for the award of works contracts (paras. 4.7, 4.8, 4.21 and 4.22).

F. Improvement needed for managing the reconstruction of a footpath on Lantau Island.

In July 1999, the works for the reconstruction of a footpath between Lai Chi Yuen and Ngau Kwu Wan on Lantau Island commenced. Audit found that, although the constructional plant and materials had not been removed from the construction site in Ngau Kwu Wan, in March 2000, the HAD issued the certificate of completion and made the final payment to the contractor after he had requested the HAD to settle the project costs. The matter had not been resolved for nearly two years, but the HAD did not take action to expedite the clearance of the site. Audit considers that before issuing the certificate of completion to the contractor, the HAD should have given him instructions in writing to clear the site within a specified time limit. The HAD should not have issued the certificate of completion and made the final contract payment to the contractor until after the constructional plant and materials had been removed from the site. Up to January 2002, the plant and materials had not been removed from the site because of outstanding litigation between the contractor and his subcontractor who owned the plant and materials. Audit was informed that the HAD had not given consent to the contractor to sub-let the project works to a subcontractor. Audit considers that, had the HAD monitored the project more closely, the sub-letting of any project works would have been discovered much earlier (paras. 5.1, 5.6, 5.8, 5.10, 5.11 and 5.13).

G. Need to conduct a review of long outstanding RPIS minor works projects. The 10-year RPIS Minor Works Programme ended in March 2000. Audit found that as at 31 March 2001, there were 58 projects (costing \$638 million) under planning. Out of these 58 outstanding projects, the

planning work of 19 projects (33%) commenced before 1995. Audit considers that the HAD should carry out a review of these long outstanding projects to ascertain whether they can be implemented within a reasonable period of time and, if not, whether they should be removed from the works programme (paras. 6.1, 6.4 and 6.5).

H. **Opinion survey on management of the RPIS Minor Works Programme.** Audit conducted an opinion survey of all the NT District Council Members and Rural Committee representatives who were Members of the District Working Groups. Audit noted that, in general, the respondents considered that the RPIS Minor Works Programme satisfied the needs of the local villagers and had achieved value for money. However, some respondents had indicated some areas where further improvements could be made. These areas mainly concerned delays of some projects and the HAD's monitoring of the project works. Audit considers that these comments provide useful references for the HAD to review and plan its work in future minor works programmes (paras. 7.2 and 7.5).

I. **Audit recommendations.** Audit has made the following main recommendations that the Director of Home Affairs should:

Improvement needed for assessment of financial capability of contractors

- (a) improve the HAD's assessment of the financial capability of the contractors on its Headquarters List of Approved Contractors by adopting the procedures of the WB (para. 2.7(a));
- (b) consider requiring the HAD's confirmed contractors to increase their minimum working capital up to a specified percentage of the total annualised value of the outstanding works undertaken by them (para. 2.7(b));

Award of consultancies for a large number of projects to a consultant whose performance was barely acceptable

- (c) assess thoroughly the capability of consultants who tender for consultancies for works projects, taking into account their recent performance in projects of a similar nature (para. 3.23(a));
- (d) reflect properly the performance of consultants, particularly the quality of their services, in the appraisal reports (para. 3.23(b));
- (e) in future, avoid awarding consultancies for too many projects to a consultant concurrently so as to ensure that he will be able to monitor all projects effectively (para. 3.23(d));

Splitting of project works so as to circumvent the financial limits on works projects

- (f) carry out a review of all the works projects to ascertain whether there are similar cases of splitting of project works and introduce measures to prevent recurrence of such practice in future (para. 4.25(a));
- (g) strictly follow the rules for seeking funding approval of works projects (para. 4.25(b));
- (h) strictly follow the regulations on the specified financial limits for the award of works contracts. In particular, the HAD should not split the project works in order to avoid seeking the PWTB's approval (para. 4.25(c));

Improvement needed for managing the reconstruction of a footpath on Lantau Island

- (i) ensure that all the HAD's contractors clear their constructional plant and materials from the site within a specified time limit before a certificate of completion is issued to the contractor (para. 5.14(a));
- (j) if the site is not cleared within the specified time limit, take appropriate action to clear the site and recover from the contractor additional costs incurred by the HAD in clearing the site (para. 5.14(b));
- (k) monitor all the HAD's works projects closely to ensure that the contractors do not sub-let any part of the project works without obtaining the HAD's prior written consent (para. 5.14(d));

Need to conduct a review of long outstanding RPIS minor works projects

- (l) promptly carry out a review of the RPIS minor works projects which have remained outstanding for an undue length of time in the HAD's works programme to ascertain whether they can be implemented within a reasonable period of time and, if not, whether they should be removed from the programme (para. 6.6(a) and (c)); and

Opinion survey on management of the RPIS Minor Works Programme

- (m) critically consider the comments of the NT District Council Members and Rural Committee representatives on the HAD's management of the RPIS Minor Works Programme (para. 7.10).

J. **Response from the Administration.** The Director of Home Affairs has generally agreed with Audit's recommendations (paras. 1.11, 2.8, 3.24, 4.26, 5.15, 6.7 and 7.11).

PART 1: INTRODUCTION

Background

1.1 In March 1989, the Executive Council endorsed a “Rural Planning and Improvement Strategy” (RPIS) for formulating a coherent strategy for the implementation of a 10-year programme of infrastructural development and environmental improvement in the rural areas of the New Territories (NT). The RPIS covered major works projects and minor works projects, both of which were originally administered by the Territory Development Department (TDD). Projects costing less than \$15 million each were classified as minor works projects (Note 1). A sum of \$1.6 billion was provided for implementing the RPIS Minor Works Programme over the 10-year period 1990-91 to 1999-2000. These minor works projects, covering both building works and improvement works of van tracks, bridges, footpaths, piers, village expansion areas, and flood protection, water supply and drainage systems, are approved annually by the Finance Committee of the Legislative Council under Head 707 — New Towns and Urban Area Development of the Capital Works Reserve Fund.

Objectives of the RPIS

1.2 In March 1989, the Administration informed the Executive Council that the main objectives of the RPIS were:

- (a) to guide development and the use of land to control pollution and sprawl, to conserve the countryside and settlements and to encourage the economic utilisation of agricultural land;
- (b) to provide proper access, to improve transport to the villages and to facilitate the removal of wastes;
- (c) to provide appropriate community facilities for the rural community; and
- (d) to provide suitably serviced land for low-density uses such as village expansion areas, to facilitate control of unsuitably located and unserviced development and to provide for certain economic needs.

Note 1: *In April 1995, the Secretary for the Treasury approved the increase in financial limit of each RPIS minor works project from \$10 million to \$15 million.*

Transfer of responsibility for the implementation of the RPIS Minor Works Programme

1.3 In November 1994, the then City and New Territories Administration (CNTA) took over from the TDD the responsibility for the RPIS Minor Works Programme in order to expedite its implementation. Since the reorganisation of the CNTA into the then Home Affairs Branch of the Government Secretariat and the Home Affairs Department (HAD) in December 1994, the HAD has been responsible for the implementation of the programme.

Management structure for the RPIS Minor Works Programme

1.4 To strengthen consultation with the rural community and to facilitate local residents' involvement in determining the projects, in December 1994, the HAD set up a two-tier management structure for the RPIS Minor Works Programme, comprising a central Steering Committee and nine NT District Working Groups. With the assistance of Members of the Heung Yee Kuk and the NT District Councils and representatives of the Rural Committees, the HAD identified the needs of the rural community for improvement projects, determined the priorities and resolved problems arising from the implementation of the projects.

Measures taken by the HAD to speed up the progress of the RPIS Minor Works Programme

1.5 Before the HAD took over from the TDD the responsibility for the implementation of the RPIS Minor Works Programme in late 1994, the TDD had completed 40 rural village improvement projects, 48 urban fringe improvement projects and 704 local public new works projects under the programme. The total cost of these completed projects was \$143 million. At that time, there were still about 400 rural village improvement projects which had been identified for implementation under the programme. In order to speed up the progress of the RPIS Minor Works Programme, since December 1996, the HAD has not accepted any new projects which would involve land resumption. In addition, the HAD has engaged outside consultants to undertake the design and supervision of some of the works projects in order to supplement its limited in-house staff resources.

Project costs of the RPIS Minor Works Programme

1.6 Since late 1994, works projects under the RPIS Minor Works Programme have been either carried out by the HAD through its NT District Offices/consultants or entrusted to the works departments. Up to 31 March 2001, the total expenditure incurred under the RPIS Minor Works Programme amounted to \$1,589 million (Note 2). Relevant particulars can be found in:

Note 2: *This includes \$1,479 million incurred on 2,971 completed projects and \$110 million incurred on projects under construction.*

- (a) a breakdown of the expenditure of the RPIS Minor Works Programme from 1990-91 to 2000-01 at Appendix A;
- (b) an analysis of the expenditure of the RPIS Minor Works Programme up to 31 March 2001 by project category at Appendix B;
- (c) an analysis of the expenditure of the RPIS Minor Works Programme up to 31 March 2001 by responsible department at Appendix C; and
- (d) projects implemented by the NT District Offices under the RPIS Minor Works Programme up to 31 March 2001 at Appendix D.

1.7 As at 31 March 2001, there were still 36 projects (with estimated total cost of \$293 million) under construction and 58 projects (with estimated total cost of \$638 million) under planning. The HAD has committed itself to speeding up the progress of the outstanding projects with a view to completing the RPIS Minor Works Programme expeditiously.

Audit review

1.8 Audit has conducted a review of the RPIS Minor Works Programme to examine the progress of implementation and to ascertain whether there is room for improvement in contract management and project administration of the programme.

1.9 Audit examined the relevant records kept at the HAD's Works Section and the files of RPIS minor works projects (mainly costing more than \$1 million each) in five NT District Offices (i.e. the Yuen Long District Office, Islands District Office, Sai Kung District Office, North District Office and Tuen Mun District Office). These five NT District Offices were selected for examination because the expenditure they had incurred up to 31 March 2001 constituted 79% of the total expenditure incurred by all the nine NT District Offices under the RPIS Minor Works Programme (see Appendix D). Audit has found that there is room for improvement in the financial vetting of works contractors, management of contract works and monitoring of the performance of the works contractors and has made a number of recommendations to address the related issues. Audit's findings and recommendations are given in PARTS 2 to 6 of this report.

1.10 As the RPIS Minor Works Programme mainly serves the needs of local villagers in the rural areas, Audit conducted an opinion survey of 57 NT District Council Members and Rural Committee representatives who were Members of the HAD's nine NT District Working Groups (see para. 1.4 above). Out of 57 questionnaires sent, 45 responses (79%) were received. The

majority of the respondents considered that generally, the RPIS Minor Works Programme satisfied the needs of the local villagers and had achieved value for money. However, some respondents pointed out certain areas which might need improvement. The results of this opinion survey are given in PART 7 of this report.

General response from the Administration

1.11 The **Director of Home Affairs** has said that:

- (a) the HAD is pleased to note in Audit's opinion survey that:
 - (i) most of the respondents were satisfied with the achievements of the RPIS Minor Works Programme. They considered that the RPIS minor works projects in their districts satisfied the needs of the local villagers and the programme achieved value for money; and
 - (ii) the respondents were satisfied with the overall performance of the HAD in the implementation of the programme. They considered that the HAD had properly and effectively monitored the progress of the programme;
- (b) since the HAD took over from the TDD the responsibility for the implementation of the RPIS Minor Works Programme in late 1994, the HAD had established a two-tier administrative structure, consisting of a central Steering Committee and nine NT District Working Groups, to enhance local participation in the formulation of the programme and to facilitate consultation with the rural residents. This arrangement was considered very efficient and effective in the implementation of the programme. Good progress of the programme had been made since its transfer to the HAD; and
- (c) up to 31 January 2002, about 3,000 RPIS minor works projects had already been completed, with only 27 projects under construction and 49 projects under planning for implementation as soon as possible.

1.12 The **Secretary for the Treasury** has said that the Finance Bureau supports in principle Audit's recommendations.

PART 2: ASSESSMENT OF FINANCIAL CAPABILITY OF CONTRACTORS

Lists of approved contractors maintained by the HAD

2.1 The HAD maintains two separate categories of approved contractors, namely contractors on the District Lists and contractors on the Headquarters List. Contractors included in a District List are only allowed to undertake HAD projects each with an estimated value of works up to \$1 million in the district. Contractors included in the Headquarters List are allowed to undertake HAD projects each with an estimated value of works between \$1 million and \$3 million (Note 3) in all nine districts in the urban area and all nine districts in the NT. For contracts each with an estimated value of works exceeding \$3 million, the HAD invites tenders from eligible contractors on the List of Approved Contractors for Public Works maintained by the Works Bureau (WB) of the Government Secretariat.

