THE REPUBLIC OF UGANDA

# OFFICE OF THE AUDITOR GENERAL

# ANNUAL REPORT OF THE AUDITOR GENERAL FOR THE YEAR ENDED 30TH JUNE 2010

# VOLUME 5

# VALUE FOR MONEY AUDIT

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## LIST OF ABBREVIATIONS

| | |
|---|---|
| ACAO | Assistant Chief Administrative Officer |
| ADB | African Development Bank |
| ADF | African Development Fund |
| ADR | Adverse Drug Reaction |
| $ADR_1$ | Alternative Dispute Resolution |
| AFO | Assistant Forestry Officer |
| ALC | Area Land Committee |
| AO | Accounting Officer |
| ARV | Antiretroviral Drugs |
| ASTU | Anti Stock Theft Unit |
| AWP&B | Annual Work Plan and Budget |
| BEB | Best Evaluated Bidder |
| BFP | Budget Framework Paper |
| BFP | Budget Framework Paper |
| BMRs | Batch Manufacturing Records |
| bn | Billion |
| BoQ | Bills of Quantities |
| CADER | Centre for Arbitration and Dispute Resolution |
| CAO | Chief Administrative Officer |
| CAP | Chapter |
| CC | Contracts Committee |
| CCAS | Court Case Administration System |
| CCIS | Court Case Information System |
| CEO | Chief Executive Officer |
| CFR | Central Forest Reserve |
| cGMP | current Good Manufacturing Practice |
| CM | Chief Magistrate |
| CNF | Committee for National Formulary |
| CRTS | Court Recording and Transcription System |
| DADI | District Assistant Drug Inspector |
| DAO | District Agricultural Officer |
| DCC | District Coordination Committees |
| DE | District Entomologist |
| DEC | District Executive Committee |

| | |
|---|---|
| DEO | District Education Officer |
| DFO | District Forestry Officers |
| DFS | District Forest Service |
| DIS | District Inspector of Schools |
| DLB | District Land Board |
| DLT | District Land Tribunal |
| DP | Direct Procurement |
| DPP | Directorate of Public Prosecutions |
| DPs | Development Partners |
| DSC | District Service Commission |
| DTST | District Technical Support Team |
| EC | Evaluation Committee |
| ED | Executive Director |
| EDs | Education Districts |
| EFAG | Education Funding Agencies Group |
| EFT | Electronic Filing System |
| EIA | Environmental Impact Assessment |
| EMIS | Education Management Information System |
| ERA | Electricity Regulatory Authority |
| ERT | Energy for Rural Transmission |
| ESA | Education Standards Agency |
| ESC | Education Service Commission |
| ESCC | Education Sector Consultative Committee |
| ESIP | Education Strategic Investment Plan |
| ESSP | Education Sector Strategic Plan |
| ESWG | Education Sector Working Group |
| EU | European Union |
| FCC | Family and Children Court |
| FG | Forest Guard |
| FIEFOC | Farm Income Enhancement and Forest Conservation |
| FMPs | Forest Management Plans |
| FR | Forest Ranger |
| FY | Financial Year |
| GAL | Government Analytical Laboratory |
| GEF | Global Environment Facility |
| GIREPs | Government-Initiated Electrification projects |

| | |
|---|---|
| GIS | Geographical Information System |
| GLP | Good Laboratory Practice |
| GMP | Good Manufacturing Practice |
| GNI | Gross National Income |
| GoU | Government of Uganda |
| Ha | Hectare |
| HPLC | High Performance Liquid Chromatography |
| HR | Human Resource |
| HSSP | Health Sector Support Programme |
| ICT | Information and Communication Technology |
| IDA | International Development Agency |
| IEA | International Energy Agency |
| IMF | International Monetary Fund |
| INN | International Non-proprietary Names |
| INTOSAI | International Organisation Of Supreme Audit Institutions |
| IPF | Indicative Planning Figure |
| IREMP | Indicative Rural Electrification Master Plan |
| IS | Instruction to Survey |
| ISO | International Standards Organisation |
| IT | Information Technology |
| JICA | Japan International Cooperation Agency |
| JLOS | Justice, Law and Order Sector |
| JRJ | Job Record Jacket |
| JSC | Judicial Service Commission |
| Kms | Kilometers |
| LC | Local Council |
| LCs | Local Councils |
| LDC | Law Development Centre |
| LFR | Local Forest Reserve |
| LG | Local Government |
| LG’s | Local Governments |
| LGA | Local Government Act |
| LGC | Local Government Council |
| LGFAR | Local Government Financial and Accounting Regulations |
| LGPPDAR | Local Government Public Procurement and Disposal Asset Regulations |

| | |
|---|---|
| LLG | Lower Local Government |
| LLINs | Long Lasting Insecticidal Nets |
| LOU | Letter of Understanding |
| LSRCU | Land Sector Reform Coordination Unit |
| M&E | Monitoring and Evaluation |
| MAAIF | Ministry of Agriculture Animal Industry and Fisheries |
| MDGs | Millennium Development Goals |
| MEMD | Ministry of Energy and Mineral Development |
| MIS | Management Information System |
| MOES | Ministry of Education and Sports |
| MoFPED | Ministry of Finance Planning and Economic Development |
| MoGLSD | Ministry of Gender, Labour and Social Development |
| MoIA | Ministry of Internal Affairs |
| MoJCA | Ministry of Justice and Constitutional Affairs |
| MoLG | Ministry of Local Government |
| MoLHUD | Ministry of Lands, Housing and Urban Development |
| MOPS | Ministry of Public Service |
| MoWT | Ministry of Works and Transport |
| MQS | Minimum Quality Standards |
| MSI | Medium Scale Irrigation |
| Mt | Metric tons |
| MTTI | Ministry of Tourism Trade and Industry |
| MV | Medium Voltage |
| MWE | Ministry of Water and Environment |
| NAADS | National Agricultural Advisory Services |
| NARO | National Agricultural Research Organisation |
| NDA | National Drug Authority |
| NDF | Nordic Development Fund |
| NDPA | National Drug Policy and Authority Act |
| NDQCL | National Drug Quality Control Laboratory |
| NEMA | National Environment Management Authority |
| NFA | National Forestry Authority |
| NFTPA | National Forestry and Tree Planting Act, 2003 |
| NGO's | Non Governmental Organisations |
| NORAD | Norwegian Agency for Development |
| NPC | National Pharmacovigilance Centre |

| | |
|---|---|
| $NPC_1$ | National Project Coordinator |
| NPCU | National Project Coordination Unit |
| NUSAF | Northern Uganda Social Action Fund |
| OAG | Office of the Auditor-General |
| OIS | Operation Information System |
| OPD | Out Patient Department |
| OPM | Office of the Prime Minister |
| PAS | Professional Auxiliary Staff |
| PDE | Procurement and Disposal Entities |
| PDRP | Peace, Development and Re-construction Programme |
| PDU | Procurement and Disposal Unit |
| PEAP | Poverty Eradication Action Plan |
| PIUs | Project Implementation Units |
| PMA | Plan for Modernisation of Agriculture |
| PPDA ACT | Public Procurement and Disposal of Assets Act |
| PPDA Reg | Public Procurement and Disposal of Asset Regulations |
| PPDA | Public Procurement and Disposal of Public Assets Authority |
| PS | Permanent Secretary |
| PS/ST | Permanent Secretary and Secretary to the Treasury |
| PSC | Project Steering Committee |
| PSFU | Private Sector Foundation – Uganda |
| PSs | Permanent Secretaries |
| PV | Photovoltaic |
| PWDs | People With Disabilities |
| PY | Project Year |
| RDC | Resident District Commissioner |
| RE | Rural Electrification |
| REA | Rural Electrification Agency |
| REB | Rural Electrification Board |
| REF | Rural Electrification Fund |
| REP | Rural Electrification Programme |
| RESP | Rural Electrification Strategy and Plan |
| RGC | Rural Growth Centre |
| RID | Regional Inspector of Drugs |
| RPC | Regional Pharmacovigilance Centre |
| RSA | Resident State Attorney |

| | |
|---|---|
| RTA | Registration of Titles Act |
| SBD | Standard Bidding Document |
| SFM | Soil Fertility Management |
| SG | Solicitor General |
| SI | Statutory Instrument |
| SIAMED | Model System for Computer-assisted Drug Registration |
| SIDA | Swedish Development Agency |
| SMC | School Management Committee |
| SMS | Short Message Service |
| SORs | Specifications of Requirements |
| SSI | Small Scale Irrigation |
| SPT | Stright Through Process |
| STST | Sub-County Technical Support Team |
| SWAP | Sector Wide Approach |
| TAT | Tax Appeals Tribunal |
| TC | Technical Committee |
| ToR | Terms of Reference |
| TPC | Technical Planning Committee |
| UA | Unit of Account |
| UBA | Uganda Bankers Association |
| UD | User Department |
| Ug Shs | Uganda Shillings |
| ULC | Uganda Land Commission |
| ULG | Upper Local Government |
| ULRC | Uganda Law Reform Commission |
| UNRA | Uganda National Roads Authority |
| UPF | Uganda Police Force |
| UPS | Uganda Prisons Services |
| URA | Uganda Revenue Authority |
| URSB | Uganda Registrations Services Bureau |
| US$ | United States Dollars |
| USAID | United States Agency for International Development |
| USP | United States Pharmacopeia |
| UWA | Uganda Wildlife Authority |
| VAT | Value Added Tax |
| VFM | Value for Money |

| | |
|---|---|
| WC | Water Closet |
| WENRECO | West Nile Rural Electrification Company Ltd |
| WHO | World Health Organisation |

# 1 OVERVIEW

This Volume contains summarized reports of 10 Value for Money (VFM) audits detailing findings, conclusions and recommendations made for each of the VFM studies. The detailed reports have been separately issued and copies are on the website (www.oag.go.ug) and can also be availed upon request from the Office of the Auditor General.

## 1.1 MANDATE

The 1995 Constitution of the Republic of Uganda and the National Audit Act, 2008 require the Auditor General to undertake Financial and Value for Money Audits and report to Parliament as set out below:

The Constitutional provisions are as follows: -

1.1.1 Article 163 (3) of the Constitution requires the Auditor General to:

(a) Audit and report on the public accounts of Uganda and of all public offices including the courts, the central and local government administrations, universities and public institutions of like nature, and any public corporation or other bodies or organizations established by an Act of Parliament; and

(b) Conduct Financial and Value for Money audits in respect of any project involving public funds.

1.1.2 Under Article 163 (4) the Auditor General is required to submit to Parliament annually a report of the accounts audited by him or her or under clause (3) of this article.

### 1.1.3 The National Audit Act, 2008 (NAA)

The NAA under section 21 gives powers to the Auditor General to carry out Value for Money audits for purposes of establishing economy, efficiency and effectiveness of the operations of any department or Ministry, Local Government Councils and any Public organization.

## 1.2 VISION, MISSION AND CORE VALUES:

### 1.2.1 Vision

The vision of the office of the Auditor General is **"To be an Effective and Efficient Supreme Audit Institution (SAI) in promoting public Accountability in the use of Resources in the enhancement of good governance".**

### 1.2.2 Mission

The mission of the office of the Auditor General is **"To audit and report to the Public and there be make an effective contribution in improving public accountability".**

### 1.2.3 Core Values

The office of the Auditor General is run on three (3) specific core values which motivate and guide staff in their endeavours to achieve the vision and mission of the office. These core values are:-

- Integrity
- Objectivity and
- Professional Competence

## 1.3 SCOPE OF AUDITOR GENERAL'S WORK IN RELATION TO VFM AUDITS

### 1.3.1 The Audit

A VFM audit is an examination which provides an objective and constructive assessment of the extent to which the audited body has used its resources in carrying out its responsibilities with due regard to economy, efficiency and effectiveness. VFM audits endeavour to evaluate if activities, programmes or projects involving public funds in Ministries, departments, local government councils and any public organizations have been managed with respect to those criteria of economy, efficiency and effectiveness and the extent to which they might have not been met. Economy, efficiency and effectiveness can be defined as follows:-

- **Economy –** Minimizing the cost of resources used for an activity, having regard to appropriate quality.

- **Efficiency –** The relationship between the outputs, in terms of goods, services and results, and the resources used to produce them.
- **Effectiveness –** The extent to which objectives are achieved and the relationship between the intended impact and the actual impact of an activity.

Value for Money audits are conducted in accordance with International Organization of Supreme Audit Institutions (INTOSAI) standards. Those standards require that a performance audit should be planned, conducted and reported on in a manner, which ensures that an audit of high quality is carried out in an economic, efficient and effective way and in a timely manner.

In carrying out such an audit, the auditor takes an in-depth look at the way a particular Ministry, Project or Public Institution has planned the task undertaken and whether good management practices and sound judgment were applied.

A VFM audit attempts to determine if the initial objectives set at the beginning of an undertaking were achieved. As a consequence of that, it is deduced as to whether due regard for efficiency, effectiveness and economy is present and recommendations for improvement are made in those areas where it is felt that deficiencies have occurred.

## 1.4 KEY ISSUES IN THIS VOLUME

### 1.4.1 Regulation of Medicines in Uganda by National Drug Authority (NDA)

The main findings of the study were:

(a) Legal Mandate:

- NDA has not gazetted guidelines into statutory instruments as required by law. This impairs the ability of the authority to execute its mandate.

(b) Licensing Drug Outlets:

- NDA was unable to issue licences to all drug outlets by 31st January of each year as required by the law. This encourages illegal operators of drug outlets and poses a risk of exposing the people to sub-standard drugs on the market.

- NDA has not publicised licensed drug outlets. This limits access to vital information by the public as to the legal drug outlets from where consumers would confidently buy medicine with ease.
- NDA did not close unlicensed drug outlets after 31st January each year as required by the Act. This encourages the prevalence of illegal operators, and impairs NDA's objective of ensuring that quality, safe and efficacious medicines are availed to the public.

(c) Assessment/Evaluation, Registration and Updating the National Drug Register:

- NDA delays the evaluation of dossiers. This may in turn reduce competition and result in increased prices and reduce the variety of essential medicines on the market.
- NDA was not updating the National Drug Register on a monthly basis which may result into entry of unregistered /unauthorized drugs in the country.

(d) Drug Testing and Analysis:

- NDA does not release all the test results in 2 weeks from the time samples are submitted. This may impair timely decision-making and lead to dissatisfaction by clients.
- NDA did not test traditional/herbal medicines for the period under review. This may expose the public to sub-standard traditional/herbal medicines.

(e) Drug Inspection:

- All drug consignments entering the country were not inspected within a day as required which may impair the image of NDA, compromise objectivity and delay critically needed drugs which may put the lives of people at risk.

(f) Dissemination of drug information:

- NDA had not completed statutory instruments for regulating the advertisement of pharmaceutical products. The public is exposed to the risk of getting misleading information about the drugs on the market.

- NDA has not been vigilant in sensitizing the public on the rational use of drugs. Failure to provide vital information on drug use exposes the public to harmful effects of drug and substance abuse.

(g) Monitoring and Control:

- Apart from conventional western medicines, NDA does not approve all drug adverts and promotional materials. This has the potential of exposing the public to misleading information on drugs as evidenced by illegal adverts in the print and electronic media and the hawking of drugs.

- Adverse Drug Reaction (ADR) forms were not collected from health centres on a monthly basis, implying that cases of adverse drug reactions cannot be reported and followed up in time. This impairs timely reporting of ADR cases and affects proper management and timely corrective measures, thus risking the lives of the people.
- NDA was does not making timely feedback on ADR to international agencies, which in turn limits the information on the VigiFlow to enable proper decision making on drugs which impairs NDA's role of proper identification of the signals necessary for evidenced based regulatory decisions.

### 1.4.2 Procurement System in Local Governments-A Case Study Of Seven Districts

The main findings of the study were:-

(a) Procurement Planning

- Of the 109 sampled procurements in the 7 districts visited, 49% of all the procurements amounting to Ug Shs.5,563,674,878 were done without carrying out needs assessments. As a result the projects did not serve the intended purpose.
- Twenty four (24%) of the sampled procurements amounting to Ug Shs.2,750,194,317 were made outside the procurement plans which led to users missing on the benefits expected from prioritized procurements.

(b) Procurement requisition- Confirmation of Funds

- Over 28.6% amounting to Shs.3,254,945,111 of the sampled procurements were entered into without confirmation of funds and this led to uncompleted projects.

(c) Bidding Procedures

- Procurement and Disposal Entities (PDEs) were evaluating limited numbers of bidders averaging one (1) per subject of procurement, which limited competition.
- Not all procurement records were maintained by the PDUs to enable inspection by competent authorities; providing a possibility for manipulation of the process.
- Ninety five percent (95%) of the districts clearly had spelt out Specifications of Requirements (SORs) in their bidding documents but these were not reflected in the quality of procured goods, works and services.
- Apac and Moroto districts made direct procurements amounting to Ug Shs. 350,365,757 using the direct procurement method in disregard of exceptional circumstances. As a result some of the projects stalled because lack of capacity by contractors who were not competitively selected.

(d) Contract award; Approvals by Solicitor General

- All sampled districts sought the Solicitor General's approval for contracts above the threshold of Shs.50,000,000 with the exception of Mukono contracts amounting to Shs.2,483,244,097. This exposes the district to the risk of unfavorable terms or possible litigation.

(e) Contract Management

- Not all the 109 sampled Procurement contracts worth Ug Shs.11.4 billion were being monitored by the Procurement and Disposal Units (PDUs). This may have compromised the quality of the works and services that was executed.
- Constituting district contracts committees was delayed for periods ranging from six to twenty four months. As a result contracts were not awarded in time, funds remained idle affecting delivery of services.

### 1.4.3 <u>Functionality of Land Management Institutions in Uganda</u>

The main findings of the study were:-

(a) <u>Constitution Of District Land Boards and Area Land Committees</u>

- It was noted that DLBs had been constituted with the exception of Mukono and Moroto districts. However, there were delays ranging between 8-18 months to constitute new Boards after the expiry of the old Boards due to failure by districts to adhere to appointing guidelines. This led to delays in the processing of land transactions and clearance of backlogs.
- It was also observed that although ALCs had been constituted, the members were not given formal appointment letters by District Councils because of fear to commit the district meagre resources. This affected their morale to work leaving members vulnerable to being compromised by the clients; and the decisions the Committee members made without appointment letters may be challenged in the Courts of law.

(b) <u>Budgeting And Funding</u>

- It was noted that not all the budgeted funds were released by the Ministry of Finance, Planning and Economic Development (MOFPED) to the Ministry and ULC.
- The Ministry, ULC and DLO's on average received only 79.5%, 87% and 80% respectively of their budgeted amount which affected the implementation of their annual planned activities.
- It was also noted that DLBs were not preparing annual and quarterly work plans as required by the existing guidelines. Without work plans, DLBs lacked a guiding tool to effectively implement their activities.
- It was further established that District Councils (DCs) did not determine the remunerations to be paid to the members of ALCs, and neither did Sub Counties/Divisions indicate preparedness to assist in the funding of the Committee activities. The absence of facilitation left members vulnerable to compromise by the clients.

(c) Staffing

- It was noted that the DLM had not filled all the positions in the approved structure and this had created work related pressure on the existing staff and delays the processing of land transactions.
- The Commission did not have an approved structure from the MOPS and this has delayed the appointment of requisite staff like Rating Officers, Valuers and Land Officers; which has negatively impacted on the operations of the Commission.
- Audit noted that 87% of the DLOs in the twenty three (23) districts visited had more than one position of technical officers vacant. The districts were therefore seeking services of staff from other neighbouring districts, which slowed down the processing of land transactions leading to delays.

(d) Administrative Functions

- It was noted that although several drafts of the NLP had been prepared, there was no final NLP. Without a NLP in place, management of land by various land management institutions and the processing of land transactions remains unguided and uncoordinated, leading to the challenges currently affecting the land sector.
- Not all the planned 2462 ALC and DLB members were inducted. Similarly, not all the planned 2,232 ALC and DLB members were trained. Members who are not inducted and trained are prone to making mistakes while executing their work.
- It was noted that 65,400 copies of sensitization booklets were not printed. Records availed for verification to show how the printed 14,600 copies of the booklets were distributed to the Public did not indicate the quantity of materials distributed. Therefore, the public remained un-sensitized about land matters.
- Fifty three (53) visits out of the planned 110 monitoring visits were not conducted. Without monitoring, the Ministry could not get sufficient information about what was happening in the lower land management institutions.

- Although Section 41 (1 & 2) of the Land Act CAP 227 requires the establishment of the Land Fund to be managed by ULC, the Fund has never been established; and this has affected the execution of the Commission's obligations as specified by the Land Act.
- It was noted that the Commission was not regularly updating the Government Land Register; and as such, the Commission could not give a clear account/position of Government land.
- There was no evidence availed to show that the Commission carried out the planned land inventory exercises. Without land inventory exercises, the Commission cannot regularly update the Government Land Register.
- It was noted that the Commission was not processing the Government Land Titles as planned; yet Government cannot legally claim ownership of its land without titles. This may lead to loss of Government land to unscrupulous persons.
- It was noted that the Commission was not paying property rates to qualifying Urban Councils on schedule, leading to the accumulation of domestic arrears. Non-payment of property rates by ULC could lead to litigation.
- Audit noted a progressive improvement in the collection of NTR by the Commission; which could further be improved upon if the Commission streamlined the billing system.

(e) **<u>Acquisition Of Land Titles And Conversion Of Land Tenure Systems</u>**

- It was noted that no certificates of customary ownership had ever been issued or acquired by the customary land owners. Failure to acquire customary certificates affects the identification of bonafide owners which may increase incidences of land ownership wrangles.
- Audit also noted that there are delays in the process of land titling and conversion from one tenure system to the other. The delays have created public dissatisfaction, which has encouraged applicants to resort to use of middlemen who ask for exorbitant payments and sometimes end up cheating them.

### 1.4.4 **Management of the Farm Income Enhancement and Forest Conservation Project by Ministry Of Water and Environment, and The Ministry Of Agriculture, Animal Industry and Fisheries**

The main findings of the study were:-

(a) Project feasibility Study and Design

- Feasibility study reports were not prepared. Feasibility studies could have identified critical success factors, risks and possible solutions. Risks like land ownership, high land preparation and maintenance costs were not identified and therefore no mitigation measures were put in place. This has led to the majority of the rural poor not participating in tree planting.

(b) Targeted Beneficiaries

- The rural poor were participating and benefiting from apiculture whereas in tree planting and community watershed management sub-components, it was mostly the well to do who were participating in the project. This may render the project unable to fully achieve its objective of improving the incomes and livelihood of the rural poor.

(c) Planning

- Although districts prepared Annual Work plans and Budgets (AWP&Bs) in line with the indicative planning figures, there was an average delay in their preparation by two and a half (2½) months. This affects the timely implementation of activities.
- The AWP&Bs were not prepared by Sub-counties themselves, but by the districts on their behalf. The minimal involvement of the sub-county technical committee in the planning process of the project affects proper identification of sub county priority needs.
- The Project Implementation Units (PIUs) and National Project Coordination Unit (NPCU) consolidated the AWP&Bs but the dates of their submission could not be ascertained.

(d) Project Grant and Loan Performance

- The project had received loans and grants totalling Ug Shs. 57 billion (UA 20,439,560) out of the expected Ug Shs. 111 billion, representing 51%

performance by Project Year (PY) 4. The rate of grant and loan performance of the project if not addressed may lead to poor overall project performance and the targeted results not being attained by 31st December 2012.

(e) Counterpart Funding

- By June 2010, GoU had remitted only Ug Shs. 2.8 billion of the expected disbursement of Ug Shs. 12 billion by PY4 representing 24% performance level. This remittance however does not include salaries to designated officers. Failure by GoU to remit counterpart funds as expected created a funding gap leading to over reliance on donor funds to finance project activities.
- Beneficiaries of treadle pumps did not contribute any money towards the procurement and therefore did not benefit from Small Scale Irrigation.

(f) Release and Utilization of Funds

- Funds were not released to the project as per approved AWPBs due to the delayed accountability and low funds absorption rates by the project.
- Despite the low levels of release of funds, even what was availed was not fully utilized by the year end and may affect the attainment of intended project objectives.

(g) Disbursements to Districts

- Disbursements to districts were not made quarterly as stipulated in the financial procedures manual but were made once in most cases and twice in others. This has led to some districts failing to implement planned activities on schedule.

(h) Procurement of Agro Inputs

- Procurement of agro inputs was centrally undertaken at the PIUs and NPCU, contrary to the requirement to make use of local suppliers in respective districts. This led to districts being supplied with stressed seedlings from distant areas and which are sometimes supplied in non-planting seasons thus affecting survival rate.

- The project had established 35 sub-county nurseries out of 396 (9%) and 6 community nurseries out of 100 (6%). These nurseries were later discontinued which deprived the participating farmers of income and skills.
- The cost of seedlings from centralized purchases was noted to be on a higher side compared to the cost of seedlings from NFA and other local suppliers.

(i) Staffing

- Not all the positions in NPCU and PIU staff structures had been filled.
- The unfilled positions were mostly at the districts and sub-counties. The staffing gaps have affected the delivery of technical services such as giving advice on seedling spacing, weeding and timing of planting.

(j) Participation of Women in the Project

- Women participation in community watershed management and tree planting was 20% in each of the sub-components as opposed to the expected 50% and 30% respectively. This has affected their representation and involvement in decision making.

(k) Project deliverables

- There were low levels of performance in all project outputs, except in the re-vegetation of degraded watersheds where good performance was attributed to involvement of the well-to-do farmers. The low levels of implementation of project activities may hinder attainment of the overall project objective of improving the incomes and livelihoods of the rural poor.

(l) Restructured Agricultural Enterprise Development Component

- Three sub-components in Agricultural Enterprise Development Component were re-structured in preference to rehabilitation of four (4) medium scale irrigation schemes of Doho, Olweny, Mobuku and Agoro. Ug Shs. 44 billion (UA 15,926,260) was set aside for this purpose.
- Government had spent and committed funds worth Ug Shs 5.9 billion (UA 2,134,800) on the three sub-components by the time of restructuring.

(m) Project Branding

- FIEFOC project sites in all the twelve districts visited lacked identification signposts. This made it difficult to confirm whether the sites visited during audit were for FIEFOC project and the possibility that we visited non FIEFOC sites cannot be ruled out.

(n) Monitoring and Evaluation

- The NPCU, MWE PIU and the districts carried out M&E monitoring activities and produced reports. However no monitoring by MAAIF was done.
- There was no evidence of feedback by the NPCU and the MWE PIU to the districts and no follow up of recommendations at all levels and therefore there was no timely corrective measures taken on the deviations from project objectives, plans and outcomes.

### 1.4.5 Disposing of cases in the Judiciary

The main findings of the study were:-

(a) Timely Dispensation of Justice

- The judiciary is experiencing delays in completing cases within the stipulated time, leading to case backlogs in courts. The delays have been attributed to the following challenges in the Judiciary.

(b) Court Procedures

- Courts are experiencing delays in delivering summons to defendants and in some instances summons are not delivered at all. There is lack of clarity as to who meets the costs of delivering summons which in turn leads to delays in court proceedings.
- Written Statement of Defence are not filed in a timely manner and at times not filed at all, causing delays in hearing cases and resulting in ex-parte judgments.
- Scheduling Conferences are not held by some courts as required, save for the Commercial Court Division and other Circuits of the High Court. Failure to hold scheduling conferences impedes speedy trials where there are no lawyers.

- Mediation is not conducted in all courts apart from the Commercial Court Division of the High Court. The time taken to hold mediation in certain instances exceeds the mandatory 30 days and some cases fail the mediation process. Limited application of mediation by the courts denies parties an opportunity of reaching an amicable settlement.
- There are frequent adjournments made in court, the adjournments are recorded but not all the reasons for the adjournments are recorded on case files. Frequent adjournments lead to waste of court resources, frustration and increased costs of litigants. This ultimately results in delay in completion of cases in courts.
- After hearing of cases was completed, judgments were not delivered within the stipulated 60 days, which may lead to delayed justice and, subsequently, case backlog in courts.

(c) <u>Information and Communications Technology (ICT) Infrastructure</u>

- The Judiciary has not been able to acquire Court Recording and Transcription Systems for use in all Courts. Court recording equipments were being used only at the Commercial Court Division of the High Court. It was noted that manual recording systems are widely used, resulting in delays in hearing and disposing of cases.
- The Judiciary has not rolled out CCAS to all magisterial areas thus limiting the easy management of case files. The manual filing system which is widely used in courts is characterised by challenges in filing, storage and retrieval of case files, which leads to misplacement/loss of files of adjournments; thereby denying litigants timely justice.

(d) <u>Staffing</u>

- The Judiciary does not have enough staff to execute its mandate. The audit noted that the staff growth rate was decreasing in the years under review, while the number of cases filed was increasing. This may lead to compromise of service delivery and subsequently case backlogs.
- The Judiciary has not been able to have formal arrangements of training staff and sensitising the public on the use of $ADR_1$, this limits awareness of

ADR[1] and encourages the use of adversarial procedures, and consequently increases case backlog.

(e) Monitoring and Evaluation of Performance

- It was noted during the audit, that traditional Civil Servants and other Judicial Officers are appraised through the public service appraisal system, but there is no system in place to appraise Judges, making it difficult to assess their performance and make them accountable in view of the ever-increasing case backlog and public complaints.
- The inspectorate department does not have adequate staff to execute its responsibilities, making it difficult for the department to make timely response to complaints, to enhance ethics and integrity in the judiciary.
- It was noted that joint meetings are held under the District Coordinating Committee (DCC)/chain-linked initiative to improve working relations; however, they are not conducted monthly as required. Follow-up of jointly agreed upon strategies by the various agencies /stakeholders becomes difficult.

### 1.4.6 Management of Road Maintenance of National Roads by the Uganda National Road Authority(UNRA)

The main findings of the study were:-

(a) UNRA Strategic Plan for Road Maintenance

- UNRA does not have a documented strategic plan covering periodic maintenance activities. Some roads whose life span would have been prolonged through periodic maintenance are left to deteriorate to levels that will require major rehabilitation to make them motorable.

(b) Establishing the cause of Road Failures

- All the five stations visited out of the twenty two UNRA stations country-wide do not have reports on the causes of distress on all the sampled roads covering 2,300 kms. Carrying out maintenance works without ascertaining causes of distress results into repeated works on the same spot every other time which leads to waste of human resources, time and financial resources.

(c) **Grass Cutting on the Carriageway and Shoulders**

- All the 2,300 km roads inspected during the study revealed, at various locations, that grass had grown beyond the tolerable height. The tall grass diverts storm water onto the carriage way, destroying the shoulders and narrowing the roads.

(d) Maintenance of Edge of mat (Road edges)

- A number of roads out of the 2,300km inspected during audit have edge of mat failure. The edge of mat failure is hazardous to users and if not attended to, leads to more extensive deterioration of the remainder of the carriageway as the edge support becomes eroded.

(e) Maintenance of Culvert and Culvert Bridge Cleaning

- Not all culverts on the 35 roads inspected are adequately maintained to serve the intended purpose. Failure to maintain the culverts leads to blockage resulting in stream water washing away the roads. This shortens the lifespan of the roads, destroys investment on the infrastructure and denies the road users the social and economic benefits of improved road access.

(f) Maintenance of Running width and Shoulder Drainage

- Several sections of the gravel roads inspected do not have smooth running width. The road sections have deep rutting and gullies running along the drive way and narrowing of the running width. This causes water to collect on the road surface during the rainy season, and leads to rutting, depressions and pot-holes which delay traffic movement and increase vehicle maintenance costs.

(e) Bridge maintenance

- Of the 217 bridges countrywide, UNRA did not have information on the status of 109 (i.e.50%) bridges, 58 bridges (i.e. 27%) are regularly maintained while 50 bridges (i.e. 23%) are not maintained. Failure to maintain bridges reduces their life span and wastes the heavy investment that is used in bridge construction.

(f) Axle Load Control Points on the National Road Network

- Not all the national roads handling heavy commercial vehicles have permanent or mobile weigh bridges on them. Of the 22 roads inspected, only six are served by weighbridges. The absence of axle load control points on some of the roads exposes them to excess load resulting in the need for frequent periodic maintenance works and high vehicle maintenance costs.

(g) Absence of Portable or Mobile Weighbridges

- Five stations sampled out of the existing twenty two have no mobile weigh bridges. Mubende and Mbale stations that have mobile weighbridges are utilizing them as permanent and fixed weighbridges. The absence of mobile weigh bridges is encouraging transporters to overload and avoid the few existing permanent weighbridges leading to destruction of roads, reduction in the average life span of the road network and increase in the overall transport costs.

(h) Offloading Excess Load

- Only two of the four sampled weighbridges enforce offloading excess load on identified vehicles as statutorily required. Allowing excess axle load on the road reduces the lifespan of the road.

(i) Non-Deterrent and Discretionary Penalties

- The fines and penalties being given to offenders are neither consistently applied nor deterrent. Preferential treatment was offered to local transporters as compared to foreign transporters. This is encouraging the transporters to continue overloading aware that they will continue paying the non-deterrent fines and penalties.

(j) Maintenance of Signs and Traffic Safety Facilities

- Not all road signs and traffic safety facilities are being maintained at all times on all national roads. This is likely to result into accidents as drivers approach obstacles and changed road priorities without prior warning.

### 1.4.7 Implementation of Rural Electrification Programme by Rural Electrification Agency

The main findings of the study were:-

(a) Planning

- REA developed Two (2) business plans for the period July 2005-June 2008 and July 2008-June 2011. However, the business plan for July 2008- June 2011 was not approved. We also noted that at the time of audit (January 2011), the plan was only remaining with 5 months to expire.

- The Indicative Rural Electrification Master Plan (IREMP) was produced in January 2009 and not mid 2006 as earlier planned, which was a delay of 2½ years. It was also noted that although the data in the spreadsheets of the IREMP was updated, the MAP had not been updated. We further noted that the dissemination of IREMP to stakeholders through REA website and mailing facilities was not possible due to its volume/size. Failure to update the MAPs in the IREMP hinders management's effort to provide visual and geographical up-to-date information on rural electrification to the public (Government) and donors.

(b) Funding

- In the period under review, it was noted that REA received only US$ 105.88 million (U Shs. 197 billion) instead of US$ 204 million, culminating in a funding gap of US$ 98.12 million (U Shs. 181 billion). It was however noted that REA did not mobilize enough funds to bridge the funding gap and as a result it was not able to meet its funding requirements. REA may not be able to fully implement rural electrification programs and this may affect the realization of the 10% target by 2012.

(c) Implementation

- An analysis of connections revealed that there were low connections compared to planned connections showing performance levels of 39%, 31% and 26% in FYs 2006/07, 2007/08 and 2008/09, respectively. The low level of rural electrification connection has impeded the ability of some rural households to engage in income generating activities. Given the low connection rate, there is a possibility that REA may not realize the 10% target by 2012.
- No power was generated in the FY 2006/07 and FY 2007/08. However, at the time of audit (January 2011), REA had facilitated projects with operating capacity of 37.8 MW, pipelined 37 MW of generation capacity, in advanced stages, while 53 MW projects were still under study. Failure to facilitate the generation and operation capacities of projects in time resulted in inadequate power available for the rural electrification program during the strategic period (2005-2008).
- By the time of audit (January 2011), REA had not attained self accounting status and the Permanent Secretary (PS) of MEMD was still the designated accounting officer. This limits REA's ability to operate independently. REA has not attained autonomy and this may affect its ability to make independent decisions regarding its operations to increase rural access to electricity.

(d) Monitoring and Evaluation of Rural Electrification Projects

- It was noted that M&E reports were not produced. Management instead conducted inspection visits and produced inspection reports. The evaluation of the REA's performance was not done, but annual performance was always reported in annual performance reports. The management of REA has not been able to evaluate its performance in rural electrification; to identify challenges, track progress and devise corrective measures and this may affect the attainment of the 10% rural connections by 2012.

### 1.4.8 Management of Universal Primary Education Capitation Grant

The main findings of the study are:-

(a) Planning and Budgeting

- The Education Districts (EDs) were planning and budgeting for UPE capitation grant basing on Indicative Planning Figures (IPFs) provided by MOFPED but with unverified pupil enrolment. Without involving the sub-county/Divisional officials in the verification of pupil enrolment, the likelihood of the head teachers inflating the pupil enrolment cannot be ruled out.

(b) Funding

- In some cases the PS MOES advised the PS/ST/MOFPED on the amounts to be released and in others there was no evidence of advice. We also noted that sometimes, the capitation grant released to EDs was contrary to the timing and amount as spelt out in the UPE guidelines.

- We also noted that some districts delayed to submit accountability for funds released while others did not submit quarterly accountability during the Financial Year (FY) 2009/10.

- The delayed release of funds to schools disrupts timely implementation of school planned activities like provision of scholastic materials, facilitation of co-curricular activities and management of the schools.

- The release of funds by MOFPED to districts without advice from the Ministry may also lead to non compliant and non beneficiary schools accessing UPE funds. This may also lead to under or over funding of UPE schools and misuse of public funds.

(c) Supervision, Monitoring & Evaluation

- It was noted that no supervision, monitoring and evaluation was carried out by the internal audit and inspectorate department of MOFPED department on UPE activities.
- We also noted that the Ministry of Local Government (MOLG) conducted inspection visits on all Government programmes in the districts; however, there were no issues on UPE capitation grant raised in the reports.

- Lack of supervision, M & E of UPE Implementation by MOFPED Inspectorate department, leads to failure to identify implementation challenges of the UPE programme thus failing to provide timely remedial action.

- MOES periodically monitored and evaluated the performance of the UPE programme in specific districts and sometimes on special requests by high Government officials. In some instances no action was taken on the recommendations made to rectify areas of the weaknesses identified. Furthermore, the guidelines on M&E did not state how often M & E should be carried out by the Ministry. Absence of a specific time frame of carrying out M & E may result in M & E being done on an adhoc basis.

- It was noted that during FYs 2008/09 and 2009/10, fewer EDs were preparing and submitting work plans and inspection reports. Prior to FY 2008/09, EDs were not reporting on a quarterly basis, however, this situation has now improved with the involvement of DES whereby inspection funds are directly released to EDs on a quarterly basis.

- A review of quarterly monitoring and supervision reports by District Inspector of Schools (DISs) in 8 EDs revealed that although monitoring and supervision was done, not all the schools were visited at least once in a term. Management at EDs attributed this to inadequate funding by districts and the ministry and limited manpower. The failure to carry out regular inspection of all schools and compile quarterly reports hampered EDs' ability to assess compliance of schools with expenditure and other UPE guidelines and financial accountability and also denied districts and schools an opportunity to solve challenges faced in implementation of the programme.

(d) <u>Other support facilities to UPE Capitation Grant</u>

- At the national level, there was one (1) teacher for every fifty five (55) pupils on average in the period 2006 to 2010 instead of fifty four (54). However, further analysis of PTR of individual districts showed divergence from the national average of pupil to teacher ratio ranging between 32 to 94, 32 to 116 in 2006, 2007 respectively and 33 to 112 in 2008 and 2009. Audit attributed the high PTR to inadequate recruitment of primary teachers by the districts to match the high demand of teachers caused by increased pupil enrolment in the country. The high PTR affects pupils' performance in class resulting from inadequate attention given by teachers to pupils due to overwhelming number of pupils in a class.

- At the national level, there were seventy eight (78) pupils per classroom on average in the period 2006 to 2010 instead of fifty four (54). However, further analysis of PCR of individual districts showed divergence from the national pupil classroom average ranging between 28 to 156, 29 to 153, 27 to 148 and 27 to 112 pupils per classroom in 2006, 2007, 2008 and 2009 respectively. Audit attributes the high PCR to inadequate planning for classrooms construction by the MOES so as to match the increasing pupil enrolment. The failure to attain the requisite PCR by schools leads to congestion of pupils in the classrooms and this affects pupils' concentration and performance.

- Audit could not establish whether the required PDR of 3:1 had been achieved at national and district levels because the Ministry and districts did not have the stock of desks available in Government Primary Schools. However, in the schools visited, we noted that many pupils, especially in lower classes, did not have enough school desks and pupils were found seated on floors. Audit attributes the high PDR to inadequate planning for procurement of desks so as to match the increasing pupil enrolment. The failure to attain the requisite PDR by schools leads to pupils squeezing themselves on desks and others sitting on the floor and this affects pupils' concentration and performance.

(e) <u>Performance of Pupils</u>

- A trend analysis of the completion rate to P.7 as reported by the MOES revealed a performance rate of below 50% in academic years 2006, 2007, and 2008. In academic years 2009 and 2010, the completion rate was of 52% and 54%, respectively. This however is below the required 100% completion rate. The rate of school drop out over the academic years 2006 to 2010 fell from 5% to 4.3%.

The low completion rate is attributed to school dropout levels and according to primary teachers interviewed, this is caused by: the use of pupils by parents as a source of production labour; early marriages; failure by parents to send children to schools and lack of provision of lunch by parents among other reasons.

- An analysis of the Primary Leaving Examinations (PLE) results for the academic years 2006 to 2010 revealed that most pupils were passing in Division 2 and Division 3. The number of pupils who failed was more than those who passed in Division 1 in all the years. Although the number of pupils who failed exams reduced in 2009 and 2010, the rate of reduction was low. Better performance was registered in 2010 and the worst results were noted in 2008.

  Through interviews and document review, the low performance at PLE exams was attributed to absenteeism of both pupils and teachers, limited scholastic materials in schools and inadequate classrooms, teachers and desks as explained earlier.

### 1.4.9 Environmental Audit on Forestry Activities in Uganda

The main findings of the study are:-

(a) Regulations to Operationalise the National Forestry and Tree Planting Act, 2003

- The Regulations to operationalise the National Forestry and Tree Planting Act, 2003 have never been developed as required by the Act. Without these regulations, adherence to the provisions of the Act may not be effectively enforced.

(b) Funding for the NFA

- There have been shortfalls in funding for forestry programmes over the years leading to many key activities in the strategic plan not being implemented.

(c) Forestry Cover

- There has been continued decline in forestry cover despite the various government interventions over the years. This is a result of the limited capacity by NFA to achieve its afforestation targets, weaknesses in forestry management practices and illegal activities in government forests.

(d) Policy on the Partnership with Private Sector

- The NFA licensed part of the central forest reserves to various private tree developers to plant fast maturing species like pine and eucalyptus. Several licensed individuals have not adhered to the conditions stipulated in the contracts signed with the NFA.

(e) Forest Management Plans (FMPs)

- Most Central Forest Reserves have no approved management plans. Without plans, management of the forest reserves may not follow best practices. This can result into inefficiencies and waste.

(f) Forest Boundaries

- Boundary demarcation in the forest reserves has not been properly undertaken. This exposes the reserves to the risk of encroachment and illegal allocations.

(e) Degazetting of Forests

- Some forests were degazetted with no alternative land of equal measure being allocated for the plantation of new forests to strike a balance between development initiatives and the environment. This also explains the high rate of deforestation.

(f) Illegal Activities in the Forest Reserves

- Illegal activities continue to be carried out unchecked, in the forest reserves. These were mainly in the form of land clearing for agriculture, illegal settlement on the reserves, charcoal burning, and animal grazing by the communities adjacent to the reserves. These illegal activities deplete the forest cover and affect the value of the forest resource. Continued illegal activities in the forest reserves could have devastating effects on the environment like climatic changes and an imbalanced ecosystem.

(g) District Forest Services (DFS)

- The mandate of the districts in regard to the sustainable forests management is not being adequately undertaken. The majority of districts have not set up District Forestry Services to manage local forest reserves. Where they have been established, they are understaffed and grossly under funded. This hampers effective control, given the vulnerability of the forests to encroachment.

(h) Encroachment of the Forest Reserves

- There is continuing encroachment of forest land in various parts of the country. This has been due to human activities like quest to increase arable land, settlement and urbanization.

(i) Risk Management

- Management does not have a proper risk management strategy to address all risks identified. As a result, the response rate and the remedial action undertaken, in case of exposure of the forests to the identified risks like fire outbreaks, may be slow.

(j) Logging in Natural Forests

- Although the guidelines on logging in natural forests were being complied with in respect to stock mapping, log grading and measurement, it was noted that NFA and the logging clients do not maintain a record of the timber milled from the sold logs in order to carry out a proper assessment of the efficiency of the milling activities. Evidence of inefficiencies in milling was observed at some milling sites where pieces of cut timber were left to waste. The high rates of wastage in milling activities leads to increased demand to cut more trees.

(k) Environmental Impact Assessment (EIA)

- Not all CFRs have approved Environmental Impact Assessment reports. Where EIAs were carried out, there appears to be no evidence of follow up to ensure that mitigation measures stated in the EIA reports are actually undertaken.

(l) Invasive and Endangered Species

- While some forest reserves are being attacked by invasive species, it was also noted that some species like the shear nut butter tree continues to be threatened by charcoal burners in some parts of the country, and there appears to be no formal plans put in place by management to address these issues.

### 1.4.10 Buildings and Construction under Justice, Law and Order Sector (JLOS)

The main findings of the study are:-

(a) Planning Process

- Although there was general compliance to planning guidelines as set by JLOS Secretariat in nearly all participating Institutions, there is need to provide more guidance to the departments under each institution on the statement of project descriptions.
- The development plans for the buildings were included in most of the Institutions' work plans for respective Financial Years (FYs), submitted to and approved by JLOS Secretariat Steering Committee for funding under SWAP Development Fund.
- Some participating Institutions are not giving adequate opportunity to the beneficiary departments to adequately participate in the identification and prioritisation of development issues.
- Some of the sampled projects particularly those implemented in earlier years of JLOS did not have project profiles and clear project description.

(b) Procurement Process

- The Procurement process under most of the sampled contracts was generally handled in accordance with PPDA guidelines and regulations, 2003.

- In a number of cases, copies of contracts and other tender documents could not be accessed due to poor records keeping and retrieval systems. Bidding documents for some projects were inadequate. The correlation between the Bills of Quantities and the works specifications was lacking. In some cases, appropriate drawings were not provided to bidders, thus making it difficult for contractors to reasonably price their bids.

- There were many instances of weaknesses in cost control and cost control documentation. Often it appeared that payments were simply made to match the project sum without necessarily correlating payment to actual works satisfactorily done. Many instances of actual quantities on site being less than what is indicated in the payment certificate or more than that indicated in the payment certificate were noted.

- In some instances, payment certificates include items that were not implemented at all or that were not satisfactorily implemented. This undermined the enforcement of the rectification of defects by the contractors as they had already been paid for the works.

- Ministry of Works Engineers did not provide adequate supervision as they were busy elsewhere. This was the case not only in the MoGLSD but also in other participating Institutions, like UPS, UPF and others where MoWT was responsible for checking the works done and payments were made by the Institutions.

- There were two instances where the Force on account procurement option was used. This method was adopted because the prison structures had been badly ravaged and the department did not have all the funds needed to do a major reconstruction. The renovations were carried out over a 5 year period and the department opted to use prisoners' labour and the department's technical staff. A waiver was requested and obtained from PPDA for the use of Force on Account on these two projects. In both cases,although the overall cost of each unit in Luzira and Namalu was less than the cost of a similar facility elsewhere where private contractors were used, poor standard of work was delivered.

- In a number of cases the copies of contracts seen were rather weak as they lacked details of specifications as expected in a standard contract document, to avoid the supplier or contractors taking advantage of employers. This was due to the staff responsible for this activity not being qualified.

- There was inefficient methods of retrieval and management of procurement documents within the implementing authorities. This was witnessed in the length of time it took for the auditors to receive bids submissions, evaluation reports, minutes of contracts committees, award letters and copies of contracts.

- It was noted that a number of projects lacked the Engineer's estimates to guide the Evaluation Committees during their assessment and awarding of contracts. Normally, bids should be within 5% range of the engineer's estimates.

- Although PPDA regulations require that contract variation for extra works or services exceeding 15% of the original contract sum must be cleared by PPDA, it was noted that variations for construction of Gulu Regional Laboratory MoIA were not cleared by PPDA and a new contract was not prepared as required.

(c) <u>Implementation, Monitoring and Supervision</u>

- While Institutional Engineers / Engineering Department seemed to be certifying projects, there did not seem to be systematic mechanisms for the supervision and monitoring of project implementation. This was particularly evident in the defects that were identified by the audit team on the completed structures that could have been corrected during the construction phase.

- Some cases were noted where there was no adequate follow up on disbursements by the Secretariat in order to avoid unauthorised diversion of funds from one project to another. A case in point is the construction of Store and Armoury at ASTU HQ – Katakwi under UPF. The ASTU Headquarters building was constructed but the store has yet to be done.

Construction of Ngarium - Katakwi ASTU Zonal Offices has never started although the funds were disbursed.

- In many instances, time control was generally weak. Many projects were not implemented based on specific time frames, even where the contract stipulated that the contractor was to regularly submit a program of works.

- Time overruns occurred in many projects, with some projects even taking more than double the contract period. This is a reflection of inadequate initial planning and under-estimates of the time required to complete the project.

- There were some weaknesses in project definition. It was noted that a number of housing projects were implemented with no provision of bathrooms and toilets.

- In some instances, completed staff houses were not yet occupied because of apparent ambiguity on who is to give the go ahead for occupants to move in.

- Provision for PWDs access to the public buildings, wherever it was provided, was mostly limited to an external ramp at the veranda, with no provision for access into the building as there was often a step from the veranda into the building. Inside the buildings, the door widths and circulation space e.g. at WCs were generally insufficient for disabled (PWD) access, and without supporting anchors. This is an inadequacy in design. The only place where provision for PWDs concerns was adequate was at the LDC Complex.

(d) Financial Management

- The payment process under most of the sample contracts was generally handled in accordance with The Public Finance and Accountability Act, 2003 and the Public Finance and Accountability Regulations, 2003.

- Payments to contractors for finished works were particularly noted to have inadequate attachments. Such attachments would include interim certificates, measurement sheets, and payment history and a copy of the contract documents.

- There was inefficient methods of retrieval and management of financial documents within the implementing authorities and in some cases, documents were not received at all. Institutions complained that the documents had been taken to the JLOS Secretariat for accountability and that they had not been returned.

- There were notable delays in processing and effecting payments to contractors due to bureaucracy and poor documentation. Delays in effecting timely payments to contractors could have affected the timely delivery of services by limiting the contractors' cash flow and causing works to stall.

- It was noted that at JLOS Secretariat, VAT deductions are made at source although it is the responsibility of the Contractor or Service provider to remit VAT returns to URA.

- Sometimes funds received by the Institution were not sufficient for the implementation of the project in question. Often the money sent did not take into account the VAT component and the Institution was left with the burden of finding alternative sources of funding to meet the VAT.

(e) Handover, Utilisation, Operation and Maintenance of Completed Projects

- Institutions did not have budget allocations for maintenance works for the constructed facilities. In some cases, even basic maintenance activities like cleaning, rectifying loose lighting fittings, re-fitting items that may have fallen out were neglected.

- Many of the projects that had been completed and in use had not been handed over and commissioned.

(f) Performance of Contractors

- The standard of workmanship exhibited by contractors undertaking the various projects was generally fair. However, there were a few cases where the standard of work was very poor.

- Contractors did not carry out materials tests for most of the projects visited. In some instances, there was weak enforcement of specifications and the standard of some fittings used was poor or not appropriate e.g. window stays and fasteners in many projects were already broken/not functional especially for staff housing where there is high occupancy.

- Some contractors exhibited some form of incompetence through poor workmanship, lack of basic technical competence, and non-commitment to the provisions of the contract when constructing.

(g) Performance of Contracts Committees

- In the majority of projects audited, Contracts Committees of the various Institutions performed their statutory functions very well, exceptions being in a few cases when revisions to the original contracts were not ratified by the committees.

# 2 REGULATION OF MEDICINES IN UGANDA BY NATIONAL DRUG AUTHORITY

## 2.1 INTRODUCTION

### 2.1.1 Motivation

Drugs and pharmaceutical products constitute a big proportion of health care expenditure. At the national level, government spent 91% in 2008/09 and 86% in 2009/10 (projection)[1] of the Ministry of Health recurrent budget on purchase of pharmaceutical supplies. In terms of value, the medical and pharmaceutical supplies imported in the country for the last 4 years have increased from US $ 123m in 2006 to US $213.8 in 2009 as shown in Table 1 below:

**Table 1: Imports of Medical and Pharmaceutical products for the period 2006 – 2009 (in US $ million).**

| Year | 2006 (million US $) | 2007 (million US $) | 2008 (million US $) | 2009 (million US $) | Total (million US $) |
|---|---|---|---|---|---|
| Value of Imports | 123.0 | 175.8 | 246.2 | 213.8 | 758.8 |

Source: Uganda Bureau of Statistics, Statistical Abstract June 2010.

These are essential components and are a government priority in a sector that is aimed at promoting a healthy and productive life. Drugs play an important role in saving lives and preventing the spread of diseases.

It is also common knowledge that households and individuals spend a big proportion of their incomes on health care by attending private clinics for treatment or acquiring drugs directly from private pharmacies and drug shops which are in close proximity to their homes.

Drug shops and Pharmacies are major drug distribution channels of drugs from the manufacturers to the final consumer since most Government Health facilities are prone to drug stock-outs. The public resorts to private drug outlets. Regular inspection of these outlets is important and necessary if their suitability is to be monitored to safeguard the public.

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[1] Ministry of Health Policy Statement 2009/10.

It is the responsibility of the Government and the mandate of the National Drug Authority as a drug regulatory agency to protect the health of the public by ensuring that the drugs available on the market are of the right quality, safety and efficacy through the regulation and control of their production, importation, distribution and use.

However, despite the efforts of NDA, cases of expired drugs on the market - others contaminated, outright counterfeits, prevalence of unlicensed drug shops and pharmacies (some of them managed by unqualified staff) have continued to increase. The above cases pose a major challenge in availing essential, efficacious and cost-effective drugs at all times to the entire population as a means of providing satisfactory health care. Some of the sub-standard and unauthorized drugs are imported into the country.

Some quack traditional healers may have also taken advantage of the flaws in dissemination of information on drugs and management of the formal health sector and human drug management in the country to fleece the population of money, encourage drug abuse and cause death through vices like human sacrifice.

It is against this background that the office carried out a Value for Money audit on regulation of medicines in Uganda by National Drug Authority.

### 2.1.2 Description of the Audit Area

NDA has its headquarters in Kampala. It also operates a National Drug Quality Control Laboratory (NDQCL) based in Mulago Hospital (that is responsible for testing and analysing medicine samples for quality ) and 7 Regional Offices responsible for decentralised activities of NDA e.g. inspection of drug outlets and market control. These centres are at Nakawa for the Central Region, Mbarara, for South Western Region, Jinja, for the South-Eastern Region, Tororo for the Eastern Region, Hoima, for the Western Region, Lira, for the Northern Region and Arua, for the North Western Region. It also has 4 entry points mainly for import verification purposes, namely: Nakawa, Busia, Malaba and Entebbe International Airport.

NDA also operates the NDQCL based in Mulago which is responsible for testing and analysing medicine samples for quality.

In addition, NDA has established a National Pharmacovigilance Centre (NPC) in Kampala, and 12 Regional Pharmacovigilance Centres in Gulu, Jinja, Mbarara, Arua, Kabale, Lira, Mulago, Soroti, Masaka, Hoima, Mbale and Fort-Portal Regional Referral Hospitals for receiving reports of suspected Adverse Drug Reactions (ADR). These are managed by coordinators who are not NDA employees but are staff of the respective hospitals.

### 2.1.3 Mandate

NDA was established by the National Drug Policy and Authority (NDPA) Act in 1993 (Cap 206 Laws of Uganda) to ensure availability, at all times, of essential, efficacious and cost-effective drugs to the entire population of Uganda, as a means of providing satisfactory health care and safeguarding the appropriate use of drugs.

### 2.1.4 Vision, Mission, Goals and Objective

The Vision, mission, goals and objectives of the NDA are:

**Vision**

"A world-class centre of excellence in regulation of medicines and other health related products."

**Mission Statement**

"To ensure quality, safety and efficacy of human and veterinary medicines and other health care products through the regulation and control of their production, importation, distribution and use."

**Goal**

"To coordinate and oversee the medicines sector in order to protect public health."

**Functions of the National Drug Authori**

The National Drug Authority is charged with the implementation of the national drug policy and, in particular, but without derogation of the foregoing, shall:

(a) Deal with the development and regulation of the pharmacies and drugs in the country;

(b) Approve the national list of essential drugs and supervise the revisions of the list in manner provided by the Minister;

(c) Estimate drug needs to ensure that the needs are met as economically as possible;

(d) Control the importation, exportation and sale of pharmaceuticals;

(e) Control the quality of drugs;

(f) Promote and control local production of essential drugs;

(g) Encourage research and development of herbal medicines;

(h) Promote rational use of drugs through appropriate professional training;

(i) Establish and revise professional guidelines and disseminate information to health professionals and the public;

(j) Provide advice and guidance to the Minister and bodies concerned with drugs on the implementation of the national drug policy.

### 2.1.5 Financing

NDA operations are mainly funded by internally generated revenue and support from development partners and these include HSSP, WHO and USAID. Details of funding by source is summarized in Table 2 below.

**Table 2: Sources of National Drug Authority Funds – 2006/07 to 2009/10**

| Source/Financial Year | 2006/07 (Ug. Shs in bn) | 2007/08 (Ug. Shs in bn) | 2008/09 (Ug. Shs in bn) | 2009/10* (Ug. Shs in bn) |
|---|---|---|---|---|
| **Revenue:** | | | | |
| NDA Income | 9.19 | 10.36 | 13.06 | 13.12 |
| Donor Funds | 0.17 | 0.31 | 0.68 | 0.12 |
| GoU Funds | - | - | - | 0.014 |
| **Total Income** | **9.36** | **10.67** | **13.74** | **13.26** |

Source: NDA Audited Financial Statements 2006/07 – 2008/09
*NDA Performance and Activity Report July 2009 – June 2010

### 2.1.6 Scope

The audit, which focused on regulation of medicines covered 4 financial years from July 2006 to June 2010. The audit covered NDA headquarters in Kampala, National Drug Quality Control Laboratory (NDQCL) in Mulago, NDA Regional offices based in Kampala/Nakawa, Jinja, Tororo, Mbarara, Lira, Hoima and Arua. Apart from the regional offices, where inspections are based, the team also visited Regional Pharmacovigilance Centres in Mbarara, Hoima, Lira, Arua, Fort-Portal and Jinja to understand the operations and systems of ADR reporting. Uganda Revenue Authority (URA) entry points at Nakawa, Malaba/Busia, Entebbe, Mpondwe, Mutukula and Vuura were inspected to obtain information on drug consignments entering the country.

## 2.2 FINDINGS

The findings of the study are as follows:

### 2.2.1 LEGAL MANDATE

#### 2.2.1.1 Regulatory Framework

Section 64 (1) of the NDPA Act requires the Minister in charge of Health, on the advice of the drug authority, to make regulations by statutory instrument for enforcing the provisions of the NDPA Act.

We noted that since 1993 when NDA was established, 21 guidelines have been made and some are currently in use. However, only 2 were gazetted[2] into Statutory Instruments in 1995 and the rest have remained as guidelines. Apart from the two Regulations the rest of the guidelines are not legally enforceable; but used administratively for executing NDA work.

The Board, at its sitting of 2nd October 2008, recommended that a committee reviews all the guidelines in use with a view of making recommendations to the Board, which would be sent to the Minister in charge of Health for gazetting them into Statutory Instruments (Regulations). At the time of audit, they had not been gazetted.

Lack of relevant statutory instruments can be attributed to the slow pace at which NDA is developing these draft regulations. Since October 2008 when the Board recommended a review of the process, legal drafting has not been concluded.

NDA management however stated that the authority will forward the draft regulation to the Minister of Health for gazetting by January 2011.

[2] The National Drug Policy and Authority (Issue of Licenses) Regulations, Statutory Instrument 206-3 and The National Drug Policy and Authority (Certificate of Suitability of Premises) Regulations, Statutory Instrument 206-4

Failure to have proper regulations impairs the ability of the Authority to execute its mandate of ensuring that only safe, efficacious and quality drugs are available to the public. NDA has also been involved in court cases arising out of inappropriate application of un-gazetted guidelines in carrying out enforcement activities.

### 2.2.2 LICENSING OF DRUG OUTLETS

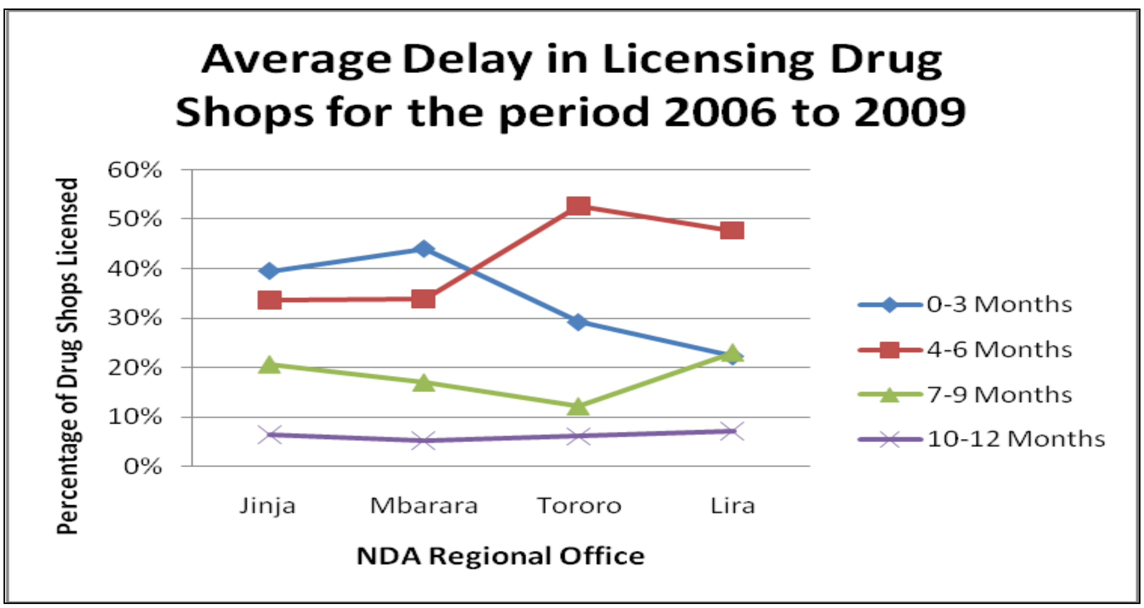
#### 2.2.2.1 Issuing of Licences:

Section 14 (3) of the NDPA makes it an offence for one to operate a pharmacy or to sell drugs without a valid license. NDA is supposed to issue licences to drug outlets by 31st January every year and the license is valid until 31st December of that year. [3]

Scrutiny of the database of operating drug outlets and the list of the licensed drug outlets as at 31st January of each calendar year revealed that no license had been issued within the stipulated timeframe. In addition, 100% of the respondents in regional offices confirmed that it had not been possible to issue licenses by 31st January, and believed that only 50% of the existing drug outlets may be licensed.

Our sample further revealed that licences are issued throughout the year from January to December as shown in the graph below.

**Figure 1:**




[3] NDA Strategic Plan July 2007 to June 2011 paragraph 1.2.6

The main reasons advanced by NDA for the delays is lack of adequate staff to carry out mandatory (pre-licensing) inspections and issue licenses in time. Each regional office with an average of about 15 districts is managed by 1 person who cannot effectively handle the volume of work. At present, the Inspectorate Department is staffed with 18 Inspectors, including the Head of Department. We noted however that the existing structure does not reflect the required staffing levels for the Inspectorate Department and as such it is not possible to ascertain the optimal staffing levels to carry out its mandate.

Our interview with Regional Inspectors of Drugs revealed that such delays are also attributed to inadequate facilitation in terms of transport. The vehicles serving the regional offices have outlived their useful lives. We observed that 5 out of the 9 vehicles are as old as 7 or $5^{1}/_{2}$ years instead of the expected four year cycle as shown in Table 3 below.

**Table 3: Vehicles for Regional Inspectors and their age.**

| | Registration No. | Year of acquisition | Location |
|---|---|---|---|
| 1 | UAA 848E | 23/05/2005 | Lira |
| 2 | UAA 506F | 21/05/2005 | Tororo |
| 3 | UAA 507F | 21/05/2005 | Mbrarara |
| 4 | UAA 508F | 21/05/2005 | Hoima |
| 5 | UAJ 375X | 27/01/2010 | Central |
| 6 | UAJ 095X | 14/08/2008 | Central |
| 7 | UAA 805X | 14/08/2008 | Busia/Malaba |
| 8 | UAA 537E | 05/03/2003 | Jinja |
| 9 | UAJ 093X | 05/03/2008 | Arua |

Source: NDA Administration Department

Delay in issuing licenses in time encourages illegal operators of drug outlets and poses a risk of exposing the people to sub-standard drugs on the market. NDA is also not able to collect all the revenue as budgeted from drug outlets to finance service delivery.

### 2.2.2.2 Publicizing Licensed Drug Outlets

NDA is required to publicise a list of licensed drug outlets in the media and website by 31st March of every year. [4]

[4] NDA Strategic Plan July 2007 to June 2011, paragraph 1.2.7 page 23.

Scrutiny of media records and the NDA website revealed that NDA did not fully comply with this requirement.

A review of the NDA website indicated that NDA displayed data on licensed Pharmacies for the year 2010 in November 2010. We further noted that NDA last publicised a list of licensed Pharmacies in the press in November, 2008 for the year 2008. For calendar years 2009 and 2010, a list of licensed drug outlets was not published. Efforts to have a list for the year 2009 published were halted by management preferring the use of booklets.

In 2009, NDA introduced a method of sending short messages on cell phone (SMS) to help the public identify licensed operators. Publicity of this initiative however is still low.

The reason advanced for stopping publications of licensed drug outlets was that the lifespan of a newspaper is limited compared to that of booklets. Management also indicated that newspaper adverts are costly. There was no evidence of the analysis on cost estimates for printing and distributing of the booklets to justify the change. Besides, the target population was not specified to compare the benefits of the proposed method. For drug shops, NDA management indicated that they would use journals and distribute them to various districts. To-date, no journal has been published and distributed to districts.

Failure to provide the public with information regarding legal outlets denies them vital information to decide where to buy drugs. Besides, publicising the list would encourage unlicensed outlets to strive to fulfil the requirements.

#### 2.2.2.3 Closing of un-licensed Drug Outlets

Paragraph 1.4 of the Licensing Requirements stipulates that unlicensed premises should be subject to closure and all operations to cease forthwith.

For purposes of licensing, drug outlets can be categorised as those already registered and have applied for renewal of license, registered but have not applied for renewal and unregistered (illegal outlets).

A review of the database of operating drug outlets revealed that no unlicensed drug outlet had been closed after 31st January as explained in 4.2.1 above.

Management explained that NDA has not been successful in identifying and closing all illegal outlets (especially drug shops) as they tend to suspend business immediately they are aware of NDA's field inspections while others operate in hard to reach areas. While efforts were made to close some illegal drug outlets as and when identified, the success of this exercise was dependant on the level of inspections carried out by NDA. In the Northern Region (Lira), for example, illegal outlets for the 3 months in the third quarter of 2009 calendar year stood at 50% in July, 56% in August and 25% in September, which is high, in all the 3 cases.

Management further explained that they cannot close the unlicensed outlets that have submitted applications because the delay of issuance of licenses is partly due to their constraints in processing them. However, outlets that do not meet deadlines are always closed.

Audit also attributes laxity to close and eliminate illegal operators to lack of segregation of DADI's roles in the current processes of distributing and collection of application forms, licensing, inspection and at times collection of fees, which functions are all performed by the same staff.

Failure by NDA to identify and close unlicensed drug outlets encourages prevalence of illegal operators who may not be easy to regulate, yet they serve many people especially in the rural/remote areas where alternative services may not be available. Besides, such operators may be a source of sub-standard drugs, which impairs NDA's objective of ensuring that quality, safe and efficacious medicines are availed to the public.

### 2.2.3 ASSESMENT/EVALUATION AND REGISTRATION OF DRUGS

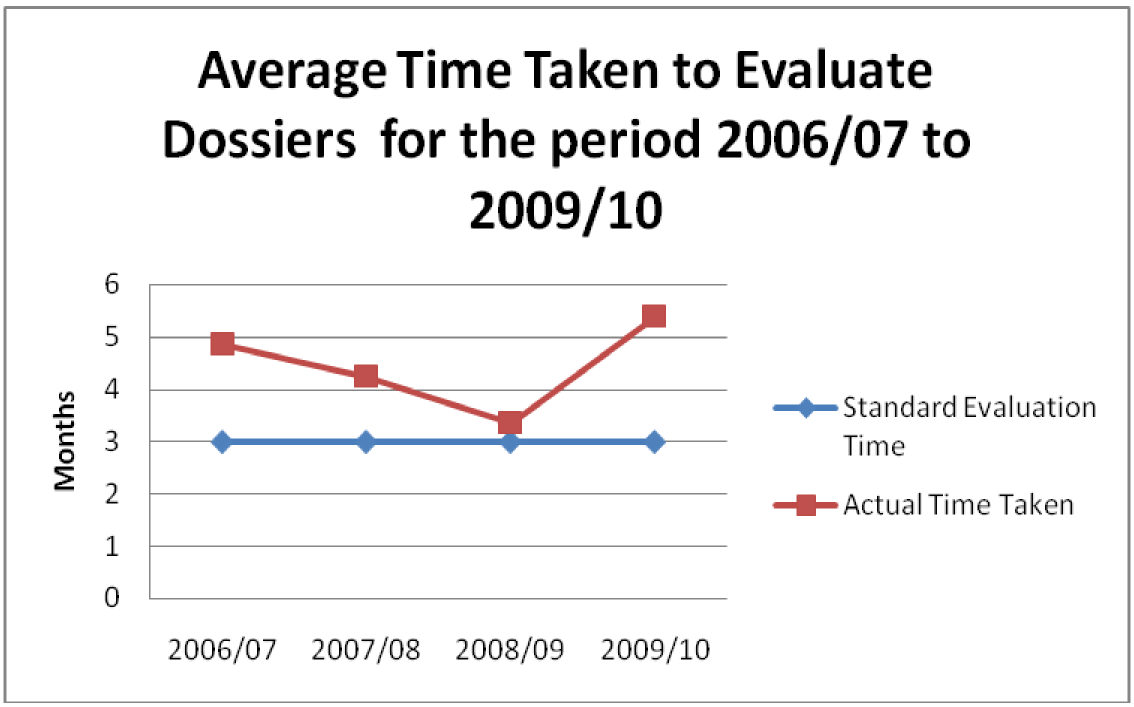
#### 2.2.3.1 Assessment/Evaluation of dossiers

NDA is required to assess pharmaceutical products by evaluating documentary evidence in order to ensure that the product meets its intended purpose. NDA is also required to evaluate 100% of dossiers submitted within 3 months.[5] Once a pharmaceutical product has been assessed and found to be compliant, it is included on a list of authorized drugs for use in Uganda [National Drug Register].

A review of the register of dossier applications submitted for evaluation and status progress reports revealed that all dossiers were not evaluated within the prescribed timeframe.

A test-check of 215 dossier applications for a four year period (2006/07 to 2009/10) revealed that on average dossier evaluation took 5 months in 2006/07, 4 months in 2007/08, 3 months in 2008/09 and 5 months in 2009/10 resulting in delays of between 3 to 9 months between the date of application and completion of evaluation as shown in the graph below.

**Figure 2:**




NDA management attributed the delays to shortage of staff to handle the workload; inadequate facilitation, even when applicants have paid the relevant fees; increased number of dossier applications; and lack of specialised skills to evaluate different products (veterinary, human, biological, nutritional/food supplements, medical devices

5 [NDA Strategic Plan July 2007 to June 2011 paragraph 3.1.8 page 51].

or public health products). The total funding received by the Department was only 44% of the required budget, yet NDA got over Ug. Shs. 9.5bn or 80% of its total revenue from the activities of this Department over the same period. Scrutiny of performance reports further revealed that in the FY2008/09 only Ug Shs 62.9m or 40% was released for Dossier Evaluation activities against the budgeted amount of Ug Shs 157.5m. Lack of prioritisation cannot be ruled out.

Interviews with NDA staff also revealed that use of SIAMED software for assessment and registration of drugs in recording and retrieval of data has proved to be problematic. The software (SIAMED) is not web-based, lacks adequate support from the vendor and easily hangs when many users are entering data simultaneously thus limiting speedy entry of transactions, sharing and easy retrieval of data. However efforts are underway to procure a new drug assessment and registration program, with the help of development partners, according to management.

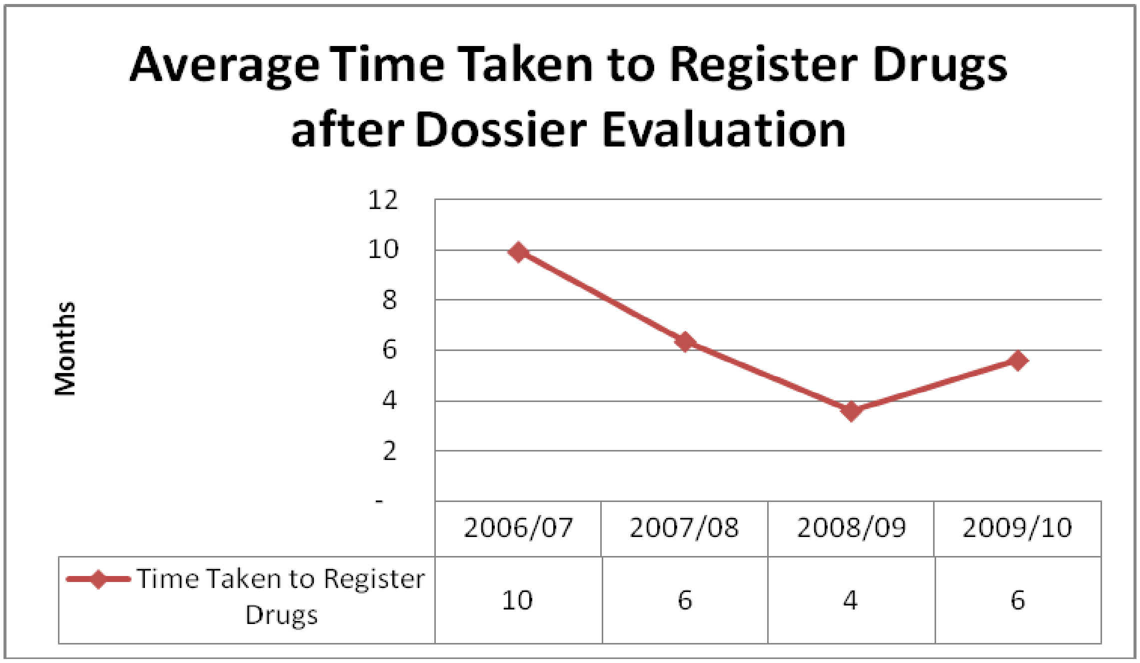
Delays in evaluation of dossiers may lead to complaints from importers since they pay a fee to be evaluated/assessed by NDA. The delays may compound illegal entry/importation of unregistered medicines on the market thereby denying consumers of an independent assessment of the safety, efficacy and quality of medicines. This may also cause drug stock-outs and the public may also be denied access to drugs required to save the lives of patients that may need those products. Fewer drugs on the market also limit consumer choice and may lead to high prices which also denies the public cheaper and quality medicines.

#### 2.2.3.2 <u>Registration and Updating of the National Drug Register</u>

Section 35 of the NDPA Act requires NDA to register or delete any drug on the Drug Register after scientifically examining any drug for purposes of ascertaining efficacy, safety and quality. The drug register should be updated monthly upon assessment of amendments/variations, payment of retention fees, cGMP compliance and ADR issues.

We noted that NDA registers drugs on the National Drug Register when evaluation of dossiers is complete. The analysis of records revealed that the registration of drugs in the Drug Register was taking an average of 4 to 10 months after completion of evaluation.

**Figure 3:**




Management explained that the use of SIAMED software delays registration/deletion of drugs from the register since it is not integrated to aid management in identifying items due for deletion for non-payment of retention fees.

The delays may increase entry of un-registered drugs into the country.

## 2.2.4 DRUG ANALYSIS

### 2.2.4.1 Time of releasing laboratory test results

Chemical analysis should take 2 weeks from the time a consignment is sampled to when results are released. [6]

We reviewed a register of samples submitted to the lab and the test results released and noted that there were some delays in releasing laboratory test results. While NDQCL management indicated that releasing test results took them on average 2 to 14 days, analysis of test results for anti-malaria and anti-retroviral drugs for the period 2007 to 2009 however indicated that releasing test results was in a number of cases taking more than 2 weeks as shown below in Table 4.

[6] Guidelines for Importation and export of drugs Paragraph 11 - Procedures for Importation.

**Table 4: Anti-malarials and ARVs Sample Test Results for the period 2007-2009**

| Time (Weeks) | 2007 | | | | 2008 | | | | 2009 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Antimalarial | | ARVs | | Antimalarial | | ARVs | | Antimalarial | | ARVs | |
| | Samples | %age | Samples | %age | Samples | %age | Samples | %age | Samples | %age | Samples | %age |
| Within 2 weeks | 469 | 79% | 389 | 88.4% | 187 | 46.5% | 206 | 64.0% | 38 | 57.4% | 39 | 57.4% |
| Above 2 weeks | 125 | 21% | 51 | 11.6% | 215 | 53.5% | 116 | 36.0% | 164 | 42.6% | 29 | 42.6% |
| **Total** | **594** | **100%** | **440** | **100%** | **402** | **100%** | **322** | **100%** | **202** | **100%** | **68** | **100%** |

Source: OAG Analysis of NDQCL data.

While more samples were tested in 2007, a higher percentage (79%) was also released within 2 weeks. The time of releasing results for subsequent years however was declining even when the samples submitted for both anti-malarials and ARVs had reduced.

Management attributed delays to lack of personnel, inadequate testing equipment and delays in procurement of chemical substances that may not be in stock at the time of submitting samples to the laboratory with emergency procurement taking up to 6 months. Lack of reference standards also contributes to delays in testing samples as some drugs may not be on the register. Management further explained that the board through the Committee of National Formulary changed the policy from mandatory analysis to risk-based analysis in 2008. The method enabled them to sample and test a wide range of medicines but other conditions like human resources, equipment and laboratory space remained the same.

Analysis of budget and actual expenditure for the same period revealed overall under-funding. We further noted that of the total required funds for key laboratory supplies like spares parts, chemicals and reference substances, calibration and maintenance of equipment were not fully funded as shown in Table 5 below.

**Table 5: Financing Laboratory operations for the year 2007/08 to 2009/2010**

| Item | 2007/08 | | | 2008/09 | | | 2009/10 | | |
|---|---|---|---|---|---|---|---|---|---|
| | Budget | Released | %age Released | Budget | Released | %age Released | Budget | Released | %age Released |
| Purchase of spare parts | 153.6 | 87.9 | 57% | 176.5 | 59.7 | 34% | 229.9 | 146.5 | 64% |
| Purchase of columns for HPLC and GC | 37.5 | 4.1 | 11% | 46.3 | 4.7 | 10% | 52.9 | 41.4 | 78% |
| Purchase of Chemicals and Reagents | 83.2 | 60.9 | 73% | 101.3 | 63.9 | 63% | 127.5 | 116.8 | 92% |
| Purchase of chemical Reference Substances | 60.0 | 76.8 | 128% | 148.7 | 64.9 | 44% | 67.5 | 43.4 | 64% |
| Calibration of equipment | 27.0 | 0.0 | 0% | 42.2 | 1.5 | 4% | 26.3 | 4.1 | 16% |
| Maintenance of Lab Equipment | 70.5 | 6.3 | 9% | 70.0 | 65.8 | 94% | 80.2 | 61.3 | 76% |
| **Total** | **431.8** | **236.0** | **55%** | **585.0** | **260.5** | **45%** | **584.3** | **413.5** | **71%** |

Source: NDA Performance Reports 2007/08 to 2009/10.

We also noted that NDA has not made a scientific study on the average time required to produce specific tests and monitor staff performance. Limited use of Mini-Labs which were intended to work as a stop-gap measure and provide quick results to inspectors in regional offices was also identified as another possible cause of delay.

Delays in releasing laboratory tests translate into dissatisfaction of clients. We noted that NDA spent Ug Shs 9.3m in 2007/08, Ug Shs 30.8m in FY2008/09 and Ug Shs 19.9m in 2009/10 on outsourcing laboratory services outside the country, some of which could have been saved if all the necessary equipment, staff and other substances were in place. Benefits expected from use of minilabs cannot be realized.

### 2.2.4.2 Capacity of the Laboratory

#### (i) Personnel

Section 6.1 (part 1) of the WHO Good Practices for Pharmaceutical Quality Control Laboratories requires that laboratories for drug testing and analysis should have sufficient personnel with the necessary education, training, technical knowledge and experience for their assigned functions.

We reviewed the NDA structure and current staffing levels and noted that the laboratory does not have sufficient staff as prescribed by WHO. We noted that NDQCL Department made an evaluation and presented a proposal of 52 staff to enable the proper functioning of the lab. Out of this number, the Department has only 11 officers.

Management attributed lack of sufficient personnel to failure by government to provide NDA with funding to fill existing posts. However a review of budgets and other correspondences, revealed that there was no evidence that NDA management had made efforts to secure government funding.

Inadequate staffing to test and analyse drugs impairs NDA's objective of ensuring that only drugs of the required quality are accessed by the population. It also increases workload on existing staff and delays testing and release of sample results.

**(ii) Equipment**

Section 8.2 and 8.3 (part 1) of the WHO Good Practices for Pharmaceutical Quality Control Laboratories stipulates that the laboratories for testing and analysis should have the required test equipment, instruments and other devices for the correct performance of the tasks and these should meet the relevant standard specifications.

Interviews carried out with the management of NDQCL revealed that the laboratory did not have the equipment required for key operations like micro-biology tests and traditional/herbal medicine testing. During inspection, we observed that some equipment, like the HPLC shown in Picture 1 below, required major repairs and had been out of use for more than 7 months. Some of the stock of lab equipment is as old 9 years and obsolete with frequent breakdowns.

**Picture 1: Faulty HPLC Machine**


OAG photo taken on 5th August 2010 at 11.22am.

Lack of sufficient funds to procure the necessary equipment was highlighted by management as a reason of inadequate lab equipment. NDA had failed to collect outstanding debts. The debt portfolio stood at Ug Shs 2.5bn as at $30^{th}$ June 2009 and Ug Shs 3.3bn as at $30^{th}$ June 2010 of which the line Ministry (Ministry of Health) alone owed NDA about 25% and 40% respectively. Part of the verification fees is meant to ascertain the quality of medicines by NDQCL before registration and market authorisation in Uganda.

Lack of equipment impairs the ability of the laboratory to test and provide sample results as required. Besides, NDQCL has not been able to carry out microbiology and traditional/herbal medicine testing which puts the public at risk.

### (iii) Laboratory Space

Section 7.9 part 1 of the WHO Good Practices for Pharmaceutical Quality Control Laboratories requires that the storage facilities of a laboratory should be well organised for the correct storage of samples, reagents and equipment.

We inspected the NDQCL based in Mulago and observed that the storage facilities for reagents inside the laboratory were well organised. However, some of the lab equipment and several boxes of samples were kept in the corridors due to limited storage space as shown in the picture 2 below. Space for keeping documents was also a challenge.

**Picture 2: Boxes of medicine samples in NDQCL Corridors**

OAG Photo taken on $22^{nd}$ July 2010 at 5.02pm.

During the course of the audit, we inspected the on-going works by NDA to construct a bigger laboratory using internally generated funds to be completed in March 2011.

Inadequate storage space can affect proper storage for ease of identification and retrieval of samples and equipment. It can also cause congestion, making it difficult to clean the premises. Effects of accumulated dust, poor aeration and effects of dampness and heat under such circumstances can also affect the lifespan of the samples which in turn impacts on test results.

**2.2.4.3 <u>Testing Traditional/herbal medicines</u>**

NDA is supposed to test 24 samples of traditional/herbal medicine per year. [7]

A review of operational plans and annual performance reports and interviews revealed that NDA did not test traditional/herbal medicines.

NDA's failure to test these samples was attributed to lack of adequate space in the NDQCL to create a dedicated traditional/herbal testing unit, lack of equipment like Atomic Absorption Spectrophotometer (AAS), High Performance Thin Layer Chromatography (HPTLC) and Infra Red (IR). Lack of staff with technical skills in testing herbal medicine was another reason advanced by management. While NDA had planned to train 4 members of staff in testing traditional/herbal by December 2008, we noted, however, that none were trained until the end of the 2009/10 financial year (June 2010), when only 2 members of staff from the NDQCL were trained. Another reason given was lack of subsidiary legislation in place to enforce compliance.

As a result, the public may be exposed to medication which does not guarantee purity, safety, potency and efficacy. By their nature, traditional/herbal medicines are not regulated like other conventional medicines since they lack common standardization and scientific data to support the medicinal activity claimed and their assumed safety and efficacy. The benefit of testing to ascertain the purity, concentration or labelling claims of herbal medicines is not achieved. This may also expose the consumers to adverse reactions.

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[7] NDA Strategic Plan July 2007 to June 2011, paragraph 9.2.5 page 83.