2.2 The District Lists are maintained by the HAD's individual District Offices. The Headquarters List is maintained by the HAD's Works Section. For inclusion in a District List, a contractor is required to have a minimum working capital of \$200,000. For inclusion in the Headquarters List, a contractor needs to satisfy, among others, the following requirements:

- (a) he has a confirmed status on at least one of the HAD's District Lists of Approved Contractors;
- (b) he possesses a minimum working capital of \$500,000;
- (c) he has completed at least five district projects with at least one project costing more than \$500,000 in the past one year; and
- (d) his performance has been rated good or above in all of the projects completed as referred to in inset (c) above.

Audit observations on assessment of financial capability of contractors

2.3 Audit reviewed the HAD's assessment of the financial capability of contractors on the HAD's lists of approved contractors, using the criteria adopted by the WB for admitting contractors to the WB's List of Approved Contractors for Public Works. Audit found that the WB has laid down rules and criteria to assess the financial capability of contractors for admission to and

Note 3: *In January 1997, the upper limit of the value of works that a contractor on the Headquarters List was allowed to undertake was increased from \$2 million to \$3 million.*

retention on its list of approved contractors. However, there were inadequacies in the HAD's assessment of the financial capability of its contractors. Details are as follows:

- (a) ***Working capital not properly assessed.*** Unlike the practice of the WB, an applicant seeking admission to the HAD's lists of approved contractors is not required to submit statement of accounts to the HAD for financial vetting. He is only required to provide evidence of cash balance such as a bank certificate of balance, a bank statement or a bank savings passbook. Statements of accounts are a better source of information for ascertaining the adequacy of working capital, which represents the excess of current assets (which include investment, stock and debtors) over current liabilities (which include creditors and bank overdraft). The applicant's evidence of cash balance alone does not enable the HAD to make a proper assessment of his working capital;
- (b) ***Employed capital not specified.*** For admission to and retention on the WB's List of Approved Contractors for Public Works, a contractor is required to maintain specified minimum levels of working capital and employed capital (for details, see Appendix E). For admission to the HAD's Headquarters List of Approved Contractors, only the required minimum working capital of \$500,000 is specified. For admission to the HAD's District Lists of Approved Contractors, the required minimum level of working capital is \$200,000. However, unlike the WB, the HAD has not specified its requirement for the minimum level of employed capital for admission to and retention on the HAD's lists of approved contractors;
- (c) ***Profitability trend analysis not performed.*** For admission to and retention on the WB's List of Approved Contractors for Public Works, a contractor's audited statement of accounts is subject to the WB's profitability trend analysis. However, the HAD does not perform a profitability trend analysis to assess the financial capability of a contractor for admission to or retention on the HAD's lists of approved contractors;
- (d) ***Financial capability not periodically assessed.*** According to the WB's current practice, it assesses periodically the financial capability of contractors on its approved list. However, the HAD does not perform such periodic assessments on its approved contractors. The HAD's contractors are not required to submit annual accounts to the HAD. Therefore, there is inadequate assurance that the HAD's contractors:
 - (i) have continued to fulfil the requirement for the minimum level of working capital;
 - (ii) have maintained a sufficient level of employed capital; and
 - (iii) have achieved satisfactory financial performance;

- (e) ***Value of outstanding works not taken into account in setting minimum level of working capital.*** The WB requires its contractors (of either probationary or confirmed status) to have specified minimum levels of working capital, subject to the additional requirement that the minimum level of working capital should be increased to the specified percentage of the total annualised value of the outstanding works, whichever is the higher (see Appendix E). However, for the HAD, only a fixed amount is specified as the minimum level of working capital, regardless of the value of the outstanding works being undertaken by a contractor; and

- (f) ***Increase in minimum working capital requirement not applied to existing contractors.*** The WB's current practice is that any revised minimum working capital requirements are applicable to both new applicants and existing contractors on the WB's approved list. However, the HAD's practice is that an increase in the required minimum level of working capital only applies to new applicants for admission to its lists of approved contractors. The existing contractors on the HAD's lists are not required to increase their working capital to meet its new minimum requirements.

2.4 **Audit considers that the HAD has not adequately monitored the financial capability of its contractors. This is because the HAD:**

- (a) **has not properly assessed their financial capability when they apply for inclusion in its lists of approved contractors; and**

- (b) **has not regularly reviewed their financial capability for retention on its lists of approved contractors.**

The HAD needs to have an effective system to regularly review the financial capability of its approved contractors so that the financial problems of an approved contractor can be found at an early stage. Remedial action can be taken earlier to avoid any delay or additional costs, which are caused by his financial problems.

2.5 In response to Audit's enquiry, in December 2001, the HAD stated that:

- (a) as most of the contractors on the HAD's lists of approved contractors were small-size unincorporated companies/businesses, generally, proper financial statements had not been prepared. It would be difficult for the HAD to obtain the contractors' financial statements for financial vetting or regular review; and

- (b) furthermore, as a probationary contractor on the HAD's Headquarters List was only allowed to undertake outstanding works not exceeding \$3 million in total value (Note 4), the required minimum working capital of \$500,000, which was equal to 16.7% of the maximum contract value of \$3 million, was considered adequate.

2.6 In Audit's view, as the contractors on the HAD's Headquarters List are allowed to undertake a number of projects, each of which has an estimated value of works between \$1 million and \$3 million (see para. 2.1 above), and as there are no restrictions on the number or the total value of contracts that each HAD's confirmed contractor can undertake, the total value of projects undertaken by a contractor at any time can be quite significant. **Audit considers that the HAD needs to:**

- (a) **strengthen the monitoring of the financial capability of the contractors on the HAD's Headquarters List; and**
- (b) **require the confirmed contractors on the HAD's Headquarters List to increase the minimum level of working capital up to a specified percentage of the total annualised value of the outstanding works undertaken by them.**

**Audit recommendations on
assessment of financial capability of contractors**

2.7 **Audit has *recommended* that the Director of Home Affairs should:**

- (a) **improve the HAD's assessment of the financial capability of the contractors on its Headquarters List of Approved Contractors by adopting the procedures of the WB. Particularly, the HAD should:**

***For admission to and retention on
the HAD's Headquarters List of Approved Contractors***

- (i) **require its contractors to submit initially financial statements (or audited accounts for limited companies) to the HAD for financial vetting and thereafter annual accounts for assessment of their continued financial capability;**

Note 4: *In January 1997, the total value of outstanding works that a probationary contractor on the Headquarters List was allowed to undertake was increased from \$2 million to \$3 million.*

- (ii) **require its contractors to have a minimum level of employed capital in addition to the existing required minimum level of working capital; and**
 - (iii) **perform profitability trend analyses on the financial statements of its contractors so as to ensure that the contractors have achieved a specified minimum level of financial performance;**
- (b) **consider requiring the HAD's confirmed contractors to increase their minimum working capital up to a specified percentage of the total annualised value of the outstanding works undertaken by them; and**
- (c) **regularly review the minimum levels of working capital and employed capital required to be maintained by the HAD's contractors, and apply all new requirements to both new applicants and existing contractors on the HAD's Headquarters List of Approved Contractors.**

Response from the Administration

2.8 The **Director of Home Affairs** has said that:

- (a) Audit's recommendations on tightening the financial vetting of the contractors on the HAD's Headquarters List of Approved Contractors are supported in principle. However, the HAD has to adopt with caution the WB's criteria for the retention of contractors on the List of Approved Contractors for Public Works for assessing the financial capability of contractors for retention on the HAD's Headquarters List of Approved Contractors. Otherwise, it may put the contractors out of business, which is contrary to the Government's pledge of helping the small businesses;
- (b) the performance of the contractors in undertaking the HAD's minor works projects is always being closely monitored. If the contractors are found to have performed poorly in the past twelve months, they will be considered for downgrading or even deletion from the HAD's lists of approved contractors;
- (c) the HAD considers that the present arrangement for managing small contractors has been operating very satisfactorily over the past 30 years. Any major change to the present arrangement has to be considered very carefully. The HAD will, however, endeavour to implement Audit's recommendations as far as possible. In particular, the HAD will:

***For admission to and retention on
the HAD's Headquarters List of Approved Contractors***

- (i) in future, require the HAD's contractors to submit initially financial statements to the HAD for financial vetting and thereafter annual accounts for assessment of their continued financial capability;
 - (ii) consider requiring the HAD's contractors to have a minimum level of employed capital in addition to the existing required minimum level of working capital; and
 - (iii) examine the financial statements of the HAD's contractors to ensure that they have not incurred significant financial loss in the past few years;
- (d) the HAD will require its confirmed contractors to increase their minimum working capital up to 20% of the total annualised value of the outstanding works undertaken by them before they are awarded contract works with total value exceeding \$3 million; and
- (e) the HAD will regularly review the minimum levels of working capital and employed capital for both new applicants and existing HAD's confirmed contractors as deemed necessary.

PART 3: EMPLOYMENT OF CONSULTANTS

Employment of consultants to supplement in-house resources

3.1 As mentioned in paragraph 1.5 above, the HAD has engaged consultants to undertake the design and supervision of some of the works projects, in order to supplement its limited in-house staff resources and speed up the progress of the RPIS Minor Works Programme.

3.2 Three consultants were appointed to undertake the consultancies for six rural improvement works packages comprising 108 works projects under the RPIS Minor Works Programme (see Appendix F). Out of the six packages, the consultancies for four packages (i.e. Packages 1, 2, 3 and 5) were awarded to Consultant A under three separate consultancy agreements.

Appointment of Consultant A for Packages 1 and 2

3.3 In March 1995, the HAD established a list of qualified consultants for undertaking the consultancies for the RPIS Minor Rural Improvement Works, Packages 1 and 2 comprising 34 minor rural improvement projects at a total project estimate of \$177 million. The criteria for assessing the consultants were:

- (a) their understanding of the assignment;
- (b) their relevant experience;
- (c) their available staff resources; and
- (d) their past performance record.

3.4 Consultant A and three other consultants who had been awarded the highest scores in the assessment were shortlisted and were invited to submit technical and fee proposals for Packages 1 and 2. An Assessment Panel, chaired by the Chief Engineer of the HAD and composed of Senior Engineers and Engineers from the HAD, the Highways Department (HyD) and the Civil Engineering Department (CED), was formed to select the consultant. Consultant A was ranked first in both technical and fee assessments. In June 1995, the Engineering and Associated

Consultants Selection Board (EACSB — Note 5) approved the appointment of Consultant A to undertake the consultancies for Packages 1 and 2 at a lump sum consultancy fee of \$5.8 million. In July 1995, the agreement (Agreement No. CE 6/95) was signed and works commenced. The target completion date was 27 July 1998.

Appointment of Consultant A for Package 3

3.5 In February 1996, the HAD needed to appoint another consultant to undertake the design and supervision of 25 minor rural improvement projects for the RPIS Minor Rural Improvement Works, Package 3 at a total project estimate of \$200 million. An Assessment Panel, chaired by the Chief Engineer of the HAD and composed of Senior Engineers from the HAD, the HyD and the CED, was formed to select the consultant. The criteria for assessing the consultants were:

- (a) their approach to the assignment and appreciation of the requirements;
- (b) their previous relevant experience both in Hong Kong and elsewhere;
- (c) the knowledge, experience and capability of their key staff; and
- (d) their recent performance record.

3.6 At its meeting held in March 1996, the Assessment Panel assessed the consultants' submissions. In the assessment, in respect of the criteria mentioned in paragraph 3.5 above, the Chief Engineer of the HAD gave Consultant A a Grade B (i.e. good) for items (a) and (d) and a Grade A (i.e. very good — the highest score) for items (b) and (c). Consultant A and three other consultants who had been awarded the highest scores in the assessment were shortlisted and were invited to submit technical and fee proposals for Package 3. Consultant A was ranked first in both technical and fee assessments. In June 1996, the EACSB approved the appointment of Consultant A to undertake the consultancy for Package 3 at a lump sum consultancy fee of \$4.8 million. In July 1996, the agreement (Agreement No. CE 103/95) was signed and works commenced. The target completion date was 28 July 2000.