## 2.2.5 DRUG INSPECTION

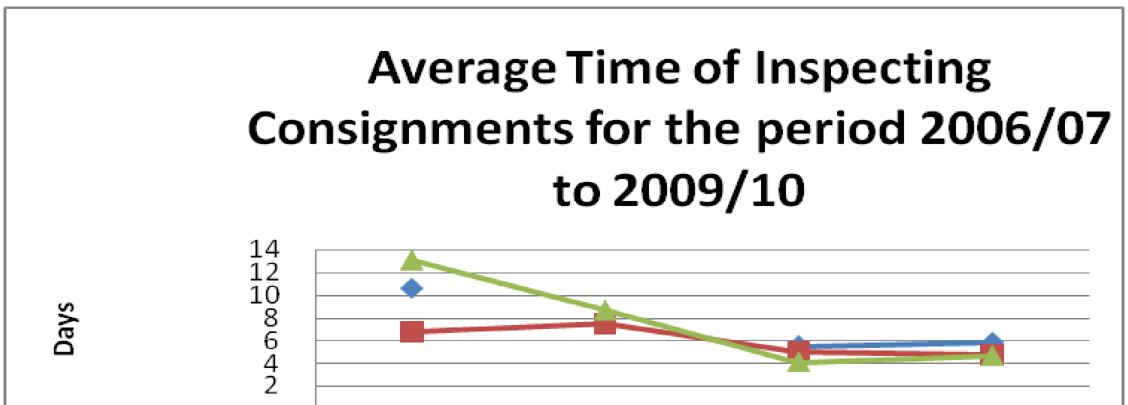
### 2.2.5.1 <u>Inspection of Drug Consignments entering the country</u>

NDA is required to inspect all consignments of drugs and pharmaceutical products entering the country on the same day[8]. All rejected consignments must be destroyed or re-exported to the countries of origin at the expense of the importer.

A review of weekly summary reports of consignments at entry points revealed that all consignments of drugs and pharmaceutical products entering the country are not inspected on the same day.

A sample of weekly reports on consignments each month for the 4 years under audit revealed that on average it took between 4 to 13 days as opposed to the stipulated period of same day as shown in the graph below.

**Figure 4:**




| | 2006/07 | 2007/8 | 2008/09 | 2009/10 |
|---|---|---|---|---|
| Nakawa | 11 | | 6 | 6 |
| Entebbe | 7 | 7 | 5 | 5 |
| Busia/Malaba | 13 | 9 | 4 | 5 |

OAG Analysis of Weekly Summary Reports of consignments at entry points,( Inspectorate Department). (NB: Data for Nakawa for 2007/08 was not obtained).

Through interviews, we noted that URA informs NDA of any drug consignment that may be at entry points. We, however, noted that this arrangement is not formal and is

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[8] NDA Strategic Plan July 2007 to June 2011 page 29 paragraph 3.3.5

not supported by a memorandum of understanding between the 2 organisations. There are no meetings initiated by NDA to harmonise this relationship.

The results of inspection of consignments at entry points for the period July 2008 to June 2010 revealed that an average 2% of the consignments were rejected. We were unable to obtain evidence to confirm that all rejected consignments were actually destroyed under NDA supervision or re-exported to their countries of origin.

The variations highlighted above were attributed to inadequate transport and lack of staff to inspect the consignments and verify relevant import documents. Busia and Malaba entry points along the Kenya/Uganda border are managed by only 1 person who moves from 1 station to another, which makes it difficult for him to inspect all consignments as and when they arrive in the country.

Failure to inspect consignments in time may result into importation of wrong drugs into the country. The delays experienced by importers may create undue pressure on NDA staff, impair the image of NDA, compromise objectivity and delay critically needed drugs which may put the lives of people at risk. If rejected consignments are not destroyed or re-exported immediately, unscrupulous people may divert them into the market and increase a risk of sub-standard medicines in the market.

### 2.2.6 DISSEMINATION OF DRUG INFORMATION

#### 2.2.6.1 Developing, reviewing and disseminating guidelines on of promotion and advertisement of medicines

Section 64 (1) (e) of the NDPA requires the Minister in charge of Health, on the advice of the drug authority, to make regulations by statutory instrument prohibiting, regulating or restricting the manufacture, sale or advertising of drugs, pharmaceutical preparations and therapeutic substances. NDA is supposed to develop, review and disseminate guidelines for promotion and advertising by June 2008. [NDA Strategic Plan July 2007 to June 2011July 2006 to June 2011, 1.4.1 page 89].

Examination of the records availed during audit indicate that while NDA had developed guidelines for promotion and advertising, the guidelines had not been reviewed and disseminated by June 2008.

Delays in the legal drafting of guidelines into Regulations (see 4.1.1 above) was highlighted as the main reason for failure by NDA to disseminate information on advertising and promotion.

Failure to have proper guidelines on advertising and promotion of medicines and disseminating them to relevant stakeholders impairs the ability of the NDA to execute its mandate of regulating drug promotional activities.

The public is also exposed to the risk of getting misleading information about the drugs on the market.

#### 2.2.6.2 Public awareness on rational use of drugs

Section 59 (2) (a) of the NDPA requires NDA to promote public awareness and knowledge of the rational use of drugs.

A review of training reports revealed that NDA is not conducting public awareness programs on drug and substance abuse.

We noted that NDA was expected to carry out 6 sensitisation events on drug and substance abuse each year but no such event was organised by the Drug Information Department. Radio programs for purposes of sensitisation and radio awareness were suspended in 2007.

NDA management attributes this lapse to inadequate funding.

Failure to sensitise the public on drug and substance abuse is an indication that NDA has failed to protect society against the associated harmful effects.

### 2.2.7 MONITORING AND CONTROL

#### 2.2.7.1 Monitoring and Approval of drug adverts and promotional material

Section 33 (1), (a), (b) and (c) and the Fifth schedule thereto, of the National Drug Policy and Authority Act cap. 206 also prohibits the advertisement of drugs and descriptive matter likely to lead to the prevention or treatment of any disease for purposes of termination or influencing the course of human pregnancy, or for purposes of enhancing human potency and treatment of diseases like Hernia, Diabetes, Heart disease, cancer, goitre and many other diseases in the fifth schedule to the Act, unless a patent has been obtained for that purpose (S.33 (3) (c). All Drug promotions and adverts should be approved by NDA.[9]

A review of documents revealed that promotional materials for conventional medicines are approved by NDA. Approval of adverts for traditional/herbal and complimentary medicines was however discontinued in 2008. Interviews conducted with NDA management also indicate that monitoring of adverts is not done. We also observed that sensitisation of stakeholders involved in the promotion and advertising of pharmaceutical products has not been done for the last 3 years.

The reason for discontinuing approval of adverts in this category was that NDA regulates the products only and not the practice. Audit noted that in November 2008, a joint statement was issued by NDA, Uganda Medical and Dental Practitioners Council, Media Council, and Broadcasting Council directing all media houses and the general public to stop advertising and claiming that certain persons and/or medicines in their possession has the capacity to heal several diseases. Failure to monitor adverts was attributed to NDA's failure to designate a dedicated person to monitor and report on adverts. Lack of funds and failure by NDA to gazette the guidelines into statutory instruments was also highlighted as another reason for limited sensitisation activities.

Failure to approve and monitor adverts and promotional materials has the potential of exposing the public to misleading drug information. This further poses a risk of using inappropriate medication, risking the lives of people and attendant effects of adverse reactions. Ensuring that promotion and advertising conform to appropriate procedures also becomes difficult. Besides, illegal adverts have continued unabated in the print and electronic media advertising prohibited services like treatment of acute medical conditions such as enhancing human potency, change of pregnancy, hernia, diabetes, syphilis and many other medical conditions. Hawking medicines ranging from over the counter drugs to herbal or food supplements in buses, markets and other public places or mounting public address system is on the increase. This practice exposes such items to extreme conditions like heat which can cause deterioration of their active ingredients and compromise their efficacy.

[9] NDA Strategic Plan July 2007 to June 2011 paragraph 1.4.2 page 89.

#### 2.2.7.2 Distribution and collection of Adverse Drug Reactions (ADR's) forms

The National Pharmacovigilance Centre (NPC) is required to distribute ADR report forms and collect reports from health facilities[10]. ADR forms should be distributed and collected on a monthly basis from hospitals and health centres. [11]

Interviews with NPC and Regional Pharmacovigilance Centre Coordinators revealed that this is not the case.

We observed that ADR forms are distributed to hospitals and health centres or districts in bulk, usually once a year but collection of the forms by the Regional Pharmacovigilance Centre Coordinators is done on quarterly basis during other hospital support supervision activities. NPC staff also pick forms while conducting support supervision activities.

ADR forms are not collected regularly as required because they are not filled. Some health centre workers do not fill ADR forms even when there are patients under ADR observation because the forms are too detailed and complex to understand. They are also unable to fill the forms because of lack of knowledge. Failure to fill the forms was also attributed to fear of litigation since health workers attending to patients are the same people expected to fill the ADR forms. Meanwhile, distribution, filling, collection and reporting of ADR cases is not mandatory; it is persuasive and the staff handling these functions are not NDA staff. Enforcing compliance becomes difficult under these circumstances.

43% of the respondents from Regional Pharmacovigilance Centres indicated that lack of sensitisation was a cause of poor response, another 43% revealed that health centres failed to return ADR forms while 14% revealed that NDA does not provide them with facilitation to collect these forms from the health centres on a monthly basis. An operating imprest of Ug Shs. 100,000 per month was only released once for 1 quarter in FY 2009/10 and stopped because of poor accountability. Further

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[10] A Guide to Detecting and Reporting Adverse Drug Reactions (paragraph 2.2 page 4), December 2008.

[11] NDA Strategic Plan July 2007 to June 2011 paragraph 3.4.11 page 94.

examination of estimates and actual releases for FY2008/09 revealed that of the Ug Shs 25.4m that was budgeted for collection of ADR forms, only Ug Shs 7.1m, representing 28% was released. This performance level impairs successful implementation of planned activities.

Failure to fill the ADR forms and submit them promptly impairs timely reporting of ADR cases. When existing or observed ADR cases are not reported, proper management and timely corrective measures may not be taken which puts the lives of the public at risk.

**2.2.7.3 Reporting Adverse Drug Reactions**

The National Pharmacovigilance Centre is required to commit reports to WHO Drug Monitoring Centre in Uppsala, Sweden and to disseminate relevant information to Health Professionals, Policy makers and other stakeholders[12]. NDA is also expected to give feedback on Adverse Drug Reactions (ADR) to International agencies on a quarterly basis. [13]

It was noted that reports on ADR are recorded and filled in a software (VigiFlow) which relays this information to the World Health Organisation.

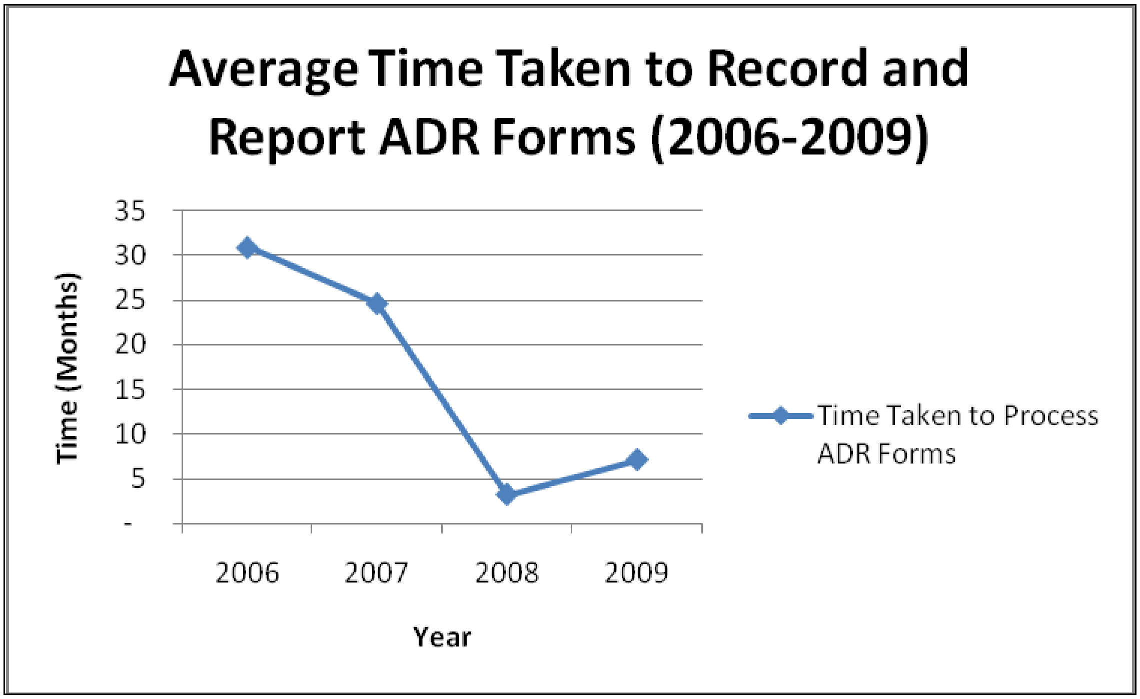
We visited the National Pharmacovigilance centre based at NDA headquarters and 9 out of the 12 Regional Pharmacovigilance Centres and noted that 4 of them carry out minimal activities and do not have facilities (e.g. space and equipment like computers) for use of VigiFlow. Arua, Jinja and Kabale do not have computers and only send ADR forms to the NDA National Pharmacovigilance Offices in Kampala. Although the Mulago National Referral Hospital Pharmacovigilance centre was provided with a computer, no records had been entered at the time of audit. Besides, the centre does not send any forms to NDA. Meanwhile NDA procured 7 modems for Hoima, Fort-Portal, Gulu, Mbale, Soroti and Masaka and pays for subscription for internet connectivity.

We noted that even after the forms have been collected, it took NDA 3 to 31 months on average to analyse and record them on VigiFlow.

[12] A Guide to Detecting and Reporting Adverse Drug Reactions (paragraph 2.2 page 5), December 2008.

[13] NDA Strategic Plan July 2007 to June 2011 paragraph 3.4.12 page 94.

**Figure 5:**




OAG analysis of ADR reports by the National Pharmacovigilance Centre.

Further scrutiny of the ADR forms collected by the National Pharmacovigilance Centre from various health centres in 8 districts revealed that 66% of the forms had not been processed at all (Table 6 below refers).

**Table 6: ADR Forms Collected and Processed by the National Pharmacovigilance Centre**

| | District | Forms Collected | Forms Processed | %age Processed |
|---|---|---|---|---|
| 1 | Kabale | 1 | 0 | 0% |
| 2 | Soroti | 29 | 1 | 3% |
| 3 | Gulu | 32 | 10 | 31% |
| 4 | Arua | 36 | 24 | 67% |
| 5 | Nebbi | 5 | 0 | 0% |
| 6 | Mbale | 14 | 2 | 14% |
| 7 | Mbarara | 27 | 1 | 4% |
| 8 | Masaka | 30 | 21 | 70% |
| | **Total** | **174** | **59** | **34%** |

Interviews conducted at National Pharmacovigilance Centre revealed that some Regional Pharmacovigilance coordinators are not able to use the VigiFlow software.

The software is also slow and is associated with system overload which impairs speedy entry of data. Reports also indicate that about 80% of the forms submitted are not filled properly, have missing data leading to rejection by the system. This also delays data processing and analysis. Limited support supervision from the NDA to the regional centres also weakens the reporting process. Supervision of staff who are not employed by NDA is also a challenge as observed in 2 out of the 7 centres where coordinators have since left the stations without making proper accountability or even handing over the property entrusted to them.

Late reporting and analysis of ADR cases impairs NDA's role of proper identification of the signals necessary for evidenced based regulatory decisions or follow-up action regarding changing lines of drugs, withdrawal of products or batch from the market. Spontaneous reporting by nature has its own weaknesses. Observing trends for informed decision making becomes difficult.

## 2.3 CONCLUSIONS

From the audit findings outlined above, the following conclusions were made to highlight the opinions observed in the course of the audit.

### 2.3.1 LEGAL MANDATE

#### 2.3.1.1 Regulatory Framework

NDA has not gazetted guidelines into statutory instruments as required by law. This impairs the ability of the authority to execute its mandate.

### 2.3.2 LICENSING OF DRUG OUTLETS

#### 2.3.2.1 Issuing of Licences

NDA does not issue licences to all drug outlets by 31$^{st}$ January of each year as required. This encourages illegal operators of drug outlets and poses a risk of exposing the people to sub-standard drugs on the market. NDA is also denied revenue from drug outlets as budgeted for service delivery.

#### 2.3.2.2 Publicizing Licensed Drug Outlets

NDA does not publicise licensed drug outlets. This limits access to vital information by the public as to the legal drug outlets where consumers would confidently buy medicine with ease.

#### 2.3.2.3 Closing of un-licensed Drug Outlets

NDA does not close all unlicensed drug outlets posing a risk to the population regarding the safety and efficacy of medicines available on the market. This encourages prevalence of illegal operators, and subsequently sub-standard drugs which impairs NDA's objective of ensuring that quality, safe and efficacious medicines are availed to the public.

### 2.3.3 ASSESMENT/EVALUATION AND REGISTRATION OF DRUGS

#### 2.3.3.1 Assessment/Evaluation of dossiers

NDA takes too long to evaluate dossiers. This may in turn reduce competition and result in increased prices and reduced access of essential medicines on the market.

#### 2.3.3.3 Registration and Updating of the National Drug Register

NDA does not update the National Drug Register on a monthly basis which may result into entry of unregistered /unauthorized drugs in the Country.

### 2.3.4 DRUG TESTING AND ANALYSIS

#### 2.3.4.1 Time of releasing laboratory test results:

NDA does not release all laboratory test results in 2 weeks from the time a consignment is sampled. This may impair timely decision-making and lead to dissatisfaction by clients.

#### 2.3.4.2 Capacity of the Laboratory

NDA does not have the required laboratory capacity in terms of personnel, laboratory equipment and storage space. This compromises the ability of the lab to ensure the quality of the drugs consumed by the public.

#### 2.3.4.3 Testing Traditional/herbal medicines

NDA did not test traditional/herbal medicines for the period under review. This exposes the public to sub-standard drugs without proven safety, quality and efficacy.

**2.3.5 DRUG INSPECTION**

**2.3.5.1 Inspection of Drug Consignments entering the country**

NDA did not inspect all drug consignments at border entry points on the same day. This may impair the image of NDA, compromise objectivity and delay critically needed drugs which may put the lives of people at risk.

**2.3.6 DISSEMINATION OF DRUG INFORMATION**

**2.3.6.1 Developing, reviewing and disseminating guidelines on of promotion and advertisement of medicines**

NDA has not made statutory instruments for regulating advertisement of pharmaceutical products. The public is exposed to the risk of getting misleading information about the drugs on the market.

**2.3.6.2 Public awareness on rational use of drugs**

NDA has not been vigilant in sensitizing the public on rational use of drugs. Failure to sensitise the public on drug and substance abuse is an indication that NDA has failed to protect society against the associated harmful effects.

**2.3.7 MONITORING AND CONTROL**

**2.3.7.1 Monitoring and Approval of drug adverts and promotional material**

Apart from conventional medicines, NDA does not approve traditional/herbal drug adverts and promotional materials. Besides, monitoring of adverts is not done. This has the potential of exposing the public to misleading drug information as evidenced by illegal adverts in the print and electronic media and hawking of drugs.

**2.3.7.2 Distribution and collection of ADR forms**

ADR forms are not collected from health centres on monthly basis, implying that cases of adverse drug reactions cannot be reported and followed up in time. This impairs timely reporting of ADR cases and affects proper management and timely corrective measures thus risking the lives of the people.

**2.3.7.3 Reporting Adverse Drug Reactions**

NDA does not make timely feedback on ADR which in turn limits the information for informed decision making on drugs. This impairs NDA's role of proper identification of the signals necessary for evidenced based regulatory decisions.

## 2.4 RECOMMENDATIONS

Based on the findings and conclusions presented above, the following recommendations aimed at addressing the existing deficiencies have been suggested.

### 2.4.1 LEGAL MANDATE

#### 2.4.1.1 Regulatory Framework

Management should expedite the process of gazetting regulations to enable the authority to enforce its mandate effectively.

### 2.4.2 LICENSING OF DRUG OUTLETS

#### 2.4.2.1 Issuing of Licences

NDA should fill existing positions and carry out a comprehensive evaluation of its human resource requirements and determine the optimal staffing levels to effectively carry out its mandate.

Management should ensure that regional offices are provided with appropriate transport facilities to enable them carry out pre-licensing inspection for timely issuance of licenses.

It is also advised that NDA starts the process of licensing early to avoid unnecessary delays.

#### 2.4.2.2 Publicizing Licensed Drug Outlets

NDA should ensure that the public is availed free and timely access to information regarding licensed drug outlets.

#### 2.4.2.3 Closing of un-licensed Drug Outlets

NDA should involve local leaders in their respective areas in approving new operators, closing unlicensed premises, renewing licenses or carrying out inspections so as to increase cooperation and effectiveness of inspections.

NDA should also strengthen and streamline the role of Inspectors to improve on existing weaknesses in the process of authorisation, inspection and enforcement. Management should also ensure that police officers of appropriate ranks are deployed whenever enforcement activities are taking place. NDA should encourage formation of Drug outlet owners towards self regulation.

NDA is advised to make formal arrangements with district management regarding DADI's by way of Memorandum of Understanding, clearly stipulating the terms and conditions of such engagements.

### 2.4.3 ASSESMENT/EVALUATION AND REGISTRATION OF DRUGS

#### 2.4.3.1 Assessment/Evaluation of dossiers

NDA management should consider prioritising funding of dossier evaluation since it generates about 80% of NDA revenue whereas it is provided with only 44% of its budgeted requirements.

Where staff strength within NDA structure does not match with the dossier applications received, management should consider the option of outsourcing the activity.

NDA should also consider the option of establishing a dedicated information centre/front desk to guide applicants on NDA requirements, screen applications and provide timely advise on potential queries that may unnecessarily prolong evaluation of dossiers. It is also necessary to cooperate with other reputable drug regulatory agencies to share information on similar products that have been evaluated by their peers to reduce on existing workload, without compromising the quality of the products entering the Ugandan market.

#### 2.4.3.2 Registration and Updating of the National Drug Register

NDA should ensure that all user needs regarding identification of drugs for deletion and reminders on the respective due dates for payment of retention fees are taken into account by the software.

### 2.4.4 DRUG TESTING AND ANALYSIS

#### 2.4.4.1 Time of releasing laboratory test results

Management should put in place a comprehensive plan to ensure that Mini-Labs are used for testing samples at regional offices.

NDA should improve procurement practices to ensure that laboratory inputs are available at all times to avoid delays of results.

They should also avail staff with the necessary reference standards to the laboratory to improve efficiency.

#### 2.4.4.2 Capacity of the Laboratory

Government, through the Ministry of Health, should play a leading role in ensuring that the NDA as a government drug regulatory body has adequate space, equipment and staff to execute its mandate.

#### 2.4.4.3 Testing Traditional/herbal medicines

- Steps should be taken to ensure that all the required staff in testing of traditional/herbal medicines are trained.
- Management should procure the equipment necessary for testing traditional/herbal medicines.
- A comprehensive system of regulating herbal medicines should be put in place by way of statutory instrument to save the public from quack products on the market, promote local research/production and save lives.
- Collaboration with other agencies involved in traditional/herbal medicines like Natural Chemotherapeutics Research Laboratory should be encouraged where capacity within NDA is inadequate.

### 2.4.5 DRUG INSPECTION

#### 2.4.5.1 Inspection of Drug Consignments entering the country

- Management should put in place a proactive arrangement to ensure that all consignments are inspected within agreed timeframes and all key entry points are staffed.
- Provision of testing equipment at designated ports of entry should be prioritised to reduce the time of inspecting consignments and increase the number of samples tested.
- NDA should take a leading role to formalise its working relationship with URA and ensure that customs staff are regularly sensitised about the importance of quick notification of NDA and meetings held regularly to enhance coordination.
- NDA should liaise with other stakeholders to ensure that a system is put in place that would ensure that rejected consignments are destroyed or re-exported without delay.

### 2.4.6 DISSEMINATION OF DRUG INFORMATION

#### 2.4.6.1 Developing, reviewing and disseminating guidelines on of promotion and advertisement of medicines

Management should prioritise and expedite the legal drafting process to ensure that the guidelines are gazetted so as to disseminate drug information to the public.

#### 2.4.6.2 Public awareness on rational use of drugs

Priority should be given to awareness activities in order to protect the public against the harmful effects of drug and substance abuse. Management should harmonise Drug Information Department activities with those of the Public Relations Office to ensure harmony and coordination.

### 2.4.7 MONITORING AND CONTROL

#### 2.4.7.1 Monitoring and Approval of drug adverts and promotional material

To improve the system of approving adverts, NDA should play a leading role in collaborating with other agencies involved in advertising, like media houses and their regulatory agencies, local councils managers of public places, like markets or bus owners, to stop illegal adverts. Priority in resource allocation should also be given to monitoring adverts to safeguard the public from misleading information. Public awareness campaigns should be enhanced to empower the public and safeguard it against the effects of wrong drug information. NDA should assign and facilitate a dedicated person to monitor and report on advertisement of drugs and promotional material.

#### 2.4.7.2 Distribution and collection of Adverse Drug Reactions forms

- The Ministry of Health should streamline the functions and activities relating to ADR reporting.
- It is also recommended that the ministry incorporates ADR reporting in the overall Health Information Management Systems so that the forms are collected with other routine documentation.
- Sensitising health workers on ADR reporting and skills on filling the forms should be continuous with a view of encouraging health workers to record all possible drug reaction observed. Their fears on possible litigation should be allayed.

- NDA should develop feedback mechanisms to stakeholders to encourage them appreciate the benefits of ADR reporting.

#### 2.4.7.3 Reporting Adverse Drug Reactions

- NDA should work hand in hand with the Ministry of Health to ensure that ADR reporting is prioritised and incorporated into other support supervision activities.
- While training centre coordinators on the use of VigiFlow should be emphasised, sensitisation of health workers on observing ADR's and filling the forms properly should be continuous.
- Regional Inspectors of Drugs should be involved in Pharmacovigilance sensitisation activities.
- Regional Pharmacovigilance centres should be provided with the necessary logistics, like internet facilities, to enable them report ADR.

# 3 PROCUREMENT SYSTEM IN LOCAL GOVERNMENTS: A CASE STUDY OF 7 DISTRICTS

## 3.1 INTRODUCTION

### 3.1.1 Motivation

Over 80% of the population of Uganda of 30 million live in rural areas.[14] These areas are served by Local Government Councils (LGC) mandated by the Local Government Act, Chapter 243 of Laws of Uganda[15] to be the highest political authority in providing decentralised services to the populace. According to the PPDA baseline survey report of May 2006, over 60% of the budgets of local Government Councils are spent on goods and services. However, the procurement of goods and services is reported to be a very high risk area which is characterised by irregular sourcing of suppliers due to influence peddling, massive complaints of shoddy works, substandard quality of goods and services, inflated cost of inputs and poor management of contract processes, among others.

According to the PPDA, there is a high level of inefficiency in the procurement process from initiation to contract award stages affecting lead time and service delivery. 72.8% of sampled entities audited by PPDA did not have procurement plans, while procurements amounting to Ug Shs.114 billions representing 28.5% of the sampled procurements files had incomplete records.[16] In the sampled districts of Mukono, Apac, Arua, Kamuli, Moroto, Bushenyi and Bundibugyo Ug Shs.48 billion was allocated to the sectors of Water, Education, Health, Works and Agriculture in the three years under the study. These sectors arguably have bigger budgets and their work impacts most on welfare of ordinary citizens. However they perform below expectations due to poor management of procurement processes which in turn impact negatively on the implementation of government programmes.[17]

[14] UBOS report 2009
[15] Section 9 of the Local Government Act, Chapter 243 of Laws of Uganda
[16] PPDA final report baseline survey on the procurement system in Uganda , January 2010
[17] Daily monitor, Monday, February 15, 2010, page 3

It is against this background that the office of the Auditor General thought it necessary to carry out a value for money study on the procurement process in local governments.

### 3.1.2 Description of the Audit Area

Article 16 (1) of the constitution provides for the system of local governance in Uganda based on the district as a unit under which there shall be such Lower Local Governments (LLG) and administrative units as Parliament may provide. The enactment of the Local Government Act 1997 (LGA) gave effect to decentralisation as a system of governance which devolved functions, powers and services to all levels of local government councils (LGCs) to ensure good governance and democratic participation in, and control of decision making by the people.

With decentralisation, local governments were given increased roles in the procurement and disposal of goods, works and services in order to provide services to the people, thus entrusting them with large sums of money. There was need for government to put in place structures to ensure proper utilisation and accountability for the resources in the hands of the LGs.

The PPDA was therefore created to foster transparency, competition, accountability, economy and efficiency in procurement and disposal process. The PPDA is responsible for the provision of policy, regulation, co-ordination, monitoring, supervision and control of procurements to ensure value for money in all government ministries, agencies and local governments. The objective of this audit was therefore to assess the performance of the procurement system in LGs.

### 3.13 Audit Objective

The objective of the audit was to assess the performance of the procurement system in the selected districts of Apac, Arua, Bundibugyo, Bushenyi, Kamuli, Moroto and Mukono. The audit sought to ascertain the level of compliance with the PPDA rules and the achievement of value for money in procurements.

### 3.1.4 Mandate

The local authorities (districts) derive their mandate from the following legal provisions:

i. The Constitution of the republic of Uganda, 1995 as amended.
ii. The Local Government Act, CAP 243 of Laws of Uganda.
iii. The local Government Finance and Accounting Regulations, 1998 and 2007.
iv. The Public Finance and Accountability Act, 2003.
v. The PPDA Act, 2003.
vi. The Local Government PPDA Regulations 2006.

### 3.1.5 Basic Public Procurement and Disposal Principles/Objectives

The basic principles or objectives of a procurement system are defined in sections 44 to 47 of the PPDA Act and the LG PPDA Regulations 43, and are highlighted below:

- To ensure that there is non discrimination in public procurement.
- To ensure that all procurement and disposals are conducted in a transparent, accountable and fair manner.
- To ensure that all procurements are conducted in a competitive manner to achieve Value For Money (VFM).
- To ensure that there is confidentiality in the conduct of procurement.

### 3.1.6 Activities carried out by Local Authorities

Local Governments procure goods and services while carrying out activities specified in part 2 of the second schedule of the LGA:

- Provision of educational services.
- Medical and health services.
- Provision and maintenance of water supplies.
- Construction, rehabilitation and maintenance of roads.
- Drawing recurrent and development budgets.
- Collection of local revenue.

### 3.1.7 District Funding

The districts have three main sources of funds: local revenue, central government grants and donor funds. The figures below are a summation of all the components mentioned above. The total funding to the 7 districts is shown in table 7 below:

**Table 7: District Funding Figures in Shillings**

| District | 2007/08 | 2008/09 | 2009/2010 | Total |
|---|---|---|---|---|
| Apac | 24,701,109,311 | 21,189,333,522 | 24,805,852,824 | 70,696,295,657 |
| Arua | 25,618,295,819 | 22,510,319,908 | 26,222,825,892 | 74,351,441,619 |
| Bundibugyo | 10,310,626,886 | 12,778,457,755 | 13,635,759,679 | 36,724,844,320 |
| Bushenyi | 31,569,101,299 | 34,621,464,921 | 36,125,641,886 | 102,316,208,106 |
| Kamuli | 19,541,347,041 | 21,185,943,478 | 24,382,655,869 | 65,109,946,388 |
| Moroto | 6,619,582,159 | 9,309,060,124 | 12,086,364,045 | 28,015,006,328 |
| Mukono | 31,070,136,758 | 33,175,079,750 | 38,482,911,204 | 102,728,127,712 |
| **Total** | 149,430,199,273 | 154,769,659,458 | 175,742,011,399 | 479,941,870,130 |

**Source: Audited final accounts of respective districts**

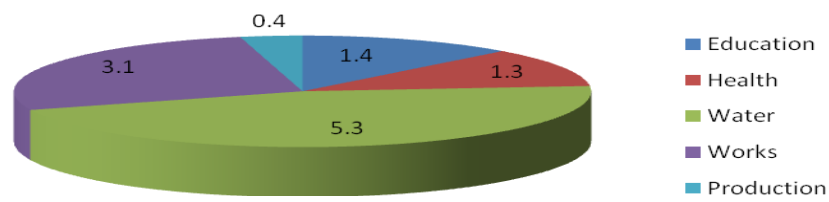
### 3.1.8 Scope

The case study was carried out in the selected districts of Apac, Arua, Bundibugyo, Bushenyi, Kamuli, Moroto and Mukono and focused on the performance of the procurement system over the three financial years: 2007/2008, 2008/2009 and 2009/2010.

## 3.2 FINDINGS

In this chapter, findings in reference to the audit objectives and questions are presented. The findings are summarized from both primary and secondary source data, presented in tables, percentages and cross tabulations. Procurements worth Ug Shs.11.4 billion were selected for audit for the three financial years under study. The sectoral distribution of the Ug Shs.11.4 billion is: Ug Shs.5.3 billion to procurements in water sector, Ug Shs.3.1 billion to works, Ug Shs.1.4 billion to Education, Ug Shs.1.3 to Health, Ug Shs.0.4 to production and Ug Shs.0.1 to Community Services as illustrated in the figure below.

**Figure 6 showing sectoral distribution of sampled procurements in UG. Billions of Shillings**




The findings are discussed below;

### 3.2.1 <u>Procurement Planning</u>

#### 3.2.1.1 Needs assessment

Regulation 62 of the LGPPDAR and Regulation 22 of the LGFAR 2007 require that procurement work plans submitted to PDUs should be based on identified user needs before any project is subjected to a procurement process. This is to ensure that, goods, works and services to be procured serve the intended purpose of the end users. The audit revealed that all procurements examined in our sample did not have evidence of prior needs assessment by the beneficiaries, as illustrated in table 8 below.

**Table 8: Procurements done without needs assessment**

| District | No assessment | | Assessment done | | Total sampled | | % |
|---|---|---|---|---|---|---|---|
| | Number | Amount (Ug Shs) | Number | Amount (Ug Shs) | Number | Non Amount (Ug Shs) | |
| Arua | 9 | 807,415,910 | 7 | 517,284,017 | 16 | 1,324,699,927 | 16 |
| Apac | 3 | 339,097,343 | 12 | 1,242,30,229 | 15 | 1,581,407,572 | 21 |
| Bushenyi | 14 | 835,353,723 | 1 | 3,449,600 | 15 | 848,803,323 | 98 |
| Bundibugyo | 5 | 457,822,558 | 11 | 1,630,510,762 | 16 | 2,088,333,320 | 22 |
| Kamuli | 16 | 1,139,183,092 | - | - | 16 | 1,139,183,092 | 100 |
| Moroto | 6 | 447,166,717 | 10 | 1,368,821,963 | 16 | 1,815,988,680 | 25 |
| Mukono | 9 | 1,537,635,535 | 6 | 1,070,682,917 | 15 | 2,608,318,452 | 59 |
| **Total** | **62** | **5,563,674,878** | **47** | **5,843,059,488** | **109** | **11,406,734,366** | **49** |

**Source; OAG Analysis**

Of the total 109 sampled procurements in the 7 districts, 49% totalling to Ug Shs.5.5 billion lacked evidence of the needs assessment. The worst performance was registered in Kamuli with 100% failure while the least failure rate was registered in Apac District with 21%.

The major reason for not carrying out needs assessments included, among others: lack of capacity at the user department level to carry out needs assessment, projects that are imposed on the people and deliberate exclusion of the users in the project identification.

As a result of the above, many negative effects were suffered by the intended users. For instance, in the district of Arua where goats were imposed on the people, 200 (Boar and Mubende breeds) goats supplied for the sole purpose of improving the local breed, registered a high rate of failure among the target farmers. 22% of the procured male Boar goats died within two months of supply, resulting in a financial loss of Ug Shs.8,096,000 due to poor handling by model farmers and deliberate slaughter by others.

*Picture 3; a head of a slaughtered Boar goat supplied to model farmers for multiplication in Arua district - NAADS projects*

There were also cases of miscarriages. All the locally procured female goats at the first and second pregnancy experienced a miscarriage. The miscarriages were attributed partly to the size misfit between the local goats and the exotic Boar goats and partly to poor handling. This may have been a problem of lack of piloting the project before a final roll out.

In Apac and Moroto, 70% of apiaries did not colonise. This was attributed to imposing projects (bee keeping) that were designed generally and rolled out to places where they couldn't be adopted, which created a mis-match between the foliage and the bees. Because bees thrive in an environment where there are plenty of trees rich in flowers and not in swampy and desert- like conditions of Apac and Moroto, respectively.

The audit further established that the Rural Growth Centre Scheme (RGC)[18] set up to provide water supply and sanitation to improve the socio-economic situation and general health conditions through the reduction of water borne diseases in Moroto, Ngoleriet Sub County was not sustainable because the RGC depends on payment of a user fee to meet operations and maintenance cost. According to the civic leaders and the local community, the beneficiaries cannot afford the contribution since they depend entirely on external support for their livelihood. The Local Government did not have a budget for the procurement of diesel required for the daily running of the RGC generator. Consequently, the local community of 5,852 persons, continued to depend on water from dirty and contaminated sources (see Picture 4 below) and a few available congested bore holes despite the procurement and installation of a Ug Shs.577,627,780 project in Kangole centre

[18] An RGC is a water supply scheme that is motorized and uses power to pump water to the users.

Picture 4: A lady fetching water from a dirty and contaminated source of water at Nawoikoroti parish in Ngolerieti Sub County in Moroto District

The study also revealed that Seven (7) out of the ten (10) installed boreholes inspected were found to be non-functional. Some of the failures of the project were attributed to fluctuating water tables because the boreholes were imposed in the locality despite water siting results which showed very low water table implying the scheme could not be sustained. Additionally, lack of community participation and ownership of the projects is a factor contributing to project sustainability failures; further still, in Moroto District, fruit seedlings supplied to schools and "farmers" for propagation were eaten by goats or scotched by long spells of draught resulting in project failures.

### 3.2.1.2 Procurements made outside the procurement plans

Procurement planning is a mandatory requirement under regulation 62 of the Local Government Public Procurement and Disposal of Public Assets Regulations, 2006 (LGPPDAR). The Regulation requires user departments to prepare work plans for procurements based on the approved budgets to be submitted to the PDU to facilitate orderly execution of annual procurement activities.

The audit noted that all the PDEs had prepared Procurement plans as per the PPDA regulations and submitted them to the PDU. However, the study revealed that in some districts, users submitted to the PDU work plans that did not give detailed breakdown of activities of works, services and supplies.

Further, audit established that 24% representing Ug Shs.2, 750,194,317 of all the procured items in the sampled procurements were outside the procurement plans. For instance, Bushenyi had 58% of unplanned procurements, representing Ug Shs.488,352,402, which is the biggest percentage of unplanned procurements; while the lowest percentage was noted in Kamuli District at 17%, representing Ug Shs.194,894,000. Details are further presented in table 9 below:

**Table 9: Showing unplanned procurements**

| DISTRICT | Total sample in Ug Shs | Unplanned procurements in Ug Shs | % |
|---|---|---|---|
| ARUA | 1,349,754,927 | - | - |
| APAC | 1,581,407,560 | 303,523,671 | 19 |
| BUSHENYI | 835,353,723 | 488,352,402 | 58 |
| BUNDIBUGYO | 2,088,333,320 | - | - |
| KAMULI | 1,122,383,092 | 194,894,000 | 17 |
| MOROTO | 1,774,204,795 | 299,737,757 | 17 |
| MUKONO | 2,608,318,452 | 1,463,686,487 | 56 |
| Total | 11,359,755,869 | 2,750,194,317 | 24 |

**Source: OAG Analysis of procurements outside the procurement plans**

Among the causes of procurements outside the plan are: poor prioritisation of needs, pledges, and undue influence. Management attributed this to failure to update emergency procurements into the plan and subjecting them to the due process of approval following amendments.

Procurements were carried out without due regard to the annual procurement plan and this did not facilitate orderly execution. As a result, the benefits which should have been derived if the activities had been planned were missed. Some projects were not completed because the limited resources were spread to cover more projects than planned.

### 3.2.2 Procurement requisition: Confirmation of funds

Regulation 65(1c) LGPPDAR requires the Accounting Officer (AO) to confirm in writing the availability of funds before signing any contract.

The study established that not all the procurements in our sample were entered into before the confirmation of availability of funds by the Accounting Officer. The audit revealed that 28.6% of the total sampled contracts were entered into without confirmation of availability of funds by the accounting officers as shown in table 10 below;

**Table 10: Showing Cases of signed contracts without confirmation of funds**

| DISTRICT | Number | Un confirmed funding (Ug Shs) |
|---|---|---|
| ARUA | 2 | 185,856,960 |
| APAC | 24 | 384,551,186 |
| BUSHENYI | 17 | 1,119,124,920 |
| BUNDIBUGYO | 1 | 101,725,558 |
| KAMULI | - | - |
| MOROTO | - | - |
| MUKONO | 4 | 1,463,686,487 |
| Total | 48 | 3,254,945,111 |

**Source: OAG Analysis of field data from selected districts**

The contracts entered into without confirmation of funds were worth Ug Shs. 3,254,945,111. In Apac, for example, contracts worth Ug Shs.384,551,186 were awarded to construct pit latrines in twenty four schools. However, at the time of audit no funds had been received from the anticipated source, and yet the contracts had been signed. It is worthy to note that the good practice found in Moroto where procurement process was initiated up to the point of contract award and signing of contracts delayed till the release of funds is confirmed.

According to management, procurements entered into before confirmation of release of funds was attributed to the lengthy and bureaucratic nature of the procurement law that slows down the procurement process. In a bid to follow their procurement plans and to adhere to the procurement law they relied on planning indicative figures and initiated procurements in anticipation.

Lack of compliance was also attributed to failure by PDEs to appreciate the procurement regulations and lack of synchronisation between the PPDA requirements and the release of funds by MoFPED.

Delayed performance of contracts due to non availability of funds denied services to the target beneficiaries and could result in possible litigation for delayed settlement. For instance audit revealed that, in Mukono district, contracts worth Ug Shs.1.4b had stalled due to lack of funds. The study further revealed that failure to complete the construction of twenty two pit latrines in schools in Apac left over 10,000 pupils without pit latrines and at risk of disease outbreak. The abandoned project for the construction of OPD at Wagala in Mukono district left the target population to continue walking a distance of over 10km to the nearest health centre at Lugazi town council.

*Picture 5: A picture showing two faces of an abandoned Construction site of an Out Patients Department (OPD) at Wagala Health Centre ii, Nagojjee Sub County in Mukono District. Construction works on the project had started in the financial year 2007/08*

### 3.2.3 Bidding Procedures

The PPDA Act encourages fair competition by having many bidders and maintaining open communication to all bidders.

#### 3.2.3.1 Participation by bidders

Regulation 43 (3 and 4) of the LGPPDAR regulations (2006) requires that all procurements and disposal should be conducted in a manner that maximises competition and achieves value for money irrespective of the method of procurement used or the nature of works, services or supplies to be procured. From the sampled procurement, the study revealed that there were a number of procurements where there was no evidence of competition by bidders.

According to the available records obtained from counting the evaluated bids in the PDEs sampled, a total of 129 bids were received, recorded and evaluated for contract awards. This implies that, out of every one procurement sampled, a district on average evaluated approximately one bidder as opposed to having three, as detailed in the table 11 below:

**Table 11: No of received and evaluated bids per district**

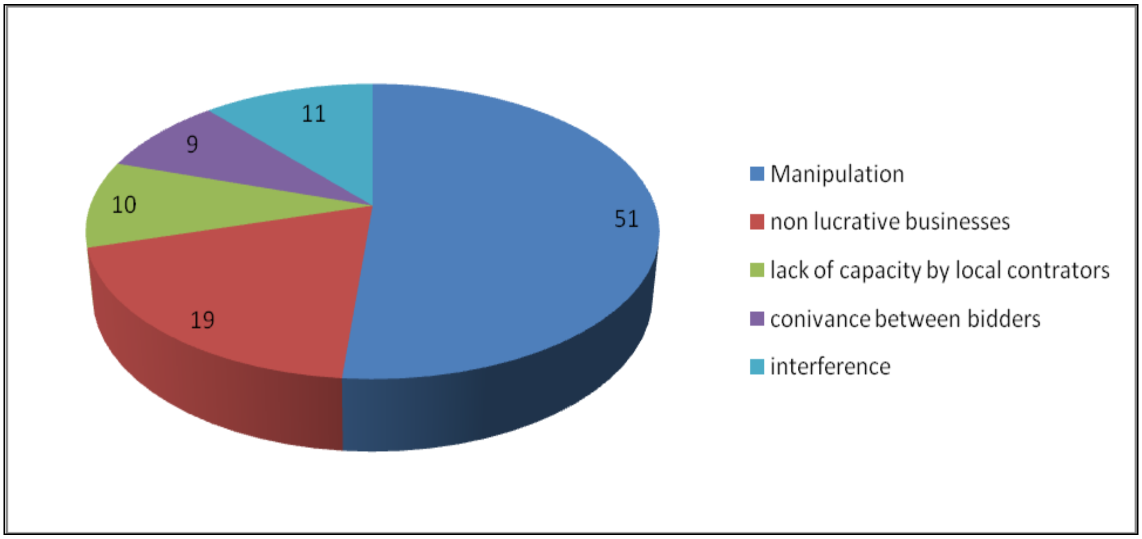
| DISTRICT | No of procurements sampled | No of bids received | Average no of bids evaluated |
|---|---|---|---|
| ARUA | 15 | 21 | 1.40 |
| APAC | 15 | 18 | 1.20 |
| BUSHENYI | 15 | 23 | 1.53 |
| BUNDIBUGYO | 15 | 17 | 1.13 |
| KAMULI | 15 | 18 | 1.20 |
| MOROTO | 15 | 15 | 1.00 |
| MUKONO | 15 | 17 | 1.13 |
| Total | 105 | 129 | 1.23 |

***Source:*** **OAG field analysis of sampled procurement files.**

From the interviews carried out and documents reviewed, the low response from bidders was attributed to a wide range of factors, including: manipulation of the bid processes, high cost of business, lack of capacity by the local contractors, connivance among contractors to avoid competition and the remoteness of some districts.

The pie chart below illustrates the factors contributing to low bidder participation based on the analysis of the responses and review of documents in respect of the sampled procurements.

**Figure 7: Showing analysis of grounds for low bidding**




**Source: OAG analysis**

From the chart above, manipulation accounted for over 50% for low involvement of bidders, as potential service providers were put off by the presumption that someone else was already selected for the contract. Connivance between contractors accounted for 9%, as contractors decided to rally around one provider and purposely keeping away from the bidding process.

Documentary reviews and audit verifications revealed instances where the practice was to eliminate bidders so that only one bidder is eventually evaluated and selected. For example, only one bid was received for construction of a 22.2km community access road in Busamuzi Sub County at Ug Shs.584,671,920 and for the construction of 8 hand dug wells at Ug Shs.47,778,750 in Mukono.

In another instance, an advertisement under Open Domestic Bidding for the construction of Koome Gravity Flow Scheme in Mukono district of Ug Shs 843,969,500 was placed on 15 January 2010 in the New Vision News paper, but the district did not wait for the advertisement to run for the full period to 8th February, 2010. Instead a similar notice to 2 bidders through selective bidding was placed by a letter dated 15th January, the same day the news paper advert ran. The two methods used concurrently effectively undermined the objective of participation.

It was further noted that, by the time of audit, only clearance works had been done on site and yet the district was already into another financial year of 2009/2010. Similar observations were made of the construction of surface piped water system in Kimmi /Koome Sub-county, Bweema Sub-county and Bagaya Sub-county at Ug Shs.59,375,000.

As a result of having a limited number of bidders participating in the procurement process, entities were denied the opportunity of selecting from a wide range of bidders thus limiting competition. This could have resulted into selection of contractors who lacked capacity to complete the works. Some projects could be abandoned when a few contractors take on more responsibilities in more than one entity in different locations, getting overstretched and leading to substandard works.

Examples of substandard works as a result of the above scenario are shown in Pictures 6 to 9 below:

Picture 6: A picture of Nadunget Seeds School in Moroto District show total failure on fixtures and fittings. This door is totally out of its position.

**Picture 7: Shoddy works on walls and paintings of Nadunget Seeds School in Moroto District**

**Picture 8: showing the interior of a classroom in the same school with failed floor**

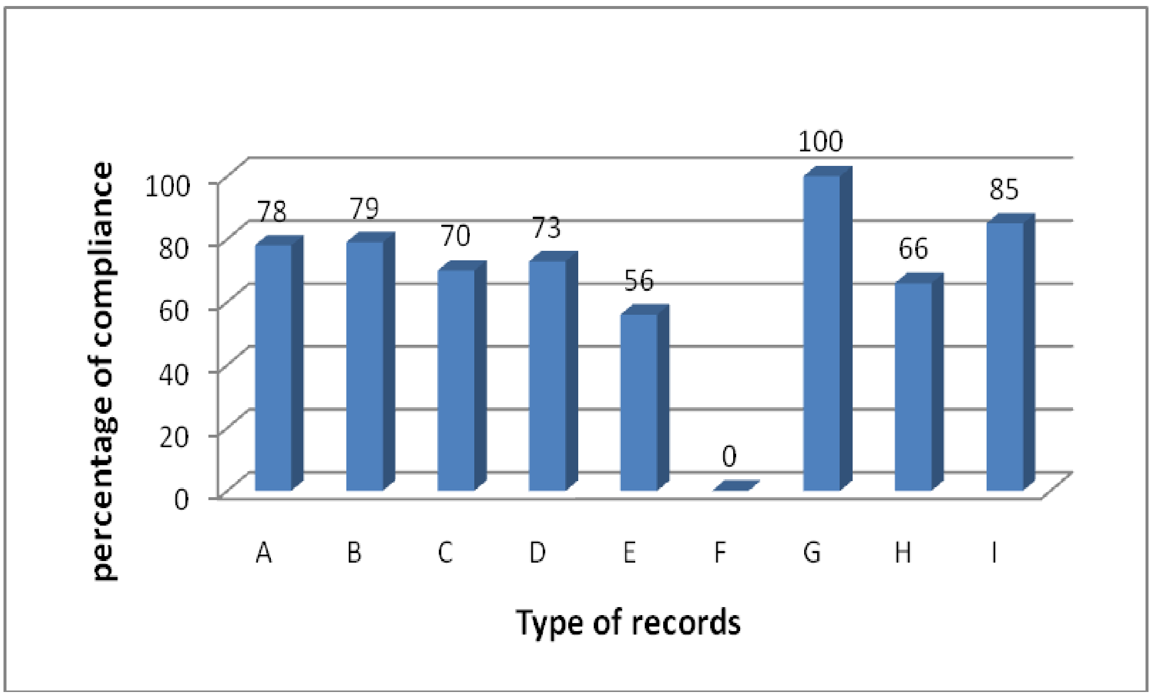
**Picture 9: A borehole constructed in the financial year 2009/2010 found dry barely four months after construction and before hand over.**

### 3.2.3.2 <u>Documentation of Bidding Process</u>

Regulation 46 (2) of the LGPPDAR, 2006 requires that all procurements and disposal records be maintained by PDU for inspection by competent authorities.

In many instances, documents were photocopied and inserted in the procurement files without being fully filled and endorsed. Audit also established that not all procurement records were maintained by the PDUs for inspection by competent authorities. The study further revealed that on average 68% of the procurement documentation was maintained while 32% was missing. For instance our analysis revealed 0% compliance with the requirement to issue receipts for all the bids received. It further revealed that 56% and 66% of the procurement files examined complied with the requirement of receipt and stamping of bid documents opened and evidence of display of bid records within two working days, respectively as shown below:

**Figure 8: Showing percentage of compliance with the documentation of bidding procedures[19]**




**Source: OAG analysis of sampled procurement files**

[19] Records show missing procurement documentation out of the 15 samples from each district

**KEY**

| | |
|---|---|
| A | Record of bids received |
| B | Signing of bids received |
| C | Witnessing of bid opening by the Chairperson Contracts Committee |
| D | Signing of the bid opening register by all bidders |
| E | Evidence of receipt and stamping of bidding documents opened |
| F | Issuance of receipts for bids submitted |
| G | Signing of the evaluation reports by all Evaluation Committee Members |
| H | Evidence of display of bid records within two working days |
| I | Evidence of closing of bids at the precise time and date |

Picture 10: By OAG: Storage of procurement records in Kamuli District

The inadequate documentation is attributed to lack of willingness by District staff to adopt the requirements of the PPDA Act, understaffing of the PDU as in the case of Apac, Arua, Moroto and Kamuli, the voluminous documentation involved in procurement process, inadequate storage space and negligence on the part of staff.

Failure to document procedures renders accountability and audit difficult and casts doubt on the authenticity of the underlying transactions; and raises questions of transparency and competition in procurement process. This then provides room for manipulation at the various levels and facilitates corrupt tendencies since the controls are weakened by lack of transparency. It also renders access to key documents difficult for planning and decision making by relevant procurement stakeholders.

### 3.2.3.3 Compliance with terms and condition of Specification of Requirements

Regulation 48 (2),(3) of LGPPDAR requires that tender documents shall have a statement of requirements that define the requirement precisely and in a manner that leaves no doubt or assumption by a tenderer of the procuring and disposing entity's requirements and to determine how closely and effectively a tenderer can meet these requirements.

The description in the statement of requirements shall be prepared with a view to ensuring that the works, services or supplies are fit for the purpose for which they are being purchased, are of appropriate quality and will ensure value for money.

The study revealed that not all tendered documents had SORs as required by the regulations. 95% of the sampled procurements had statement of requirements (SORs). However, in respect thereof, the delivered works, services and supplies did not reflect compliance with the requirements spelt out in those SORs. It was expected that, at this level of compliance with the specification, the quality of projects implemented would have equally met the user needs as spelt out in the specifications but this was not the case.

This high compliance level was attributed to use of standardised specifications handed down to PDEs from the parent ministries.

A number of projects with clear SORs were found completed but with a lot of defects and a number were failing to meet user needs. A case in point is Apac district where Ug Shs.5,186,000 was given out for a nuclear farmer for establishment of a poultry farm, and to improve the breed of chicken in the area. The funds were however not used for the intended purpose. Instead of the farmer allowing the chicken to hatch the eggs and multiply the stock of the improved breed, he turned the chicken into layers, collected eggs and sold them off. When the chicken stopped laying eggs, all the five exotic cocks and the fifty local chickens were sold off and the project closed. Therefore, the multiplier effect on other targeted six farmers per parish could not be achieved and the overall objective of improving the incomes of the farmers was not attained.

In yet another instance, a two classroom block and an office constructed with clear SOR at Opeta Primary school at a cost of Ug Shs.27,200,000 in the FY 2008/2009 were found to be substandard. The floors of both classrooms had turned into gullies, plaster on all the interior walls had peeled off and the splash apron was falling apart. The investment, if it had been built as per standard SOR, was supposed to last at least 50 years. It was instead wasting away within less than three years, and was not serving the purpose.

Picture 11: A poorly constructed floor and plaster of a classroom at Opeta Primary School in Apac District, barely two years after construction.

**Picture 12:** A splash apron on the same building (Opeta P/S) that had completely fallen apart, a sign of poor workmanship and use of inferior materials.

The cause of substandard works according to management was due to the district Engineers being overwhelmed with too many projects to oversee with limited facilitation and negligence by some engineers. Lack of community ownership and monitoring of projects was also responsible for unsatisfactory works. Management also cited lack of standardisation of project costing as a cause of poor works. They argued that central government projects were costed at higher values than the same projects in local governments.

### 3.2.3.4 <u>Direct procurement</u>

Regulation 40 of LGPPDAR requires direct procurements method to be used where exceptional circumstances prevent the use of competition.

The audit revealed that direct procurement method was not used strictly under exceptional circumstances contrary to the regulations. Out of the sampled procurements worth Ug Shs.11,397,645,869 for supplies, works and services, procurements made using direct method were worth Ug Shs.350,365,757. This was found in Moroto and Apac districts as illustrated below;

- Apac District employed direct method for four contracts totalling to Ug Shs. 50,628,000 and all of them were not done in exceptional circumstances.

- Moroto District utilised direct procurement method for five contracts worth Ug Shs. 299,737,757 which could not be considered exceptional. For instance the procurement of contractor for construction of Turutuko-Apeitole road and Kangole -Lotome –Lorengedwat road in Moroto District was through direct procurement. This contractor later failed to complete the contract worth Ug Shs.126,098,517 and subsequently abandoned the site. (See Picture 11 below).

**Picture 13:** A poorly constructed culvert on Turutuko-Apeitole road in Moroto District where direct procurement was used and the contractor failed to complete works.

According to management direct procurements were as a result of emergency situations but audit attributed it to poor planning and disregard of the procurement law by the districts.

Using direct method of procurement where the situation does not warrant denies the PDE the opportunity to secure competent contractors which would have been achieved through competition. Besides, the citizens are denied the full benefit of the service intended to be derived from the procurement. This leaves the citizens' conditions unaddressed despite the huge amount paid out by the project.

### 3.2.4 Contract award; Approvals by Solicitor General

The statutory Instrument supplement No.7 of 1999 requires that contracts above Uganda shillings fifty million should be approved by the Solicitor General (SG). This is intended to ensure that the terms of the agreement are not unfavourable to government.

The study established that not all contracts above fifty million shillings in our sample amounting to Ug Shs.10.4 billion were approved by the Solicitor General. Of the seven districts studied six submitted their contracts to the Solicitor General for approval while

Mukono district did not submit contracts amounting to Ug Shs.2.4 billion. Details are shown in the Table 6 below

**Table 12: value of contracts awarded**

| District | Value of contracts above 50m shillings |
|---|---|
| Apac District | 1,390,982,096 |
| Arua District | 1,301,127,077 |
| Moroto District | 1,733,136,595 |
| Kamuli District | 940,077,892 |
| Bundibugyo District | 1,820,368,229 |
| Bushenyi District | 657,132,666 |
| Mukono District | 2,483,244,097 |
| **Total** | **10,326,068,652** |
| Total sampled | |

**Source: OAG Analysis**

The management of Mukono district explained that they opted not to seek Solicitor General's approval citing the long process involved in obtaining the approval. The assertion of Mukono District, however, is contradicted by the full compliance by other districts under study which are geographically located far away from Kampala.

By not complying with this requirement in their contractual arrangement, Mukono district risked subjecting contracts worth Ug Shs.2.4 billion to the risk of loss by government arising out of unfavourable contractual terms and possibility of unnecessary litigations.

### 3.2.5 Contract Management

#### 3.2.5.1 Monitoring and supervision of contracts

According to Regulation 58 (f) and (g) of the PPDA, the PDU shall monitor contract management by user departments to ensure implementation of contracts in accordance with the terms and conditions of the awarded contract and report any significant departures from the terms and conditions of the awarded contract to the Accounting Officer.

Audit established that all PDUs of the sampled districts did not monitor and report contract management by user departments to the accounting officer as required by the regulations.

All the sampled 109 procurements involving Ug Shs.11.4 billion did not have performance evaluation reports as evidence of monitoring and reporting by PDU in accordance with the above regulation. This was attributed to the Accounting Officers' failure to recognise the need to facilitate the PDU's to perform this important role accordingly.

This resulted in PDU's and contract committees remaining uninformed of poor performing contactors and other service providers yet the information would have been necessary in evaluating contractors and service providers for subsequent pre-qualification. This weakness partly contributes to the continuous award of contracts to poorly performing service providers.

### 3.2.5.2 <u>Constituting contracts committees</u>

Regulation 15 (1) of LGPPDAR,2006 requires the existence of a contracts committee consisting of five members nominated by the Accounting Officer from among the public officers of the procuring and disposing entity and approved by the Secretary to the Treasury.

Audit established that some districts operated without fully constituted contract committees for periods ranging between 6 to 24 months. Despite Accounting Officers' effort to nominate people who meet the minimum conditions, the approval of the nominated officers by Secretary to the Treasury has been hard to come. This led some Districts to operate without fully constituted procurement committees for an average length of eight months as shown in the table 13 below:

**Table 13: Constituting contract committees**

| Districts | Period of operation without Contract committee (Months) | Period affected | Reasons for absence |
|---|---|---|---|
| Apac | 24 | 2007/8-2008/9 | Delay in approval of nominees by MoFPED |
| Arua | 6 | July 2009-Jan 2010 | " |
| Moroto | 0 | 0 | |
| Kamuli | 1 | April 2009-May 2009 | Delay in approval of nominees by MoFPED |
| Mukono | 8 | May2009-Jan 2010 | " |
| Bushenyi | 6 | July 2009-Dec 2009 | " |
| Bundibugyo | 12 | Nov2009-Nov 2010 | " |
| Average period | 8 | | |

**Source: Analysis by OAG**

All the Accounting Officers interviewed from the seven districts expressed lack of knowledge of the minimum requirements which the Secretary to Treasury would use to disqualify or accept the nominated senior officers.

Non operation of Contract committees for some period contributed to delays in execution of contracts with the consequence of available funds remaining idle and reverting to consolidated fund. This denies citizens the services that would have been delivered by executing the unimplemented contract.

In addition, according to management, although the law allows the Districts to utilize contract committees of neighbouring Districts, the cost implication and the prioritization of procurement business of the neighbours has always been to their disadvantage.

## 3.3 CONCLUSIONS

### 3.3.1 Procurement made without proper needs assessment

49% of all the procurements amounting to Ug Shs.5,563,674,878 made in the sampled local governments are being done without carrying out needs assessment. As a result, the projects do not serve the intended purpose.

### 3.3.2 Procurement made outside the procurement plans

24% of sampled procurements amounting to Ug Shs.2,750,194,317 are made outside the procurement plans. This affects the orderly execution of procurements activities and also leads to the users missing the benefits that would have accrued from the prioritized procurements.

### 3.3.3 Confirmation of funds

In over 28.6% of the sampled procurements amounting to Ug Shs.3,254,945,111, accounting officers are committing the districts in contracts without confirmation of availability of funding. This is leading to lot of uncompleted projects to the districts, and is a potential area for litigation that may be very costly to the districts.

### 3.3.4 Participation by bidders

From the sampled procurements, audit established that, there were a number of procurements where there was no competition by bidders. Because of the limited number of bidders participating in the procurement process, entities were denied opportunities of choosing from a wide range of service providers.

### 3.3.5 Documentation of the bidding process

Not all procurement records were maintained by the PDUs for inspection by competent authorities. The study revealed that on average, 68% of the procurement documentation was maintained while 32% was missing. Failure to document procedures casts doubt on the authenticity of the entire procurement process and leaves room for manipulation of the process.

### 3.2.6 Compliance with terms and condition of specification

Over 95% of the districts clearly spell out SORs in their bidding documents for goods, works, and services contracts. However, some of the outputs from the procured goods works and services are not commensurate with the documented SORs. Therefore, goods, services and works being procured by districts may fall below expected standards and are not reflecting quality procured and paid for.

### 3.3.7 Direct Procurement

Apac and Moroto districts made direct procurements worth Ug Shs.350,365,757 in total disregard of the conditions that necessitate the use of the direct method as per regulation. As a result, some works and projects have stalled at various levels of completion because the contractors selected did not have capacity.

### 3.3.8 Approvals by the Solicitor General

All districts sampled except Mukono sought the Solicitor General's approval for the contracts above the threshold before signing. By not seeking approval from the Solicitor General, Mukono risks subjecting Government to unfavorable contractual terms and exposes it to unnecessary litigations.

### 3.3.9 Monitoring and supervision of contracts

Audit established that all procurements in the sample worth Ug Shs11.4 billion were not monitored and reported on by PDU to the accounting officer as required by the regulations. This leads to poor quality work and a continuous award of contracts to poorly performing service providers.

### 3.3.10 Constituting contracts committees

Audit revealed that some districts operated without fully constituted contract committees for periods ranging between 3 to 24 months. Non operation of contract committees delays the procurement process. As a result, district funds continue lying idle. This denies citizens the services that would have been delivered through the procured contract.

## 3.4 RECOMMENDATIONS

### 3.4.1 Procurement made without a proper needs assessment

PDEs should build capacity at user department level and ensure user participation in needs identification.

### 3.4.2 Procurements made outside the procurement plans

PDEs should always come up with comprehensive procurement work plans that cover all the district needs and adhere to the approved procurement plans. In the event of a genuine change of priorities, the recommended procedure to amend the procurement plan should be followed and the required approval sought.

### 3.4.3 Procurement requisition: Confirmation of funds

- No contracts should be signed by PDEs before confirmation of releases of funds.
- PDEs should initiate the procurement process early enough in anticipation of funds up to the point of contract award. This will enable them to enter into contracts as soon as funds availability is confirmed, as is being done by Mororto district.
- There should be continuous sensitization of all the procurement stakeholders on the benefits of the current procurement system.

### 3.4.4 Participation by bidders

- To encourage competition and get appropriate service providers, PDEs should stick to the procurement regulations on bidding procedures and encourage full participation from potential service providers so as to promote transparency and competition.
- Physical verification of the genuine existence of the service providers should be carried out after opening of the bids as a matter of procedure before evaluation.

This will help eliminate "Brief case" companies, a single contractor competing for the same contracts under different company names. The Ministry of local government together with the Registrar of companies should consider exempting the districts from paying the verification fees to facilitate this exercise.

- Contractors who have failed to execute contracts in previous years should be excluded from participation.

### 3.4.5 Documentation of Bidding Process

- PDEs should ensure that, all vacant posts within the PDU are filled with appropriate staff.

- They should provide storage space and ensure that documents are properly stored.
- PDEs should carry out sensitization of all district staff involved in procurement on the importance and requirements for procurement documentation.
- Electronic filing should be considered where it is practicable to address the problem of limited space.

### 3.4.6 Compliance with terms and conditions of specification of requirements

- PDEs should consistently monitor project implementation to ensure that projects are implemented as per specification and any significant departures reported and corrective action taken.
- District Engineers who issue certificates of completion for substandard works should be penalised and disciplined.
- Community ownership and monitoring of projects should be encouraged.
- The costing of similar projects within central and local governments should be standardised.

### 3.4.7 Direct Procurement

As far as possible PDEs should avoid the use of direct procurement method where the situation does not warrant it and ensure all procurements are planned to minimize emergency cases.

### 3.4.8 Approvals by the Solicitor General

PDEs should continue to seek approval from the Solicitor General prior to award of all contracts above fifty million shillings.

### 3.4.9 Monitoring and supervision of contracts

Accounting Officers should appoint contract managers for every contract in compliance with the regulations. They should also involve PDUs in monitoring and supervision of contracts either directly or through the appointed contract managers.

### 3.4.10 Constituting contracts Committees

Accounting Officers should liaise with the Permanent Secretary of the Ministry of Local Government to facilitate discussions meant to address concerns of districts regarding delays in approval of contract committees by the Secretary to Treasury.

The Accounting Officers should consider Regulation 15 Section 3 (a to f) of the PPDAR, 2006 while selecting and assessing a candidate for suitability for appointment to a contracts committee to avoid unnecessary delays that may be caused by such an omission from their part.

# 4 FUNCTIONALITY OF LAND MANAGEMENT INSTITUTIONS IN UGANDA

## 4.1 INTRODUCTION

### 4.1.1 Motivation

Land in Uganda belongs to the citizens of Uganda and is vested in them. The Constitution of the Republic of Uganda[20] recognizes various land tenure systems namely; Customary, Freehold, Mailo and Lease hold.

The administration of the various land tenure systems is vested in the Ministry of Lands, Housing and Urban Development, Uganda Land Commission, District Land Boards, District Land Offices and Area Land Committees.

However, despite the existence of these Institutions, the public appears to be slowly losing confidence in the land administration system. There has been public outcry on delays in processing of land titles, crowded land offices, payment of bribes and the increase in land wrangles and evictions and encroachment on Government land. The land administration institutions attribute these challenges to the lack of a national land policy to govern the management of Government/public and private land, understaffing and inadequate funding.

It is against this background that the Office of the Auditor General decided to conduct a Value for Money audit to ascertain the challenges facing land management institutions in Uganda and to analyze their underlying causes and make recommendations to address them.

### 4.1.2 Description of the Audit Area

The audit was conducted in the Ministry of Lands, Housing and Urban Development (MOLHUD) particularly in the Directorate of Land Management (DLM) which is responsible for the management and administration of land in the country. To execute

[20] Section 237 (3)

its roles, the DLM is divided into three departments, namely: the Department of Land Administration, Department of Surveys and Mapping and the Department of Land Registration which supplement each other and also work closely with other independent bodies like, the Uganda Land Commission (ULC), the District Land Boards (DLB), the District Land Offices, the Land Tribunals, the Area Land Committees, the Divisions and Sub Counties in the management of land. The DLM is also supported by the Land Sector Reform Coordination Unit (LSRCU), under which most reforms are coordinated.

Though the enactment of the Land Act CAP 227 decentralized land administration functions from the MOLHUD and the ULC to the DLBs and ALCs,[21] the titling of land in Uganda is generally a centralized function as land titles are processed and issued at MOLHUD headquarters in Kampala save for districts with Mailo land.

### 4.1.3 Statutory Mandate of the DLM

The DLM derives its mandate to manage and administer land in Uganda from that of the MOLHUD which is: "to facilitate and promote rational and sustainable use, effective management and orderly development of land and safe, planned and improved housing development for meaningful socio-economic development".

### 4.1.4 Vision, Mission, Objectives and Activities of the DLM

**Vision**

The DLM derives its vision from that of the MOLHUD which is: "Sustainable land use, land tenure security, affordable, decent housing and organized urban development".

**Mission**

The DLM derives its mission from that of the MOLHUD which is:

"Creating an enabling environment to use land resources sustain ably for better living conditions in Uganda".

**Objectives of the DLM**

The objectives of DLM are:

[21] Section 2.1 of the Guidelines on the administration of Land under the Land Act, CAP 227 of July 2005

- To formulate national policies, strategies and programs on land, housing and urban development.
- To provide policy guidance to land holding authorities for sustainable, orderly development and effective management of land, housing and urban sectors.
- To initiate and review legislation on land, housing and urban development.
- To set national standards for sustainable use and development of land and improved housing.
- To enforce compliance to laws, policies, regulations and standards for effective management and sustainable development of land, housing and urban centers.
- To monitor and coordinate national land, housing and urban development initiatives and policies as they apply to Local Governments (LG's).
- To provide support supervision and technical back-stopping to LG's on matters regarding lands, housing and urban development.
- To maintain territorial boundary, making and updating maps.

**Activities carried out in the DLM**

In order to achieve the above objectives, there are several activities carried out in the DLM. These include: searches of the register, verification of survey requests, certification of titles and other instruments, mutations, registration of Court Orders and Summons, mortgages, leases, issuing special certificates of titles, caveats, cancellation of certificates of titles, property valuation, surveys and mapping, setting standards, capacity building, performance monitoring, policy development and physical planning.

### 4.1.5 Funding of the DLM

The DLM is funded by the Government of Uganda (GOU) from releases to the MOLHUD and development partners. An amount of Ug Shs 5,097,500,113 was received by the DLM during the period of audit 2006/2007 – 2009/2010. Some activities in the DLM were also funded under a project called the Land Tenure Reform Project (LTRP) as shown in Table 14.

**Table 14: Showing funding to the DLM; for the FYs 2006/2007 to 2009/2010**

| FINANCIAL YEAR (FY) | APPROVED (Ug Shs) | | RELEASED (Ug Shs) | |
|---|---|---|---|---|
| | GOU | DONOR (LTRP) | GOU | DONOR (LTRP) |
| **2006/2007** | 785,768,852 | 8,000,000,000 | 761,890,271 | **10,000,000,000** |
| **2007/2008** | 1,024,702,417 | 10,000,000,000 | 666,620,648 | **15,000,000,000** |
| **2008/2009** | 2,259,401,777 | 10,000,000,000 | 1,782,539,174 | **15,000,000,000** |
| **2009/2010** | 2,454,074,979 | 10,000,000,000 | 1,886,450,020 | **15,000,000,000** |
| **Total** | **6,523,948,025** | **38,000,000,000** | **5,097,500,113** | **55,000,000,000** |

**Source: Audited Accounts of MOLHUD and Annual Performance Reports for the FYs 2006/2007 to 2009/2010.**

### 4.1.7 Audit objectives

The audit was conducted to establish the challenges faced by various land management institutions while performing their functions and provide possible recommendations that will address them.

Specifically the audit was intended to establish whether the Directorate of Land Management (DLM) in the MOLHUD, Uganda Land Commission (ULC), District Land Offices (DLO), District Land Boards (DLB) and Sub County Land Committees (SLC) and Division Land Committees (DLC) were properly constituted, funded and functioning.

### 4.1.8 Audit Scope

The audit focused on land management institutions in the country and was conducted in the DLM in the MOLHUD, ULC and twenty three (23) Districts of Arua, Gulu, Jinja, Kabale, Kabarole, Lira, Luwero, Masaka, Mbale, Mbarara, Masindi, Mityana, Mukono, Moroto, Rukungiri, Soroti, Tororo, Kampala, Wakiso, Nebbi, Bundibugyo, Bushenyi, Kalangala and nine (9) Municipalities of; Arua, Gulu, Jinja, Kabale, Fort portal, Lira, Masaka, Mbale and Mbarara. The audit focused on four (4) Financial Years (FYs) from 2006/2007 up to 2009/2010.

## 4.2 FINDINGS

This chapter presents the findings of the audit. It describes the various challenges affecting the performance of land management institutions which include their constitution, funding, staffing and administrative functions.

### 4.2.1 CONSTITUTION OF DISTRICT LAND BOARDS(DLBs) and AREA LAND COMMITTEES (ALCs)

#### 4.2.1.1 District Land Boards (DLB)

Sections 56, 57 and 58 of the Land Act as amended requires the establishment of DLB consisting of a minimum of five (5) members who hold office for a period of five (5) years and may be eligible for reappointment for a further one term. Paragraph 3.1 of the guidelines on the administration of land of 2005, requires members of the DLB to be appointed by the District Council (DC) on the recommendation of the District Executive Committee (DEC) and approved by the Minister for Lands.

Through document review and field visits, we noted that DLBs in 21 (91%) out of the 23 districts visited had been constituted with the exception of Mukono and Moroto. We further noted that the process of constituting the Boards was taking between 8 to 19 months after the expiry of the old Boards. In ten (10) districts, it took over a year (12 months and above) to constitute a new Board after the expiry of the old Boards.

In Mukono and Moroto districts, management explained that some of the proposed names of the Board members were rejected in the vetting process.

Failure to appoint new DLBs upon the expiry of the previous Boards was attributed by the districts to the long appointment process. Audit attributed the delay to the non adherence by the districts to the appointment guidelines.

Failure to institute new DLBs upon the expiry of the previous Boards leads to delays in the processing of land transactions.

**Management response**

**The Districts are notified and advised to appoint new Boards six months prior to the expiry of the Board's term of the office but for a number of reasons including political interference the Boards are not appointed in time. Unfortunately, because the DLBs are not under the direct supervision of the Ministry there is nothing much that the Ministry can do to coerce the District Councils to ensure expedited action, other than simply reminding them and maybe refusing to handle their work.**

#### 4.2.1.2 Area Land Committees (ALC)

Section 64 (1) & (2) of the Land Act CAP 227 as amended, requires each Sub County or Division Council to have a Land Committee consisting of a Chairperson and four (4) other members appointed by District Council (DC), on the advice of Sub County or Division Council. Section 64 (4) requires members of the Land Committees to hold office for a period of three (3) years and eligible for reappointment for a further one term.

In the 23 districts visited, we noted that although Area Land Committees (ALC) had been constituted, the members had not been given formal appointment letters.

It was noted through interviews with the Chief Administrative Officers (CAOs) that districts could not issue appointment letters to members of the ALC because of the fear to commit the meager district resources.

In the absence of appointment letters, the actions and decisions of the ALC members cannot be defended if challenged in the Courts of law. Failure to facilitate ALCs affects their operations which may in turn slow down the processing of land applications.

**Management response**

**The Ministry has been liaising with the District Councils over this issue for more than twelve (12) years to no avail! Indeed the action of District Councils to appoint members of Area Land Committees was borne out of this liaison with the Ministry. They simply stopped at the stage of issuing appointment letters purportedly because they do not have the revenue to fund them.**

### 4.2.2 BUDGETING AND FUNDING

#### 4.2.2.1 Directorate of Land Management

Funds budgeted for and approved by Parliament should be released to the land management institutions as appropriated.

Through a review of ministerial policy statements, budgets and audited accounts, we noted that the Ministry prepared its annual revenue and expenditure estimates for the years under review (FY 2006/2007 to 2009/2010), however, not all the budgeted funds were released to the DLM. The DLM, on average, received 79.5% of its budgeted amount as shown in table 15.

**Table 15: Showing average budget performance for the DLM; for the FYs 2006/2007 - 2009/2010**

| Financial Year (F/Y) | Approved Budget (Ug Shs) | Total releases (Ug Shs) | Budget performance in Percentage |
|---|---|---|---|
| **2006/2007** | 785,768,852 | 761,890,271 | **97** |
| **2007/2008** | 1,024,702,417 | 666,620,648 | **65** |
| **2008/2009** | 2,259,401,777 | 1,782,539,174 | **79** |
| **2009/2010** | 2,454,074,979 | 1,886,450,020 | **77** |
| **Average** | **1,630,987,006** | **1,274,375,028** | **79.5** |

**Source: Audited Accounts of MOLHUD for the F/Y's 2006/2007-2009/2010.**

During interviews with senior staff, it was explained that the DLM has encountered setbacks in the implementation of the planned activities due to under-funding. For example, planned activities such as induction and training of staff in lower land management institutions and monitoring and inspections could not be conducted because of inadequate funding.

Through interviews with senior staff in the DLM, the less disbursement of funds was attributed to the general budget cuts across all Government Ministries and Departments.

Inadequate funds rendered the DLM unable to implement some of its planned annual activities.

**Management response**

**The Ministry is in agreement with the Auditor General's recommendation.**

### 4.2.2.2 Uganda Land Commission

Through a review of the Ministerial policy statements and budgets, we noted that the income and expenditure estimates of the Commission were part of the Ministry's estimates. We further noted that not all the budgeted funds of the Commission were released by the MOFPED, since the Commission on average received 87% of its budgeted amount as shown in table 16.

**Table 16: Showing average budget performance for the ULC; for the FYs 2006/2007 - 2009/2010**

| Financial Year (FY) | Approved Budget (Ug Shs) | Total releases (Ug Shs) | Budget performance in Percentage |
|---|---|---|---|
| **2006/2007** | 965,111,862 | 906,738,517 | **94%** |
| **2007/2008** | 1,169,590,000 | 1,056,334,227 | **90%** |
| **2008/2009** | 1,185,001,000 | 775,461,039 | **65%** |
| **2009/2010** | 5,776,000,000 | 5,667,632,935 | **98%** |
| **Average** | | | **87%** |

**Source: Audited Accounts of the ULC for the FYs 2006/2007-2009/2010.**

During interviews with senior staff, it was explained that the Commission has been facing financial challenges due to budget cuts and as a result, some of the planned activities such as land inventory exercise and processing of titles for Government land could not be undertaken.

Inadequate funds rendered the Commission unable to implement some of its planned annual activities.

**Management response**

**The Ministry is in agreement with the Auditor General's recommendation.**

### 4.2.2.3 District Land Offices (DLO)

District Land Offices are supposed to prepare work plans showing the activities to be carried out in a given FY. The expenses of the district land office should be paid from the district administration funds.

Through interviews with various staff in the district land offices visited, it was noted in 70% (16 out of the 23) of the districts visited that, on average, 80% of the planned budgets of land offices was not released**.** The most affected districts were Kabarole and Wakiso which were not allocated any funds while Moroto and Lira were allocated 3% and 5% in FYs 2008/2009 and 2007/2008, respectively.

Through interviews with the CAOs and document review, the failure by the districts to fund the budgets of land offices was attributed to the low levels of local revenue which is not adequate to cover all the needs of the DLO's.

We noted that much as the local revenue in the districts is generally low after the abolition of graduated tax; the failure by the districts to fund DLOs was also attributed to lack of prioritization of the activities of the land offices.

Inadequate funds rendered the district land offices unable to implement some of their planned annual activities. For example, in the 23 districts visited, land offices had planned to carry out sensitization of the public about land matters at the District and Sub County levels almost every FY, but they were unable to do so due to limited funding. In addition, lack of funding demoralizes the staff, which in turn affects their performance at work.

**Management response**

**The Ministry is in agreement with the Auditor General's recommendation.**

#### 4.2.2.4 <u>District Land Boards (DLB)</u>

Funds budgeted by the Districts for DLB for payment of Board Expenses (sitting allowances) should be released by the Central Government (MOFPED) as appropriated by Parliament. Secretaries to the DLBs should prepare work plans indicating the utilization of these funds.

In 21 out of the 23 districts visited (91%), it was noted through interviews and documents reviews, that DLBs were directly funded by the Central Government (MOFPED) and they had received on average 99% of their budgeted funds. However, it was observed that they were not preparing annual and quarterly work plans. The budgeted and released amounts for DLBs shown in the district budgets could not be supported with work plans detailing the number of meetings planned for the year.

We also noted through discussions with MOLHUD officials that DLBs are required to sit twice a month, which was not fulfilled due to insufficient funds released to districts. They further explained that whereas the number of the districts continues to rise as a result of newly created districts, the total releases to DLBs by MOFPED remain fixed.

Through interviews with senior staff in the districts, failure to prepare work plans was attributed to lack of substantive Secretaries to the Boards. The officers who were acting in those capacities were in most cases reported to be busy with activities related to their substantive offices. Also the lack of knowledge in preparing work plans was cited as another cause for failure to prepare work plans.

Without work plans, the DLB's lacked a guiding tool to effectively implement their activities.

**Management response**

**Members of DLBs are paid an allowance not salary and this issues from the Consolidated Fund. However it needs to be noted that since the institution of DLBs when Districts in Uganda were yet 56 in number, the total amount of monies divisible among the 56 districts is what still subsists now when districts in Uganda are double that figure! In essence, therefore, the monies are by now grossly inadequate and hence affect the regularity of the DLBs seating and contributes to the failure of the DLBs to carry out most of their planned activities and adversely affecting not only the operations of the DLBs but of the entire Land Administration system.**

**4.2.2.5 <u>Area Land Committees (ALC)</u>**

According to Section 66 (1 & 2) of the Land Act CAP 227 as amended, members of the ALC are supposed to be paid such remunerations as may be determined by the District Council (DC) on the recommendation of the District Executive Committee (DEC) and the Committee expenses are charged on the District administration funds. Section 64 (6) (d) as amended, further requires the responsible Sub County or Division Council to indicate their preparedness to assist in the funding of the Committee.

Through interviews with ten (10) Chairpersons of the Area Land Committees visited and documents review, it was noted that the District Councils did not determine the remunerations to be paid to the members of the Land Committees nor did the Sub Counties indicate preparedness to assist in funding of the committee activities. A review of the budgets of five (5) Sub Counties and (4) Division Councils, revealed that no budgetary provisions were made for the funding of the Committees for the FYs 2007/2008 up to 2009/2010.

District officials through interviews stated that with the low local revenue collections at the districts, there was no need to determine and budget for the remuneration of members of ALCs which they (districts) could not finance given the high number of the members of the Committees which in all districts was 60 or more .

Consequently, some ALCs have come up with fees which applicants have to pay to facilitate their work.

In other cases, though there were no standard fees set by the ALC's, applicants had to provide for transport, lunch and stationery if the committee was to inspect their land. This creates fertile ground for corruption.

**Management response**

**It has variously been noted that ALCs operate using their Clients' facilitation. This is not only irregular but is potentially riddled with all sorts of unjust and corrupt tendencies. The solution that has been mooted is for the recognition of the ability of the clients to fund their inspections; regularize an applicable rate which would then be gazetted as part of the Districts' revenue source and out of which ALCs would be remunerated.**

### 4.2.3 STAFFING

#### 4.2.3.1 Directorate of Land Management

According to the approved macro structure and establishment as at September 2007, the MOLHUD is composed of three (3) directorates of: Land Management, Housing and Physical Planning and Urban Development.

Matters of land administration fall under the DLM which is further divided into three (3) departments, namely: Land Administration, Surveys and Mapping and Land Registration. Under the structure, the DLM has an approved staff establishment of 151 staff.

Scrutiny of the approved structure and staffing list and interviews with the senior staff in the DLM revealed that the MOLHUD has not filled all the positions in the approved structure of the DLM. A total of 61 posts existing in the DLM were vacant as indicated in Table 17.

**Table 17: Showing staffing gaps in the DLM**

| S/NO. | DEPARTMENT | APPROVED STAFF ESABLISHMENT | POSITIONS FILLED | VACANT POSTS |
|---|---|---|---|---|
| **1** | LAND ADMINISTRATION | 46 | 22 | 24 |
| **2** | SURVEYS & MAPPING | 81 | 46 | 35 |
| **3** | LAND REGISTRATION | 24 | 22 | 2 |
| | **TOTAL** | **151** | **90** | **61** |

**Source: MOLHUD Annual Performance Report of 2009/2010 from Pages 32 up to 35.**

Through interviews with senior staff and document review, it was noted that the staffing gaps in the DLM were due to the slow Government recruitment process. However, management explained that the MOPS was in the process of recruitment.

Lack of the requisite number of staff may lead to delays in handling land transactions.