Note 5: *The EACSB is chaired by the Director of Civil Engineering. Its terms of reference include, among other things, the approval of the selection, appointment and remuneration of engineering and associated consultants for undertaking engineering and associated government projects and the review of their performance.*

Appointment of Consultant A for Package 5

3.7 In July 1996, the HyD invited the qualified consultants to submit expression of interest in undertaking the consultancies for the RPIS Minor Rural Improvement Works, Package 5 comprising 28 minor rural improvement projects at a total project estimate of \$331 million. An Assessment Panel, chaired by the Chief Engineer of the HyD and composed of Senior Engineers from the HyD, the HAD and the Drainage Services Department, was formed to select the consultant. The criteria for assessing the consultants were:

- (a) their approach to the assignment and appreciation of the requirements;
- (b) their previous relevant experience both in Hong Kong and elsewhere;
- (c) the knowledge, experience and capability of their key staff;
- (d) their recent performance record; and
- (e) the quality of sub-consultants proposed.

3.8 At its meeting held in September 1996, the Assessment Panel assessed the consultants' submissions. In the assessment, in respect of the criteria mentioned in paragraph 3.7 above, the Chief Engineer of the HyD gave Consultant A full marks for items (a) and (b), 28 points out of 35 for item (c), 7.3 points out of 10 for item (d) and 4 points out of 5 for item (e). Consultant A and three other consultants who had been awarded the highest scores in the assessment were shortlisted and were invited to submit technical and fee proposals for Package 5. Overall, the technical and fee proposals submitted by Consultant A were assessed to be the best. In November 1996, the EACSB approved the appointment of Consultant A to undertake the consultancy for Package 5 at a lump sum consultancy fee of \$6.4 million. In April 1997, the agreement (Agreement No. CE 47/96) was signed and works commenced. The target completion date was 29 February 2000.

Consultant A's unsatisfactory performance

3.9 For Packages 1, 2, 3 and 5, consultancies covering 87 projects with a total project estimate of \$708 million were awarded to Consultant A (see Table 1 below).

Table 1
Number and estimated cost of projects
covered by the consultancies awarded to Consultant A

Package(s)	Projects (Number)	Estimated project cost (\$ million)
1 and 2	34	177
3	25	200
5	28	331
Total	87	708

Source: HAD's records

3.10 In order to speed up the progress of the projects, the HAD and the HyD appointed Consultant A to undertake the design and supervision of 59 and 28 works projects respectively (see Appendix F). However, as early as September 1995 (i.e. shortly after the commencement of Agreement No. CE 6/95 in July 1995 — see para. 3.4 above), the HAD advised Consultant A that, for Packages 1 and 2:

- (a) his progress “had been poor”;
- (b) he had provided “inadequate” professional staff; and
- (c) his master work programme was unlikely to be realistic because he had not identified, in respect of individual items, whether the HAD needed to follow any statutory procedures and whether any land resumption would be required.

3.11 The poor performance of Consultant A in Packages 1 and 2 persisted. In April 1998, the HAD again had to point out to Consultant A that:

- (a) he had failed to adhere to his project expenditure forecast;

- (b) in the tender documents of a works contract, “a lot of mistakes, some of which were careless but had contractual implications” had been made;
- (c) he had “failed to produce proper designs”; and
- (d) there was “a lack of communication” among his project staff.

3.12 Despite the HAD’s and the HyD’s repeated correspondence and frequent meetings with Consultant A to demand a better service, slow work progress was still noted. Overall, only 17% of the projects under the supervision of Consultant A in Packages 1, 2, 3 and 5 were completed by the target completion dates (see Table 2 below).

Table 2

**Number of projects completed by Consultant A
by the target completion date**

Package(s)	Target completion date	Projects (Number)	Projects completed by the target completion date	
			(Number)	(Percentage)
1 and 2	27 July 1998	34	7	21%
3	28 July 2000	25	8	32%
5	29 February 2000	28	0	0%
Overall		<u>87</u>	<u>15</u>	17%

Source: HAD’s records

3.13 From July 1995 to December 2001, Consultant A’s performance in Packages 1, 2, 3 and 5 was consistently rated as either “moderate” or “unsatisfactory”. The only exception was that he received a “good” rating for his performance in Package 3 for the period July to December 1996. The appraisals of Consultant A’s performance are summarised at Appendix G.

Monitoring of Consultant A's performance

3.14 For Packages 1 and 2, at bimonthly intervals, and for Packages 3 and 5, at monthly intervals, Consultant A was required to:

- (a) submit progress and financial reports to the responsible department; and
- (b) attend a meeting with the responsible department to report progress on the projects.

3.15 In accordance with the procedures laid down by the EACSB, the performance of a consultant is normally required to be assessed at six-month intervals and an appraisal report is submitted to the EACSB. The reporting interval is to be reduced to three months when an "adverse" report has been given in the last reporting period, or if the responsible department considers that the consultant's performance has become unsatisfactory. In the performance appraisal report, there are four gradings for overall assessment, namely very good, good, moderate and unsatisfactory (i.e. adverse). The Secretary of the EACSB keeps a central record of all consultants' performance for departments' reference. The EACSB's Handbook stipulates that if a consultant has, in the immediate past quarter, received a third consecutive "adverse" report on an assignment, he should not be recommended for undertaking a new consultancy assignment.

EACSB considered Consultant A's performance was over-rated

3.16 From July 1995 to December 2001, Consultant A's performance was mostly rated as "moderate" or "unsatisfactory" (see Appendix G). In August 2000 and February 2001, the EACSB expressed its concern that Consultant A's performance seemed to have been over-rated because many comments on his performance were "rather negative and appeared to refer to an adverse report".

3.17 In February 2001, the EACSB pointed out to the Director of Home Affairs that:

- (a) the tendency of over-rating a consultant's performance would give him a false perception that his unsatisfactory performance would be tolerated. This would encourage him to use low fee bids as his tendering strategy and to try to cut corners at the expense of quality of services after getting the job; and
- (b) as a result, the performance reporting system, which formed a significant part of the selection of consultants, would be undermined. The Government's interests would be at stake. Its adverse effect might only become apparent at a very late stage when irrecoverable damages had occurred.

Audit observations on employment of consultants

Consultant A's barely acceptable performance not properly reflected in the tender assessment reports

3.18 Audit found that the HAD's assessment of Consultant A's tender submissions for Packages 3 and 5 in 1996 (see paras. 3.6 and 3.8 above) did not tally with the HAD's appraisal of Consultant A's performance in the first appraisal report (completed in January 1996) and in the second appraisal report (completed in July 1996) for Packages 1 and 2. The "moderate" performance of Consultant A for Packages 1 and 2 for the period July 1995 to June 1996 had not been properly reflected in the assessment of his tender submissions for Package 3 in March 1996 and for Package 5 in September 1996. In fact, after the award of the consultancy for Package 3, Consultant A's performance further deteriorated. Consultant A's overall grading for the four packages during the period July 1995 to December 2001 is at Appendix G. Consultant A's overall grading for the four packages during this period is summarised in Table 3 below.

Table 3

Consultant A's overall grading for the four Packages during the period July 1995 to December 2001

Package(s)	Period covered	Number of overall gradings			
		Good	Moderate	Unsatisfactory	Total
1 and 2	28.7.1995 — 31.12.2001	—	12	2	14
3	29.7.1996 — 31.12.2001	1	8	5	14
5	11.4.1997 — 31.12.2001	—	9	2	11
	Total	1	29	9	39
	Percentage	3%	74%	23%	100%

Source: HAD's records

3.19 **Audit considers that, had the HAD reflected properly Consultant A's performance in the tender assessment reports of Packages 3 and 5, the award of consultancies for these two Packages covering 53 (25 + 28) projects to Consultant A could have been avoided. As a result of Consultant A's poor performance (see paras. 3.10 and 3.11 above), more efforts had to be spent by the HAD and the HyD on monitoring his performance.**

Award of consultancies for a large number of projects to Consultant A within a short period of time

3.20 Audit found that, within three months after the commencement of the first consultancy agreement in late July 1995, the HAD had expressed disappointment at the slow progress of Consultant A's work. In January 1996, the HAD completed the first appraisal of Consultant A's performance for the six-month period ended 31 December 1995. The second appraisal was completed in July 1996 for the six-month period ended 30 June 1996. The overall assessment in each appraisal was moderate, which denoted a level of performance that was barely acceptable. The HAD commented that Consultant A was short of an experienced professional to lead the team. Notwithstanding the unsatisfactory performance of Consultant A for Packages 1 and 2, in June 1996, it was decided to award to him the consultancy for Package 3. In about one year (from June 1995 to June 1996), consultancies for a total of 59 projects (18 for Package 1, 16 for Package 2 and 25 for Package 3) were awarded to Consultant A. Five months later, in November 1996, the HyD also decided that consultancies for Package 5 covering 28 projects under the RPIS Minor Works Programme should also be awarded to Consultant A.

3.21 The obvious consequence of awarding the consultancies for a large number of projects to be handled concurrently by Consultant A was slow work progress. As can be seen from Table 2 in paragraph 3.12 above, only 15 projects (17%) were completed on time. Up to 31 December 2001, only 42 projects (48%) of the 87 projects in the four Packages were completed (see Appendix H).

3.22 **Audit considers that the slow work progress and the delay in completing the projects were mainly due to the award of consultancies for a large number of projects to the same consultant whose performance had all along been barely acceptable. Had the consultancies been awarded to more consultants, each consultant would have handled a smaller number of projects, thereby evening out the workload. The project works would have been better monitored and the work progress would have been more satisfactory.**

Audit recommendations on employment of consultants

3.23 **Audit has *recommended* that the Director of Home Affairs should:**

Selection of consultants

- (a) **assess thoroughly the capability of consultants who tender for consultancies for works projects, taking into account their recent performance in projects of a similar nature;**
- (b) **reflect properly the performance of consultants, particularly the quality of their services, in the appraisal reports;**
- (c) **avoid selecting consultants who have only achieved a barely acceptable level of performance; and**

Award of consultancies

- (d) **in future, avoid awarding consultancies for too many projects to a consultant concurrently so as to ensure that he will be able to monitor all projects effectively.**

Response from the Administration

3.24 The **Director of Home Affairs** generally accepts Audit's recommendations. The Director has said that:

Selection of consultants

- (a) the Assessment Panel for the selection of consultants for Package 3 met in March 1996. At that time, only one performance appraisal report on Consultant A for Packages 1 and 2 for the first six months from July to December 1995 was available. Furthermore, when the Assessment Panel of the HyD for Package 5 met in September 1996, only two performance appraisal reports on Consultant A for Packages 1 and 2 for the first twelve months from July 1995 to June 1996 of the consultancy agreement were available. As reported in these two reports, the performance of Consultant A was rated as "moderate", indicating that his performance was still acceptable at that time. The limited numbers of "Moderate Reports" on Consultant A would not be sufficient to materially affect the decision of the two Assessment Panels for Packages 3 and 5 whose members would have to consider the consultants' submissions, based on the contents of their submissions and their past experience in other similar government projects;

- (b) the HAD has issued 2 “Unsatisfactory Reports” out of 14 performance appraisal reports on Packages 1 and 2, and 5 “Unsatisfactory Reports” out of 14 performance appraisal reports on Package 3. The percentages of “Unsatisfactory Reports”, especially on Package 3, have already reflected the lower than expected level of performance of Consultant A. The HAD will continue to seriously reflect the performance of consultants in the quarterly performance appraisal reports in accordance with the EACSB’s requirements; and

Award of consultancies

- (c) in future, the HAD will avoid awarding consultancies for too many projects to any consultant concurrently, especially after the experience the HAD has had with Consultant A.

3.25 The **Director of Highways** has said that:

- (a) for the 28 minor rural road improvement projects in Package 5 undertaken by the HyD, the construction work of 3 projects is now substantially completed and the construction work of another 2 projects is now underway; and
- (b) the performance of Consultant A in Package 5 is now under close monitoring. Following the issue of an “Unsatisfactory Report” for the period January to June 2001, a further “Unsatisfactory Report” was issued to Consultant A for the period July to September 2001.

PART 4: SPLITTING OF WORKS PROJECTS

Financial rules disallow splitting of works projects

4.1 The HAD is responsible for carrying out minor works projects each costing less than \$15 million under the RPIS Minor Works Programme (see paras. 1.1 and 1.3 above). For works projects each costing more than \$15 million, they should be handled by other works departments and be funded under their respective works programmes. In the Finance Bureau's "Guidelines on the exercise of delegated authorities" enclosed in Financial Circular No. 8/2001 of 31 August 2001, it is stated that Controlling Officers should not implement larger projects using funds from block allocations by artificially breaking the costs of the project down into smaller projects, phases or stages (Note 6).