**Management response**

**The Ministry's structure was approved long ago. The failure to fill the establishment is not the function of lack of structure. The factors militating against the speedy recruitment are historical dating back to the first re-structuring of government in 1991 when the department of Land Registration and the Division of Valuation were cocooned for close to eight years (up to 1998), and on reverting back to the main stream Service they had lost most of their staff! On the creation of the current Ministry of Lands, Housing & Urban Development an establishment was approved by Cabinet, a sizeable part of which the Ministry of Public Service went ahead to delete and for the better part of a year the Ministry struggled to regain. The above is made worse by the fact that most of the technical skills in Land Management are difficult to attract to the Public Sector; they prefer the Private sector as it has better rewards.**

**4.2.3.2 Uganda Land Commission**

In line with the Public Service Pay Policy, the Ministry of Public Service (MOPS) has the overall mandate to determine, control, manage and execute custodial responsibility for approved establishments of the public service.

We noted that the Commission has never had an approved structure by the MOPS since its inception. Management explained that they had contacted the MOPS on the matter and the process of restructuring the Commission was under way, which will lead to the improvement of the structure. However, correspondences in respect to the above process were not availed for audit.

Failure by the Commission to have an approved staff structure was attributed to bureaucracy by the MOPS to conduct a restructuring exercise for the Commission. However, correspondences in respect to the issue noted above were not availed for verification.

The absence of an approved structure has delayed the appointment of requisite staff, such as: the Rating Officers, Valuers, Surveyors and Land Officers, which has impacted negatively on the operations of the Commission.

**Management response**

**Ministry of Public Service has been requested to allow ULC to fastrack its structure rather than wait for the entire Government restructuring.**

### 4.2.3.3 District Land Offices

Section 59 (6) of the Land Act CAP 227 as amended requires each District Council (DC) to have a District Land Office which provides technical services to the DLB through its own staff, or through external consultants in the performance of its function and is comprised of staff such as: the District Land Officer, District Registrar of Titles, District Staff Surveyor, District Physical Planner, District Valuer, District Cartographer and Secretary of the DLB who are appointed by the District Service Commission (DSC).

During inspection of the districts and through interviews with technical staff, we noted that the DLOs existed and were providing the technical services to the DLB as required by the law.

However, in 20 out of the 23 districts visited, more than one position of technical staff was vacant**.** The most affected positions were District Valuers and Secretaries of the Boards with 19 staff positions vacant, District Physical Planners with 13, District Registrar of Titles and Land Officers with 12.

The audit further noted that districts cannot afford to engage external consultants as provided for in the Law.

The shortage of district technical staff was attributed to failure by the DSC to recruit staff and the districts failing to retain those who have been recruited. Where districts have recruited these technical staff, they are not well motivated and thus retention is hard. For instance, the promotion of staff under the decentralized structure is difficult due to the staff establishments being approved according to the district grading and this has resulted into low staff morale due to limited career development.

The shortage of some technical staff has forced the district land offices to seek services of staff from neighboring districts. This slows down the processing of land transactions leading to delays.

**Management response**

**We have already noted above that recruitment at the Local Government is complicated by the 65% ceiling imposed upon them by the Ministry of Finance. It is also true that even where the manpower is available at times DSCs do not recruit certain persons for the simple reason that they do not hail from the district of concern.**

**We agree with the observation noted under "Effect" by the AG. The Ministry has been encouraging the Districts to share the available Human Resources to enable them carry on with their service to the public.**

## 4.2.4 ADMINISTRATIVE FUNCTIONS

### 4.2.4.1 Directorate of Land Management

Development of the National Land Policy (NLP)

The DLM was responsible for the development of a National Land Policy (NLP) by the end of FY 2008/2009. The NLP is intended to serve as a systematic framework for defining the role of land in national development, land ownership, distribution, utilization, alienability, its management and control.

As part of the policy formulation process, a National Land Policy Working Group (NLPWG) was instituted in 2001 to steer the process of making the NLP and as such, several stakeholders' consultations, studies, media briefings, workshops, reviews and meetings were held to harmonize various positions and opinions.

Through interviews with some members of the NLPWG, senior officials in the MOLHUD and document review, it was noted that although several drafts of the NLP have been prepared, the final NLP had not been approved. Management further explained that the timeline for production of the final draft was extended up to FY2009/10 and the final draft has been submitted to Cabinet. Plans are underway to lay it before Parliament by March 2011 for approval.

We noted that the development of the NLP is one of the project components funded under the Land Tenure Reform Project (LTRP) which had received a total of Ug. Shs 55 billion by November 2010 (time of the audit). However, due to insufficient information provided, we could not establish the amount spent by the project on the development of the NLP.

The officials interviewed explained that because of the participatory and wide consultative nature of gathering views and opinions from various stakeholders, the exercise has not ended as various stakeholders have continued suggesting new ideas. They further explained that the exercise was at one time abandoned to allow sensitization of the public during the enactment of the Land Act.

Without a NLP in place, the management of land by the various land administration institutions and the processing of land transactions remains unguided and uncoordinated leading to the various challenges currently affecting the land sector.

**Management response**

**This is part of the Ministry's planning to be carried out next financial year.**

### 4.2.4.2 Induction and Training of ALC and DLB Members

**Induction**

According to the annual performance reports, the Ministry planned to induct a total of 2,462 members of the ALCs and DLBs as shown in table 18.

**Table 18: Showing planned induction of ALC and DLB members**

| FY | 2006/2007 | 2007/2008 | 2008/2009 | 2009/2010 | TOTAL |
|---|---|---|---|---|---|
| **ALC** | 200 | 610 | 610 | 900 | 2,320 |
| **DLB** | 24 | 35 | 23 | 60 | 142 |
| **TOTAL** | **224** | **645** | **633** | **960** | **2,462** |

Not all the 2,462 ALC and DLB members had been inducted as planned. Through document review, we noted that a total of 1,332 ALC and DLB members (i.e. 54%) had not been inducted as shown in the tables 19 and 20.

**Table 19: Showing ALC members not inducted.**

| FY | 2006/2007 | 2007/2008 | 2008/2009 | 2009/2010 | TOTAL |
|---|---|---|---|---|---|
| **Actual inducted** | 56 | 203 | 460 | 360 | 1,079 |
| **Not inducted** | 144 (72%) | 407 (67%) | 150 (25%) | 540 (60%) | **1,241 (53%)** |

**Table 20: Showing DLB members not inducted.**

| FY | 2006/2007 | 2007/2008 | 2008/2009 | 2009/2010 | TOTAL |
|---|---|---|---|---|---|
| **Actual inducted** | 14 | 11 | 16 | 10 | 51 |
| **Not inducted** | 10 (42%) | 24 (69%) | 7 (30%) | 50 (83%) | **91 (64%)** |

A trend analysis of the induction of ALC and DLB members revealed that the percentage of members not inducted had declined between the FY 2006/2007 and 2007/2008 and then increased from the FY 2008/2009 to the FY 2009/2010.

**Training**

According to the annual performance reports, the Ministry planned to train a total of 2,232 members of the ALCs and DLBs as shown in table 21.

**Table 21: Showing planned training of ALC and DLB members**

| FY | 2006/2007 | 2007/2008 | 2008/2009 | 2009/2010 | TOTAL |
|---|---|---|---|---|---|
| **ALC** | 0 | 610 | 610 | 900 | 2120 |
| **DLB** | 22 | 15 | 15 | 60 | 112 |
| **TOTAL** | 22 | 625 | 625 | 960 | **2,232** |

We noted that the 2,232 ALC and DLB members had not been trained as planned. Through document review, we noted that 1,174 ALC and DLB members (i.e. 53%) had not been trained as shown in tables 22 and 23.

**Table 22: Showing ALC members not trained**

| FY | 2006/2007 | 2007/2008 | 2008/2009 | 2009/2010 | TOTAL |
|---|---|---|---|---|---|
| **Actual trained** | 0 | 203 | 460 | 360 | 1,023 |
| **Not trained** | 0 | 407 (67%) | 150 (25%) | 540 (60%) | **1,097 (52%)** |

**Table 23: Showing trained DLB members**

| FY | 2006/2007 | 2007/2008 | 2008/2009 | 2009/2010 | TOTAL |
|---|---|---|---|---|---|
| **Actual trained** | 0 | 10 | 10 | 15 | 35 |
| **Not trained** | 22 (100%) | 5 (33%) | 5 (33%) | 45 (75%) | **77 (69%)** |

A trend analysis on the training of ALC and DLB members revealed that the percentage of members not trained had also declined between the FY 2006/2007 and 2007/2008 and then increased from the FY 2008/2009 to the FY 2009/2010. No training of ALC members was planned in FY 2006/2007.

Through document review and interviews with senior staff in the DLM, we noted that the failure to induct and train ALC and DLB members was caused by limited number of trainers and delayed appointment of DLBs by the districts. Management also attributed the failure to inadequate logistics; however, our analysis of the budget estimates and releases showed that the budget of the DLM had reasonably been funded at an average of 79.5%.

Failure to organize induction and training meant that the requisite skills were not imparted to the ALC and DLB members as planned.

**Management response**

**The problem is not a lack of training capacity but rather lack of funds to ensure that ALC and DLB members are inducted and trained.**

## Sensitization of the Public

According to the annual performance reports, the Ministry planned to print and distribute to the public 80,000 copies of sensitization booklets.

We noted that not all the planned 80,000 copies of sensitization booklets were printed and distributed as shown in table 24.

**Table 24: Showing planned and un-printed copies of sensitization booklets**

| FY/ No. of copies | 2006/2007 | 2007/2008 | 2008/2009 | 2009/2010 | TOTAL |
|---|---|---|---|---|---|
| **Planned** | 20,000 | 20,000 | 20,000 | 20,000 | 80,000 |
| **Printed** | 1,600 | 4,000 | 4,000 | 5,000 | 14,600 |
| **Not Printed** | 18,400 (92%) | 16,000 (80%) | 16,000 (80%) | 15,000 (75%) | **65,400 (82%)** |

We observed that only 14,600 out of the planned 80,000 copies of sensitization booklets were printed and distributed to the public.

A trend analysis of the number of copies of sensitization booklets printed and distributed revealed that though there was an increase in the number of copies printed from 1,600 in FY 2006/2007 to 4,000 copies in 2007/2008 and 2008/2009 respectively, the number was still very low compared to the planned. In FY 2009/2010 the number of copies increased to 5,000. In addition; although the records availed on how the copies were distributed to the Public indicated the names and signatures of beneficiaries, they did not indicate the quantity of materials distributed. We therefore could not confirm if all 14,600 copies procured were distributed.

Audit attributed the failure to print and distribute all the planned sensitization copies to lack of prioritization of the activity by management.

Because of the failure to print and distribute all the planned copies, the Ministry did not sufficiently sensitize the Public about land matters.

### Management response

**The distribution list of systematic Demarcation, Dispute Resolution, Land Amendment and other materials under PSCPII is available for verification.**

## Supervision, Monitoring and Evaluation

According to the annual performance reports, the Ministry planned to conduct 110 monitoring visits to various land management institutions.

We noted that not all the planned 110 monitoring visits were conducted as shown in table 25.

**Table 25: Showing monitoring visits not conducted**

| FY/ No. of visits | 2006/2007 | 2007/2008 | 2008/2009 | 2009/2010 | TOTAL |
|---|---|---|---|---|---|
| **Planned** | 0 | 30 | 30 | 50 | 110 |
| **Conducted** | 0 | 5 | 22 | 30 | 57 |
| **Not Conducted** | 0 | 25 (83%) | 8 (27%) | 20 (40%) | **53 (48%)** |

53 (i.e. 48%) out of the planned 110 monitoring visits were not made.

A trend analysis of the visits conducted revealed that there was a decline in the number of monitoring visits not conducted in FY 2007/2008 to 2008/2009, and an increase in the number of monitoring visits not conducted from the FY 2008/2009 to FY 2009/2010.

Management attributed the failure to make all the planned monitoring visits to inadequate funds and lack of adequate staff in the land inspectorate section. There were only two (2) land inspectors responsible for monitoring land management institutions in the country. Management further stated that monitoring and inspection is also carried out by the Directorate of Physical Planning and Urban Development. However, our analysis of the budget estimates and releases showed that the budget of the DLM was funded 79.5% on average.

We also noted that staff laxity was partly responsible for the failure to conduct all the planned monitoring visits and failure to avail reports for the visits that were made.

Due to the failure to make all the planned monitoring visits, the Ministry could not get sufficient information about what was happening in the various land management institutions.

**Management response**

**The Land Inspectorate Division needs to be beefed up and retooled to enable it handle the growing workload as more and more districts are created. In its present state, it is finding it difficult to cope with the existing workload.**

#### 4.2.4.3 **Uganda Land Commission**

Establishment of the Land Fund

Section 41(1) and (2) of the Land Act CAP 227, requires the establishment of the land fund which is to be managed by ULC.

The fund shall be used: i) to give loans to tenants by occupancy to enable them acquire registrable interests in land; ii) by Government to purchase or acquire registered land to enable tenants by occupancy acquire registrable interests, iii) to resettle persons who have been rendered landless; by Government actions, natural disaster or any other cause; and iv) to assist other persons to acquire titles.

Through interviews with senior officers in ULC and document review, it was noted that the land fund has never been fully established. The officials in the Commission, however, explained that efforts are underway to formalize the establishment of the fund in accordance with Government procedures. They have appointed a Senior Finance Officer for the fund and a draft of the Land Fund Regulations sent to the Cabinet.

Management attributes the failure to establish the land fund to the bureaucracy in Government procedures which has delayed the approval of the draft regulations.

Resulting from the absence of the land fund, Government has been supporting the Commission under a programme, "Support to ULC" where a total of Ug Shs 8.6 billion has been used for this purpose to date. Out of this sum, Ug Shs.7.2 billion has been spent on compensation while Ug Shs.1.4 billion has been spent on recurrent costs associated with land compensations such as facilitation of survey works, opening of boundaries, land valuations and other administrative costs. According to document review, a total of 57,510 hectares of registered land with bonafide occupants has been surveyed, boundaries opened and valued; out of which 49,246.18 hectares have been compensated (45.706.319 hectares in Kibaale, 3,464.481 hectares in Ankole and 75.38 hectares in Tooro). 8,263.82 hectares of land are not yet surveyed. 226 certificates of titles for the compensated/acquired land have also been duly transferred to Government in the names of ULC, although they were not availed for verification.

**Management response**

**The Land Fund has never been fully and completely established as of today mainly because although the Land Fund Regulations, to guide the full implementations of the Land Fund, have been developed they have not yet been approved and authorized by Cabinet. They have been submitted to Cabinet for approval. However, Land Fund activities including purchase of land from absentee landlords in the Districts of Kibaale and other parts of Tooro and Ankole have been carried out.**

**Management of Government Land By ULC**

Maintenance of the Land Register

The Land Act CAP 227 Section 49 requires the ULC to hold and manage any land in Uganda and abroad which is vested in or acquired by the Government except where the Commission may delegate the management of such land to Uganda's mission abroad. In order to properly manage and track the Government land, ULC should have a land register showing where the land is and its acreage.

Through a review of the land register and interviews with officials of the Commission, we noted that ULC was not managing Government land properly. The land inventory register at ULC has never been updated to reflect the newly acquired, allocated or sold off Government land. The register is kept manually and has no control numbers for ease of tracking land. It does not, for example, summarize the total acreage of land held in a particular district. It consists of information of the old districts despite the creation of new ones with independent DLBs. We also noted that there was no register for Government properties abroad.

Management attributed the failure to maintain a Government land register to manpower gaps in the Commission and it is currently being maintained by a Records Assistant.

As a result of not maintaining and updating the land register, the Commission is unable to give a clear position of Government land.

**Management response**

**There exists a Register and efforts are being made to improve it. Many records belong to Uganda Land Commission are still in the Registry/records office of the Ministry of Lands, Housing and Urban Development due to lack of sufficient space at the Uganda Land Commission. Some extra space and filing cabinets have been secured and it is expected that by end of the Financial Year 2010/2011 the records will improve.**

Land Inventory Exercise

According to the Ministerial policy statements for the FYs 2007/08 and 2008/09, ULC planned to carry out land inventory exercise in six (6) and ten (10) districts respectively.

Through a review of documents, there was no evidence to show that the Commission carried out the land inventory exercise in the sixteen (16) districts.

Effort to avail evidence showing that the Commission has been conducting land inventory exercises was rendered futile.

In the absence of land inventory exercise reports, the land register may not be accurately updated.

**Management response**

**Funding for this activity was secured by the Ministry of Lands, Housing and Urban Development under PSCP II. A contractor was procured and surveys in Hoima, Masindi and Buliisa have been completed.**

Processing of Land Titles

The Commission planned to process one hundred (100) land titles in FY 2008/09 and sixty (60) land titles in FY 2009/10.

We observed that the Commission did not process the 160 planned land titles. Through a review of documents, we noted that the Commission processed 35 and 20 land titles for FYs 2008/2009 and 2009/2010 respectively.

Management attributed the failure to process land titles to limited survey activities caused by inadequate funds, motor vehicles, and survey equipments. However, our analysis of the budget estimates and releases showed that the Commission budget was funded 87% on average.

In the absence of land titles, Government cannot legally claim ownership of its land and may lead to loss of Government property to unscrupulous persons.

**Management response**

**Land Titles can only be processed after surveys have been completed. The forecast figures for titles to be processed can only be achieved if the survey is in tandem with other activities. It is a known fact that survey department has been over stretched over the period. The Commission is considering taking on the services of Private Surveys and Valuers on top of the use of District staff in the areas.**

**Payment f Property Rates**

According to the MOLHUD policy statements for the FYs 2008/09 and 2009/10, ULC was supposed to pay property rates to any two (2) and any six (6) Urban Councils respectively.

Audit noted that the Commission did not pay property rates to Urban Councils as planned. Through interviews with management, we noted that the Commission did not pay any Urban Council in the FY 2008/09, and only paid one (1) Town Council in FY 2009/10 (Lugazi Town Council).

We also noted that the Commission has been accumulating domestic arrears in respect of unpaid property rates over the four year audit period as shown in Table 26.

**Table 26: Showing accumulated domestic arrears of unpaid property rates for the FYs 2006/2007-2009/2010.**

| FINANCIAL YEAR | OPENING BALANCE (UG.SHS) | AMOUNT DURING THE YEAR(UG.SHS) | AMOUNT PAID (UG.SHS) | BALANCE AT YEAR END (UG.SHS) |
|---|---|---|---|---|
| **2006/07** | - | 648,865,014 | - | 648,865,014 |
| **2007/08** | 648,865,014 | 1,016,920,303 | 25,572,000 | 1,640,213,317 |
| **2008/09** | 1,640,213,317 | 534,798,819 | 1,334,380,168 | 840,631,968 |
| **2009/10** | 840,631,968 | 2,645,874,594 | 1,112,738,855 | 2,373,767,707 |

**Source: ULC audited accounts for the years.**

In FY 2009/10, the Commission had an outstanding amount of Ug Shs.2.37 billion in property rates with Kampala City Council demanding Ug Shs.1.6 billion (60%), followed by Mbarara Municipal Council Ug Shs.0.4 billion (15%), Tororo Municipal Council Ug Shs.0.32 billion (12%), Kabale Municipal Council Ug Shs.0.22 billion (8%) and ten (10) other Councils Ug Shs.0.13 billion (5%). This amount is only from 14 Urban Councils and according to management other Councils had not submitted their demand notes. Management explained that verification of submissions is very difficult due to inadequate number of Government Valuers at the Ministry. The few Valuers take long to conduct verification exercises and are preoccupied with other schedules.

Management attributes the accumulation of domestic arrears to inadequate funds in the approved budget caused by the budgetary ceilings imposed on them by MOFPED and delayed submission of demand notes by Urban Councils. Management further explained that they have been receiving on average Ug Shs.4 million which was increased to Ug Shs.16 million in FY 2009/10 which is not adequate to pay all the Urban Council bills. We, however, noted that domestic arrears have been caused by inadequate planning by ULC. The Commission does not have a database of the number of Urban Councils, amount payable, number and location of properties which would be used as a basis for planning.

Nonpayment of property rates by ULC could lead to litigation.

**Management response**

**This has been a recurrent problem since payment of property rates for Government country wide is handled by the Commission. Funds for this activity are however inadequate. Management proposes decentralization of this responsibility so that each department meets the cost of its property rates.**

**Collection of Non Tax Revenue (NTR)**

According to the Ministry policy statements for the FYs 2007/08, 2008/09 and 2009/10, ULC planned to collect NTR of Ug Shs.1.5, Ug Shs.1.6 and Ug Shs.2.0 billion respectively in premium and ground rent.

Scrutiny of accounts records showed a progressive improvement in NTR collection by the Commission. The revenue targets were achieved as shown in Table 27.

**Table 27: Showing improvement in the collection of NTR.**

| FINANCIAL YEAR | BUDGET (UG SHS) | ACTUAL (UG SHS) | EXCESS AMOUNT (UG SHS) | PERFORMANCE (%) |
|---|---|---|---|---|
| **2006/07** | No provision | 1,406,313,400 | 1,406,313,400 | **NA** |
| **2007/08** | 1,500,000,000 | 2,475,972,635 | 975,972,635 | **165%** |
| **2008/09** | 1,600,000,000 | 2,231,596,750 | 631,596,750 | **140%** |
| **2009/10** | **2,000,000,000** | **2,842,679,350** | **842,679,350** | **142%** |

**Source: ULC audited accounts for the years.**

We noted that this good performance may further be improved if the Commission introduces a proper billing system. The current system depends on the willingness of the clients since it does not track defaulters such that they can be followed up. We also noted that the database of clients was incomplete. However, management had started updating it and at the time of audit (Nov.2010), 523 entries of new clients had been captured.

Management attributed the absence of a proper billing system to lack of an integrated land information management system that would automatically update accounts department on the status of clients spontaneously.

The absence of a complete database of all lease holders leads to underestimation of NTR collectable and also impairs the capacity of ULC to collect more revenue since clients are not followed up.

**Management response**

**As observed by the Auditors the performance of NTR has been improving tremendously, the omission is making efforts to improve its database.**

**The Commission expects to benefit from the LIS Project that the Ministry of Lands, Housing and Urban Development is patting; this will improve the information management to include other users like Banks, URA and individual clients.**

## 4.2.5 ACQUISTION OF LAND TITLES AND CONVERSION OF LAND TENURE SYSTEMS

Certificates of land titles can be got through any of the following methods: by applying for a certificate of customary ownership, by converting customary land to free hold, by applying for a lease, by converting a leasehold land to freehold and through an outright purchase or division on mailo land. Certificate of title can also be got by applying to the District Land Board for a grant in freehold under Section 10 and 13 (5) of the Land (Amendment) Act CAP 227.

Below are the findings on each of the methods.

### 4.2.5.1 Issuance of Certificate of Customary Ownership

Section 4 (1) of the Land (Amendment) Act CAP 227, requires that any person, family or community holding land under customary tenure on former public land may acquire a certificate of customary ownership in respect of that land.

Through review of applications and interview of officials at the District, Sub County and land owners in the districts visited, it was noted that no certificates of customary ownership had ever been issued or acquired by the customary land owners.

Officials in the districts of Masaka, Arua, Soroti, Mbale, Mukono and Kabale, attributed the non issuance of certificates to Government failure to avail copies of the certificates to the districts. However, the customary land owners explained that the process is long, costly and the certificates cannot be used as a security or mortgage in the financial institutions for acquiring loans, hence of less importance to acquire them.

Audit attributed the failure to acquire certificates of customary ownership to the lack of sensitization of the land owners by Government.

Failure by the land owners to acquire certificates may hamper the identification of bonafide owners which may increase incidences of land ownership wrangles.

**Management response:**

**Certificates of Customary Ownership should be distinguished from Certificates of Occupancy. Their issuance is demand driven and therefore dependant on application by the land owners who usually prefer Certificates**

**of Title. Some Districts have however started issuing Certificates of Customary Ownership.**

### 4.2.5.2 Conversion From Customary to Freehold

Section 9 (1) of the Land (Amendment) Act CAP 227, requires that any person, family or community holding land under customary tenure on former public land may convert the customary tenure into freehold tenure in respect of that land. Internal procedures and the draft clients' service charter of 2009[22], requires conversion from customary to freehold tenure, to take 110 working days.

A review of 200 applications for conversion of customary land to freehold tenure in 10 out of the 23 districts visited, revealed that it took on average 161 working days to acquire a title as shown in Table 28.

**Table 28: Showing delays in processing of conversion from customary to freehold land**

| DISTRICT | NO OF APPLICATIONS REVIEWED | AVERAGE PROCESSING TIME (Working days) | DELAYS (Working days) |
|---|---|---|---|
| **Arua** | 20 | 196 | 86 |
| **Bushenyi** | 20 | 140 | 30 |
| **Gulu** | 20 | 150 | 40 |
| **Rukungiri** | 20 | 154 | 44 |
| **Nebbi** | 20 | 200 | 90 |
| **Mbarara** | 20 | 180 | 70 |
| **Mukono** | 20 | 162 | 52 |
| **Kampala** | 20 | 140 | 30 |
| **Luwero** | 20 | 145 | 35 |
| **Wakiso** | 20 | 140 | 30 |
| **Total** | 200 | 1607 | 507 |
| **Average** | | 161 | 51 |

**Source: OAG compilation from applications/files at MOLHUD head quarters & regional/district land offices**

Nebbi had the longest delays of 90 days followed by Arua 86 days, Mbarara 76 days, Mukono 52 days and Rukungiri 44 days.

[22] Draft Clients Charter: Charter designed by the Ministry to guide officers in the execution of their work and setting of timeliness.

#### 4.2.5.3 Acquisition of a Lease Title

Internal procedures and the draft clients' service charter, requires the processing of applications for leases to take 115 working days to process a title.

Scrutiny of 100 applications for leasehold land in 10 out of the 23 districts visited, revealed that it took on average 163 working days to acquire a lease title as shown in Table 29.

**Table 29: Showing delays in processing of lease titles**

| DISTRICT | NO OF APPLICATIONS REVIEWED | AVERAGE PROCESSING TIME (Working days) | DELAYS (Working days) |
|---|---|---|---|
| **Arua** | 10 | 190 | 75 |
| **Bushenyi** | 10 | 150 | 35 |
| **Gulu** | 10 | 155 | 40 |
| **Rukungiri** | 10 | 178 | 63 |
| **Nebbi** | 10 | 195 | 80 |
| **Mbarara** | 10 | 160 | 45 |
| **Mukono** | 10 | 149 | 34 |
| **Kampala** | 10 | 140 | 25 |
| **Luwero** | 10 | 165 | 50 |
| **Wakiso** | 10 | 150 | 35 |
| **Total** | 100 | 1632 | 482 |
| **Average** | | 163 | 48 |

**Source: OAG compilation from applications/files at MOLHUD head quarters & regional/district land offices**

Nebbi had the longest delays of 80 days followed by Arua 75 days, Rukungiri 63 days, Luwero 50 days and Mbarara 45 days.

#### 4.2.5.4 Conversion from Leasehold to Freehold Tenure (Upcountry Areas)

Internal procedures and the draft clients' service charter, requires conversion from leasehold (Upcountry) to freehold to take 86 working days.

Review of 100 applications for conversion of leasehold land to freehold tenure in upcountry areas, in 10 out of the 23 districts visited, revealed that it took on average 155 working days to acquire a freehold title on conversion as shown in Table 30.

**Table 30: Showing delays in processing of freehold titles on conversion (up country areas).**

| DISTRICT | NO OF APPLICATIONS REVIEWED | AVERAGE PROCESSING TIME (Working days) | DELAYS (Working days) |
|---|---|---|---|
| **Arua** | 10 | 170 | 84 |
| **Bushenyi** | 10 | 150 | 64 |
| **Gulu** | 10 | 154 | 68 |
| **Rukungiri** | 10 | 160 | 74 |
| **Nebbi** | 10 | 176 | 90 |
| **Mbarara** | 10 | 148 | 62 |
| **Mbale** | 10 | 137 | 51 |
| **Soroti** | 10 | 140 | 54 |
| **Tororo** | 10 | 150 | 64 |
| **Kabale** | 10 | 160 | 74 |
| **Total** | 100 | 1545 days | 685 |
| **Average** | | 155 days | 69 |

**Source: OAG compilation from applications/files at MOLHUD head quarters & regional/district land offices**

Nebbi had the longest delays of 90 days, followed by Arua of 84 days, Kabale and Rukungiri 74 days and Gulu 68 days.

### 4.2.5.5 Conversion from Leasehold to Freehold Tenure (Urban Areas)

Internal procedures and the draft clients' service charter, requires conversion from leasehold (Urban areas) to freehold to take 91 working days.

Review of 100 applications for conversion from leasehold land to freehold tenure in urban areas, in 5 out of the 23 districts visited, revealed that it took 155 working days to acquire a freehold title as shown in Table 31.

**Table 31: Showing delays in processing of freehold titles on conversion (urban areas).**

| DISTRICT | NO OF APPLICATIONS REVIEWED | AVERAGE PROCESSING TIME (Working days) | DELAYS (Working days) |
|---|---|---|---|
| **Masaka** | 20 | 162 | 71 |
| **Mukono** | 20 | 166 | 75 |
| **Kampala** | 20 | 149 | 58 |
| **Luwero** | 20 | 159 | 68 |
| **Wakiso** | 20 | 140 | 49 |
| **Total** | 100 | 776 | 321 |
| **Average** | | 155 | 64 |

**Source: OAG compilation from applications/files at MOLHUD head quarters & regional/district land offices**

Mukono had the longest delay of 75 days followed by Masaka 71 days, Luwero 68 days, Kampala 58 days and Wakiso 49 days.

### 4.2.5.6 Acquisition of a Mailo Title

Internal procedures and the draft clients' service charter, requires acquisition of a Mailo title to take 30 working days.

Review of 100 applications for certificates of mailo titles, in 6 out of the 23 districts visited, revealed that it took 50 working days to acquire a Mailo land title as shown in Table 32.

**Table 32: Showing delays in processing of Mailo titles.**

| DISTRICT | NO OF APPLICATIONS REVIEWED | AVERAGE PROCESSING TIME (Working days) | DELAYS (Working days) |
|---|---|---|---|
| **Kampala** | 40 | 40 | 10 |
| **Kabarole** | 20 | 40 | 10 |
| **Luwero** | 10 | 60 | 30 |
| **Masaka** | 10 | 50 | 20 |
| **Mukono** | 10 | 60 | 30 |
| **Mbarara** | 10 | 50 | 20 |
| **Total** | 100 | 300 | 120 |
| **Average** | | 50 | 20 |

**Source: OAG compilation from applications/files at MOLHUD head quarters & regional/district land offices**

Luwero and Mukono had the longest delay of 30 days followed by Masaka and Mbarara 20 days and Kabarole 10.

**Management response:**

**The Audit period involved a transition, whereby DLB tenures expired and new ones appointed. This transition automatically created some delays.**

**Secondly, the Audit did not take into account some of the mandatory days in the process which are prescribed by the law. Eg. from appendix 8: Point 1 requires a notice of not less than 14 days (section 6(2) (b) of the Land Act. Point 2 is determined by the schedule of meetings of the board. Under section 62 (3) a DLB is to meet at least once in two months. Point 3 is determinant upon the applicant paying survey fees to the private surveyor.**

**We have had experience where this has delayed surveys for more than a year! Further, some of the delays are attributed to the client; for example taking long to pay fees after assessment.**

Through interviews with various officers, physical inspections of the registries and document review, it was noted that the causes for the delay in processing of land titles and conversion in various land tenure systems were:-

**a) <u>Poor Dissemination of Information</u>**

It was noted that there were no circulars informing the public about the processes or fees to access particular land services in the visited land management institutions. For instance, a total of 50 clients interviewed in 10 out of the 23 districts visited, indicated that sometimes application forms are not readily available and at times clients have to pay unofficial sums of money to get them from either security guards or middle men. In addition, some of the interviewees explained that some land forms are not clear. For instance, part of the mutation form which is used for sub divisions in private mailo, is written in vernacular (Luganda). This problem is exacerbated by the fact that there are no client help desks to assist clients in case of challenges in all land management institutions.

In addition, the team observed that there was no systematic channel of giving feedback to clients. Whenever applications are queried, one gets to learn of the issues raised sometimes late and probably when she/he goes to collect the title. This may cause delays.

**Management response**

**An Information Education and Communication (IEC) Strategy has been developed but unfortunately we still have not found the budget for its implementation.**

**b) <u>Non Dissemination of the Draft client's Service Charter</u>**

Through interviews with various officers in 20 out of the 23 districts visited, we observed that copies of the draft client's charter had not been distributed to these units. Therefore some of the officers lacked knowledge of the agreed procedures of processing applications and the time limits required to complete the different stages as stated in the clients service charter.

**Management response**

**This is under construction and it is believed that a draft shall be issued to all our clients and staff by the start of the 4th Quarter.**

**c) <u>Interruption by Clients</u>**

Through our observations and interviews with the staff of the Ministry and some clients both at the Ministry and at the district land offices, we noted that the delays in processing land applications was also caused by the continuous interruptions of staff by the impatient and sometimes ignorant clients who do not know the procedures of registering their interests in land. Applicants, for instance, move from one office to another inquiring about the current status of their applications and if they are not satisfied with the explanation given in one office, they move to another office.

**Management response**

**The Ministry has started designing systems of document flow that shall ensure that clients do not unnecessarily interfere with the work of the staff thus causing delays.**

**d) <u>Working Conditions</u>**

Through interviews with various staff and physical observations, it was noted that the working conditions in various land management institutions were not conducive. On interviewing members of the ALCs, they cited the problem of failure by the districts to give them appointment letters as greatly affecting their work morale. They complained that no facilitation is provided for the services they render.

Members of the DLBs in 15 out of the 23 districts visited also cited the problem of lack of office accommodation, lack of computers, lack of transport for site visits and delay in release of sitting allowances as adversely affecting their work performance.

Staff in the district land offices also expressed dissatisfaction at the inadequate financial facilitation by the district and lack of transport (motor vehicles) to be used for field work. For instance, 9 district staff surveyors in the districts visited (Arua, Nebbi, Mbale, Mukono, Wakiso, Luwero, Kampala, Kabale and Gulu) said that it was difficult to conduct field inspection of survey works because of lack of transport and survey equipment. In districts like Arua, Masaka, Kabarole and Tororo, we were told that at certain times, the drawing offices could not even afford to buy stationery and ammonium ink which are used for making the blue prints. The cadastral sheets are too old and need to be replaced.

**e) <u>Limited use of information technology</u>**

Through interviews, observations and scrutiny of records, it was noted that there was limited use of IT in the processing of land applications at all levels as explained below: In 90% of the entities visited (i.e. 20 out of 23 districts), none of the area land committees had either computers or typewriters. In 80% of the entities visited (i.e. 18 out of 23 districts), it was noted that land offices did not have computers, type writers and photo copiers. In the two (2) districts of Kampala and Mukono, though there were some computers, we noted that the computers were not directly involved in the processing of applications. They are used for secretarial work. Major activities such as receiving and registering of applications, valuation, surveying, forwarding of files to Entebbe and Kampala, printing and delivery of titles are all done manually.

**Management response**

**The Kampala Mailo registry has already been computerized and the rest of the computerization activities are being handled under LIS (PSCPII)**

**f) <u>Engagement of private surveyors</u>**

Through interviews with various officers and clients in 20 out of the 23 districts visited, it was noted that private surveyors who are contracted by clients to conduct surveys of their land, normally delay to accomplish the work. We were also informed that, even when the private surveyors complete the work, they don't forward the Job Record Jacket (JRJ) to the district staff surveyor until the agreed payments have been made. This is a private arrangement between the client and the surveyor and the DSS has no control over the payments. This sometimes causes delay in the processing of the application if the client takes long to pay the private surveyor.

We were also told that at times private surveyors are hired to do work in places which they are not familiar with. For instance, surveyors are contracted from Kampala to do work in Nebbi, Arua, Kabale, Rukungiri and other far away districts where they have never even been. The above situation is exacerbated by the destruction of survey points and coordinates, especially in Northern and Eastern districts, i.e. Gulu, Arua and Soroti, respectively due to political instability; while in Central (Masaka, Luwero, Wakiso and Mukono), Western (Mbarara, Bushenyi and Rukungiri) survey points have been destroyed due to population pressures. Surveyors will take considerable time trying to trace for the survey points and thus delay the completion of their work and sometimes even abandoning the work.

**Management response**

**It needs to be appreciated that the function of Survey was privatized by government. However the Ministry does interface with the Association of Registered Surveyors to ensure that they do regulate their members.**

**g) <u>Lack of Adequate Staff in District Land Offices</u>**

We noted in 20 out of 23 districts visited i.e. 87%, that there are acute shortages of staff in the district land offices who are sometimes sought from neighboring districts or from head quarters. Districts had missing staff in their land offices**.** The most affected category of officers were the District Land Officers, Registrar of Titles, Valuers and Surveyors. For example, in Masaka district, a Senior Land Officer who had transferred to the Ministry would still go to the district to do the work of the Land Officer as the district did not have one.

**Management response**

**As explained in 4.2.3.1**

**h) <u>Records management</u>**

Through interviews with senior officers in the registry, physical inspections of the registries and documents review, it was noted that there was no orderly land records management system.

Files are haphazardly kept with many loose documents on floors and shelves due to limited space. This affected the retrieval of documents thus delaying the processing of applications. See Pictures 14 and 15 of files on the floor in the Leasehold registry in Kampala.

Through physical observations, we saw white pages lying on the floor without instruments attached to them and efforts to trace them were futile.


**Pictures 14 and 15: taken by OAG staff during the audit.**


### i) **Absence of an Issuing Office**

It was noted through interviews with staff at the Ministry, physical observations and document reviews that there was no formal way of issuing completed certificates of titles or notifying the owners that their titles are ready. Though there was a dispatch desk at the Ministry, there was no substantive dispatch or issuing officer with clear schedule of duties. Any officer would record and issue a title whether to the applicant or district land officer, whoever would be following the file or come first to collect the completed files. The action of the Ministry putting an advert in the newspaper about titles completed and due for collection, may not be effective as people living in the villages may not read it.

**Management response**

**The LIS project under PSCPII under implementation and is going to address all these issues.**

The overall effect of delays in the processing of land applications is the dissatisfaction of the applicants who may resort to bribing of the land officials and use of middlemen who ask for exorbitant payments and sometimes end up cheating the applicants.

## 4.3 CONCLUSIONS

In light of the findings in the previous chapter, the following conclusions, which are aimed at improving on the performance of land management institutions, are made.

### 4.3.1 CONSTITUTION OF DISTRICT LAND BOARDS AND AREA LAND COMMITTEES

**District Land Boards (DLBs)**

The absence of DLBs in some districts, and the delayed appointment of new DLBs after the expiry of the old Boards in other districts contravened Sections 56, 57 and 58 of the Land Act as amended. This situation also led to the delayed processing of land application forms hence creating a back log in land administration.

**Area Land Committees (ALCs)**

Although the ALCs were constituted in accordance with the provisions of Section 64 (1) & (2) of the Land Act CAP 227, districts did not issue appointment letters to members of ALC and this may lead to their appointments and decisions being challenged in the Courts of law, which could further increase land wrangles and disputes. The absence of facilitation also makes the members of ALC vulnerable to being compromised by the clients.

### 4.3.2 BUDGETING AND FUNDING

**Directorate of Land Management**

In all the financial years under review, the budgets of the Directorate of Land Management (DLM) were not fully funded as appropriated by Parliament and this affected its performance as it could not implement all its planned activities.

**Uganda Land Commission**

The Commissions budgets were not funded as appropriated by Parliament due to budgetary cuts by the MOFPED and this affected its performance as activities such as: payment of property rates, collection of revenue, compensating absentee landlords and purchasing land for Government developments could not be implemented as planned.

**District Land Offices**

The budgets for the district land offices were not fully funded as planned and this affected their performance as they could not meet all the day-to-day expenses such as; procurement of stationery, cadastral sheets, fuel and payment of field allowances required for proper operation.

**District Land Boards**

Districts Land Boards did not prepare work plans to show the proposed utilization of funds. The lack of work plans means that the funding of the DLB cannot be properly assessed for efficient and effective utilization.

**Area Land Committees**

Area Land Committee members were not paid such remunerations as required by Section 66 (1 & 2) of the Land Act CAP 227 as amended and as a result, site inspections (land boundaries) by members were not funded thus affecting their performance.

### 4.3.3 STAFFING

**Directorate of Land Management**

The MOLHUD has not filled all the existing vacancies in the Directorate of Land Management (DLM) as indicated in the approved macro structure and establishment as at September 2007. This situation has created work related pressure on staff, which, as a result delays the processing of land transactions.

**Uganda Land Commission**

The Commission has failed to deliver to its expectations due to absence of an approved staff structure which is essential in streamlining its workforce.

**District Land Offices**

Majority of the districts have failed to attract, recruit and retain staff in the District land Office (DLB) such as: registrars of titles, land officers, physical planners and Valuers, who should provide technical service to District Land Board (DLB), as indicated in Section 59 (6) of the Land Act CAP 227 as amended. Without the technical staff, DLB's are likely to make inappropriate decisions like, holding and allocating land already owned by other persons, which may later lead to land wrangles and disputes.

### 4.3.4 ADMINISTRATIVE FUNCTIONS

**Directorate of Land Management**

Development of the National Land Policy (NLP)

The MOLHUD has not developed a National Land Policy (NLP), as planned, and its absence renders sustainable management of land resources difficult. Land matters such as: ownership, distribution, utilization and alienability remain not clearly defined and regulated.

Induction and Training of ALC and DLB Members

The DLM did not train and induct members of ALC and DLB as planned. Members who are not inducted and trained are prone to making mistakes in the execution of their work.

Sensitization of the Public

DLM did not print and distribute land sensitization materials as planned and its failure denied the public vital information on land registration, dispute resolution, land laws and regulations, which would be useful in addressing the rampant challenges and conflicts in land matters.

Supervision, Monitoring and Evaluation

DLM did not carry out monitoring visits as planned. Failure to make panned monitoring, denies management information that would be used for addressing challenges in land management institutions and this affects service delivery.

**Uganda Land Commission**

Establishment of the Land Fund

The Commission has not established a land fund as required by Section 41(1) and (2) of the Land Act CAP 227, and this has hampered the execution of its obligations as specified by Act. Government as a result is finding it hard to mobilize the requisite funds to compensate and resettle victims. For example, Government, according to a study commissioned by MOLHUD, requires Ug Shs.1.767 trillion for the payment of compensation for all tenanted land in Uganda.

Management of Government Land

ULC has not properly managed Government land as required by Section 49 of the Land Act CAP 227. The Commission did not; maintain an up-to-date land register, conduct land inventory exercises and secure land titles, as planned. This situation renders the holding and management of Government land by the Commission in Uganda and abroad ineffective.

Payment of Property Rates

The Commission did not pay property rates to Urban Councils as planned resulting into accumulation of arrears. The current system has failed to address the challenge of accumulated domestic arrears and this portrays a poor financial management practice.

Collection of Non Tax Revenue (NTR)

Although the Commission collected Non Tax Revenue (NTR) above its set targets, the billing system is not properly managed. If the system is not improved, the great revenue potential in NTR will not be tapped by management.

### 4.3.5 ACQUISITION OF LAND TITLES AND CONVERSION OF LAND TENURE SYSTEMS

Acquisition of land titles and conversion of land tenure systems was taking long at the various issuing authorities in the land management institutions. The delays have created public dissatisfaction which has encouraged applicants to resort to use of middlemen who ask for exorbitant payments and sometimes end up conning the applicants.

## 4.4 RECOMMENDATIONS

In light of the conclusions made in the previous chapter, the following recommendations, which are aimed at improving on the performance of land management institutions, are made.

### 4.4.1 CONSTITUTION OF DISTRICT LAND BOARDS AND AREA LAND COMMITTEES

**District Land Boards**

- The District Executive Committees, District Councils and the Ministry of Lands should plan, coordinate and expedite the appointment process of DLBs.
- The District Executive Committees and District Councils should adhere to guidelines that govern the appointment of DLB members.

**Area Land Committees**

- District Councils in collaboration with Sub County and Division Councils should issue appointment letters clearly specifying the terms and conditions of service to the members of the Area Land Committees upon their appointment.
- District Councils should liaise with the Ministries of Lands, Local Government and Finance to ensure that the activities of the Area Land Committees are funded.

### 4.4.2 BUDGETING AND FUNDING

**Directorate of Land Management and Uganda Land Commission**

- The Ministry of Finance, Planning and Economic Development should endeavour to release funds to Government Ministries and Departments as appropriated by Parliament.

**District Land Offices**

- Districts should improve their local revenue mobilization efforts with a view to increase their local revenue collections which will be used to fund district land offices.
- Districts should prioritize the funding of the activities of district land offices during their planning and budgeting processes.

**District Land Boards**

- District Councils should ensure that substantive Secretaries to the Boards are recruited in accordance with the law.

- Districts in conjunction with the Ministry should build capacity of the Secretaries to the Boards to enable them obtain the requisite skills in preparation of work plans and quarterly reports to enhance accountability.

**Area Land Committees**

- District Councils should determine the remuneration of the members of the Area land Committees in accordance with the law.
- District Councils and Sub county/Division Councils should mobilize funds and indicate preparedness to fund the activities of the Area Land Committees in accordance with the Law.
- District Councils should liaise with the Ministries of Lands, Local Government and Finance to negotiate a modality of funding the activities of the Area Land Committees.

### 4.4.3 STAFFING

**Directorate of Land Management**

The process of restructuring the Ministry of Lands should be expedited by the Ministry of Public Service to enable the recruitment of the requisite staff.

**Uganda Land Commission**

The process of restructuring the Commission should be expedited by the Ministry of Public Service to enable the recruitment of the requisite staff.

**District Land Offices**

- District Service Commissions should recruit technical staff in the district land offices to enable efficient delivery of technical services.
- District Councils should create a conducive working environment to be able to retain technical staff when they are recruited.

### 4.4.4 ADMINISTRATIVE FUNCTIONS

**Directorate of Land Management**

Development of the National Land Policy (NLP)

- The Ministry should expeditiously complete the development of the National Land Policy to ensure sustainable and optimal land use and management in the country.

- On completion of the National Land Policy, the Ministry should conduct public awareness campaigns on the policy to obtain stakeholder ownership and understanding.

Induction and Training of ALC and DLB Members

- The Ministry should build its training capacity to ensure that ALC and DLB members are inducted and trained.
- The District Executive Committees and District Councils should ensure timely appointment of DLB members to enable them to be trained by the Ministry.
- The Ministry should prioritize the induction and training of ALC and DLB members in their budgets and work plans.

Sensitization of the Public

- The Ministry should ensure that funds are spent in accordance with the budget provisions to avoid un-approved reallocation of funds.
- The Ministry should prioritize the implementation of sensitization activities, as planned, to increase public awareness of land matters.

Supervision, Monitoring and Evaluation

- The Ministry should build its capacity to supervise, monitor and evaluate the activities of various land management institutions.
- The Ministry should prioritize the supervision, monitoring and evaluation activities in their budgets and work plans.
- The Ministry should ensure that the monitoring visits of land management institutions are conducted as planned.

**Uganda Land Commission**

Establishment of the Land Fund

The Commission and the Ministry should expedite the process of the establishment of the Land Fund as required by the Provisions of the Law, which should be used to streamline the management of land in the Country.

Management of Government Land

- The process of restructuring the Commission should be expedited by the Ministry of Public Service to enable recruitment of the Land Registrars.

- The Commission should conduct land inventory exercises as planned and update the Government Land Register.

Processing of Land Titles

- The Commission should prioritize the processing of titles for Government land as planned in their budgets and work plans.

Payment of Property Rates

- The Commission should establish a data base of qualifying Urban Councils to enable it to accurately plan for the payment of their property rates.
- The Commission should prioritize the payment of property rates.

Collection of Non Tax Revenue (NTR)

The Commission should establish and regularly update a data base of lease holders to enable it to improve the collection of Non Tax Revenue from ground rent.

### 4.4.5 ACQUISITION OF LAND TITLES AND CONVERSION OF LAND TENURE SYSTEMS

**a) Poor dissemination of information**

The Ministry should develop a communication strategy and feedback mechanism to enable the public to obtain information about the processes and fees structures relating to land services.

**b) Non dissemination of the draft client's service charter**

The Ministry should prioritize and expedite the development of the clients' charter which will guide the staff and the Public on matters of land transactions.

**c) Interruptions by clients**

The Ministry should introduce a mechanism of regulating the movements of clients in and out of the land administrative offices.

**d) Working conditions**

The Ministry, ULC and District Councils should develop strategies to improve on staff welfare and working conditions in order to improve on staff efficiency and retention.

**e) Limited use of information technology**

- The Ministry should expedite the process of developing a Land Management Information System (LMIS) which could be rolled over to other land management institutions.
- The Ministry, ULC and District Councils should ensure that staff are trained in relevant IT applications to enable them obtain the requisite skills in the performance of their duties.

**f) Engagement of private surveyors**

The Ministry in collaboration with the "Association of Registered Surveyors" should ensure that the work of private surveyors is regulated and is in accordance with the Clients Charter.

**g) Lack of adequate staff in the district land offices**

- District Service Commissions should recruit technical staff in the district land offices to enable efficient delivery of technical services.
- District Councils should create a conducive working environment to be able to retain technical staff when they are recruited.

**h) Records management**

- The Ministry should expedite the completion of the computerization of the land registries as this will solve the challenges in filing and retrieval of files, missing documents and general loss of documents.
- The Ministry should expedite the sorting, scanning and rehabilitation of the old and scattered land files, so that information gaps are filled. This will reduce on the delays in the processing of land applications.

**i) Absence of issuing offices**

The Ministry, ULC and District land offices should develop a mechanism to ensure orderly and timely issuing of certificates of titles to clients.

# 5 MANAGEMENT OF THE FARM INCOME ENHANCEMENT AND FOREST CONSERVATION PROJECT IMPLEMENTED BY THE MINISTRY OF WATER AND ENVIRONMENT AND THE MINISTRY OF AGRICULTURE ANIMAL INDUSTRY AND FISHERIES

## 5.1 INTRODUCTION

### 5.1.1 Motivation

Uganda's population is predominantly rural based, with 88% of the citizens living in rural areas. The majority of the rural populace engages in Agriculture for livelihood. Incidence of poverty is highest among the rural food-crop producing category due to their low incomes[23].

The Country's population has also increased over the years leading to a decrease in landholding per household which in turn has led to encroachment on the fragile ecosystems including wetlands, riverbanks, hilly and mountainous areas (NEMA[24] Report, 2008). The decrease in landholding, coupled with extensive cultivation has caused soil erosion, sedimentation of river systems, loss of water catchment areas and landslides, especially during heavy rains leading to deaths in some parts of the Country, for example the Bududa landslides in February 2010. There have also been continuous floods in Teso region due to destruction of the water catchment areas. The soil erosion has also occasioned decline in farm productivity due to increased soil runoff which has left the farmland bare or degraded.

Uganda is also heavily dependent on wood fuel and 97% (82% firewood and 15% charcoal)[25], is generated from existing forests and woodlands. This has led to environmental degradation which is jeopardizing the stability of the agricultural

[23] Uganda Population and Housing Census, 2002
[24] National Environment Management Authority
[25] Uganda Population and Housing Census, 2002

ecosystem. The cost of environmental degradation in Uganda is one of the highest in Africa, estimated to be at 4-12% of potential Gross National Income (GNI)[26].

Government of Uganda (GoU) with the assistance of the African Development Fund (ADF) and the Nordic Development Fund (NDF) decided to undertake the Farm Income Enhancement and Forest Conservation (FIEFOC) project to mitigate the aforementioned environmental threats. The project specifically aimed at contributing to reducing poverty, increasing agricultural growth rates, diversifying agricultural production, expanding non-farm employment and promoting sustainable use and management of natural resources[27] without jeopardizing the stability of the agricultural ecosystem. The project objectives are in tandem with the goal of the Plan for the Modernisation of Agriculture (PMA) and Poverty Eradication Action Plan (PEAP), which is to reduce poverty.

The project was initially to run for five years from January 2005 to December 2010 but due to the delayed start, an extension of two years was sought and granted on 22nd February 2010 extending the project period to December 2012. Given the slow implementation rate, it is doubtful whether the project will meet its targeted objectives of: reducing poverty, increasing agricultural growth rates, diversifying agricultural production and expanding non-farm employment without jeopardizing the stability of the agricultural ecosystem[28].

The project has received funds from the Government and development partners to the tune of Uganda Shillings 59 billion over a period of four years (2006/07-2009/10). According to the project Quarterly report April - June 2010, this is equivalent to UA 21 million[29], representing 41% of the total project funding. The rate of funds absorption is, however, low and may lead to delayed attainment of project targeted objectives. This may also lead to payment of avoidable commitment charges by Government on undisbursed funds.

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[26] Water and Environment Sector Performance, Report 2009
[27] FIEFOC Midterm Review Report
[28] Report of the Sessional Committee to Parliament ,August 2009
[29] UA =UShs.2774.82 (June 2010)

It is against this background that an independent assessment of the management of the project in the Ministries of Water and Environment (MWE); Agriculture, Animal Industry and Fisheries (MAAIF) and the National Project Coordinating Unit (NPCU) was undertaken.

### 5.1.2 Description of the Audit Area

The FIEFOC Project was conceived in February 1995 to improve incomes, rural livelihoods and food security, through sustainable natural resources management and agricultural enterprise development. The project, which was conceived in line with Uganda's PMA and PEAP frameworks, is funded by a loan and a grant from the ADF, a loan from NDF and co-funded by the Government of Uganda (GoU).

The project is implemented by the Ministry of Water and Environment (MWE), as the main executing agency in conjunction with the Ministry of Agriculture Animal Industry and Fisheries (MAAIF) and is coordinated by the National Project Coordination Unit (NPCU). MWE implements the Forest Support Component, which comprises the sub components of Community Watershed Management and Tree Planting.

MAAIF implements the Agricultural Enterprise Development Component which originally comprised the sub-components of Soil fertility management, Small scale irrigation & crop development, Agricultural Marketing and Apiculture promotion. Stemming from the project midterm review in 2009, the first three sub components were restructured to form a new sub component of rehabilitation of medium scale irrigation schemes. This sub component is expected to rehabilitate four (4) existing Medium Scale Irrigation schemes of Mubuku, Agoro, Doho and Olweny. Apiculture promotion was maintained.

The project, which was scheduled to start in January 2005 delayed for over a year and started in May 2006[30], when it became disbursement effective. This project is hinged on the community based development approach taking districts and sub-counties as the focus for implementation and the private sector as the main provider of the required technical services.

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[30] Aid Memoire, Feb 2007

FIEFOC was originally meant to operate in 37 districts[31] but was increased to 55 following the creation of more districts. In each of the original 37 districts, 3 Sub-Counties (3 Parishes in each Sub-County) were targeted to benefit from the project. The project was designed to utilise the existing staff (designated) at the levels of Ministry, District and Sub County in order to harness synergies and reduce on costs.

### 5.1.3 Legal Framework

The regulatory framework governing the utilization of the financial resources of the FIEFOC project is the loan Agreement between the Republic of Uganda and the ADF signed on 18th February 2005; the Credit Agreement between the Republic of Uganda and the NDF signed on 15th March 2006; the Parliamentary ratification of the funding from the ADF/NDF; the Rules and procedures for the use of Consultants and for procurement of Goods, Services and Works and ADF's and NDF's disbursement Instructions.

### 5.1.4 Vision and Mission

FIEFOC does not have its own vision and mission but supports those of the implementing Ministries of MWE and MAAIF which are stated below:-

**MWE**

**Vision**

"Sound management and sustainable utilization of water and environmental resources for the betterment of the population of Uganda."

**Mission**

"To promote and ensure the rational and sustainable utilization, development and effective management of water and environment resources for socio-economic development of the country."

**MAAIF**

**Vision**

"To support the National development goal of poverty eradication, by providing an enabling environment in which a profitable, competitive, dynamic and sustainable agricultural and agro industrial sector can develop."

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[31] ADB Appraisal, Aug 2004 including negotiation minutes

**Mission**

"To support National efforts to transform subsistence agriculture to commercial production in crops, fisheries and livestock, by ensuring that the agricultural sector institutions provide efficient and effective demand-driven services to the farming community. Whilst services are provided to the sector as a whole the primary focus is on resource poor farmers".

### 5.1.5 Project Goal, Objectives, Deliverables and Activities

**Goal**

"To contribute to poverty reduction in Uganda"

**Objectives**

**Overall Objective**

The overall project objective is "To improve incomes, rural livelihoods and food security, through sustainable natural resources management and agricultural enterprise development".

**Specific Project Objectives**

The specific objectives are based on the sub-components as below:-

- Community Watershed Management Sub-component:- To support communities and households develop a culture of collectively working together to manage watersheds.
- Tree Planting sub-component:- To provide an enabling environment for small-scale households to participate in tree planting for wood supply and environmental protection.
- Medium Scale Irrigation sub-component: To restore the irrigation capacity of four irrigation schemes namely: Agoro in Kitgum, Olweny in Lira/Dokolo, Doho in Butaleja, and Mubuku in Kasese.
- Apiculture promotion sub-component:- To develop and promote quality apiculture and enhance community participation in biodiversity conservation through promotion of improved technologies and practices of beekeeping.
- National Project Coordination Unit (NPCU):- To monitor and coordinate the overall project implementation.

### 5.1.6 Major Project Deliverables[32]

- Re-vegetate 9,900 hectares of degraded watersheds through community groups (50% women) by Project Year (PY) 5. This target was revised during midterm review to 14,900 hectares.
- Protect 99,000 hectares of natural forests that are situated around community farmland and water sources by PY5.
- Establish 13,500 ha of well stocked plantations by PY5 through the support to household initiatives.
- Establish 62,000 kilometres of contour hedges by PY5 to protect farmland.
- Maintain 174 Kms (66 kms in community watershed management sub-component and 108 kms in tree planting sub-component) of forestry/farm roads annually.
- Establish 396 Sub-County and 100 community nurseries.

### 5.1.7 Activities

In order to realise the above project deliverables the NPCU and the PIU's carry out the following activities:-

**NPCU**

- Coordinate and liaise with the ADB and the two coordinating units in MAAIF and MWE.
- Develop a project implementation manual, financial management guidelines, and Monitoring and Evaluation systems.
- Harmonize procurement guidelines (district and funding agencies) for use by district authorities.
- Coordinate development and consolidation of annual and quarterly project work plans and reports.
- Consolidate monthly, quarterly and annual financial reports.
- Mentor and coach staff of PIU's on issues of procurement, financial management and project monitoring and evaluation.
- Provide oversight monitoring and evaluation on behalf of the Executing Ministry and the Project Steering Committee (PSC).

[32] ADB Appraisal Report

- Steer project implementation through semi-annual and annual reviews on project performance and resource utilization.
- Facilitate supervision missions and arrange for comprehensive annual audits, midterm review and project completion reports.
- Exercise due diligence by conducting at its discretion, internal reviews on the use of FIEFOC funds disbursed to the implementing agency in accordance to the required specifications.

#### 5.1.8 The Roles of the Project Implementation Units (PIUs)

- Coordinate planning, budgeting and reporting about the activities under each component.
- Consolidate components' draft annual work plans and quarterly reports.
- Monitor, evaluate and supervise the implementation of activities implemented by the district technical departments and agencies under the line ministries control.
- Facilitate timely disbursement of funds to the respective sub-component activities implemented in the districts and ensure timely and proper accountability.
- Timely collect, analyse and review district reports on project performance and recommend the strategies for improvement and accelerate implementation of project.
- Develop guidelines for procurement of quality service provision and any other technical support required during implementation.
- Develop standards for execution of technical service provision for such aspects as community action planning processes and outputs.
- Facilitate training and induction of line ministries technical staff at the district and technical service providers through procurement and identification of relevant facilitators and or consultants at the national and international levels.
- Sensitize and give technical guidance on project implementation. The Sensitizations of the district technical staff and politicians should be about the

project implementation frameworks, accountabilities, procurements, monitoring and evaluation[33].

### 5.1.9 Funding

By the time of project appraisal, the total funds for use by the project were Ug Shs. 142 billion[34], equivalent to Unit of Account (UA) 51 million. The project is funded by loan and grant from ADF and loan from NDF. It is also co-funded by the Government of Uganda (GoU). Beneficiaries' contribution under small scale irrigation sub-component was to meet the cost of treadle pumps. The funds so far disbursed to the project over the financial years 2006/07 to 2009/10 are Ug Shs. 59 billion. Details of funding are as shown in Table 33**.**

**Table 33: Showing project funding**

| | FUNDING IN (UA) | | | | | |
|---|---|---|---|---|---|---|
| | **ADB LOAN** | **ADB GRANT** | **NDF** | **GOU** | **Beneficiaries** | **TOTAL** |
| **Total Project Amount** | 31,566,600 | 9,851,400 | 4,112,400 | 5,551,500 | 61,900 | 51,143,800 |
| **Total Amount Disbursed** | 11,384,891 | 8,601,907 | 452,764 | 698,732 | 0 | 21,138,294 |
| **Disbursement Percentage** | 36.07% | 87.32% | 11.01% | 12.59% | 0 | 41.33% |

**Source: OAG analysis of Appraisal Report ad NPCU Quarterly Report, Apr-Jun 2010**

**Exchange Rate, June 2004**

UA 1 = Ug. Shs. 2,774.82

**Exchange Rates, June 2010**

UA 1 = Ug. Shs. 2,774.82

UA 1 = US $ 1.5

UA 1 = Euro 1.2159

### 5.1.10 Audit Objective

The audit seeks to ascertain whether:-

- Project activities were planned according to the project design.
- Project activities were well funded.
- Project activities were implemented as planned.

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[33] Annual work plan 2007/08

[34] Appraisal Report June 2004

- The goods and services that were procured were of good quality and quantity, appropriately priced, delivered, complied with procurement regulations and served the intended purpose.
- Project activities were Monitored, Evaluated and Reported on according to the project design.

### 5.1.11 Scope

The study was carried out at MWE and MAAIF headquarters, where interactions with the managers of the project components of Forest Support, Agricultural Enterprise Development and NPCU were held.

The study further involved visiting the twelve (12) districts of Kumi, Jinja, Pallisa and Tororo (Eastern); Wakiso and Nakasongola (Central); Mbarara, Rukungiri, Kabale and Kasese (Western); Arua (West Nile) and Lira (Northern) where FIEFOC activities were being implemented. In these districts, 26 sub-counties were visited.

The study covered the period of four financial years from 2006/07 (when the project activities commenced to 2009/2010 (time of Audit).

## 5.2 FINDINGS

This chapter presents findings on planning, funding, procurement and implementation of Farm Income Enhancement and Forest Conservation (FIEFOC) activities by the Forestry Support and Agricultural Enterprise Development components in the Ministries of Water and Environment and Agriculture Animal Industry and Fisheries respectively. It further presents findings on the monitoring and coordination role played by the NPCU in the implementation of the project.

### 5.2.1 Project Planning

Project planning involves feasibility studies which act as a basis for drawing up the project design and the implementation plan. During implementation, annual work plans should be drawn up to operationalise the project activities.

#### 5.2.1.1 Project feasibility Study and Design

According to best practice, a project's cycle should commence with a feasibility study which is carried out to ascertain the viability of the project. The Feasibility study should capture the needs of the intended beneficiaries and all other stakeholders identify risks and possible solutions. The findings and recommendations should be incorporated into a feasibility study report.

There was no evidence to indicate that feasibility study reports were prepared. NPCU and the PIUs explained that feasibility studies were carried out by MWE and MAAIF and that the reports were at the ministries. Efforts to obtain the feasibility study reports were futile.

In the absence of feasibility study reports, we could not ascertain that the project design identified critical success factors, risks and possible solutions. For example, (during field visits, it was observed that) the majority of the rural poor, especially women, did not participate in tree planting because they did not own land. Tree planting also involves high land preparation and maintenance costs which had not been identified. All these should have been identified in the feasibility study. Management, however, asserted that the risk of non ownership of land had been foreseen but the project assumption was that the participating farmers would offer their land unconditionally for tree planting.

The failure to mitigate the risks that could have been identified during project planning was due to a wrong assumption which presupposed that the targeted beneficiaries would have land which would sustain the FIEFOC project and their subsistence needs. Furthermore, the original design of the project, which was done in 1995, had evolved and many things had changed by the time of implementation.

The failure to address the identified critical risks led to the majority of the rural poor not participating in tree planting, which requires land and continuous maintenance. Costs in maintenance include procurement of herbicides, pesticides and labour.

**Management response**

**The feasibility studies were carried out and funded by the Food and Agricultural Organization (FAO). However the feasibility study reports may have been misplaced during the restructuring of the Ministry of Water and Environment and the reforms in the forest department.**

**The Appraisal report, however, identified risks as indicated in paragraph 6.3 of the appraisal report (Critical Risks and Mitigation Measures) and these have been mitigated during project implementation. Where risks were identified at appraisal control measures were fully incorporated and mainstreamed into the design to address the risks identified and others shall be addressed through the implementation of the Environmental and Social Management Plan (ESMP). Management has already contracted a consultancy firm for this assignment. Furthermore, at the beginning of project implementation, a review of risks and assumptions identified at appraisal as given in the log frame was carried out during monitoring and evaluation manual development. The M&E guidelines page 42 provides the revised risks, assumptions and mitigation measures.**

**5.2.1.2 <u>Targeted Beneficiaries</u>**

According to the project design, the project was intended to improve incomes and livelihoods of the rural poor households, and ensure their food security through sustainable natural resources management and agricultural enterprise development. The project was also designed to provide gainful employment to the poor subsistence farmers and their households.

Through document review, interviews and site visits at the districts, it was observed that the rural poor were participating in and benefiting from apiculture. We further observed that although the farmers involved in apiculture were reaping benefits, this was not the case with farmers in the other sub-components such as tree planting and community watershed management as explained below:-

Interviews with members of seven (7) farmer groups visited in six (6) districts where apiculture was practiced revealed that their incomes and livelihood had improved because of improved honey and wax production. Farmer groups attributed this to the trainings, apiculture equipment received and the setting up of modern demonstrations which have helped in improving honey and wax production.

**Picture 16: Showing one of the benefits reaped by an Apiculture farmer**

**Picture of a newly constructed house of a member of Ongica Beekeepers Association (OBA), in Lira District, taken on 11th Nov 2010**

In the tree planting and community watershed management sub-components, we observed that although tree cover had increased, which will in the future help beneficiaries to earn incomes from building poles, timber and fuel wood, it was noted that besides the poor, the well to do (willing farmers) also benefited from the project contrary to the project design. All the twelve (12) district forestry support focal persons concurred that they had distributed seedlings or supervised tree planting by the well to do farmers.

According to management, the participation of the well to do farmers in the community watershed management sub-component was due to the fact that community watersheds are inhabited by both the rich and poor, so the rich could not be isolated and left out. In tree planting sub-component, farmers were skeptical about the project's intentions in the beginning because they feared that the project was intended to grab their land. Through interviews with management and review of the aide memoire of 11th-23rd August 2008, it was noted that GoU and the development partners agreed to provide seedlings to communities, farming families and whoever wanted to plant trees regardless of their economic status.

As a result of involvement of the targeted beneficiaries in apiculture sub-component, the farmers have been able to raise incomes and have a better livelihood. However, in the tree planting and community watershed management sub-components, it is the well to do farmers who will benefit more because they had the ability to spare land and resources to plant and maintain trees.

**Management response**

**The project target beneficiaries are mainly the rural poor households. We agree that some few households that may not be categorized as poor have also benefited from the project. These households, also referred to as willing farmers, are categorized as those that have planted more than 10,000 trees (approx 10 acres) and constitute about 2.2% of the project beneficiaries in tree planting. One of the reasons for their participation is mentioned in the report findings (page 37), that is, the well to do households own land in the watersheds that were heavily degraded and identified for re-vegetation. The other reason is that the project has showcased good tree management practices using farmers that were willing and ready to offer their land; in most cases these are farmers that have fairly large pieces of land.**

**The revision of targeted beneficiaries to include all farmers in the community therefore strengthened the project's ability to increase forest cover which is in line with the project objective. A wider forest cover as envisaged under the project has led to reduced soil erosion, flooding, water pollution, biodiversity conservation and for combating deforestation. Most of the planting is on small land holdings and is mainly for firewood, poles and fruits trees where women participation is emphasized. The impact of tree planting is realized in shortened distances travelled to collect firewood by women and children and the regeneration of water sources/streams in the watersheds. The success in tree planting in degraded watershed areas and the increasing demand for tree seedlings is attributed to the sensitization carried out among the intended beneficiaries. Focused sensitization in specific aspects of community forest management will continue to be carried out by the project.**

#### 5.2.1.3 <u>Planning at the Districts</u>

According to the financial procedures manual, districts and sub-counties should prepare annual work plans and budgets (AWP&Bs) in line with the indicative planning figures communicated by the PIU's. The Sub County AWP&B should be approved by the Sub-County technical committee and forwarded to the district by the 31st of January every year. The district should consolidate Sub-County AWP&Bs and forward the consolidated AWP&B to the respective PIU's by 28th February every year after the approval of the district technical committee.

Through document review and interviews with all district focal persons in the twelve (12) districts visited, it was established that districts prepared their AWP&Bs in line with the indicative planning figures. However, in all the 26 sub-counties visited, it was noted that AWP&Bs were not prepared by the sub-counties themselves, but by the districts on their behalf. At times, the Sub-county technical officers were invited to participate in the project planning.

The reason for non preparation of AWP&Bs at the sub-counties was that there were no technical officers to prepare them. The forest rangers and guards at the sub-counties had no technical competence in preparing AWP&Bs.

In 2007/08 districts prepared AWP&Bs but they delayed to submit to PIUs due to lack of technical expertise, according to management. To mitigate this challenge, NPCU decided to organize joint planning workshops in the years 2008/09 and 2009/10 but these too delayed by an average of two and a half (2½) months in each of the years.
The minimal involvement of the sub county technical officers in project planning results into districts planning for activities that are not originated and agreed upon by the sub county. As a result, planned activities may not be consistent with sub county priority needs and therefore may not be owned by the sub-counties.

**Management Response**

**We agree that Sub-Counties should be fully involved in the planning process and the project targets to achieve that level. Lack of technical capacity at the sub-county level has been a challenge since the beginning of project**

**implementation because the local governments have not fully honored the commitment to ensure that technical officers are in place. The local governments are dependent on the structure provided by Public Service and limited by availability of local resources. On the other hand the split of districts has compounded the already bad situation as the available staff is shared among the new districts. The level of staffing in the local governments affects the level of involvement in project planning.**

**To mitigate this challenge in the forestry sector management recruited 72 Sub-county Technical Forest Officers (SFTO) in April 2010 and October 2010 to enhance the existing capacity at sub-county level and 18 more SFTOs are being recruited by GoU. In addition management trained district planners to support the planning process at sub-county and district levels and organized regional planning workshops. The planning for FY 2011-12 has already started and submission of AWP&B at different levels is expected to be timely.**

#### 5.2.1.4 Planning at the PIUs and NPCU

According to the financial procedures manual, Sec 3.1, the PIUs should consolidate the district AWP&Bs and submit to NPCU by 31st March. The NPCU then consolidates PIU AWP&Bs for submission to the Bank/Fund for endorsement by 31st May.

A review of PIU and NPCU AWP&Bs revealed that they were consolidated. However, the dates of their submission could not be ascertained. Through interviews, management explained that there were delays in submission by both PIU and NPCU.

The failure to submit the consolidated PIU AWP&Bs in time was attributed by management to inadequate capacity at the PIU's and delays by districts to submit their AWP&Bs. NPCU attributed its late submission to PIUs delay to submit their AWP&Bs. Management stated that they had recruited two watershed management support officers and the recruitment of two more officers was underway. It is expected that these recruitments will go a long way in addressing the problem of delayed submission.

The delays by both the PIUs and NPCU to consolidate and submit AWP&Bs affected their eventual submission to the Bank/Fund for endorsement thereby delaying the release of annual funds required for the timely implementation of project activities.

**Management Responses**

**We agree that planning processes at PIU and NPCU have been delayed due to lack of technical capacity largely at the local government level and PIUs resulting into delayed submission of AWP&B to the Bank/Fund. However the delay in planning processes did not significantly affect reimbursement and disbursement processes and subsequent implementation of project activities. Management would like to clarify that further reimbursement of funds to PIUs and districts is subject to justification of at least 50% of previous advances and submission of progress reports.**

**However, management has signed implementation agreements with districts to emphasize the roles and responsibilities of districts in planning process. In addition, Chief Administrative Officers have been sensitized and district planners trained in a bid to ensure the planning process is initiated on time and submission of AWP&B is within agreed timeframes. Management will complete the recruitment of two additional officers to support the Forestry Component by March 2011.**

### 5.2.2 Project Funding

This section focuses on project grant and loan performance, counterpart funding, release, utilization and disbursement of funds to districts.

#### 5.2.2.1 Project Grant and Loan performance

According to the project appraisal report and implementation plan FIEFOC was supposed to be implemented in five years. By the time of audit (Nov. 2010) which is PY4, the project was expected to have received a total of Ug Shs. 111 billion (equivalent to UA 40,155,900) in both grant and loan in line with the expenditure schedule as shown in Table 34.

**Table 34: Showing planned and actual funds disbursed in Unit of Account by PY4**

| Project Years | ADB Loan | ADB Grant | NDF Loan | Total |
|---|---|---|---|---|
| | UA '000 | UA '000 | UA '000 | UA '000 |
| PY1 | 11,908.6 | 2,108.1 | 1,112.3 | 15,129.00 |
| PY2 | 7,091.4 | 2,139.7 | 844.9 | 10,076.00 |
| PY3 | 5,246.5 | 2,238.6 | 853.6 | 8,338.70 |
| PY4 | 4,311.8 | 1,658.6 | 641.8 | 6,612.20 |
| **Total Planned Disbursement** | **28,558.30** | **8,145.00** | **3,452.60** | **40,155.90** |
| **Actual Disbursement** | **11,384.89** | **8,601.91** | **452.76** | **20,439.56** |
| **% Disbursed** | **39.87** | **105.61** | **13.11** | **50.90** |

***UA 1 = Ug. Shs. 2,774.82**

**Source: OAG analysis of Appraisal Report and NPCU Quarterly Report, Apr-Jun 2010**

A review of the documents revealed that the project had received loan and grant totaling Ug Shs. 57 billion (UA 20,439,560) out of the expected Ug Shs. 111 billion, representing 51% performance by PY4 as shown in Table 34 above.

Further analysis of grant and loan performance revealed that the full amount of the ADB grant had been disbursed by PY4 (105.61%), as compared to the performance in ADB loan (39.87%) and NDF loan (13.11%) shown by the disbursement percentages in Table 34 above.

Management attributed the full disbursement in ADB grant to the fact that the grant was meant to finance start-up activities such as hire of consultants, training, sensitization and supply of agricultural inputs. Management further explained that the slow disbursement in ADB loan was due to the restructuring of the three sub-components in the MAAIF while that of NDF loan was caused by delay to open special accounts and to approve implementation and procurement plans.

The slow disbursement of funds may lead to delayed attainment of project targeted objectives. This may also lead to payment of avoidable commitment charges by Government on undisbursed funds.

**Management Response**

**Management clarifies that the restructuring in MAAIF was completed in 2009 with the designation of engineers from MWE, NARO and NAADS. Management agrees that there are delays in the utilisation of resources and this may lead to targeted results not being achieved by December 2012. However, management has put in place measures to enhance utilisation of funds at district and PIU levels. The measures include: recruitment of 90 Sub-county Forest technical officers and 6 local consultants to support existing staff at district and national levels; training of relevant PIU and district staff in planning, reporting, and monitoring project activities; management of special accounts; recruitment of a Procurement Assistant to fast track procurement; and sensitisation of PIUs in Bank/Fund disbursement and procurement guidelines.**

**To date, 75% of the total loan funding under NDF has been committed in 3 key on-going signed contracts, namely: strengthening capacity of FSSD, Supply of tree seedlings by private nursery operators, and recruitment of sub-county forest technical officers. When the contractors are fully paid the performance of the loan funding will greatly improve. Consultants have been procured to prepare designs and bills of quantities for the rehabilitation of 4 irrigation schemes, and contractors for the rehabilitation works shall be in place by February 2011 and June 2011, respectively. Management is committed to ensuring that the contracts are concluded within the project period.**

#### 5.2.2.2 Counterpart funding

According to the Appraisal Report and implementation plan, GoU was obliged to remit Ug Shs. 12 billion (equivalent to UA 4,330,400) by PY4 to cater for recurrent costs such as salaries, allowances, taxes and bank charges to be paid during and after project implementation. Table 35 refers. Beneficiaries on the other hand were also obliged to contribute Ug Shs. 172 million (equivalent to UA 62,030) by PY3 towards financing the procurement of treadle pumps to aid small scale irrigation.

**Table 35: Showing Projected and Actual counterpart funding by GoU and Beneficiaries**

| Project Years | Projected | Actual | Variance | Proportion Disbursed |
|---|---|---|---|---|
| **GoU** | | | | |
| PY1 | 2,787,861,654 | 130,148,028 | 2,657,713,626 | 5% |
| PY2 | 2,927,157,618 | 560,307,227 | 2,366,850,391 | 19% |
| PY3 | 3,073,668,114 | 1,071,949,359 | 2,001,718,755 | 35% |
| PY4 | 3,227,393,142 | *1,078,546,878 | 2,148,846,264 | 33% |
| **Totals** | **12,016,080,528** | **2,840,951,492** | **9,175,129,036** | |
| **Average %age Disbursed** | | | | **24%** |
| **Beneficiary Contributions** | | | | |
| PY1 | 40,789,854 | 0 | 40,789,854 | 0% |
| PY2 | 46,700,221 | 0 | 46,700,221 | 0% |
| PY3 | 50,224,242 | 0 | 50,224,242 | 0% |
| PY4 | 34,407,768 | 0 | 34,407,768 | 0% |
| **Totals** | **172,122,085** | **0** | **172,122,085** | **0%** |

**Source: OAG analysis of Audited Accounts, Appraisal Report and NPCU Quarterly Report, Apr-Jun 2010**

*** From draft Accounts 2009/10**

It was noted through analysis of audited accounts and quarterly and appraisal reports that by June 2010, GoU had remitted only Ug Shs. 2.8 billion of the expected disbursement of Ug Shs. 12 billion by PY4 representing 24% performance level. Management explained that although Government was paying salaries to designated officers at the ministries, districts and sub-counties, no proportion of such figures to the project had been calculated and designated as Government counterpart funding. Document review and interviews with management revealed that beneficiaries on the other hand did not contribute any money towards the procurement of treadle pumps.

According to the midterm review report, the treadle pump technology was discovered to be unsuitable for Uganda and Government sought change from small scale to medium scale irrigation. This points to inadequate planning (at feasibility stage) because the inappropriateness of the technology could have been ascertained early enough before commencement of project implementation.

Failure by GoU to remit counterpart funds as expected created a funding gap leading to over reliance on donor funds to finance project activities. Inability to identify appropriate technology for irrigation deprived the farmers of benefits which could have accrued to them from Small Scale Irrigation.

**Management Response**

**We agree that GoU contribution performance is low but hasten to add that over the years the releases to the PIUs has shown an increasing trend. We also agree that salaries of designated staff at national and district level were inadvertently not captured as part of Government counterpart funding. Management has already initiated the process to retrospectively calculate and capture the salary amounts for all designated staff as counterpart funding. It suffices to note that the gross tax expenses incurred by MFPED on behalf of the project on imported goods are also not shown. Management will include the gross tax to further improve government counterpart funding.**

**The in kind contribution by farmers towards the procurement of treadle pumps was shelved by government after recent studies found treadle pumps were inappropriate technology. MAAIF has carried out studies and identified areas where small scale irrigation shall initially be carried out to test other appropriate technologies. These studies could not be carried out and implemented by the identified farmers within the project lifespan. The originally identified farmers have been supported under other programmes in MAAIF such as NAADS. We agree that in future other in kind contributions such as land, labour and inputs should be identified and defined as counterpart.**

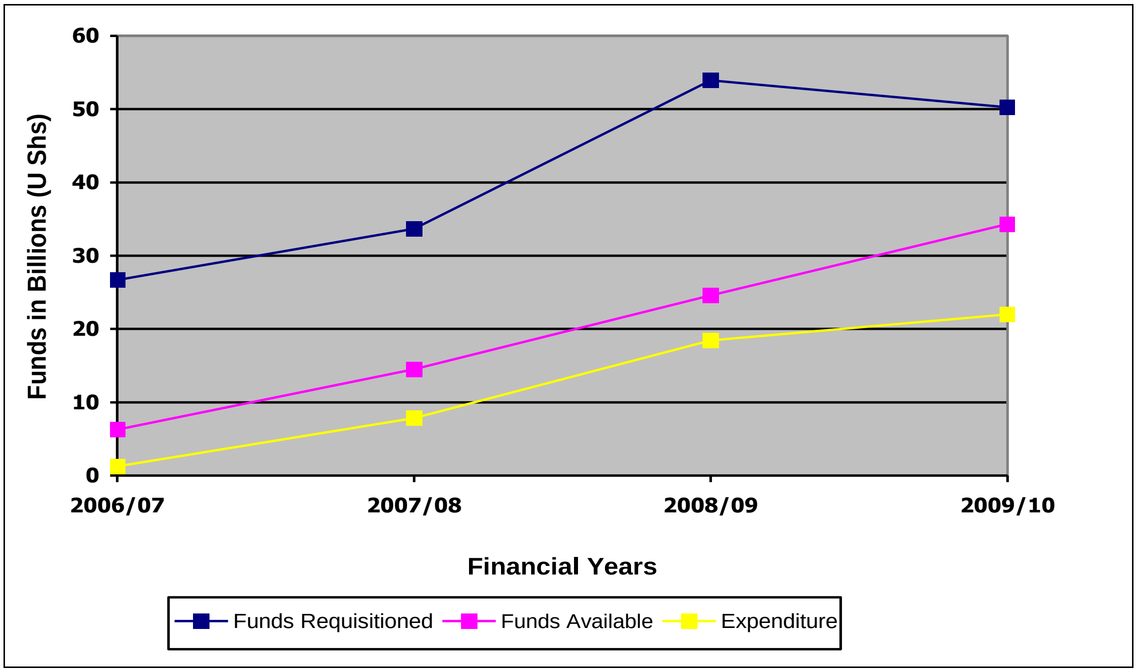
#### 5.2.2.3 Release and Utilization of Funds

It is good practice in project management that funds should be released and utilized as per approved AWP&Bs.

A review of approved AWP&Bs, audited accounts and release/ disbursement schedules revealed that funds were not released to the project as per approved AWPBs. Funds released were 6.3 billion (23%), 9.6 billion (28%), 17.9 billion (33%) and 28.1 billion (56%) of the approved AWP&Bs in the financial years 2006/7, 2007/8, 2008/09 and 2009/10, respectively.

We also noted that despite the low levels of release of funds, even what was availed was not fully utilized by the year end. In the financial years 2006/7, 2007/8, 2008/09 and 2009/10, of the available funds, only 1.3 billion (20%), 7.8 billion (54%), 18.4 billion (75%) and 22 billion (64%), respectively were utilized.

**Figure 9: Showing Funds Requisitioned, Available and spent in Billions**




The reason for the Bank/Fund not financing budgets fully was due to the delay to meet donor financial procedures and the low funds absorption rates by the project. Management explained that the Bank/Fund releases funds depending on project spending trends and compliance with the accountability requirements. Districts were delaying to account for funds released to them. The issue of delays in submitting accountabilities has also been reported in OAG financial audit reports over the years.

Focal persons attributed the challenge of inadequate release of funds to districts to PIUs selecting fewer activities from their approved AWP&Bs. Failure to release and utilize all funds has affected the project's financial performance and the attainment of planned project deliverables by districts as planned and also renders the balances, which stood at Ug Shs.4.9 billion (FY 2006/07), Ug Shs.6.7 billion (FY2007/08), Ug Shs.6.1 billion (FY2008/09) and Ug Shs 12.3 billion (FY 2009/10), susceptible to abuse.

**Management Response**

**ADB and NDF each have disbursement guidelines that stipulate 50% accountability for previous advances before further reimbursement. Release of funds is therefore based on utilization and accountability of previous advances. We agree that low utilization of funds is largely due to capacity challenges at local level and the restructuring of the irrigation sub-component in MAAIF.**

**However, Management has sensitized the Chief Administrative Officers and urged them to ensure compliance with the accountability requirement as provided in the financial management guidelines. MWE has collaborated with the Ministry of Local Government to conduct joint supervision in districts and those that do not comply are periodically placed in the national print media. Management has put in place additional measures to enhance the utilisation of funds.**

#### 5.2.2.4 Disbursements to Districts

According to the Financial Management Manual, funds should be utilized within a period of 3 to 6 months and replenishments should be effected after fulfillment of the following requirements: a signed implementation agreement between district and MWE/MAAIF, accountability of at least 50% of previous advance, submission of monthly and quarterly reports, and a request for replenishment.

Through a review of financial records and interviews with district officials, it was noted that disbursements to districts were made once in most cases and twice in others even when some districts had signed implementation agreements, submitted accountabilities of at least 50% of the previous advance, submitted monthly and quarterly reports, and requested for replenishment.

Management explained that disbursements are not made as required because of the failure by the districts to properly account for the previous advances and the failure to submit monthly & quarterly reports.