Financial limits for the award of works contracts

4.2 According to Financial Circular No. 7/99 of 3 May 1999 on "Financial Limits for Government Procurement", a District Officer (being a Directorate Officer at D2 level) has the authority to award works contracts each up to the limit of \$3 million (Stores and Procurement Regulation 280(h)(iii) also refers — Note 7). For an RPIS minor works project exceeding \$3 million and less than \$15 million, the tender has to be submitted to the Public Works Tender Board (PWTB) for approval in accordance with Stores and Procurement Regulation (SPR) 220(a). In accordance with the tender procedures laid down in the SPRs, tenders for these project works have to be invited from eligible works contractors on the List of Approved Contractors for Public Works (Group A) maintained by the WB. In addition, SPR 205 requires a Controlling Officer to ensure that officers responsible for procurement matters do not evade the financial limits by dividing procurement requirements (including services of a similar nature for construction and engineering works) into instalments or by reducing the usual duration of contracts.

Note 6: *In Financial Circular No. 8/96 of 1 April 1996 which was superseded by Financial Circular No. 8/2001, it was stated that Vote Controllers might not approve expenditure on any item that formed part of a larger item that had been broken down into a number of smaller projects, phases or stages so as to keep the individual cost of each item below the maximum financial limit that they could approve.*

Note 7: *Before 3 May 1999, a District Officer could award a works contract not exceeding \$1 million without recourse to tender. A works contract with value over \$1 million but not exceeding \$3 million was to be awarded by the HAD Tender Board. Since the abolition of the HAD Tender Board on 3 May 1999, a District Officer has the authority to award a works contract not exceeding \$3 million without recourse to tender.*

Cases of splitting of works projects

4.3 In reviewing the RPIS Minor Works Programme, Audit noted that there were two cases in which, because the project estimate had exceeded the specified financial limit, the project was split into two or more phases so as to bypass the financial limits and related procedures set out in the relevant Financial Circulars. Details of these two cases are described in paragraphs 4.4 to 4.20 below.

Case 1 — Islands District Office: Village access road from Sham Wat to Sha Lo Wan

Proposal for the project

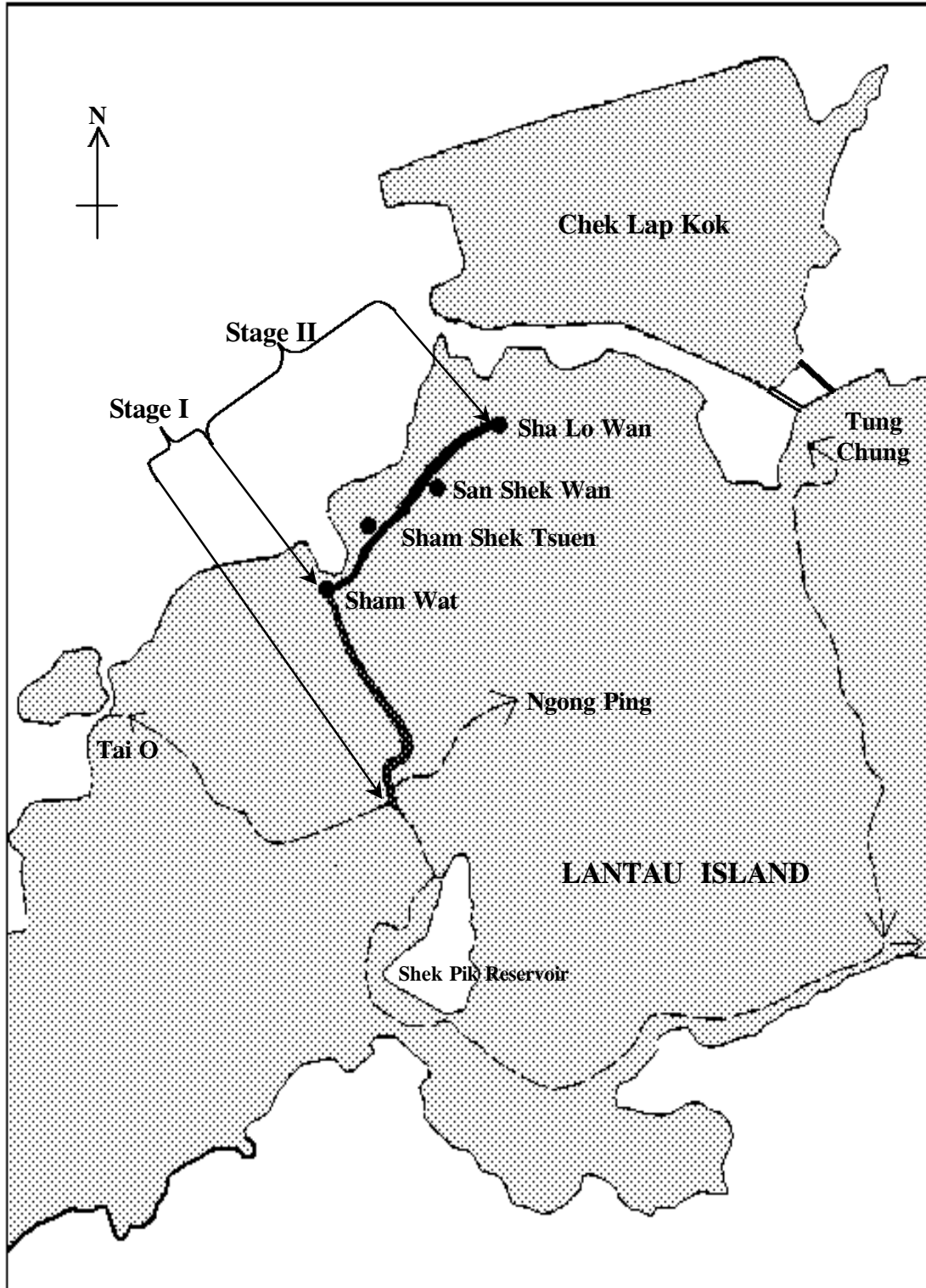
4.4 In late 1983, the Transport Advisory Committee (Note 8) endorsed a proposal to cancel the weekday ferry service from the Central District to Tai O (via Ma Wan, Tuen Mun, Tung Chung and Sha Lo Wan) because of heavy financial losses incurred by the ferry company on the route. Subsequently, the Government planned to construct an access road from Ngong Ping Road to Sha Lo Wan in two stages as follows:

- (a) **Stage I** would involve the construction of about 2.2 kilometres of road from Ngong Ping Road to Sham Wat; and
- (b) **Stage II** would involve the construction of about 2.4 kilometres of road from Sham Wat to Sha Lo Wan. Construction was expected to commence immediately following the completion of Stage I (see Figure 1 below).

Note 8: *The Transport Advisory Committee advised the then Governor in Council on broad issues of transport policy with a view to improving the movement of both people and freight.*

Figure 1

Village access road from Sham Wat to Sha Lo Wan, Lantau Island



Source: HAD's records

In late 1985, the then Engineering Development Department (Note 9) estimated that the total cost for the construction of the access road was \$8.7 million.

4.5 In January 1988, on the recommendation of the Public Works Subcommittee of the Legislative Council, the Finance Committee approved the upgrading of Stage I of the project to Category A at an estimated cost of \$6 million. In September 1990, the contract for Stage I was substantially completed in the sum of \$10.4 million.

Suspension of Stage II of the project

4.6 In 1991, the HyD reassessed the justifications for Stage II of the road project. In order to ascertain the number of villagers who would benefit from the project, the HyD sought the advice of the Census and Statistics Department. The Census and Statistics Department advised that according to the results of the 1991 Population Census, the population in the villages concerned was only 73. Therefore, the Director of Highways considered that Stage II of the project, then estimated at a cost of \$25 million, was no longer justified. Further survey and ground investigation works for Stage II of the project were suspended.

Stage II of the project proposed again in 1994

4.7 In May 1994, the Islands District Office proposed to include new projects (including the construction of an access road linking Sham Wat to Sha Lo Wan) in the RPIS Minor Works Programme. As mentioned in paragraph 1.3 above, in late 1994, the HAD took over from the TDD the responsibility for the RPIS Minor Works Programme, under which the HAD was to undertake works projects each costing less than \$15 million. In order to get around the funding problem, the Islands District Office decided that the road project from Sham Wat to Sha Lo Wan should be divided into several phases, each qualifying for funding not exceeding the project limit.

4.8 In June 1995, the HAD and the Highways NT Region worked out the scope and estimated cost of the road project from Sham Wat to Sha Lo Wan (see Table 4 below). The alignments of different road sections of the project were the same as those in the previously suspended Stage II of the road project, as mentioned in paragraph 4.4(b) above.

Note 9: *The Engineering Development Department was reorganised in June 1986. As a result of the reorganisation, the Highways Office of the Engineering Development Department became the HyD.*

Table 4

**Project scope and cost estimates of Stage II of
the village access road from Sham Wat to Sha Lo Wan**

Project scope	Estimated cost (\$ million)
(a) Road bridge at Sham Wat	11.1
(b) Access road from Sham Wat to Sham Shek Tsuen	8.6
(c) Access road from Sham Shek Tsuen to San Shek Wan	11.3
(d) Access road from San Shek Wan to Sha Lo Wan	11.3
Total	<u>42.3</u>

Source: HAD's records

**Audit observations and recommendations
in Report No. 25 of the Director of Audit**

4.9 In Report No. 25 of the Director of Audit of October 1995, Audit brought to the attention of the Director of Highways and the Director of Home Affairs the question whether, with the suspension of Stage II of the road project, good value for money had been obtained from the partially completed road which then only reached Sham Wat. Audit's observations in the Report are summarised as follows:

- (a) **Overestimation of the population figure of the villages concerned.** According to the Hong Kong 1986 By-Census Report, the villages concerned had a population of only 91, instead of 600 as originally thought;
- (b) **Underestimation of the scale of the project.** The initial total project estimate made in April 1984 was about \$1.8 million. In the event, Stage I of the road project was completed in the sum of \$10.4 million while the project estimate of Stage II had to be revised to \$25 million. Thus, the total project estimate became \$35.4 million;
- (c) **Incorrect information given to the Finance Committee when funding approval was sought.** Because of the overestimation of the population figure and the underestimation of the project cost, the Finance Committee, in approving funds for Stage I of the road project in January 1988, was not given full and reliable information. The Finance Committee was not informed of the low traffic demand, although this was quite clear to the departments concerned; and

- (d) ***Splitting of project works.*** The limit of a Local Public Works (LPW) project was \$300,000. Therefore, the initial decision to implement the project with LPW funds, by breaking it up into seven contracts of less than \$300,000 each at an estimated total cost of \$1.8 million, was in breach of the approved rules.

4.10 In Report No. 25 of the Director of Audit of October 1995, Audit recommended to the Director of Highways and the Director of Home Affairs that in future:

- (a) population figures should be accurately ascertained at an early stage in consultation with the Commissioner for Census and Statistics;
- (b) realistic cost estimates should be prepared at an early stage so that the costs and benefits of a project could be more accurately assessed;
- (c) in seeking funds for a project, sufficient and reliable information should be given to the approving authority; and
- (d) the rules regarding the use of the LPW funds should be strictly followed. Where the estimated cost of a project exceeded the financial limit set for the LPW block vote, the LPW funds should not be used to implement the project.

Comments of the Public Accounts Committee

4.11 After considering the Director of Audit's Report, in its Report No. 25 issued in January 1996, among other things, the Public Accounts Committee (PAC):

- (a) expressed concern that the cost of the project had increased significantly. The PAC recommended that realistic cost estimates should be prepared at an early stage of a road project, so that the costs and benefits of a project were accurately ascertained before implementation;
- (b) considered it reprehensible that, in deciding to implement the project with LPW funds by breaking it up into seven contracts of less than \$300,000 each at an estimated total cost of \$1.8 million, the then CNTA had breached the approved rules for the use of the LPW funds; and
- (c) welcomed the setting up of the RPIS Minor Works Steering Committee to consider and monitor all minor works projects commissioned by the HAD, and noted the Director of Home Affairs' assurance that with the Steering Committee acting as a monitoring mechanism, similar problems would not recur in future.

4.12 In May 1996, in the Government Minute in response to the PAC Report No. 25, the Administration stated that:

- (a) since taking over the responsibility for the implementation of the RPIS Minor Works Programme in late 1994, the HAD had, with the help of additional professional staff, improved on project management and estimation; and
- (b) with this minor works programme functioning well, the Director of Home Affairs was confident that the problems experienced in the project in question would not recur in future.

Splitting of Stage II project works

4.13 As mentioned in paragraph 4.7 above, in order to get around the funding problem, the Islands District Office decided that the road project from Sham Wat to Sha Lo Wan should be divided into several phases so that each phase would qualify for funding not exceeding the project limit of \$15 million under the RPIS Minor Works Programme.

Stage II project works commenced in 1997

4.14 In 1997, the Islands District Office justified the construction of the road project on the grounds that:

- (a) the combined population of Sham Shek Tsuen, San Shek Wan and Sha Lo Wan at that time was estimated to be 280; and
- (b) the commencement of operation of the Chek Lap Kok Airport was expected to create job opportunities on Lantau Island. Consequently, there would be a significant growth in population of the three villages mentioned in inset (a) above over the next few years.

The Director of Home Affairs was satisfied that the project should go ahead. The HyD was appointed the works agent of the project.

4.15 In April 1997, the HyD appointed Consultant A to carry out the review and assessment, detailed design, tender and supervision of the project under the Package 5 consultancy agreement (see para. 3.8 above). The scope of the project, covering the construction of the road bridge at Sham Wat and the access road from Sham Wat to Sham Shek Tsuen, was the first part of Stage II of the road project from Sham Wat to Sha Lo Wan (see Figure 1 in para. 4.4 and Table 4 in para. 4.8 above).

Completion of the project up to Sham Shek Tsuen

4.16 In September 1999, tenders were invited for works including the construction of the road bridge at Sham Wat and the construction of the access road from Sham Wat to Sham Shek Tsuen (see items (a) and (b) in Table 4 of para. 4.8 above). The approved project estimate of this combined project was \$14.5 million. In November 1999, the contract was awarded and one month later, the construction works commenced. In January 2002, the project was substantially completed. Photograph 1 on the centre pages shows part of the access road from Sham Wat to Sham Shek Tsuen. The total project expenditure amounted to about \$11 million. Construction of the remaining two road sections (from Sham Shek Tsuen to San Shek Wan and from San Shek Wan to Sha Lo Wan — see para. 4.8 above) has been shelved for the time being.

Case 2 — Sai Kung District Office:

Reconstruction of a footpath from Ham Tin to Tai Long Au

Proposal for the project

4.17 In April 1997, a village representative of Tai Long informed the Sai Kung District Office that the footpath from Ham Tin to Tai Long Au, Sai Kung was in a dilapidated condition. The footpath was serving six villages. It was the main and only access which the villagers relied on for their daily travel to outside and for transportation of consumer goods to meet their daily needs. In addition, Ham Tin was one of the favourite spots for hikers and campers. As the reconstruction of the footpath would benefit the hikers, campers and local villagers, in September 1997, the Sai Kung District Working Group approved the inclusion of the project for the reconstruction of the footpath under the RPIS Minor Works Programme. The District Working Group was informed that the estimated cost of the project was \$3 million and the project works would be completed by May 1999.

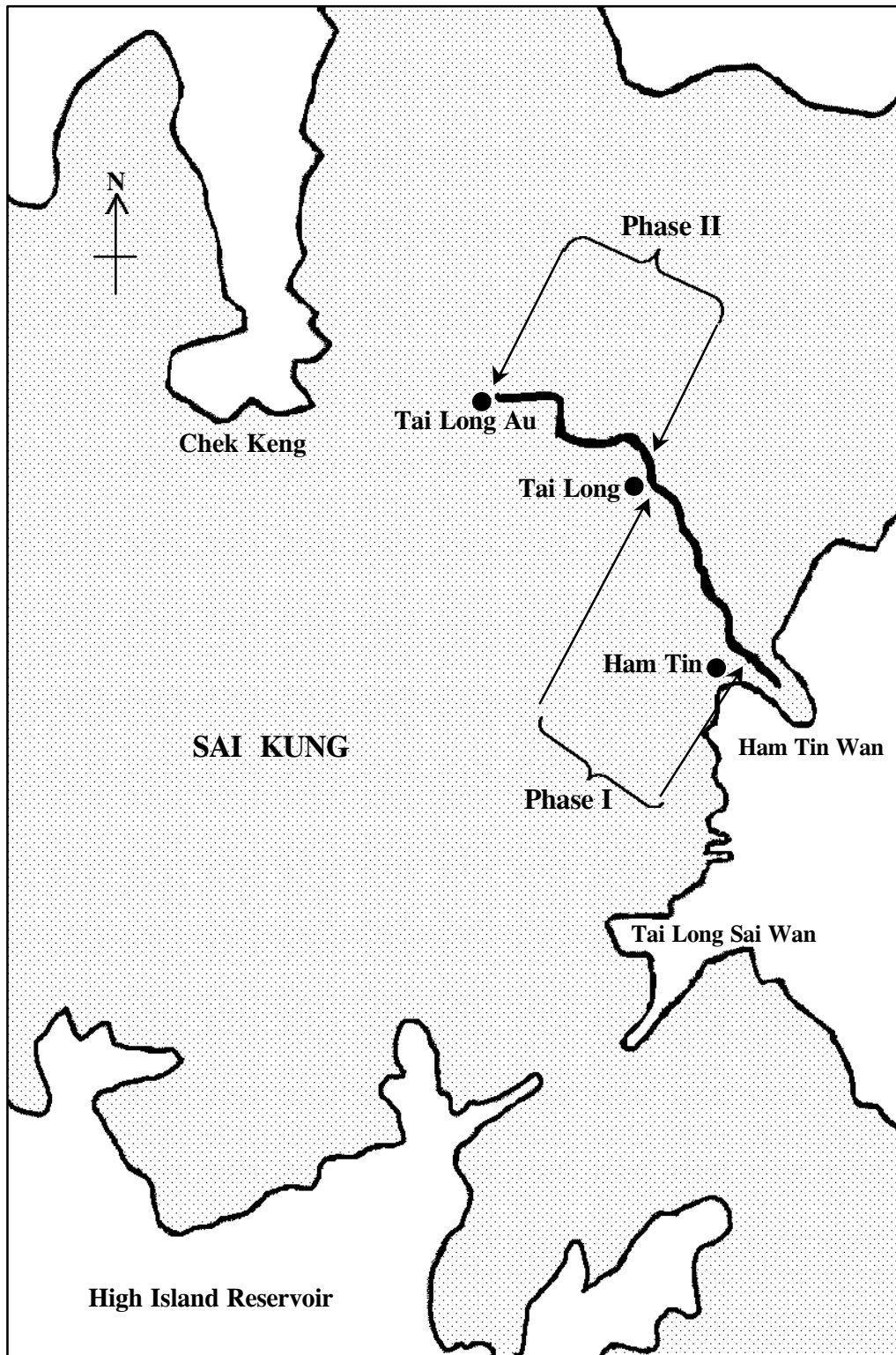
Splitting of project works

4.18 According to the prevailing regulations, the HAD could award a works contract not exceeding \$3 million without recourse to the PWTB. For a works contract exceeding \$3 million, the approval of the PWTB had to be obtained (see para. 4.2 above). In August 1998, the Sai Kung District Office found that the estimated cost for the reconstruction of the footpath would exceed \$3 million. Therefore, it decided that the project works would be carried out in two phases so that the contracts could be awarded without seeking the approval of the PWTB. The two phases were as follows:

- (a) **Phase I** would involve the reconstruction of the footpath from Ham Tin to Tai Long; and
- (b) **Phase II** would involve the reconstruction of the footpath from Tai Long to Tai Long Au (see Figure 2 below).

Figure 2

Reconstruction of footpath from Ham Tin to Tai Long Au, Sai Kung



Source: HAD's records

Phase I

4.19 In November 1998, tenders were invited for Phase I of the project. In January 1999, the HAD Tender Board approved the acceptance of the lowest tender submitted by Contractor D at a contract sum of \$1.1 million (see Note 7 to para. 4.2 above). The works commenced in January 1999 and were completed in August 1999.

Phase II

4.20 In October 1999, all the contractors on the HAD's Headquarters List of Approved Contractors were invited to submit quotations for Phase II of the project. The scope of Phase II, as mentioned in paragraph 4.18(b) above, was slightly modified to cover, in addition to the footpath from Tai Long to Tai Long Au, part of the footpath from Ham Tin to Tai Long. In November 1999, the Sai Kung District Officer approved the acceptance of the lowest tender submitted by Contractor D (the same contractor of Phase I of the project) at a contract sum of \$1.5 million (see Note 7 to para. 4.2 above). The works commenced in November 1999 and were completed in September 2000.

Audit observations on splitting of works projects

Approval of works projects

4.21 ***Financial rules on funding of RPIS minor works projects were breached.*** Audit found that in Case 1, the estimated cost of \$42.3 million for the construction of the access road from Sham Wat to Sha Lo Wan (see Table 4 in para. 4.8 above) exceeded the HAD's financial limit of \$15 million under the RPIS Minor Works Programme (see para. 4.1 above). Therefore, this project should have been handled by the HyD under the Public Works Programme. However, in order to get around the funding problem, the Islands District Office decided that the project should be divided into phases to be carried out under the RPIS Minor Works Programme. **Audit considers that the HAD should have strictly followed the rules for seeking funding approval for implementing RPIS minor works projects.**

4.22 ***Regulations on financial limits for the award of works contracts were not followed.*** Audit found that in Case 2, the estimated total cost of the project had exceeded \$3 million. Under the prevailing regulations, for the award of works contracts each exceeding \$3 million, the approval of the PWTB had to be obtained (see para. 4.2 above). However, the PWTB's approval for the project had not been obtained. Instead, the HAD split the project works into two phases so that the contracts could be awarded without recourse to the PWTB. **Audit considers that the HAD should have strictly followed the regulations on the specified financial limits for the award of works contracts.**

Photograph 1

**Part of the access road from Sham Wat to Sham Shek Tsuen, Lantau Island
(para. 4.16 refers)**



Source: Photograph taken by Audit staff

Photograph 2

**Part of the footpath between Lai Chi Yuen and Ngau Kwu Wan, Lantau Island
(para. 5.3 refers)**



Source: Photograph taken by Audit staff

Photograph 3
Constructional plant and materials found
at Ngau Kwu Wan Beach, Lantau Island on 16 January 2002
(para. 5.8 refers)



Source: Photograph taken by Audit staff

Photograph 4
Excavator and constructional materials found
at Ngau Kwu Wan Beach, Lantau Island on 16 January 2002
(para. 5.8 refers)



Source: Photograph taken by Audit staff

Overestimation of project costs

4.23 Audit found that the planning of the project in Case 2 was not satisfactory. The original project costs had been overestimated. It was later decided to split the project works into two phases in order not to exceed the specified financial limit for a works contract which a District Officer could award without seeking the approval of the PWTB (see para. 4.18 above). A comparison of the estimated project cost and the actual contract sum is shown in Table 5 below.

Table 5

Comparison of estimated project cost and actual contract sum for Case 2

Phase	Estimated project cost (\$ million)	Approved contract sum (\$ million)	Actual contract sum (\$ million)
I	} Over 3.0	1.1	1.1
II		1.5	1.6
Total	Over 3.0	<u>2.6</u>	<u>2.7</u>

Source: HAD's records

4.24 As shown in Table 5 above, the actual contract sum for Case 2 turned out to be only \$2.7 million. The actual contract sum was less than the estimated project cost and was within the specified financial limit of \$3 million which the District Officer could award. **Audit considers that the HAD should have made realistic cost estimates in planning works projects.**

Audit recommendations on splitting of works projects

4.25 Audit has *recommended* that the Director of Home Affairs should:

Approval of project works

- (a) carry out a review of all the works projects to ascertain whether there are similar cases of splitting of project works and introduce measures to prevent recurrence of such practice in future;

- (b) strictly follow the rules for seeking funding approval of works projects. In particular, the HAD should follow the rule specified in the Finance Bureau's "Guidelines on the exercise of delegated authorities" enclosed in Financial Circular No. 8/2001 that a Controlling Officer should not implement larger projects using funds from block allocations by artificially breaking the costs of the project down into smaller projects, phases or stages;
- (c) strictly follow the regulations on the specified financial limits for the award of works contracts. In particular, the HAD should not split the project works in order to avoid seeking the PWTB's approval; and

Estimation of project costs

- (d) ensure that realistic cost estimates for a works project are made so that the costs and benefits of the project could be more accurately assessed.