We, however, also noted instances where some districts accounted for funds but no action was taken. To this, management explained that they sometimes fail to reimburse districts which have fully accounted as a result of the majority of districts failing to account in time. The Bank cannot release more funds to the Project before NPCU submits overall accountability totaling to at least 50% of the previous disbursement.

However, audit argues that even if total accountability does not reach 50%, NPCU and PIUs should utilize the unspent balances (discussed in 4.2.3 above) to reimburse compliant districts so that implementation of planned activities in these districts is not hindered by non-compliant ones.

The effect of not funding districts on a quarterly basis as stipulated in the financial procedures manual has led to some districts failing to implement planned activities according to schedule and according to their work plans. It has also led to some districts rescheduling the implementation of some project activities to the subsequent periods.

**Management Response**

**Management has supported districts and PIUs to speed up utilization of funds and therefore increase disbursements. NPCU has supported PIUs to review accountability and to ensure that replenishment requests from districts are handled promptly.**

**Management wishes to clarify that the balance of funds given in Figure 2 of the report is a consolidation of ADF loan, NDF loan and ADF grant. Each of the funding sources is activity specific and therefore funds cannot be co-mingled and disbursed to districts for activities that are not originally defined for the funding source. In addition most of the balance constitutes**

**the un-utilized funds that had been disbursed to MAAIF before restructuring process and the other funds are tied up in district advances.**

### 5.2.3 Procurement of agro inputs

Sections 4.1.3 and 4.1.5 of the Implementation Manual required the project to utilize the services of private suppliers present in the district for supply of agro-inputs to farmers or communities.

In this regard, the project was also supposed to establish 100 tree planting nurseries in sub-counties and 396 community nurseries.

A review of procurement records and interviews with management revealed that procurement of agro-inputs was centrally undertaken at the PIUs and NPCU, contrary to the requirement to make use of the private sector present in the district.

A further review of performance reports revealed that only 35 sub-county nurseries out of 100 (35%) and 6 community nurseries out of 396 (2%) had been established. However, we noted that these nurseries were later discontinued.

**Picture 17: Showing discontinued nurseries**

**Left: Lira district-Adekokwok Sub-County (Akia village); Right: Jinja district-Buwenge Sub-County (Kagoma Community Watershed nursery site)**

Managers at NPCU and PIUs attributed the decision to centralize procurements to lack of capacity to establish and manage project nurseries in sub-counties and communities. Management further stated that the local suppliers within the districts could not supply quality seedlings in the required quantities and species due to limited technical capability.

However, field inspections in the districts of Tororo, Arua and Jinja revealed presence of flourishing privately-owned commercial nurseries. This is an indication that the supply of seedlings from privately-owned nurseries could have been possible.

The District focal persons interviewed also explained that establishment of nurseries as well as improving the quality of seedlings supplied within the districts would not have been so difficult if it had involved practical training of the required personnel and prospective suppliers on the required standards for tree seedling management at established demonstration sites.

**Picture 18: Showing nurseries in districts**

The centralized procurement has led to districts being supplied with stressed seedlings from distant areas and which are sometimes supplied in non-planting seasons, thereby affecting survival rate which leads to replanting in subsequent planting periods. We also noted instances of short deliveries and supply of un-requisitioned species as shown in Table 36.

**Table 36: Showing anomalies identified in the centralized procurement of seedlings**

| Anomalies identified in the centralized procurement of Seedling | Affected Districts |
|---|---|
| Wrong species/Un-requisitioned | Jinja, Mbarara, Kasese |
| Poor quality and/or stressed seedlings | Kasese, Kabale, Mbarara, Arua |
| Out of season | Mbarara, Jinja, Arua, Kumi |
| Short deliveries | Arua, Tororo, Pallisa |

The cost of seedlings from centralized purchases were noted to be on a higher side compared to cost of seedlings from NFA and other local suppliers in districts as showed in Table 37.

**Table 37: Comparison of average unit cost at which FIEFOC purchases selected seedling species with prices charged by local dealers in Districts and NFA**

| Species | FIEFOC Costs (Average) | Local Dealers in Districts (Average) | NFA-(Tree Seed Centre) |
|---|---|---|---|
| | Ug Shs. | Ug Shs. | Ug Shs. |
| Pinus carribaea | 536 | 400 | 275 |
| Eucalyptus grandis | 250 | 113 | 150 |
| Grevellea robusta | 600 | 334 | 300 |
| Albezia | 600 | 400 | 300 |
| Grafted oranges | 4,357 | 3,667 | 2,500 |
| Grafted mangoes | 4,429 | 3,667 | 2,500 |
| Calliandra carothythus | 317 | 200 | 200 |
| Maesopsis eminii | 500 | 500 | 400 |

**Source: FIEFOC Procurement Documents, NFA price list and Interviews**

Management explained that their prices were high due to the high cost of certified seeds and other inputs, and prices incorporated tax. The suppliers also offered seedlings on credit.

The discontinuance of sub-county and community nurseries deprived the participating farmers of income and skills and also increased the cost of seedlings paid by the project.

Supply of stressed seedlings in off planting seasons of the districts is hampering the attainment of tree planting targets of the project.

**Management Response**

**It is true the project supported districts to set up sub-county and district nurseries. After consultations with ADB and GoU, these nurseries were later discontinued due to the districts failure to handle the two portfolios, that is, manage the nurseries as well as provide extension services to the farmers. As result, Management prequalified firms from lists of local private nursery providers provided by districts to participate in a competitive tender. The project has centrally procured the services of 54 firms that are located in different regions of the project districts to supply tree seedlings to the farmers. An additional 15 firms were procured through open tendering process. To promote efficiency in the process, management developed seedling distribution guidelines to guide the verification seedling specifications and modalities of delivery, acceptance and verification. In addition, the district focal persons responsible for receiving seedlings at local level and firms responsible for deliveries were sensitized on the use of the guidelines.**

**Management would like to clarify that the anomalies indentified in Table 4 of the report should have been addressed by the districts as provided for in the guidelines. The project is in the process of verifying and calculating the losses incurred out of such inefficiencies to bring then to the attention of the districts. The project has planned to support the MWE in developing standards for nursery management to protect farmers from unscrupulous nursery operators and limit the spread of diseases. Community and sub-county nurseries are not sustainable and in this respect the recommendation to empower farmers to maintain nurseries as given in the report is not practical due to the reasons given above.**

**The price comparison of seedlings between the contracted suppliers and NFA is unrealistic since NFA is subsidized by government and donors. The project procures tree seedlings from NFA at the nursery quoted prices while**

**the firms were procured in a competitive tender process to support meet project demand of tree seedlings and variety of species.**

### 5.2.4 Project Implementation

#### 5.2.4.1 Staffing

According to the implementation manual, the project was supposed to have 8, 20, 232 and 200 technical staff at NPCU, PIUs, districts and sub counties, respectively by 31st December 2007.

It was noted through document review and interviews that not all staff positions were filled by 31st Dec 2007 at various levels of project implementation. Some positions were still not filled at the time of audit (Nov 2010) as indicated in Table 38.

**Table 38: Showing Staffing position**

| S/N | Implementation Level | Planned number of staff | Staff as at October 2007 | Number of positions filled, 2010 | Number of vacant positions, 2010 |
|---|---|---|---|---|---|
| 1. | NPCU | 8 | 5 | 8 | Nil (0%) |
| 2. | Ministry of Water and Environment | 10 | 6 | 10 | Nil (0%) |
| 3. | Ministry of Agriculture, Animal Industry and Fisheries | 10 | 8 | 10 | Nil (0%) |
| 4. | Districts: DFOs | 50 | 29 | 50 | Nil (0%) |
| | AFOs | 50 | 8 | 8 | 42 (84%) |
| | District Entomologists | 33 | 20 | 23 | 10 (30%) |
| | Entomologist Assistants | 99 | 0 | 4 | 95 (96%) |
| 5. | Sub Counties: FRs | 100 | 16 | 59 | 41 (41%) |
| | FGs | 100 | 8 | 30 | 70 (70%) |
| | SFTOs | - | - | 57 | *(57) |

From the analysis of the table above it was noted that all the positions in the NPCU and PIUs staff structures had been filled. However, the majority of the unfilled positions were at the districts and sub-counties yet this is where implementation takes place.

It was noted, however, that in the 12 districts visited, management had made efforts to address the staffing gaps in the project structure. In February 2010, management recruited and deployed sub-county forest technical officers. However, we noted that this recruitment and deployment of staff was made four (4) years after the start of the project and two years to the end.

The staffing gap was caused by local government's failure to designate staff as agreed with development partners in the appraisal report due to meagre resources.

The failure to fill vacant positions and late recruitment of staff, especially in the districts and sub-counties affected the delivery of technical services such as giving advice on seedling spacing, weeding and timing of planting.

**Management Response**

**As mentioned earlier, the responsibility to fill the vacant positions at local level is vested in local governments with guidance from Public Service Commission. Management would like to clarify that the recruitment of 72 Sub-county Forest Technical Officers (18 more being recruited) is a mitigation measure to support the sub-counties. The period from approval of the proposal to mitigate and the recruitment process took about two years. Management, however, agrees with the recommendation and is working with all stakeholders, Ministry of Public Service, Ministry of Local Government and Ministry of Finance to ensure availability of staff.**

#### 5.2.4.2 Participation of Women in the Project

According to the project appraisal report and implementation manual, women participation was supposed to be 50% in community watershed management training activities and 30% in other project activities (tree planting and apiculture).

An analysis of the project outputs by districts revealed that women participation in community watershed management and tree planting was 20% in each of the sub-components as shown in Table 39 below. Analysis in apiculture was not done because data on gender participation was not captured by management, however, management explained that 25% of the participants were women.

**Table 39: Showing gender participation in project activities**

| Project Activity | Gender Participation | | | |
|---|---|---|---|---|
| | Women | Men | Total | Percentage Women |
| Community watershed management | 7,271 | 29,410 | 36,681 | 20% |
| Tree Planting | 2,256 | 9,235 | 11,491 | 20% |
| **Total** | **9,527** | **38,645** | **48,172** | **20%** |

**Source: OAG analysis of combined Outputs by districts**

Women participation was low due to the existing social and cultural norms in which land is mostly owned by men. In addition, the communal land tenure system also hinders women participation. These challenges were not identified at project design. Failure to capture data on gender participation in apiculture was due to inability by management to enforce the reporting requirement.

The low level of women participation in project activities has affected their representation and involvement in decision making. This may in turn affect their capacity to generate income and being empowered economically.

**Management Response**

**Data capture and analysis on the participation of women in project activities is weak and does not give the actual picture of women participation. Women participate in preferred specific interventions where data has not been collected, for example nursery operations, planting, weeding and so on. Women participate in planting and maintenance of the trees on land that is family or communally owned.**

**The project has developed a gender mainstreaming strategy that focuses on increasing access to project activities for women as well as their participation in project implementation and community representation and decision-making. The project will use the manual to improve on data capture and analysis on women participation.**

#### 5.2.4.3 Project deliverables

The findings on project deliverables are described in table 40 below:-

**Table 40: Showing Project deliverables**

| Activity | Planned | Actual | Performance level | Specific reasons advanced for the level of performance registered |
|---|---|---|---|---|
| Re-vegetation of Degraded Watersheds (ha) | 14,900 | 20,778 | 140% | The good performance was attributed to involvement of the well-to-do farmers |
| Protection of Natural Forests (ha) | 99,000 | 3,978 | 4% | The low level of performance was attributed to design defects that included NFA and UWA forests in the project target. |
| Establishment of Plantations and Woodlots (ha) | 13,500 | 6,169 | 46% | Skepticism of owners of PNFs |
| Establishment of Contour Hedges (km) | 62,000 | 631 | 1% | The low level of performance was attributed to defects in the design which failed to come up with realistic targets |
| Maintenance of Forest/ Farm roads (km) | 696 | 157 | 23% | No specific reason |
| Honey production (metric tonnes) in apiculture | 1200 | 750 | 62.5% | Participants are organized in bee keeping groups and the activity is not affected b the land tenure systems. |

As noted above, there were low levels of performance in all outputs, except in the re-vegetation of degraded watersheds and apiculture (honey production) where good performance was attributed to farmers embracing interventions promoted.

The low levels of performance were further attributed to:

- Lack of capacity to implement the project at national and local government levels.
- Ineffective monitoring and evaluation which lacked feedback and follow-up mechanisms to identify deviations and recommend timely corrective measures.

The failure by the project to realize projected deliverables/outputs has led to continued deforestation of natural forests, soil erosion in hilly areas and inaccessibility to planting sites by farmers.

**Management Response**

**Re-vegetation of degraded watersheds**

**The good performance in re-vegetation of degraded watersheds is attributed to involvement of willing farmers in project districts, sustained and focused sensitization of the farmers, and the subsidy provided through delivery of tree seedlings. In addition, the project has sensitized farmers in group formation which has encouraged participation.**

**The farmers have a careful and deliberate selection of species of tree seedlings that meet their needs (firewood, poles, soil erosion control, food security etc) within the land available.**

**Protection of Natural Forests from De-forestation**

**Management agrees with the recommendation.**

**Establishment of plantations and woodlots**

**Low level of performance is due to delayed procurement of seedlings under NDF support, which has been now addressed with the contracting of private nursery operators.**

**Establishment of contour hedges**

**Management clarifies that the actual performance is 1,200 km but agrees with the recommendation.**

**Maintenance of forest/farm roads**

**Management clarifies that the actual performance is 228 km and the low performance is due to the delay in procurement plan, but agrees with the recommendation.**

#### 5.2.4.4 Restructured Agricultural Enterprise Development Component

Before restructuring, the Agricultural enterprise development had four sub components, namely: small scale irrigation and crop development, soil fertility management, agricultural marketing and apiculture.

Save for the Apiculture sub-component, the three sub-components of small scale irrigation & crop development, soil fertility management and agricultural marketing were re-structured in preference to the rehabilitation of four (4) medium scale irrigation schemes of Doho, Olweny, Mobuku and Agoro.

It was noted that although the re-structuring was approved during the midterm review meeting of April 2009 and the preliminary cost for the four medium scale irrigation schemes estimated at Ug Shs. 33 billion (UA 11,951,624), the actual cost (bill of quantities) was to be determined after the consultancy for re-design of rehabilitation works is completed. Management has set aside an equivalent of Ug Shs 44 billion (UA 15,926,260) for this purpose[35].

By the time of audit (Nov 2010) the rehabilitation works had not yet started and according to management, the contractors for the environmental impact assessment and civil works were still being procured. According to the implementation roadmap, a final report from the redesigning consultants was expected by 15th January 2011.

The restructuring of the sub-components was mainly due to lack of a feasibility study which would have identified the impracticability of some project interventions (treadle pumps technology) and the inadequate capacity in MAAIF to implement the project. For example, by midterm review, the sub-component of soil fertility management had not even appointed a manager[36].

The restructuring led to farmers missing out on benefits that would accrue from accessibility to markets. By the time of the restructuring, the project had spent and

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[35] Midterm review Report
[36] Financial Statements, June 2009

committed funds worth Ug Shs. 5.9 billion (UA 2,134,800) on the three sub-components, as shown in Table 41**.**

**Table 41: Showing funds spent on the restructured sub-components**

| **Sub-Component** | UA |
|---|---|
| Soil fertility management | 862,700 |
| Agricultural marketing | 717,800 |
| Small scale irrigation & crop development | 554,300 |
| **Total** | **2,134,800** |

**Source: OAG analysis of status of expenditure and committed funds**

**Management Response**

**MAAIF has come up with a strategy that emphasizes agri-business that captures marketing focusing on value chain developments. This strategy encompasses the marketing of honey under the project. A division headed by an Assistant Commissioner has been created. The new project, Agricultural Technology Agribusiness Advisory Services (ATAAS), emphasizes interventions in agri-business in the new NAADS and NARO integrated activities by promoting value addition at household level, bulking of produce, linking farmers to markets with emphasis on collective marketing.**

**Management would like to clarify that the restructuring of the irrigation sub-component in MAAIF was implemented and completed in 2009. Consultants have been procured to prepare designs and of bills of quantities for the rehabilitation of 4 irrigation schemes, and contractors for the rehabilitation works shall be in place by February 2011 and June 2011, respectively. Management is committed to ensuring that the contracts are concluded within the project period.**

### 5.2.4.5 Project Branding

It is good practice for Government projects to be branded to ease identification.

During field visits, it was noted that FIEFOC project sites in all the twelve districts visited lacked identification signposts. Similar projects like NAADS, NUSAF were found branded.

The lack of signposts was attributed to failure by management to secure funding for this item despite several attempts to have it included in AWP&Bs.

It was therefore difficult to confirm whether the sites visited during audit were for FIEFOC project and the possibility of being taken to non FIEFOC sites cannot be ruled out.

**Management Response**

**It is true not many districts have erected sign posts on key project sites including demonstration sites. The project budgeted for erection of sign posts in the budget for FY 20010-11 and districts have been provided with funds. The lack of sign posts at the project sites is attributed to slow procurement processes at the district level. However the project requested districts to display lists of beneficiaries at notice boards. In addition the project has started the process to geo-reference all the beneficiaries. Using the GPS system, the location of all beneficiary activities will be easily identifiable.**

### 5.2.5 Monitoring and Evaluation

According to the project appraisal report, a National workshop was supposed to be held in PY1 for all stakeholders to discuss the monitoring indicators, roles and responsibilities of stakeholders/ institutions. NPCU was also supposed to establish an appropriate mechanism for data collection, monitoring and evaluation of project activities.

We noted that the National workshop was held on 19$^{th}$-23$^{rd}$ November 2007. During this workshop, monitoring indicators, roles and responsibilities were agreed upon and a monitoring manual developed.

Through document review and interviews, it was noted that the NPCU, MWE PIU and the districts carried out M&E monitoring activities and produced reports. However no monitoring by MAAIF was done.

We also noted that there was no evidence of feedback by the NPCU and the MWE PIU to the districts and no follow up of recommendations at all levels.

We further noted that as part of M&E, a midterm review was carried out in April 2009 and made recommendations on strengthening capacity, restructuring the Agricultural enterprise development component, establishing regional technical support units to strengthen monitoring and backstopping and extension of project life among others.
By the time of audit, the project life had been extended to December 2012; however, the recruitment exercise and implementation of restructuring were still under way. The establishment of regional technical support units to strengthen monitoring and backstopping had not been done.

Failure to carry out monitoring in MAAIF was due to lack of an M&E officer. There was also no feedback to districts and follow up on the recommendations at all levels due to laxity of management.

Due to the above constraints, timely corrective measures were not taken on the deviations from project objectives, plans and outcomes.

**Management Response**

**It is true the project has been weak at providing feedback to the districts in a formal way. However, feedback has been done to the focal point officers by email which has in practice been the most used means of communication with the districts. Management has already improved on its approach by providing feedback formally to Chief Administrative Officers with copies to LCV Chairpersons and Resident District Commissioners.**

**In addition, the idea of establishing regional technical support units was replaced by strengthening M&E at the districts by supporting District Planners; and strengthening NPCU M&E unit by recruiting a Data Analyst and a Monitoring Officer. The District Planners have already been trained and guidelines for carrying out M&E provided.**

## 5.3 CONCLUSIONS

This chapter presents conclusions on planning, funding, procurement and implementation of Farm Income Enhancement and Forest Conservation (FIEFOC) activities.

### 5.3.1 Project Planning

#### 5.3.1.1 Project feasibility Study and Design

There was no evidence to indicate that feasibility studies were carried out and as a result, key critical success factors and risks may not have been properly identified. Consequently, FIEFOC may not realize its objectives of improving incomes and livelihood of the poor subsistence farmers.

#### 5.3.1.2 Targeted Beneficiaries

The revision of targeted beneficiaries by the Aide memoire of $11^{th}$ -$23^{rd}$ August 2008 to include all farmers may render the project unable to fully achieve its objective of improving the incomes and livelihoods of the rural poor.

#### 5.3.1.3 Planning at the Districts

- The minimal involvement of the sub-county technical officers in the planning process of the project affects proper identification of sub county priority needs and this may in turn affect the attainment of project objectives.
- The delay by districts to submit AWP&Bs implies that the implementation of activities cannot be on schedule.

#### 5.3.1.4 Planning at the PIUs and NPCU

There were delays by PIUs and NPCU to submit AWP&Bs, which slowed down reimbursement and disbursement processes, which affected the implementation of project activities and the attainment of project objectives.

### 5.3.2 Project Funding

#### 5.3.2.1 Project Grant and Loan performance

The current rate of grant performance of the project is on schedule but the loan performance is not. If the latter is not addressed, it may lead to poor overall project performance, extra administrative costs and the targeted results not being attained by $31^{st}$ December 2012.

#### 5.3.2.2 Counterpart funding

The Government has failed to honour its obligations, which is a violation of the financing agreement provisions and this can lead to suspension of disbursement of funds by the donors.

#### 5.3.2.3 Release and Utilization of Funds

The project did not utilize all the requisitioned funds and this has affected the disbursement schedule of the loan by the ADB and NDF and the overall project performance. At this rate of funds absorption, the project, despite the extended period, may not achieve all the intended project objectives.

#### 5.3.2.4 Disbursements to Districts

Disbursements to districts were not made regularly and this has led to districts' scheduled activities lagging behind due to inadequate funding of their AWP&Bs.

### 5.3.3 Procurement of agro inputs

The $NPC_1$ and management of PIUs did not adhere to agreed guidelines during procurement of tree seedlings.

Discontinuance of district nurseries was an inappropriate decision taken without consulting the districts who are the implementers of the activities in the local communities, and this affected the trickledown effect which procuring locally would have contributed in the income generation cycle.

### 5.3.4 Project Implementation

#### 5.3.4.1 Staffing

Local Governments failed to designate project staff in time. The delayed designation of staff and the existence of staffing gaps at sub counties where the project directly interfaces with beneficiaries negatively impacted on the implementation of the project among other challenges.

#### 5.3.4.2 Participation of Women in the Project

Project appraisal and design stages did not take into consideration the land tenure system in the different parts of the country and how it would impact on the socio-economic set up of communities. Most of the envisaged project targets may not be achieved because the women are poor and have limited access to land.

#### 5.3.4.3 Project deliverables

The low levels of implementation of project activities save for the re-vegetation of degraded areas may hinder attainment of the overall project objective of improving the incomes and livelihoods of the rural poor households.

#### 5.3.4.4 Restructured Agricultural Enterprise Development Component

When projects are not branded and are implemented by multiple ministries and donor agencies in the same district, it is often difficult to identify who funded a specific development project within that district.

### 5.3.5 Monitoring and Evaluation

Management has not been able to address the challenges of project implementation due to inadequate feedback and follow up on M&E recommendations and this may affect the attainment of the overall project objectives.

## 5.4 RECOMMENDATIONS

The audit recommends that:

### 5.4.1 Project Planning

#### 5.4.1.1 Project feasibility Study and Design

- For future project planning, feasibility studies should be undertaken to determine project viability, identify potential risks and propose practical measures to address them to ensure the realization of project objectives.
- Proper feasibility studies for future projects should be undertaken to ensure that the proposed initiatives address the needs of the intended beneficiaries.
- Feasibility study reports should be properly filed for ease of reference.

#### 5.4.1.2 Project Beneficiaries

- Project implementation should target the intended beneficiaries by following the project design during execution.
- Sensitization of the intended project beneficiaries about the project objectives and how they will benefit should be emphasized so as to create interest in participation in the project.

#### 5.4.1.3 Planning at the Districts

- Sub-Counties should be involved in the planning process as stipulated in the project implementation manual to ensure that activities selected for implementation meet sub county priority needs.

- Districts should develop capacity to ensure effective participation in the planning process.
- NPCU and PIUs should hold regional planning meetings on time so as to meet stipulated timelines.

#### 5.4.1.4 Planning at the PIUs and NPCU

- Management should ensure that the planning process, right from the Sub-Counties and districts, starts in time so that the delays do not spill over to the PIUs and the NPCU. This will ensure timely submission of the AWP&Bs to the Bank and timely release of funds.
- Management should expedite the recruitment of staff and in future ensure that requisite staff are recruited before the project is operationalised.

### 5.4.2 Project Funding

#### 5.4.2.1 Project Grant and Loan performance

- The implementation of the activities of the restructured agricultural enterprise development component should be expedited to allow the utilization of funds set aside without further delay.
- In future, donor financial procedures should be adhered to as agreed to enable timely disbursement of funds.

#### 5.4.2.2 Counterpart funding

- Government counterpart funding (both cash, salaries and in kind) should in future be properly identified and defined.

#### 5.4.2.3 Release and Utilization of Funds

Management should urge district leaders to enforce the requirement of timely accountability of funds and sensitize them on the consequences of non-compliance to the terms and conditions stated in the memorandum of understanding.

#### 5.4.2.4 Disbursements to Districts

Management should make timely disbursements to districts which account for funds in order to enable them undertake their planned activities.

### 5.4.3 Procurement of agro inputs

- Farmers should be empowered to improve their capacity to run and maintain sub-county and community nurseries.
- Centralized purchase of specialized species should be restricted to local suppliers on the prequalified list of the project to avoid transportation of seedlings over long distances.
- The deliveries of seedlings to the districts should be synchronized with the district planting seasons to ensure improved survival rates.
- District focal persons should reject poor quality seeds and deliveries in off planting seasons.

### 5.4.4 Project Implementation

#### 5.4.4.1 Staffing

- For future projects, careful consideration on the human resource requirements should be made at design level in order to ensure smooth implementation of projects and to avoid emergency recruitments.
- The project should fill vacant positions at the districts and sub-counties to hasten the implementation of project activities.

#### 5.4.4.2 Participation of Women in the Project

- Management should enforce the requirement to capture and report on gender participation in all project activities.
- Through sensitization, women should be encouraged to join and participate in the project.

#### 5.4.4.3 Project deliverables

**Protection of Natural Forests from De-forestation**

- Management should expedite the process of having the targets under protection of natural forests reviewed to reflect what can be implemented within the remaining project period and harmonize their responsibility with UWA and NFA on the protection of natural forest reserves.
- Management should continue engaging owners of natural forests by sensitizing them on the benefits of opening and protecting forest boundaries.

**Establishment of contour hedges**

- Management should expedite the process of having the targets reviewed to reflect the actual hilly areas in the project and expedite the establishment of the contour hedges.
- In future, similar projects should be designed based on realistic data to avoid implementation challenges.

**Maintenance of forest/farm roads**

Management should speed up the maintenance of forest/farm roads which had lagged behind in order to meet the targets by the end of the project in December 2012.

**Apiculture Promotion Sub component**

Participating bee keeper groups should be sensitized on record keeping and be encouraged to report their outputs to district focal persons.

#### 5.4.4.4 Re structured Agricultural Enterprise Development Component

- For future projects, stakeholders should ensure that staff to implement projects are available and have the time.
- Thorough feasibility studies should be done prior to project appraisal and design to ensure practicality at all project levels.
- The process of acquiring contractors for the rehabilitation of medium scale schemes should be hastened so as to be on schedule.

#### 5.4.4.5 Project Branding

Management should expedite the funding of this activity for ease of identification of project sites to enhance accountability and transparency.

### 5.4.5 <u>Monitoring and Evaluation</u>

Management should enforce the requirement of giving feedback to the districts and following up on the recommendations as required in the M&E manual.

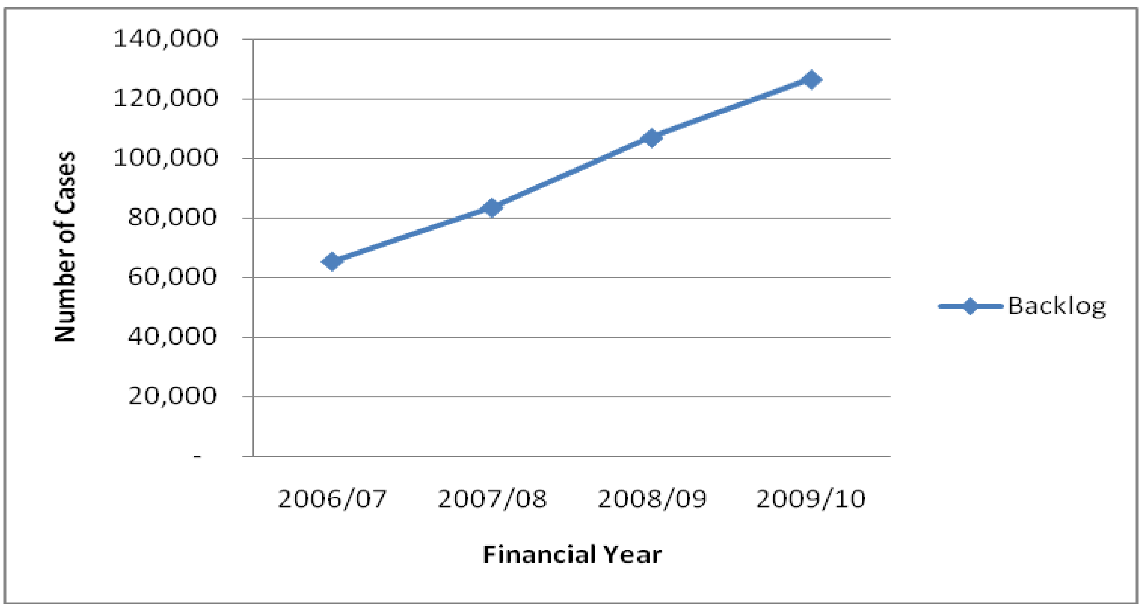
# 6 DISPOSING OF CASES IN THE JUDICIARY

## 6.1. INTRODUCTION

### 6.1.1 Motivation

Over the past four years, the Judiciary has had a challenge in clearing pending Court cases. The case backlog has increased from 65,423 in 2006/07 to 126,521 in 2009/10 as shown in Figure 10 below.

**Figure 10: Case Backlog from 2006/07 to 2009/10.**




Source: Judiciary CCAS Summary Performance Reports.

This trend contradicts the judiciary's mission[37] since justice has not been dispensed to all people in Uganda in a timely manner. People seeking justice may despair and lose confidence in the judicial system. The rampant acts of mob-justice by the population may in part, be an expression of the dissatisfaction of the people who had been denied justice. A total of 986 people were killed in mob action in Uganda between 2007 and 2009 as shown in Table 42 below.

[37] To dispense justice to all people in Uganda, through timely adjudication of disputes without discrimination.

**Table 42: Number of deaths reported as a result of mob-justice for the Years 2007 to 2009.**

| Case/Year | 2007 | 2008 | 2009 |
|---|---|---|---|
| Reported Cases | 286 | 368 | 332 |

Source: Uganda Bureau of Statistics, Statistical Abstract 2010 – Table 2.7 B.

Apart from the inability to dispense justice on time, increased pending cases negatively impact on the management of prisons as evidenced by overcrowding in Uganda Prisons which stood at 212% in June 2009. Of the 30,000 prisoners, 60% were on remand, implying that their trials were still pending.

Delays in disposing of cases in the Judiciary are attributed to poor filing system, frequent adjournments, and limited application of Alternative Dispute Resolution ($ADR_1$) mechanisms, inadequate staff and poor monitoring, among others.

It is against this background that the Office of the Auditor General decided to carry out a Value for Money audit to verify the challenges, analyse their causes and make recommendations to address them.

### 6.1.2 Description of the Audit Area

The Judiciary is a creation of the 1995 Uganda Constitution of the Republic of Uganda under chapter 8 Articles 126 to 150. The Judiciary is the third arm of Government under the doctrine of separation of powers. The other two are: the legislature, which makes laws; and the executive; which enforces them.

The judicial power of the Uganda Government is exercised by Courts of Judicature, consisting of the Supreme Court, Court of Appeal/Constitutional Court, and the High Court, (the 3 are superior Courts of record) and other subordinate Courts established by Parliament which include: Chief Magistrates Courts, Grade I Magistrate's Courts, Grade II Magistrate's Courts, the Local Council Courts and Family and Children Courts (FCC).

To improve delivery of quality justice to all areas of Uganda, 12 High Court Circuits have been created and they include the following: Kampala High Court, Nakawa, Mbarara, Fort Portal, Jinja, Gulu, Masindi, Kabale, Mbale, Masaka, Arua and Soroti. This is also intended to ensure that there is no part of the country, which is more than 150 Kilometres from a High Court Circuit.

**Administrative Divisions of the High Court**

The work and operations of the High Court are concentrated in the Administrative Divisions which are the basic administrative and professional units of the High Court. Divisions are specialized units, with clearly demarcated jurisdiction over the nature and kind of cases handled in each of them. Each Division has a substantial measure of autonomy in the sense that each has its own independent registry headed by its own Registrars and assisted by its own specially designated support staff. These Divisions include: the Commercial Division, the Land Division, the Family Division, the Civil Division, the Criminal Division, the Anti-Corruption Court and the War Crimes Division.

### 6.1.3 Statutory Mandate

The Mandate of the Judiciary is as enshrined in Article 126 (1) of the Constitution of the Republic of Uganda which states that judicial power is derived from the people and shall be exercised by the Courts established under this Constitution in the name of the people and in conformity with the laws and with the values, norms and aspirations of the people.

### 6.1.4 Vision, Mission Statement, and Strategic Objectives

The vision, mission, goals and objectives of the Judiciary are stated as follows:

**Vision**

"To have a strong and independent judiciary that delivers and is seen by the people to deliver justice and contribute to economic, social and political transformation of society based on the rule of law.

**Mission Statement**

"To dispense justice to all people in Uganda, through timely adjudication of disputes without discrimination"

**Strategic Objectives**

- To ensure that justice shall be done to all irrespective of their social or economic status;

- To ensure that justice is not delayed;
- To ensure that adequate compensation is awarded to victims of wrong;
- To promote reconciliation between parties, and
- To ensure that substantive justice is administered without undue regard to technicalities.

### 6.1.5 Major Activities

The major activities of the Judiciary are as follows:

- Administer justice through resolving disputes between citizen and citizen and between the State and citizens;
- Interpret the Constitution and the laws of Uganda, promote the rule of law and contribute to the maintenance of order in society;
- Protect the human rights of individuals and groups;
- Initiate, develop and implement training programmes for the development of the Judiciary staff;
- Contribute to the enforcement of law and order,
- Enrol and license advocates;
- License and discipline Court brokers/bailiffs;
- Keep custody of laws enacted as well as disseminate legal literature;
- Receive Government revenue accruing from Courts; and
- Introduce modalities for out of Court dispute resolutions to reduce the burden of cases on the Courts.

### 6.1.6 Financing

The Judiciary is funded by the Government of Uganda and development partners under the Justice Law and Order Sector (JLOS)/Sector Wide Approach (SWAP) Programme which include: the Government of Denmark, the Government of Netherlands, the European Union, the Government of Austria, the World Bank, the Government of the United Kingdom, the Government of Norway, the Government of Sweden, the Government of Ireland and the Government of Germany. The details of funding by source are summarized in Table 43 below:

**Table 43: Sources of Judiciary Funds – 2006/07 to 2009/10**

| Source/Financial Year | 2006/07 (Ug Shs in bn) | 2007/08 (Ug Shs in bn) | 2008/09 (Ug Shs in bn) | 2009/10 (Ug Shs in bn) |
|---|---|---|---|---|
| GoU Funds | 24.33 | 33.29 | 45.63 | 51.2 |
| Donor Funds | 6.74 | 4.21 | 1.33 | 1.34 |
| **TOTAL** | **31.07** | **37.50** | **46.96** | **52.54** |

Source: Judiciary Financial Statements for 2006/07 to 2009/10 and Ministry of Justice and Constitutional Affairs Policy Statement 2009/10.

### 6.1.7 Scope

The audit which focused on the Management of Cases in the Judiciary covered four financial years from July 2006 to June 2010. It covered the Judiciary headquarters in Kampala, the High Court in Kampala and the Commercial Division of the High Court. Other High Courts Circuits selected included: Soroti, for the Eastern Region, Gulu, for the Northern Region and Masindi for the Western Region. The country was stratified into 4 regions: (Central, Western, Eastern and Northern Region) to provide a balanced opinion. Magistrates Courts were also randomly selected from the 4 regions/strata as follows: Mubende, Luwero and Masaka for the Central Region, Jinja, Mbale and Tororo for the Eastern Region, Nebbi, Arua, Lira and Kitgum for the Northern Region and Fort-Portal, Bushenyi and Kasese for the Western Region.

For purposes of this audit, the processes studied start at the time of filing a case up to when judgment is delivered.

## 6.2 FINDINGS

### 6.2.1 TIMELY DISPENSATION OF JUSTICE

#### 6.2.1.1 Time for completion of Cases

The civil suits filed in the Court should be completed and Judgments rendered not later than 24 months from the date of filing.[38] For criminal proceedings, non-capital offences should take less than 3 months. The maximum targeted time for completion of capital cases should be 12 months after committal. [39]

[38] Judiciary Staff Handbook Page 136.
[39] Judiciary Staff Handbook Page 56.

The audit observed that not all cases were completed within the stipulated time.

**Civil Cases**

A review of 9,460 case files of civil suits handled between July 2006 and June 2010 revealed that 7,889 (83%) had been completed within the stipulated 24 months while the 1,571 (17%) case files aged between 2 years to 20 years back.

**Criminal Cases**

A review of 38,734 case files of criminal cases handled July 2006 to June 2010 also revealed that only 7,152 (18%) had been completed within the stipulated 12 months while 31,582 (82%) case files aged between 2 years to 20 years back.

The delays in completing cases within the stipulated time was attributed to the challenges regarding court procedures, ICT infrastructure, staffing and monitoring and evaluation of performance as explained in the paragraphs that follow.

### 6.2.2 COURT PROCEDURES

#### 6.2.2.1 Delivering Summons to Defendants

Summons must be delivered to the defendant in broad day light by a Court process server or pinned at the door of the house where the defendant last resided or placed in the newspapers with permission of Court.[40]

During audit, it was established that Court process servers are responsible for delivering summons to defendants or, where parties are represented by lawyers, summons are delivered by process servers of those advocates. In criminal matters, the state is obliged to pay the costs of delivering summons but in civil matters the parties meet the costs. It was also noted that the plaintiffs in civil cases were responsible for payment of the costs of delivering summons to the defendants, but in some of the cases, the Courts facilitated the process servers to serve the defendants.

We observed that there were instances where summons were not delivered or where there was delay in service.

[40] Order 5 Rule 18, Sub-Rule 1 Of the Civil Procedure Rules Statutory Instrument 71-1

Interviews conducted with Assistant Registrars, Chief Magistrates and Court Process Servers in 17 stations visited revealed that the delays or failure to deliver summons were attributed to lack of facilitation/transport (43%), hard-to-reach areas (12%), hostile defendants (31%) and dishonest process servers who file false affidavits (14%). Some plaintiffs were also reluctant to pay costs of serving summons as they interpret payment of facilitation to Court process servers as a form of inducement or bribe.

Management informed us that effecting service of summons and other court documents is supposed to be met by individual courts through the operational fund, but these costs sometimes, exceed available funds.

Failure to serve defendants as required results in ex-parte judgments which deny defendants their right to a fair hearing. This also leads to appeals, and delayed justice.

#### 6.2.2.2 Filing Defence

A defendant (individuals, entities and non-statutory corporation) is required to file a written statement of defence within 15 days[41] and 30 days[42] for government and statutory corporation.

During audit it was observed that there were delays or failure by some of the defendants to file written statements of defence within the stipulated 15 days.

The analysis of 40 selected case files in Masindi High Court Circuit and Lira C/M Court revealed that on average it took 48 days and 12 days, respectively, to file written statements of defence against the stipulated 15 days, indicating that while filing defence is done in time in some instances, delays were also experienced at these courts.

In addition, a test-check of 133 selected files in 8 Courts (Soroti High Court, Kitgum, Luwero, Lira, Tororo, Jinja, Nebbi and Arua Chief Magistrates courts) revealed that 40% did not have written statements of defence.

The reasons advanced by management for delays and failure to submit written statements of defence were: improper service of summons to the defendants, lack of

[41] Order 8 Rule 1 Sub-Rule 2 Of the Civil Procedure Rules Statutory Instrument 71-1

[42] Order 8 Rule 11, Of the Civil Procedure Rules (Government Proceedings) Statutory Instrument 77-1

legal representation or lack of knowledge and skill by the defendants in drafting statements admissible in Courts of law.

Management however informed us that much as it is the responsibility of the person on whom service is effected to file defence within agreed time frames, the Judiciary has piloted Justice Centres in Tororo and Lira Chief Magistrates courts with a National Coordination office in Kampala in the last quarter of 2010 to serve the Districts of Bukwa, Bududa, Manafwa, Busia, Palisa Butaleja, Namutumba, Bugiri, Iganda, Amolatar, Pader, Apac, Kitgum, Oyam, Dokolo, Kaberamaido and Kotido with an objective of making legal aid easily accessible to the most deserving population. This is in addition to the Legal Aid Project of the Uganda Law Society which provides legal aid services to the poor and indigent.

The failure to respond to a claim with a statement of defence can result into delays in hearing cases and delivering justice. It also exposes people to legal liability, as it can be argued that non-response constitutes an admission, and new facts cannot be introduced in the trial if they were not discussed in a statement of defence. The defendants are also denied their right to fair hearing in case of ex-parte judgments.

#### 6.2.2.3 Holding Scheduling Conferences

A mandatory scheduling conference should be held within 28 days from the date when the last reply or rejoinder was filed in Court.[43]

Audit revealed that the 28 day rule was not strictly observed. A sample of 88 case files reviewed in Luwero, Kitgum, Lira, Kasese and Mubende, revealed that 37 of them (representing 42%) did not have evidence recorded to show that such conferences were held. The practice of holding scheduling conferences was found mainly in the Commercial Court Division and other Circuits of the High Court.

The interview with the Chief Magistrates in the Courts visited indicated that, on average the time taken to schedule a conference varies from 2 weeks to 3 months depending on the response from both parties, such as filing of defence and key documents that Court may require from litigants.

[43] Order 12 Rule 1, Sub-Rule 1 Of the Civil Procedure Rules Statutory Instrument 71-1

Failure to hold scheduling conferences was attributed to limited public awareness of this procedure and in cases where the litigants were not represented. Delays in delivering summons and filing written statements of defence also hold up the process of holding scheduling conferences.

Management observed that while unrepresented litigants pose a challenge in holding scheduling conferences, the right to be heard is inherent and the litigants have a right to appear in civil proceedings with or without legal representation. They also indicated that apart from collaborating with the Uganda Law Society in training and sensitising advocates to cope with changing laws and procedures, the Judicial Studies Institute trains judicial officers in procedural laws and on how to proceed with this requirement.