Response from the Administration

4.26 The Director of Home Affairs has said that:

Approval of project works

- (a) the HAD is fully aware of the financial limits set out in the relevant financial circulars. It is pertinent to note that:

Case 1 — Islands District Office:

Village access road from Sham Wat to Sha Lo Wan

- (i) in 1994 and 1995, there were strong local requests for improving the village access between Sham Wat and Sha Lo Wan. Having regard to the financial limit of \$15 million under the RPIS Minor Works Programme, the HAD could only implement a project/projects costing less than \$15 million that could benefit most local villagers in the area. The HAD was of the view that improving the village access between Sham Wat and Sham Shek Tsuen would bring convenience to all villagers living in Sham Wat, Sham Shek Tsuen, San Shek Wan and Sha Lo Wan. Therefore, the HAD decided that the village access between Sham Wat and Sham Shek Tsuen should be improved. The project was subsequently approved in 1999 with an approved estimated cost of \$14.5 million;

- (ii) almost eight years had lapsed since the inception of the proposal to improve the village access between Sham Wat and Sham Shek Tsuen. Few minor works projects had been implemented to improve the village access between Sham Shek Tsuen and Sha Lo Wan. Currently, there is no definite plan to proceed with the improvement works along the village access between Sham Shek Tsuen and Sha Lo Wan;
- (iii) there were persistent local requests to the HAD for improving the village access between Sham Shek Tsuen and Sha Lo Wan for use by emergency vehicles. The HAD would consider individual requests for improving sections of village access independently and would only implement the works strictly on a need basis;

Case 2 — Sai Kung District Office:

Reconstruction of a footpath from Ham Tin to Tai Long Au

- (iv) the HAD has, in the past, submitted tender reports for contracts each exceeding \$3 million to the PWTB for approval. For a sufficiently long time, the HAD has maintained a Headquarters List of Approved Contractors for undertaking projects each with an estimated value of less than \$3 million. The HAD's contractors are familiar with the HAD's contract conditions and working procedures. In return, their tender prices are very competitive and their performance is exceptionally efficient. If the WB's contractors who are familiar with another set of contract conditions are employed, the management of these contractors by the HAD's staff may not be as effective as that of the HAD's contractors;
- (v) the reasons for carrying out the Sai Kung project in two phases were mainly due to the more cost-effective method of procuring services of the HAD's contractors, the urgency of part of the project, and the need to minimise the inconvenience to the local villagers during the construction of the footpath;
- (vi) the reconstruction of the footpath from Ham Tin to Tai Long (Phase I) was the more needed part of the project and had to be constructed first to satisfy the urgent local needs. The feasibility of the reconstruction of the footpath from Tai Long to Tai Long Au (Phase II) would be subjected to the availability of funds. Had Phase I eventually used up most of the \$3 million provision, Phase II of the project would not have been implemented; and
- (vii) as the total actual cost for the implementation of the project in two phases was only \$2.7 million, it was within the financial limit of \$3 million for a works contract which a District Officer had the authority to approve under the SPRs;

- (b) having carried out a review, the HAD found that, apart from the above isolated incident, there was no splitting of projects into smaller projects so as to keep each project within the financial limit and avoid seeking the PWTB's approval;
- (c) the HAD will ensure that in all future works projects:
 - (i) there will be no splitting of projects; and
 - (ii) the maximum financial limits for approval of project works as stipulated in Financial Circular No. 8/2001 will be strictly adhered to;
- (d) it was not the HAD's intention to split the works to avoid seeking the PWTB's approval. The implementation of projects under separate works contracts depended on a number of factors such as the effectiveness of the method for procuring the services of the contractors, the timing and urgency of the projects, the nature, extent and location of the projects, and the needs of the local villagers. If necessary, the HAD would seek the PWTB's approval for projects each exceeding \$3 million in value;

Estimation of project costs

- (e) whilst the HAD fully agrees that realistic cost estimates should always be made, there were complicating factors which affected the making of better cost estimates for minor works projects in rural areas; and
- (f) the HAD will remind the works staff to constantly update the project estimate during the course of the design development, taking into consideration the latest market conditions, site constraints and any other additional requirements or requests received from the local community. This is very common in the implementation of projects in village areas.

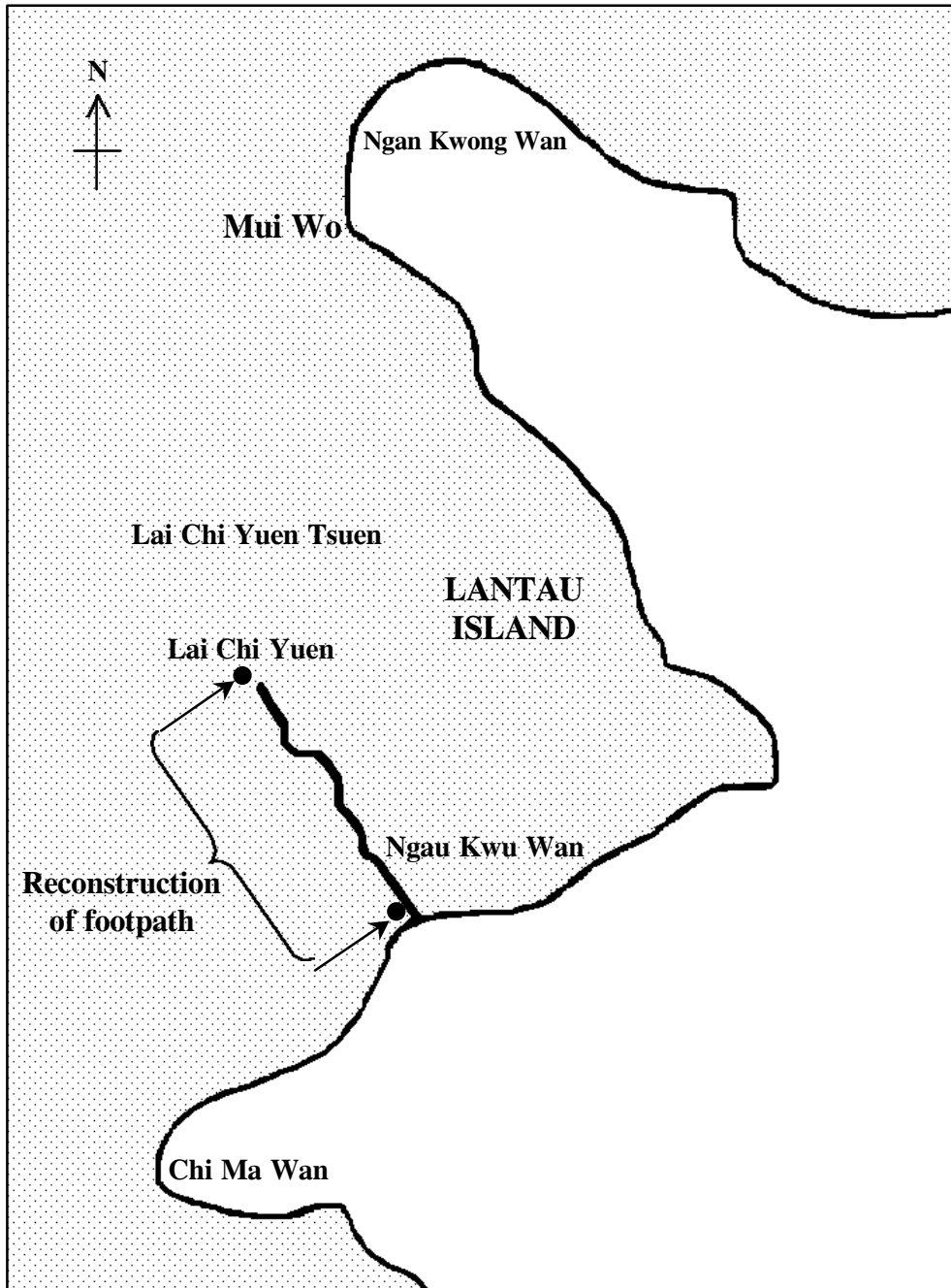
**PART 5: PROJECT MANAGEMENT OF
THE RECONSTRUCTION OF A FOOTPATH ON LANTAU ISLAND**

**Reconstruction of a footpath
between Lai Chi Yuen and Ngau Kwu Wan**

5.1 In July 1999, a contract for the reconstruction of a footpath between Lai Chi Yuen and Ngau Kwu Wan, south of Mui Wo on Lantau Island (see Figure 3 below) was awarded by the Islands District Office to Contractor E, under the RPIS Minor Works Programme at a contract sum of about \$750,000. The project works commenced in July 1999 and the target completion date was December 1999. Since February 2000 (i.e. near its completion), a number of complaints about the project had been received from the public.

Figure 3

Reconstruction of footpath between Lai Chi Yuen and Ngau Kwu Wan,
Lantau Island



Source: HAD's records

Initial complaint on rubbish dumped on site

5.2 On 28 February 2000, a letter was received from a local resident (Complainant F) saying that substantial amounts of rubbish had been dumped by the workers of the HAD's contractor on the construction site in Ngau Kwu Wan. The HAD did not give Contractor E any immediate written instruction on the matter. On 21 March 2000, the HAD informed Complainant F that:

- (a) it was aware of the problem; and
- (b) it would ensure that site clearance would be carried out up to its satisfaction, before the issue of the certificate of completion and the release of retention money for the project to the contractor.

Completion of project

5.3 On 23 March 2000, Contractor E informed the HAD that the project had been completed and requested the HAD to inspect the works and settle the project costs. On the same day, the HAD confirmed with Contractor E that a sum of about \$35,600 had to be deducted from the project payment as liquidated damages for the delay in completion of the works. However, without resolving the problem of the dumping of rubbish on site, the HAD issued to Contractor E a certificate of completion in which the HAD stated that:

- (a) the project works were completed on 23 March 2000; and
- (b) the maintenance period for the project would expire on 23 September 2000.

Photograph 2 on the centre pages shows part of the footpath between Lai Chi Yuen and Ngau Kwu Wan.

5.4 On 27 March 2000, the final payment, after deducting a 5% retention money, was paid to Contractor E. Up to 31 March 2000, the total contract payment amounted to about \$741,000.

Another complaint on constructional plant and materials left on site

5.5 About two months after the issue of the certificate of completion and the making of the final payment to Contractor E in March 2000, on 5 June 2000, the HAD requested Contractor E to

remove immediately the constructional plant and materials left behind by him on the construction site in Ngau Kwu Wan. On 8 June 2000, the HAD received another complaint (Complainant G), urging it to remove the excavator, iron bars and nylon canvas left behind by Contractor E at Ngau Kwu Wan Beach. Complainant G stated that the matter had previously been raised with the HAD but so far, the HAD had not taken any action. On 23 June 2000, Contractor E replied to the HAD, stating that the constructional plant and materials might be needed for some follow-up works during the maintenance period. Contractor E also informed the HAD that he was involved in litigation in connection with the project. Therefore, he requested the HAD to grant him a grace period for the removal of the plant and materials.

5.6 In August 2000, Contractor E's solicitor informed the HAD that:

- (a) the constructional plant and materials left on the construction site in fact belonged to a subcontractor. The subcontractor failed to complete the reconstruction works and had absconded. Contractor E had instituted legal proceedings against the subcontractor; and
- (b) Contractor E did not have legal title to remove the constructional plant and materials from the construction site until the completion of the legal proceedings.

Further complaint on constructional plant and materials left on site

5.7 In December 2000, the Environmental Protection Department (EPD) received a complaint that:

- (a) the constructional plant and materials had not been removed from the construction site in Ngau Kwu Wan; and
- (b) the HAD had not sufficiently supervised the execution of the contract and caused unnecessary environmental impacts.

In January 2001, the EPD, after conducting a site investigation, found that the plant and materials were still left at or near Ngau Kwu Wan Beach.

Latest development

5.8 In May and September 2001, the HAD wrote to Contractor E, enquiring about the present position of the legal proceedings and the removal of the constructional plant and materials

left on the construction site in Ngau Kwu Wan. In October 2001, Contractor E replied that as the legal proceedings were still going on, he could not remove the constructional plant and materials from the construction site. Nevertheless, he promised to find ways to clear them as soon as possible. Up to mid-January 2002, the plant and materials had not yet been removed. Photographs 3 and 4 on the centre pages show the constructional plant and materials and the excavator left at Ngau Kwu Wan Beach.

Audit observations on project management of the reconstruction of a footpath on Lantau Island

Removal of constructional plant and materials

5.9 Regarding the removal of constructional plant and materials from the construction site, the following requirements as provided for in the General Conditions of Contract (GCC) are relevant:

- (a) Clause 37 of the GCC states that on completion of the works, the contractor is required to clear away and remove from the site all constructional plant, surplus materials, rubbish and temporary works of every kind and leave the whole of the site and works clean and in a workmanlike condition to the satisfaction of the Engineer of the HAD;
- (b) Clause 55(1) of the GCC states that when the works have been substantially completed, the contractor may serve notice in writing to that effect to the Engineer, accompanied by an undertaking to carry out any outstanding work during the maintenance period, requesting the Engineer to issue a certificate of completion in respect of the works. The Engineer shall within 21 days of the date of receipt of such notice from the contractor:
 - (i) issue a certificate of completion stating the date on which, in the Engineer's opinion, the works were substantially completed in accordance with the contract and the maintenance period shall commence from the date stated in such certificate; or
 - (ii) give instructions in writing to the contractor specifying that all the work which, in the Engineer's opinion, is required to be done by the contractor before such certificate can be issued, in which case the contractor shall not be permitted to make any further request for a certificate of completion;
- (c) Clause 55(3) of the GCC states that the contractor shall carry out any outstanding work as soon as possible after the issue of the certificate of completion or as reasonably

directed by the Engineer and in any event before the expiry of the maintenance period;
and

- (d) Clause 60(2) of the GCC states that if the contractor fails to remove any constructional plant, temporary works or unused materials within such reasonable times after the completion of the works as may be allowed by the Engineer, then the HAD may sell the same and shall, after deducting from the proceeds, the costs, charges and expenses of and in connection with such sale, pay the balance (if any) to the contractor.

5.10 Audit found that, although the constructional plant and materials had not been removed from the construction site in Ngau Kwu Wan, in March 2000, the HAD issued the certificate of completion and made the final payment to Contractor E after he had requested the HAD to settle the project costs (see paras. 5.3 and 5.4 above). Although the matter had not been resolved for nearly two years, the HAD did not take action to invoke the relevant GCC (see para. 5.9(d) above) to expedite the clearance of the site. **In Audit's view, the HAD should have taken more proactive action to remove the constructional plant and materials from the site after the completion of the construction works.**

5.11 **Audit considers that:**

- (a) **before issuing the certificate of completion to Contractor E, the HAD should have given him instructions in writing to clear the site within a specified time limit in accordance with Clause 55(1) and (3) of the GCC (see para. 5.9(b) and (c) above); and**
- (b) **the HAD should not have issued the certificate of completion and made the final contract payment to Contractor E until after the constructional plant and materials had been removed from the site, as required by Clause 37 of the GCC (see para. 5.9(a) above).**

Sub-letting of project works

5.12 In connection with the sub-letting of project works, Clause 4 of the GCC states that:

- (a) the contractor shall not sub-let any part of the works without the written consent of the Engineer of the HAD;

- (b) such consent, if given, shall not relieve the contractor from any liability or obligation under the contract; and
- (c) the contractor shall be responsible for the acts, defaults and neglect of any subcontractor, his agents, servants or workmen as fully as if they were the acts, defaults or neglect of the contractor, his agents, servants or workmen.

5.13 In response to Audit's enquiry, in January 2002, the HAD informed Audit that neither the Engineer of the HAD nor the Islands District Office had given consent to Contractor E to sub-let the project works to a subcontractor for the reconstruction of the footpath. **Audit considers that, had the HAD monitored the project more closely, the sub-letting of any project works would have been discovered by the HAD much earlier.**

Audit recommendations on project management of the reconstruction of a footpath on Lantau Island

5.14 **Audit has *recommended* that the Director of Home Affairs should:**

Removal of constructional plant and materials

- (a) **ensure that all the HAD's contractors clear their constructional plant and materials from the site within a specified time limit before a certificate of completion is issued to the contractor in accordance with Clause 55(1) and (3) of the GCC;**
- (b) **if the site is not cleared within the specified time limit, take appropriate action to clear the site and recover from the contractor additional costs incurred by the HAD in clearing the site in accordance with Clause 60(2) of the GCC;**
- (c) **take urgent action to clear the construction site in Ngau Kwu Wan; and**

Sub-letting of project works

- (d) **monitor all the HAD's works projects closely to ensure that the contractors do not sub-let any part of the project works without obtaining the HAD's prior written consent.**

Response from the Administration

5.15 The **Director of Home Affairs** has said that:

Removal of constructional plant and materials

- (a) in this particular case, the certificate of completion was issued to Contractor E, after the works staff of the Islands District Office had conducted a site visit and had been satisfied that the works had been substantially completed. The Islands District Office considered that the retention money of about \$39,000 for the project would be sufficient to cover both the cost of clearing the constructional plant and materials from the works site and the cost of any minor works that might arise during the maintenance period. The Islands District Office also considered that the issue of the certificate of completion and the release of final payment to Contractor E complied with Clause 55(1) and (3) of the GCC. However, from the experience gained in this particular case, in future, the HAD will remind its staff to examine the completion of works projects more closely before issuing certificates of completion;

- (b) the legal proceedings between Contractor E and his subcontractor are still underway. The Islands District Office has yet to issue the maintenance certificate and release the retention money to Contractor E. The Islands District Office has sought legal advice from the Department of Justice on the way forward. The Islands District Office would consider taking action against Contractor E, including deleting Contractor E from the HAD's District List of Approved Contractors, for his failure to fulfil the contractual obligations; and

Sub-letting of project works

- (c) this was an isolated incident. In future, the HAD would closely monitor the work of its contractors to prevent recurrence of similar cases.

PART 6: REVIEW OF LONG OUTSTANDING RPIS MINOR WORKS PROJECTS

Creation of a new works programme after the completion of the RPIS Minor Works Programme

6.1 The 10-year RPIS Minor Works Programme ended in March 2000. The HAD considered that the popularity of the RPIS Minor Works Programme had shown that there was a genuine need for the Government to continue implementing extensively small to medium-scale rural projects to upgrade the infrastructure and improve the living environment of the rural community. In order to continue upgrading the infrastructure and improving the living environment and hygienic conditions in the rural areas, in January 1999, the Finance Committee approved the creation of a new block allocation subhead under the Capital Works Reserve Fund for the purpose of implementing a new Rural Public Works (RPW) Programme. The new RPW Programme covers the types of projects previously undertaken under the RPIS Minor Works Programme. The project limit of \$15 million is in line with the upper limit for block vote items. The creation of the RPW Programme provided the HAD with the necessary flexibility to respond promptly to urgent needs and changes in circumstances in the rural areas. In order to maintain the momentum to meet local demand, the new RPW Programme started in April 1999 with an initial annual expenditure of \$100 million. The HAD commenced the planning of new projects in early 1999 so as to ensure continuity and a smooth transition from the old RPIS Minor Works Programme to the new RPW Programme.

Audit observations on review of long outstanding RPIS minor works projects

6.2 As mentioned in paragraph 1.5 above, in late 1994, when the HAD took over from the TDD the responsibility of the RPIS Minor Works Programme, some 400 rural village improvement projects had been identified for the programme. When the 10-year RPIS Minor Works Programme ended in March 2000, a number of these RPIS minor works projects were still outstanding.

6.3 The Government's policy on the implementation of village projects was that:

- (a) RPIS minor works projects should not be pursued by the Government if there were insurmountable objections from the local villagers; and
- (b) the Government should only undertake RPIS minor works projects where no serious problems were anticipated in acquiring the land needed for the projects.

6.4 Audit found that as at 31 March 2001, there were still 58 projects (with estimated total cost of \$638 million) under planning (see para. 1.7 above). Out of these 58 outstanding projects, the planning work of 19 projects (33%) commenced before 1995. The main reason for the delay in implementing these long outstanding projects was that serious problems were encountered in acquiring the land needed for the projects. In this connection, Audit noted that the Lands Department could only use no more than 10% of its resources on land resumption work of the RPIS minor works projects. This had greatly hindered the progress of these projects.

6.5 As the RPIS Minor Works Programme has already ended, Audit considers that, in order to better serve the needs of the local community, the HAD should first complete the remaining items in the RPIS Minor Works Programme and then concentrate its efforts on the implementation of the new RPW Programme and other works programmes under its responsibility. **The HAD should carry out a review of those long outstanding projects to ascertain whether they can be implemented within a reasonable period of time and, if not, whether they should be removed from the RPIS Minor Works Programme.**

Audit recommendations on review of long outstanding RPIS minor works projects

6.6 **Audit has *recommended* that the Director of Home Affairs should:**

- (a) **promptly carry out a review of the RPIS minor works projects which have remained outstanding for an undue length of time in the HAD's works programme to ascertain whether they can be implemented within a reasonable period of time;**
- (b) **for those works projects which can be completed within a reasonable period of time, take prompt and effective action to complete them as soon as possible; and**
- (c) **for those works projects which are unlikely to be implemented in the near future, ascertain if it is still justified to keep them in the HAD's works programme. For those projects which are no longer justified, the Director should remove them from the programme.**

Response from the Administration

6.7 The Director of Home Affairs has said that:

- (a) the HAD always considers the scope and need of all the remaining RPIS minor works projects in the course of their developments. In fact, the HAD has deleted some ten projects in the planning and design stages in the last three years;

- (b) the 27 projects which are under construction will be completed by 2003. Out of the remaining 49 projects, the construction works of 18 projects will start within the next twelve months and will be completed by 2004. As most of these projects involve land resumption, it is necessary to resolve local objections. All concerned departments have exerted tremendous efforts to ensure early implementation of these projects; and

- (c) in January 2001, the HAD proposed to the WB to subsume 42 long outstanding RPIS minor works projects in the works programmes of the respective works departments so that the HAD could concentrate its staff and funding resources on the new RPW and Urban Minor Works projects. In October 2001, the relevant works departments agreed to include ten of the remaining projects under planning in their own works programmes. The transfer of the other remaining RPIS items to the works departments will be further reviewed around April 2002.

PART 7: OPINION SURVEY ON MANAGEMENT OF THE RPIS MINOR WORKS PROGRAMME

Main functions of an NT District Working Group

7.1 As mentioned in paragraph 1.4 above, the HAD set up nine NT District Working Groups for the RPIS Minor Works Programme. The main functions of an NT District Working Group were:

- (a) to consider and determine the priorities of projects proposed by the HAD;
- (b) to agree on the funding for approved projects;
- (c) to endorse progress reports and financial statements to be submitted to the Steering Committee; and
- (d) to consider and take follow-up actions on projects which were objected by the local community and could not be resolved through the District Offices and relevant works departments.

Opinion survey

7.2 Members of the NT District Working Groups had good knowledge about the RPIS Minor Works Programme. The membership of each District Working Group included government officials, NT District Council Members and Rural Committee representatives. The opinions of the NT District Council Members and the Rural Committee representatives reflect, to a certain extent, their assessment of the HAD's management of the RPIS Minor Works Programme and highlight areas which require improvement. With the assistance of the HAD, Audit conducted an opinion survey of all the NT District Council Members and Rural Committee representatives who were Members of the NT District Working Groups. Of the 57 questionnaires sent to these NT District Council Members and Rural Committee representatives, 45 responses (79%) were received.

Results of the opinion survey

7.3 Audit's analysis of the results of the opinion survey (at Appendix I) reveals that in general, the respondents were quite satisfied with the achievements of the RPIS Minor Works Programme:

On the RPIS Minor Works Programme

- (a) 42 respondents (93%) agreed that the RPIS projects in their districts/regions/villages satisfied the needs of the local villagers;
- (b) 42 respondents (93%) considered that the programme had achieved value for money;
- (c) 32 respondents (71%) were satisfied with the progress of the programme in their districts/regions/villages;
- (d) 27 respondents (60%) considered that the programme had favourable impacts on the environment of their villages;

On the management of the RPIS Minor Works Programme

- (e) 34 respondents (76%) were satisfied with the overall performance of the HAD in implementing the programme; and
- (f) 33 respondents (73%) considered that the HAD had properly and effectively monitored the progress of the programme.

7.4 As part of the opinion survey, the NT District Council Members and Rural Committee representatives were also asked to prioritise the types of projects they needed in their districts/regions/villages. According to the responses, the preferred types of projects in descending order of priority are as follows:

- (a) flood mitigation measures;
- (b) emergency vehicle accesses, footpaths and community facilities;
- (c) motor vehicle driveways;
- (d) sewerage pipes and treatment facilities;

- (e) village expansion areas; and
- (f) fresh water supply.

Audit observations on opinion survey on management of the RPIS Minor Works Programme

7.5 Audit noted that, in general, the NT District Council Members and Rural Committee representatives considered that the RPIS Minor Works Programme had satisfied the needs of the local villagers and had achieved value for money. However, some respondents had indicated some areas where further improvements could be made. These areas mainly concerned delays of some projects and the HAD's monitoring of the project works. Their comments are summarised in paragraphs 7.6 to 7.9 below. **Audit considers that these comments provide useful references for the HAD to review and plan its work in future rural minor works programmes.**

Delay of projects

7.6 22 respondents (49%) said that there were delays in completion of the projects under the RPIS Minor Works Programme. According to the respondents, the delays were caused mainly by:

- (a) prolonged time taken for land resumption; and
- (b) lack of communication among the government departments.

Funding of the RPIS Minor Works Programme

7.7 On the funding of the RPIS Minor Works Programme:

- (a) 34 respondents (76%) said that the annual expenditure on the programme for their districts/regions/villages was inadequate; and
- (b) 3 respondents (7%) said that the financial limit of \$15 million for each project was insufficient. This had caused:
 - (i) delay or suspension of some projects;

- (ii) hindrance to implementing some flood-mitigation measures;
- (iii) hindrance to implementing some projects requiring land resumption; and
- (iv) inferior quality of work.

Administration of project works

7.8 On the administration of project works under the RPIS Minor Works Programme, some respondents commented that the HAD should:

- (a) speed up the project works;
- (b) strengthen the communication among the relevant government departments;
- (c) conduct more frequent site inspections to monitor the progress of the projects; and
- (d) hold more regular meetings with the government officials and the village representatives to review the progress of the projects.

Employment of contractors

7.9 On the employment of contractors under the RPIS Minor Works Programme, some respondents commented that:

- (a) construction waste was not immediately cleared from the site after the completion of the construction works;
- (b) financial difficulties of contractors had caused suspension of some contracts;
- (c) the contractors should be held responsible for their faults; and
- (d) the financial position of the contractors should be regularly reviewed.

Audit recommendations on opinion survey on management of the RPIS Minor Works Programme

7.10 Audit has *recommended* that the Director of Home Affairs should critically consider the comments of the NT District Council Members and Rural Committee representatives (who were the NT District Working Group Members) on the HAD's management of the RPIS Minor Works Programme. In particular, the Director should:

- (a) make more efforts to ensure that works projects are properly carried out in accordance with the agreed works programme; and
- (b) closely monitor the performance of consultants and contractors to ensure that the requirements specified in the agreements or works contracts are properly implemented.

Response from the Administration

7.11 The Director of Home Affairs generally agrees with Audit's recommendations. The Director has also said that:

- (a) the outstanding projects only constituted a very small proportion of the RPIS minor works projects already implemented. Implementation of the outstanding projects was delayed usually due to difficulties in obtaining agreement from the local residents and resolving objections on land resumption; and
- (b) at present, monthly progress meetings are held with the consultants and contractors. The HAD will closely monitor their performance to ensure that they comply with the requirements of the works contracts. More frequent meetings with them will be held, as deemed necessary.

Appendix A
(para. 1.6(a) refers)

**Expenditure of the RPIS Minor Works Programme
from 1990-91 to 2000-01**

Period	Projects completed	Projects under construction as at 31 March	Expenditure
	(Number)	(Number)	(\$ million)
1990-91 to 1993-94	792	60	183
1994-95	124	27	71
1995-96	255	105	114
1996-97	396	111	237
1997-98	396	92	276
1998-99	485	86	294
1999-2000	446	59	253
2000-01	77	36	161
Total	<u>2,971</u>		<u>1,589</u>

Source: HAD's records

**Analysis of RPIS Minor Works Programme expenditure
up to 31 March 2001**

BY PROJECT CATEGORY

Category of project	Expenditure	Percentage
	(\$ million)	(%)
Roads and car parks	383	24%
Footpaths	324	20%
Drainage and sewers	296	19%
Water supply facilities	142	9%
River training	125	8%
Piers	82	5%
Village expansion areas	72	4%
Slope stabilisation	59	4%
Country trails	32	2%
Typhoon shelters and seawalls	8	1%
Others	66	4%
	1,589	100%
Total		

Source: HAD's records

**Analysis of RPIS Minor Works Programme expenditure
up to 31 March 2001**

BY RESPONSIBLE DEPARTMENT

Department	Expenditure
	(\$ million)
HAD	
NT District Offices	840
Outside consultants	166
Works Departments	
Drainage Services Department	198
Civil Engineering Department	128
Water Supplies Department	114
Highways Department	89
Architectural Services Department	42
Others	12
	<hr/>
Total	<u><u>1,589</u></u>

Source: HAD's records

Appendix D
(paras. 1.6(d)
and 1.9 refer)

**Projects implemented by NT District Offices
under the RPIS Minor Works Programme up to 31 March 2001**

	Projects completed	Project under construction	Total expenditure
	(Number)	(Number)	(\$ million)
RPIS minor works projects undertaken by:			
Yuen Long District Office	106	1	135
Islands District Office	65	–	78
Sai Kung District Office	58	–	75
North District Office	94	–	74
Tuen Mun District Office	63	–	69
Tai Po District Office	81	–	52
Tsuen Wan District Office	37	–	36
Sha Tin District Office	30	–	22
Kwai Tsing District Office	10	–	8
	<hr/>	<hr/>	<hr/>
Subtotal	544	1	549
Local Public Works (New Works) projects undertaken by NT District Offices (Note)	2,202	–	291
	<hr/>	<hr/>	<hr/>
Total	<u>2,746</u>	<u>1</u>	<u>840</u>

Source: HAD's records

Note: A breakdown of the expenditure for Local Public Works (New Works) projects undertaken by individual NT District Offices is not available.

**Financial criteria applicable to contractors
on the WB's List of Approved Contractors for Public Works**

Group (contract value/status)	Minimum employed capital (Note 1)	Minimum working capital (Note 2)
Group A (up to \$20 million)		
(a) Probationary	\$1,600,000	\$1,600,000 or 20% on annualised value of outstanding works, whichever is higher
(b) Confirmed	\$3,000,000	\$3,000,000 or 20% on annualised value of outstanding works, whichever is higher
Group B (up to \$50 million)		
(a) Probationary	\$3,700,000	\$3,700,000 or 10% on annualised value of outstanding works, whichever is higher
(b) Confirmed	\$7,600,000	\$7,600,000 or 10% on annualised value of outstanding works, whichever is higher
Group C (exceeding \$50 million)		
(a) Probationary	\$10,200,000	\$10,200,000 or 8% on annualised value of outstanding works, whichever is higher
(b) Confirmed	\$13,000,000 plus \$2 million for every \$100 million of annualised value of outstanding works or part thereof above \$800 million	\$13,000,000 or 8% on the first \$800 million of annualised value of outstanding works and 10% on remainder, whichever is higher

Source: WB's records

Note 1: Employed capital refers to the shareholders' funds. It basically comprises capital, reserves and retained profits of a company.

Note 2: Working capital refers to the net current asset position (i.e. current assets minus current liabilities) of a contractor. It serves as an indicator of the contractor's liquidity position.

Appendix F
(paras. 3.2 and 3.10 refer)

**Consultants appointed to undertake
consultancies for the RPIS Minor Rural Improvement Works**

Package	Responsible department	Consultant	Projects (Number)	Lump sum consultancy fee (\$ million)
1	HAD	A	18	} 34 } 59 } 5.8
2	HAD	A	16	
3	HAD	A	25	
4	Drainage Services Department	B	13	2.5
5	Highways Department	A	28	6.4
7 (Note)	Civil Engineering Department	C	8	3.0
Total			<u><u>108</u></u>	<u><u>22.5</u></u>

Source: HAD's records

Note: Package 6 was undertaken by the HAD's in-house resources.

**Appraisal of Consultant A's performance
for Packages 1, 2, 3 and 5 during the period July 1995 to December 2001**

Period	Overall grading		
	Packages 1 and 2	Package 3	Package 5
July to December 1995	Moderate	—	—
January to June 1996	Moderate	—	—
July to December 1996	Moderate	Good	—
January to June 1997	Unsatisfactory	Moderate	Moderate
July to December 1997	Moderate	Moderate	Moderate
January to June 1998	Moderate	Unsatisfactory	Moderate
July to September 1998	—	Unsatisfactory	—
July to December 1998	Moderate	—	Moderate
October to December 1998	—	Moderate	—
January to June 1999	Moderate	Moderate	Moderate
July to December 1999	Moderate	Unsatisfactory	Moderate
January to March 2000	—	Unsatisfactory	—
January to June 2000	Moderate	Moderate	Moderate
July to December 2000	Moderate	Moderate	Moderate
January to March 2001	Unsatisfactory	Unsatisfactory	—
January to June 2001	—	—	Unsatisfactory
April to June 2001	Moderate	Moderate	—
July to September 2001	—	—	Unsatisfactory
July to December 2001	Moderate	Moderate	—
October to December 2001	—	—	Moderate

Source: HAD's records

Appendix H
(para. 3.21 refers)

**Status of projects under
the supervision of Consultant A as at 31 December 2001**

Package	Period of consultancy	Number of projects completed	Number of projects still in progress	Number of projects under planning	Number of projects deleted	Total number of projects
1	28.7.1995 — 27.7.1998	14	1	-	3	18
2	28.7.1995 — 27.7.1998	10	-	-	6	16
3	29.7.1996 — 28.7.2000	15	8	1	1	25
5	11.4.1997 — 29.2.2000	3	2	23	-	28
	Overall	<u>42 (48%)</u>	<u>11 (13%)</u>	<u>24 (28%)</u>	<u>10 (11%)</u>	<u>87 (100%)</u>

Source: HAD's records

**Results of opinion survey on
management of the RPIS Minor Works Programme**

Question	Number of responses (Percentage)				
	Very satisfied	Satisfied	Not really/ fully satisfied	Not satisfied	No comment
(a) Do you agree that the RPIS minor works projects implemented in your district/region/village have satisfied the needs of the residents?	18 (40%)	24 (53%)	3 (7%)	0 (0%)	0 (0%)
(b) Are you satisfied with the overall performance of the HAD and the relevant works departments in implementing the RPIS minor works projects in your district/region/village?	8 (18%)	26 (58%)	8 (18%)	2 (4%)	1 (2%)
(c) Are you satisfied with the progress of the RPIS minor works projects in your district/region/village?	5 (11%)	27 (60%)	10 (23%)	2 (4%)	1 (2%)
	Adequate		Inadequate	No comment	
(d) Do you think that the annual expenditure on RPIS minor works projects in your district/region/village is adequate?	10 (22%)		34 (76%)	1 (2%)	

Number of responses (Percentage)

Question	Yes	No	No comment
(e) Do you consider that the RPIS minor works projects implemented in your district/region/village have achieved value for money?	42 (93%)	0 (0%)	3 (7%)
(f) Do you agree that the HAD has properly and effectively monitored the progress of the RPIS minor works projects?	33 (73%)	8 (18%)	4 (9%)
(g) Are there any delays in the completion of the RPIS minor works projects in your district/region/village?	22 (49%)	16 (35%)	7 (16%)
(h) Do you think that there were delays which were avoidable?	16 (36%)	11 (24%)	18 (40%)
(i) Have the contractors timely and properly disposed of the construction waste during or after the construction works?	21 (47%)	6 (13%)	18 (40%)
(j) Are you aware of any suspended or uncompleted works (including those which are planned but have not yet commenced on the sites)?	4 (9%)	24 (53%)	17 (38%)

Remark: Audit sent out 57 questionnaires to the NT District Council Members and Rural Committee representatives who were the District Working Group Members and received 45 responses from them.

Acronyms and abbreviations

CED	Civil Engineering Department
CNTA	City and New Territories Administration
EACSB	Engineering and Associated Consultants Selection Board
EPD	Environmental Protection Department
GCC	General Conditions of Contract
HAD	Home Affairs Department
HyD	Highways Department
LPW	Local Public Works
NT	New Territories
PAC	Public Accounts Committee
PWTB	Public Works Tender Board
RPIS	Rural Planning and Improvement Strategy
RPW	Rural Public Works
SPR	Stores and Procurement Regulation
TDD	Territory Development Department
WB	Works Bureau