The benefit of speedy trial in Courts through a coordinated pre-trial plan may not be achieved where scheduling conferences delay or are not held at all, especially where parties are not represented by lawyers. Cases take long during trial when scheduling conferences are not properly conducted and the issues not understood early by the plaintiff, defendant, their advocates and the court. This further encourages prevalence of adversarial systems of litigation and resolution of disputes. This ultimately becomes costly to the litigants, takes more court time, effort and money which would have otherwise been saved if scheduling conferences were held as required.

#### 6.2.2.4 Mediation

After receiving a plaint and written statement of defence, the Court refers the case for mediation which should be completed within 30 days. [44]

The audit noted that mediation had been piloted only in the Commercial Court Division of the High Court with guidance of trained mediators although the Chief Magistrates were also encouraged to apply mediation in their areas of jurisdiction. A review of the 62 completed mediation cases revealed that time for completion of mediation procedures ranged from 1 to more than 180 days as compared to the stipulated 30 days. Only 22% of the cases had been concluded within 30 days as shown in Figure 11 below.

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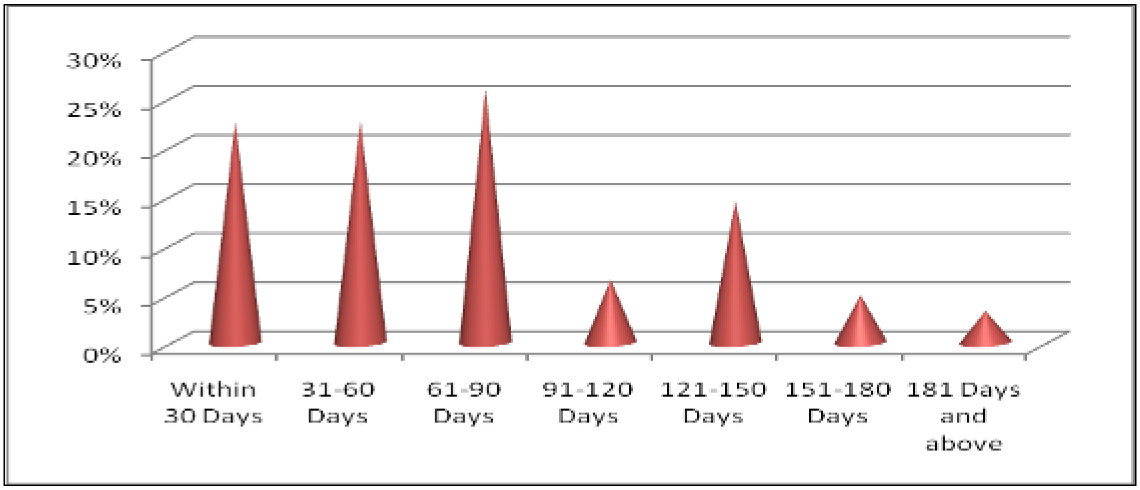
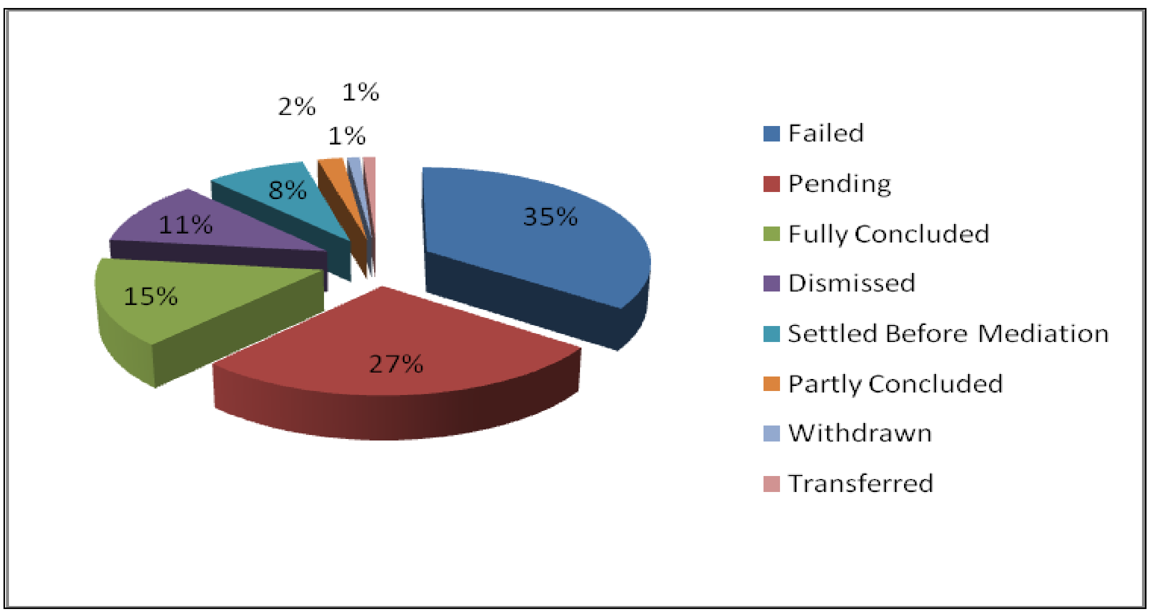
[44] Statutory Instrument 32 of 2007 - Mediation Rules for Commercial Division - S. 11 page 734.

**Figure 11: Time taken to complete mediation:**




In the commercial Division of the High Court, analysis of cases referred for mediation in 2010 revealed that out of 407 cases filed 35% failed, 27% were still pending, only 15% had been fully concluded, 11% were dismissed, 8% had been settled before mediation 2% partly concluded, 1% withdrawn and 1% had been transferred to other courts at the time of audit as shown in the figure 12 below.

**Figure 12: Status of Cases Filed for Mediation in the High Court Commercial Division - for the year 2010:**




It was noted, however, that $ADR_1$ was not very effective as parties prefer the normal Court system to mediation. Through interviews with management, it was revealed that the success of mediation is impaired by the limited awareness by the litigants and the public on the benefits and procedures of mediation. Filing a multiplicity of appeals, and several applications, sometimes in different Courts, nature of a given case (some cases may contain criminal issues like forgery requiring an opinion from the criminal Court) also limit the success of mediation.

Advocates also frustrate mediation since they charge clients fees depending on the duration/length of the trial as it is perceived that speedy trial through mediation reduces the time a lawyer handles a given case.

Apart from the mediation rules developed specifically for the Commercial Court Division of the High Court, other Courts lack rules to guide them in handling mediation.

Lack of trained mediators was another reason for limited application of ADR$_1$/mediation in other Courts. While the Judiciary has 11 trained mediators at the Commercial Court Division where mediation was piloted, the rest of the courts do not have mediators because the exercise has not yet been rolled out.

Management informed us that a Registrar in charge of mediation has been appointed and one of his responsibilities is to ensure that mediation and other initiatives like plea bargaining for criminal cases are rolled out to all courts. Plans are also underway to have another project on *Small Claims Procedure* where the monetary value involved is less all gearing to reducing the number of cases pending in courts and saving litigant’s time and money.

The weaknesses in the application of mediation increase the workload for judicial officers and, consequently, the burden of case backlog in the Judiciary. Besides, prolonged legal processes strain relations between the parties and deprive them of an opportunity to participate in resolving disputes among themselves amicably. The inability to apply mediation in courts escalates costs to litigants, delays justice and increases case backlog.

#### 6.2.2.5 Adjournments

Court should adjourn only if sufficient cause is shown.[45] The frequency of adjournments should be minimized and reason(s) for adjournment recorded.[46]

We observed that adjournments were frequent and the reasons were seldom recorded on case files.

A test-check of 20 case files revealed that there was, on average, 10 adjournments per case in a period of 11 months. The case files reviewed indicated that adjournments were recorded on files but the reasons for such adjournments were not always recorded, save for some advocates who wrote specifically requesting for such adjournments. Granting of adjournments, however, remains the discretion of the trial Judge/Magistrate.

According to the documents reviewed and interviews with management, the reasons for adjournments included: absence of one or both parties to the suit, absence and requests by lawyers who are representing litigants in higher Court (which take precedence over lower Courts), unprepared lawyers, or absence of presiding judicial officers. The audit also established that lack of detailed procedures to regulate legal practitioners and judicial officers on how to manage adjournments was another cause for adjournments. In criminal cases, adjournments arise out of absence of witnesses from Court proceedings due to lack of facilitation by the trial Courts yet their evidence is crucial for the progress of criminal cases, like: murder, defilement or rape where the evidence of medical experts is considered vital. Delays in investigation and review of criminal case files by the DPP and the Police also lead to adjournments. Prisons authorities also fail to completely produce or produce prisoners late in court. Misplacement/loss of court files was another reason advanced for adjournments.

Advocates also contribute to adjournments by accepting too many cases and emphasising legal arguments and technicalities; taking advantage of the loopholes in the system; using adjournments to buy time; and not employing mediation as the first attempt at resolving the dispute.

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[45] Order 17 Rule 1, Sub-Rule 1 Of the Civil Procedure Rules Statutory Instrument 71-1
[46] Performance Standards and Guidelines for Criminal Justice Agencies in Uganda

Management informed us that the Judiciary, JLOS institutions and the lawyers held a joint meeting on 27th January 2011 to discuss ways of expediting the delivery of justice by coming up with best practices on preparation of cases; dealing with interlocutory applications; adjournments; time management; elimination of corruption in the legal and judicial process; and improvement of communication; coordination and cooperation among all the stakeholders. It was also agreed that the meeting will be held once a year to eliminate unnecessary delays in the disposal of cases. Other initiatives by the Judiciary to curb adjournments include hearing cases by sessions, and the quick-win backlog reduction strategy under JLOS.

Adjournments delay Court proceedings and also lead to a backlog of cases. The litigants may also lose faith in the Court system. Besides, adjournments are costly to the litigants who incur legal expenses, transport and time even when a Court session has not taken place. For criminal cases, adjournments and subsequent delays translate into congestion in prisons. Besides, adjournments create unpredictability and encourage a culture of unpreparedness by parties, their lawyers and judicial officers, which delays settlements and wastes court resources. Adjournments also compromise the objective of administering justice without undue regard to technicalities.

#### 6.2.2.6 Delivering Judgments

The Court must deliver judgment within 60 days from the close of hearing submissions.[47]

The audit observed that not all the judgments had been delivered within the stipulated time.

A sample of 11 case files reviewed in Jinja High Court and Fort-Portal Chief Magistrates Courts revealed that in 55% of the cases, judgment was delivered within 60 days after close of submissions while 45% of the cases exceeded the required time.

Review of documents, interviews and inspection of court facilities revealed that the delays in delivering judgment were due to lack of relevant reference materials like Statutory Instruments, Civil Procedure Rules, copies of new legislation, and the internet to help them read and make research-based judgments. Where libraries existed, some

[47] The Uganda Code of Judicial Conduct rule 6.2, Simplified Court Users Guide [paragraph 7],

of the Courts did not have librarians to manage them. In some of the cases, judgment on notice contributed to the delays where the litigants had no hope as to when judgment would be made since the date of delivering judgment was at the discretion of a presiding judicial officer. Transfer of Judicial Officers and those attending various courses also affects the time of delivering judgment.

When judgment is not delivered in time, there is delayed justice and, subsequently increased case backlog in courts.

### 6.2.3 ICT INFRASTRUCTURE

#### 6.2.3.1 Recording of Court Proceedings

The Judiciary should have acquired and implemented an Application for Digital Video Court Recording by 2008. [48] The use of recording equipment was intended to reduce trial time, cut back court waiting time and reduce the backlog of cases in the Judiciary.

The Video Court Recording Application had not been acquired and implemented as planned.

Through document review, interviews with management and inspection of court facilities, we noted that the Judiciary initially acquired recording equipment through donations in 1995. These were installed in the Commercial Court Division, Family Court and the Supreme Court. New digital equipment was donated to the Anti-Corruption Court in 2009. The Supreme Court, Court of Appeal, the 12 High court Circuits and the remaining 5 Divisions of the Courts and all the 38 magisterial areas did not have any Court Recording and Transcription System (CRTS) at all. During the inspection of the Commercial Court Division, it was established that of the 6 recording and transcription equipment, 3 of them were functional while 3 were not. Even the functionality of the 3 operational machines has been impaired because they are analogue (cassette tape recording systems), obsolete and incompatible with the latest technology.

Through interviews, management attributed the failure to acquire and implement a Court Recording and Transcription System (CRTS) to lack of skilled transcribers and funds to procure modern equipment. Management, however, indicated that new equipment will be procured for the High Court Divisions in FY 2010/11 with assistance

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[48] The Judiciary ICT Strategy 2009 – 2013 paragraph 2.1.12 (16).

from JLOS. They also indicated that the procurement process to acquire equipment in the first phase for the Supreme Court, Court of Appeal and all the 11 High Court Circuits in upcountry stations is already underway. Magisterial areas and Judges Chambers will, however, be covered in the second phase expected to commence in 2011/2012 to overcome existing challenges.

The use of digital video court recording equipment would lessen the practical difficulty for a person listening to proceedings in the Court, writing and observing at the same time with maximum concentration, speed and perfection. In New Zealand, for example, use of digital recording and transcription technology was estimated to reduce trial times by between 20% to 30%. When the system was used in a specific murder case, trial time was reduced by 50% (from 8 weeks to 4 weeks). [49] Manual recording of proceedings has the potential of producing inaccurate documentation which can lead to an innocent party losing his/her freedom or throwing out a case, thus causing a rightfully accused person to be freed.

#### 6.2.3.2 Adoption and use of CCAS in Management of Cases

By 2008, the Judiciary was supposed to have changed from manual processing registration to electronic e-forms and electronic file management.[50]

The audit established that the Judiciary has not fully adapted the use of electronic e-forms and electronic file management in the processing of cases in all courts.

We observed that currently, the Judiciary is only implementing CCAS in the Court of Appeal, some High court circuits and Divisions and magisterial areas. It has also been implemented in 50% of the High Court Circuits, namely: Jinja, Masaka, Lira, Arua, Gulu, Soroti and all the High Court Divisions in Kampala (Civil, Criminal, Family, Commercial, Land, Anti-corruption and War-crimes). Others implementing CCAS include Chief Magistrates Courts (21%) and the Planning Registry. These are linked to the Kampala Data Centre via internet. However, other Courts use stand-alone computers to record transactions in CCAS, but send copies of data manually to the

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[49] New Zealand Parliament (Hansard Debates) Questions for oral answers – Questions to Ministers Vol. 645 Page 14683 of 6th March 2008. [www.parliament.nz].

[50] The Judiciary ICT Strategy 2009 – 2013 paragraph 2.1.12 (1)

Kampala Data centre. The rest are not connected to CCAS at all. At the time of carrying out the audit, management had solicited for Consultancy services for designing, supply and installation of a Computerised Court Case Management System (CCMS) and to upgrade CCAS to required specifications. However, rolling out the system to all magisterial areas may not be immediate.

Audit noted that the management of court files remained a challenge. Court registries had challenges of filing, storage, and retrieval of case files. Records of court proceedings found in case files were not fastened, the movement of file from the registry to the chambers were not recorded (except in Fort-Portal where a file movement record was maintained), storage space and arrangement of files was not organised as some files were bundled together or kept in exhibits room or on the floor even when some of them were still active (Picture 19 and Picture 20 below). Audit revealed that non-registry staff like police officers and prisons staff had free access to case files and records in the registry. It was also observed that it took the registry staff on average between 35 minutes to 2 hours to retrieve the files requested for, while others were not availed at all.

Picture 19: Case files kept in exhibits room. OAG Photo taken in Masaka, Chief Magistrates Court Exhibit's room on 14th September 2010 at 12.13pm.

Picture 20: Case files kept on the floor. OAG Photo taken in Masaka, Chief Magistrates Court Registry on 14th September 2010 at 9.22am.

It was also established through interviews that even where Courts are connected to CCAS, its use is impaired by lack of full-time data entry clerks in upcountry stations inadequate IT training, change of management, lack of computers, power interruptions and limited IT support from the headquarters to the various Courts across the country. The cost involved in installation was highlighted as another reason for delays in rolling out the system to all magisterial areas.

The failure to computerise has deprived the Judiciary of the benefits of a computerised system which may include, among others: improved monitoring of the status and progress of Court cases by Judges, Chief Magistrates, Registrars and other managers; improved security of Court case information; reduced time for the hearing of cases; easier exchange of information between Courts; more transparency in expenditures; and better informed planning; budgeting and evaluation of the Judiciary's work can be realised from the use of CCAS, if applied in all magisterial areas. Besides, management would monitor the progress of cases and staff performance. Inadequacies in the current manual system have contributed to delays or misplacement/loss of case files by court clerks erroneously or deliberately. This, consequently, leads to adjournments, wastage of court resources and denies the litigants timely justice.

### 6.2.4 STAFFING

#### 6.2.4.1 Filling Vacant Posts

By the end of 2009/10 at least 95% of established Judiciary posts (Judicial and non-judicial) should have been filled both at headquarters and all Courts. [51]

We observed that all positions in the approved structure of the Judiciary had not been filled at the time of completing the audit (November 2010). In the entire Judiciary, of the 1,348 approved posts, only 980 or 73% had been filled leaving 27% of the posts vacant.

For the judicial officers directly presiding over cases, the posts of Judges and Magistrate Grade II were the most affected. While vacancies for Judges stood at 37% in 2006/07 33% in 2007/08 and 15% in 2008/09, vacancies for Magistrates Grade II deteriorated from 32% to 40% and 49% of the approved posts in the respective years as shown in table 44 below.

[51] Courts of Judicature Strategic Plan and Development Programme 2006/7 - 2010/11 pg 22.

**Table 44: Staffing position of the Judiciary for positions of Judges and Magistrates for the period 2006/07 to 2009/10:**

| Position/Year | 2006/07 | | | 2007/08 | | | 2008/09 | | | 2009/10* | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Approved | Filled | %age vacant | Approved | Filled | %age vacant | Approved | Filled | %age vacant | Approved | Filled | %age vacant |
| Judges | 51 | 32 | 37% | 67 | 45 | 33% | 67 | 57 | 15% | 65 | 62 | 5% |
| Chief Magistrate | 29 | 22 | 24% | 29 | 25 | 14% | 38 | 28 | 26% | 40 | 44 | -10% |
| Magistrates GI | 76 | 98 | -29% | 76 | 94 | -24% | 105 | 105 | 0% | 113 | 85 | 25% |
| Magistrates GII | 247 | 167 | 32% | 247 | 149 | 40% | 228 | 116 | 49% | 97 | 88 | 9% |
| **Total** | **403** | **319** | **21%** | **419** | **313** | **25%** | **438** | **306** | **30%** | **315** | **279** | **11%** |

**Source: OAG Analysis of Judiciary Policy Statement 2006/07 to 2009/10. *2009/10 Staffing position (Summary) as of November, 2010.**

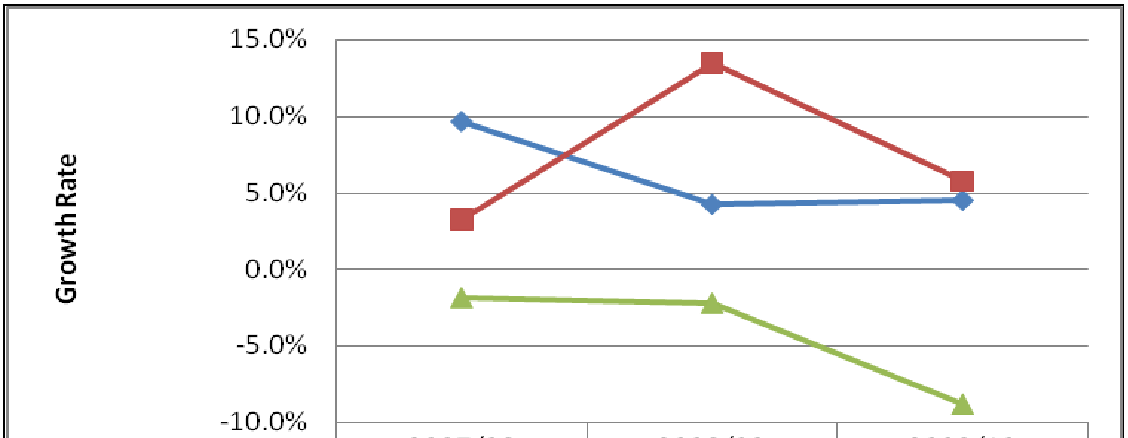
The number of districts currently stands at 112 and each district is expected to have at least a Magistrate Grade I. The existing number of magistrates cannot cover all stations, implying that over 24% of districts are not served with Magistrates at all.

Management attributed the failure to fill the positions of Magistrates Grade II to the fact that the grade is being phased out. It is a deliberate policy to professionalise the bench where posts of Magistrate Grade II are traded-off with Magistrate Grade I on a 2:1 ratio. Regarding the unfilled posts of Judges, management indicated that their appointment is a prerogative of the President, while the posts of Chief Magistrates were mainly affected by the increased number of districts that are created from time to time.

The audit revealed that the Judiciary does not have a benchmark for determining the number of cases a judicial officer can handle because they were unable to predict the number of cases that would be filed in courts in a given period, making planning and allocation of work to individual judicial officers difficult. However, considering that there are 142,918 pending cases as at the June 2010 FY, against 279 judicial officers directly presiding over these cases, then the ratio of judicial officers to cases is 1 officer to 512 cases. The practice of seconding Judges to other assignments, which take an unspecified number of years, without a replacement plan was also contributing to staff gaps in the Judiciary as they cannot be replaced. At the time of audit, 4 Judges (representing 6% of filled posts of Judges) had been seconded for work outside the Judiciary.

The unfilled posts impair service delivery in Courts, increase backlog of cases and exert undue pressure on existing staff as shown in the graph below where the growth rate of presiding Judges and Magistrates continues to decline far below the cases filed and disposed of as shown in figure13 below.

**Figure 13: Growth rate of Cases Filed, Disposed and Staff in Position for the period 2007/08 to 2009/10.**




| | 2007/08 | 2008/09 | 2009/10 |
|---|---|---|---|
| Cases Filed | 9.6% | 4.2% | 4.5% |
| Cases Disposed | 3.3% | 13.5% | 5.8% |
| Staff Growth | -2% | -2% | -9% |

Where the caseload increases without corresponding recruitment of staff, the effect on society comes through in overcrowded jails, backlogs and long waiting time for simple cases to be disposed. This consequently reduces public confidence and trust in the court system.

### 6.2.4.2 Alternative Dispute Resolution (ADR$_1$) Training and Sensitization

The Judiciary is required to train staff and enhance the awareness of the public and users on benefits of ADR$_1$. [52]

Audit noted that the Judiciary does not have a formal arrangement of training and sensitising Judicial Officers on ADR$_1$ (apart from the Commercial Court staff) as a method of resolving conflicts.

[52] Courts of Judicature Strategic Plan and Development Programme 2006/07 - 2010/11 key result area 3.4

There is also no specific work-plan or budget for public sensitisation on $ADR_1$, but the public relations office creates awareness campaigns on $ADR_1$ whenever conducting other public relations activities and radio programs on the Judiciary.

Management attributed limited training and sensitisation to lack of specific programmes/course units designed for $ADR_1$ by the Judicial Studies Institute which is charged with the responsibility of training Judicial Officers. $ADR_1$ is only included as a topic in civil procedures during the induction of new officers and not as a course unit because of limited funding. $ADR_1$ is not fully embraced by other Courts, especially Magistrates Courts, because the judicial officers do not have specific training skills in handling $ADR_1$. Lack of prioritisation of this activity cannot be ruled out under the circumstances.

The limited awareness on $ADR_1$ led to low levels of mediation with a failure rate standing at 35% (in 4.2.4 above). When the public fails to adopt use of $ADR_1$ in resolving conflicts, adversarial procedures thrive and hence a backlog of cases results.

### 6.2.5 MONITORING AND EVALUATION OF PERFORMANCE

#### 6.2.5.1 Staff Performance

The Public Service Standing Orders require that Staff Performance Appraisal reports should be completed by responsible officers on all officers holding established posts both pensionable and non-pensionable regardless of rank.[53] Each officer is supposed to develop a performance plan at the beginning of the assessment period which should provide the criteria for the appraisal.

We found out that not all judicial officers holding established posts had been appraised. The audit established that apart from judicial officers and other cadres in the traditional public services, the judiciary does not have a system in place to appraise the performance of Judges. The audit team was informed that plans are underway to engage a Consultant who will design a specialised system of appraising Judges and other judicial officers.

Lack of uniformity and complexity of cases handled by Judges and the independence of the Judiciary were advanced by management through interviews as the main reasons

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[53] Public Service Standing Orders Volume 1 part A-c page 61.

for not conducting performance appraisal for Judges. It was also indicated that in the Supreme Court and Court of Appeal where Judges sit in a quorum, group assessment would not be appropriate.

The existence of a system of appraising performance would enable the Judges to maximise their potential for excellence through self improvement as it would be more readily possible to determine specific skill improvement and training and development needs. Lack of assessment to measure productivity, quality of work, skills, willingness to take initiatives, decision-making, interaction with colleagues, relations with litigants, professional development, ethics, ability to train and mentor others and involvement in the court's operation may ultimately impact on the quality of service and timely dispensation of justice.

**6.2.5.2 <u>Court Inspectorate Function</u>**

To enhance the capacity of the Inspectorate, strengthen ethics and integrity in the Judiciary a resolution was passed in December 2000, approving the establishment of a Court Inspectorate of 7 people.[54]

The audit revealed that not all the 7 positions had been filled at the time of audit.

The inspectorate department had only 3 members of staff at the time of audit. This in effect leaves 4 posts vacant or 57% unfilled posts. As a support department charged with inspecting Courts, investigating complaints, evaluating the performance of magistrates to improve the quality of service and efficiency in all magisterial areas, the current staff numbers do not match the task, given the fact that the number of magisterial areas keeps increasing from time to time.

In addition, it was established that the department lacks transport to carry out inspections as required. Even the recommendations made in the inspection reports are not always acted upon as the process is slow. Interviews with the management in the Court Inspectorate revealed that the department does not have powers to take prompt action even where there is evidence against errant officers such as absenteeism, drunkenness, late coming or non-issuance of receipts for bail money.

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[54] Judiciary Staff Handbook page 67 paragraph 5.2 and page 47 paragraph 3.12.

Management explained that the Ministry of Public Service has plans to restructure the entire Judiciary which will enable them to have appropriate numbers of posts and fill existing vacancies. A bill has been drafted (Administration of Justice Bill) and presented to Parliament. This bill once enacted is expected to, among other things; enable the Judiciary to determine its own appropriate staff levels. The Resident Judges in each region supervise courts within their circuits. The Deputy Registrars and Assistant Registrars have also been designated at the circuits as sub-inspectors while the Chief Magistrates exercise supervisory powers over Magistrates Grade I, Magistrates Grade II and support staff in their areas of jurisdiction.

#### 6.2.5.3 <u>Coordination of Stakeholders in the Justice System</u>

Joint Inter-agency meetings among relevant staff should be held at least once a month to coordinate the activities of the agencies involved in the justice system.[55]

The audit revealed that joint meetings were held with the support of JLOS under the Chain-Linked initiative but not on a monthly basis.

Through interviews, 50% of the respondents said that meetings are held monthly, 13% hold meetings once every 2 months and 38% meet quarterly. We also observed that prisons do not submit monthly returns. Some reports were not in the format of the prison returns but rather in the form of transfer of prisoners from one station to another.

A review of the minutes of the Districts Coordinating Committee/Chain-Linked meetings revealed that there were challenges of facilitating expert witnesses, like doctors, in defilement or murder cases; police were failing to produce suspects within 48 hours; there were interferences by local leaders when bail was granted to hard core criminals as a means of reducing congestion in prisons; there was failure to produce suspects in court on appointed dates; delayed investigations, failure to attach medical records supporting evidence of age of juvenile offenders and in defilement cases as some hindrances to delivering justice in time.

The Judicial Officers interviewed stated that the delays in holding monthly inter-agency meetings were linked to timing and receipt of funds at the stations. The non-

[55] Performance Standards and Guidelines for Criminal Justice Agencies in Uganda

submission of monthly Prison returns was attributed to laxity of the Officers in Charge of Prisons staff. While monthly prison reports were strictly submitted to the CGP, copies were not made to the RSA and the C/M.

The failure to coordinate with agencies in the justice system denies the various players an opportunity to network and appreciate the challenges encountered by other departments in the execution of their work. It may also lead to lack of follow-up on agreed action points among the agencies in the criminal justice system, thus increasing the number of remand prisoners and congestion in prisons, which stood at 212% by June 2009. This also contributes to the backlog of cases and delayed justice.

## 6.3 CONCLUSIONS

From the audit findings outlined above, the following conclusions were made to highlight the opinions observed in the course of the audit.

### 6.3.1 TIMELY DISPENSATION OF JUSTICE

#### 6.3.1.1 Time for completion of Cases

The Judiciary is experiencing delays in completing cases within the stipulated time. This leads to case backlog in courts.

### 6.3.2 COURT PROCEDURES

#### 6.3.2.1 Delivering Summons to Defendants

The courts are experiencing delays in delivering summons on time and this delays the court process. There is lack of clarity as to who should meet the costs of delivering summons.

#### 6.3.2.2 Filing Defence

Written statements of defence are not filed in a timely manner and at times not filed at all, resulting in delay and denial of justice.

#### 6.3.2.3 Holding Scheduling Conferences

Scheduling conferences are not conducted as required in some courts. This impairs speedy trial of cases where there are no lawyers.

#### 6.3.2.4 Mediation

Mediation is not conducted in all civil Courts apart from the Commercial Court Division of the High Court. The period taken to hold mediation in certain instances exceeds the mandatory 30 days. This denies parties an opportunity to reach an amicable settlement. Besides, limited application of mediation delays cases and increases case backlog.

#### 6.3.2.5 Adjournments

There are frequent adjournments in courts and not all the reasons for such adjournments are recorded on case files. Adjournments lead to delays and wastage in terms of court resources, frustration and costs to litigants.

#### 6.3.2.6 Delivering Judgments

Not all judgments were delivered within the stipulated 60 days. This further delays justice and increases case backlog.

### 6.3.3 ICT INFRASTRUCTURE

#### 6.3.3.1 Recording of Court Proceedings

The Judiciary does not have a Court Recording and Transcription System in all Courts. Manual recording systems are widely used, resulting in delays in hearing and disposing of cases.

#### 6.3.3.2 Adoption and use of CCAS in Management of Cases

CCAS has not been rolled out to all magisterial areas thus limiting the easy management of case files. The manual filing system widely used in courts is characterised by challenges in filing, storage and retrieval of case files which leads to loss of files, adjournments and denies litigants timely justice.

### 6.3.4 STAFFING

#### 6.3.4.1 Filling of Vacant Posts

The Judiciary does not have enough staff to execute its mandate. This increases case backlog and compromises the quality of service delivery.

#### 6.3.4.2 ADR$_1$ Training and Sensitization

The Judiciary's failure to have formal arrangements of training staff and sensitising the public on the use of ADR$_1$ limits awareness of ADR$_1$ and encourages the use of adversarial procedures, and increases case backlog.

### 6.3.5 MONITORING AND EVALUATION OF PERFORMANCE

#### 6.3.5.1 Staff Performance

Apart from traditional Civil Servants and Judicial Officers of the lower courts, the Judiciary does not have a system of appraising Judges, making it difficult to assess their performance and make them accountable in view of the ever-increasing case backlog and public complaints.

#### 6.3.5.2 Court Inspectorate Function

The inspectorate department does not have adequate staff to execute its responsibilities. Enhancing ethics, integrity and timely response to complaints becomes difficult.

#### 6.3.5.3 Coordination of Stakeholders in the Justice System

While joint meetings are held under the chain-linked arrangement to improve working relations, they are not conducted monthly as required. Follow-up on jointly agreed strategies becomes difficult.

## 6.4 RECOMMENDATIONS

Based on the findings and conclusions presented above, the following recommendations aimed at addressing the existing deficiencies have been suggested.

### 6.4.2 COURT PROCEDURES

#### 6.4.2.1 Delivering Summons to Defendants

- The court should ensure that the responsibility of facilitating Process Servers is streamlined to avoid delays.
- Penalties should be put in place to deter process servers making false affidavits.
- Only people with a reputable record of reliability in delivering summons to the right people in the right destinations should be registered as court process servers.

- The Judiciary should also conduct regular training of process servers to enhance their capacity.

### 6.4.2.2 Filing Defence

- The Judiciary should improve coordination with paralegals, legal aid clinics and encourage volunteers through legal associations and advocates to help more people and sensitise them about the importance of making written statements of defence and to help the poor who may not afford legal services.
- Courts should also ensure that parties are properly served before ex-parte judgments are made

### 6.4.2.3 Holding Scheduling Conferences

- The Judiciary should sensitize judicial officers at all levels and advocates on the use of scheduling conferences in courts to speed up trial of cases.
- Parties that are not represented should be encouraged to use services of legal aid clinics where non-representation are cited as a hindrance to holding scheduling conferences.

### 6.4.2.4 Mediation

- The Judiciary should spearhead efforts and collaborate with the Judicial Service Commission (JSC) and the Centre for Arbitration and Dispute Resolution (CADER) to sensitise the litigants, advocates and the public about the benefits of mediation as a method of resolving disputes.
- The Judiciary should train and sensitize judicial officers on the use and benefits of mediation. Rules to regulate the process should be put in place to guide officers in all Courts of Judicature.
- The Judiciary should also make a proactive arrangement of ensuring that trained mediators are availed to operationalise mediation in all courts. Management should have a comprehensive arrangement to fast track the process of rolling out mediation to all courts.

### 6.4.2.5 Adjournments

- The Judiciary should put in place detailed procedures of handling adjournments to eradicate unnecessary delays.

- Requests for adjournments made in good faith should be done in writing and agreed upon by all parties with their advocates.
- The judiciary should design a mechanism of facilitating witnesses promptly to enable them to attend Court sessions as scheduled.

**6.4.2.6 Delivering Judgments**

- Management should ensure that the practice of judgment on notice is discouraged and the set timelines for delivering judgment adhered to.
- Courts should be facilitated and encouraged to make use of internet for delivery of well researched judgments.
- The High Court Inspectorate should ensure that follow-up is made on cases where hearing and submissions are complete for prompt judgment.
- Regular reporting and monitoring of the progress of cases from filing, hearing to final disposal should be emphasised and corrective measures taken through early and continuous intervention to reduce unreasonable delay.

**6.4.3 ICT INFRASTRUCTURE**

**6.4.3.1 Recording of Court Proceedings**

- The Judiciary should expedite and prioritise the acquisition of court recording and transcription equipments.

**6.4.3.2 Adoption and use of CCAS in Management of Cases**

- Management should expedite the process of upgrading CCAS/CCMS to handle e-forms, electronic data processing and Electronic Filing Systems (EFS).
- A comprehensive roll-out plan should be designed to ensure that all magisterial areas are served by the CCAS.
- Management should train and sensitize staff that interface with CCAS to improve acceptability and use of the system.
- Management should train court clerks in customer care skills, IT, file and records management to improve the image of the Judiciary and timely management of cases.

**6.4.4 STAFFING**

**6.4.4.1 Filling of Vacant Posts**

- Management should ensure that efforts are made expeditiously, to fill all vacant posts with quality staff (e.g. Court Inspectorate) to avoid backlog of cases.

- Adequate contingency plans should always be put in place before judicial officers are released on secondment outside the Judiciary.

#### 6.4.4.2 ADR$_1$ Training and Sensitization

- The Judiciary should sensitise judicial officers and advocates on use of Alternative Dispute Resolution (ADR$_1$) to help them apply it as a mechanism for justice delivery and a viable tool of shifting from litigation to dispute resolution, with an ultimate goal of enhancing harmony among the litigants.

### 6.4.5 MONITORING AND EVALUATION OF PERFORMANCE

#### 6.4.5.1 Staff Performance

- Management should expedite the process of developing an appropriate system to assess the performance of Judges/judicial officers.

#### 6.4.5.2 Court Inspectorate Function

- Management should put in place a proactive system of reviewing and acting upon court inspectorate recommendations.

#### 6.4.5.3 Coordination of Stakeholders in the Justice System

All stakeholders in the justice system (e.g. Prisons, Police and the DPP) should ensure that monthly meetings are held to improve the level of communication, coordination and cooperation.

# 7 MANAGEMENT OF ROAD MAINTANANCE OF NATIONAL ROADS BY THE UGANDA NATIONAL ROADS AUTHORITY

## 7.1 INTRODUCTION

### 7.1.1 Motivation

Roads are the backbone of the economy of Uganda since all produce and merchandise in and out of the country are transported by road. Roads connect the countryside to urban centers for marketing the produce.

The road safety condition in Uganda is still unsatisfactory and road accidents, fatalities and injury have been increasing during the past 10 years. It has been estimated that road accidents in Uganda cost about 2.7% of Uganda GDP in terms of lives, injury, vehicle and other property losses. An analysis of accident statistics reports in Uganda indicates that 5% of accidents are due to road condition including: bad road surface, pot holes, poor road designs and inadequate road furniture[56].

The Government set up UNRA in 2008 as an independent body to be responsible for new road development, management of road maintenance, road machinery management and axle load control, among others, to address the road infrastructure challenges.

During the F/Y 2008/9 and 2009/10 the Works and Transport sector received Ug Shs.1,083.7 and Ug Shs.1,214.8 billions which represented 18.5% and 17.25% of the total national budget for the two financial years, respectively. In the year 2009/10, 14% of the funding to UNRA was for road maintenance.

Despite the creation of UNRA and the allocation of the biggest part of the national budget to the Works and Transport Sector, the condition of roads remained un-satisfactory, and according to the Budget Monitoring Report by Ministry of Finance

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[1] Hon. John Nasasira, Minister of Works and Transport; Launch of the second report of commission of Global Road Safety: 5th May 2009,Rome,Italy

Planning and Economic Development the absorption of funds by UNRA was rated as poor[57].

It was against this background that the Office of the Auditor General decided to carry out a value for money study on the management of road maintenance of National Roads by UNRA.

### 7.1.2 Mandate

The The mandate to manage and construct roads is vested in both the MoWT and UNRA. The mandates are presented below:

**The MoWT Mandate is to:**

- Plan, develop and maintain an economic, efficient and effective transport infrastructure;
- Plan, develop and maintain an economic, efficient transport service by road, rail, and air;
- Manage public works including government buildings; and
- Promote standards in the construction industry.

**UNRA's Mandate is to:**

Manage the provision and maintenance of the national roads network in an efficient and effective manner,

- Rendering advisory services to Government on national roads network development and related matters;
- Managing the axle load control; and
- Collaborating with international organizations, inter-government organizations and foreign agencies of other states and the private sector on issues relating to the development and maintenance of roads.

**Vision**

The Ministry's Vision is to have a reliable and safe infrastructure in works and transport that will deliver timely, quality, cost effective and sustainable services to the people of Uganda.

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[57] Budget Monitoring Report, October-December 2009, page viii by MoFPED

UNRA'S Vision

To operate a safe, efficient and well-developed national roads network.

**Mission**

The Ministry's mission is to promote an adequate, safe and well maintained works and transport infrastructure and services so as to effectively contribute to the socio-economic development of the country.

**UNRA's Mission**

To develop and maintain a national roads network that is responsive to the economic development needs of Uganda, ensure the safety of all road users, and enable the environmental sustainability of the national road corridors.

**Objectives**

MoWT has the following objectives:

- To provide a safe and efficient road network capable of meeting the present and future traffic demand while harmoniously integrating road safety and environmental protection requirements and social impact concerns;
- To continue with the establishment and development of a robust administration for effective and efficient management of the national road network as a major component of the road sub-sector;
- To enhance the road development construction industry that can meet the required construction standards, health and occupational health requirements while generating gainful employment for the people.

UNRA's Objectives

- UNRA has the following Objectives:
- To ensure all year round safe and efficient movement of people and goods on the national roads network;
- To enhance road safety through improved road design and education of the users;
- To optimize the quality, timeliness and cost effectiveness of the road works interventions;
- To improve  private sector participation in service delivery;

- To use innovative and creative techniques and strategies to optimize the performance of the road system;
- To attract, develop and retain a quality team;

### 7.1.3 UNRA Funding

UNRA is funded mainly through Government votes. Other sources of funding for the entity include Donations (Donor funding). The funding of UNRA at the time of audit stood as shown in table 45 below:

**Table 45: UNRA Funding for the period 2008/09 to 2009/10:**

| YEARS / FUNDING | ACTUAL 2008/09 | ACTUAL 2009/10 | TOTAL |
|---|---|---|---|
| Govt Grants (Ug Shs) | 500,249,365,048 | 341,393,975,457 | 841,643,340,505 |
| Donor funding | 245,451,116,285 | 237,861,850,918 | 483,312,967,203 |
| Other Income | 160,353,784 | 283,443,100 | 443,796,884 |
| Transfers from other government department | 538,165,190 | 66,538,000,000 | 67,076,165,190 |
| **Total** | **746,399,000,307** | **646,077,269,475** | **1,392,476,269,782** |

**Source: Audited accounts of UNRA**

### 7.1.4 SCOPE

The MoWT has three Sub-Sectors which include: Transport, Communication and Public Works. The Audit, however, focused on Roads as this is by far the most dominant mode of transport and plays a pivotal role in supporting economic and social development programs. The roads in general carry over 90% passengers and freight and provide the only form of access to rural communities[58].

It is worth noting here that the focus of the study was on Uganda National Roads Authority, a body that was specifically established by an Act of Parliament in 2006 with the responsibility of managing the National Road Network. The study focused on the Management of Road maintenance.

### 7.1.5 Audit Objectives

The Management of National Roads by MoWT and UNRA Audit was conducted to assess whether:

[58] 10 year road sector development programme,<RSDP 2> march 2002

- UNRA and MoWT were providing a safe and efficient road network capable of meeting the present and future traffic demand;
- UNRA was optimizing the quality and timeliness of the road works interventions;
- UNRA was properly managing and controlling the use of the National Roads.

## 7.2 FINDINGS

this chapter, findings on the Management of road maintenance in reference to the Audit objectives and questions are presented.

### 7.2.1 Planning Road Maintenance

#### 7.2.1.1 UNRA Strategic plan for periodic road maintenance

Best practice in road maintenance is that periodic maintenance work should be scheduled to ensure that works are carried out as a preventive measure at early stages to keep the roads in a motorable standard and to prevent them from deterioration. The scheduling should be at strategic intervals of 3 to 7 years depending on the quality of the road and the level of wear and tear[59]. This necessitates having a strategic maintenance plan to operationalise this action[60].

Audit established that UNRA did not have a documented strategic plan scheduled to cover the frequency and time for periodic maintenance for the sampled roads. However, it was noted that UNRA had an annual operational maintenance plan for the 2,300 kms of roads covered in our sample.

Management attributed the absence of a documented strategic plan to the fact that UNRA is still in its infancy[61] and inherited a system that was slow, ill-equipped and underfunded. There was also inadequate staffing capacity.

As a result, 79% of the sampled roads totaling 1,638 kms had surpassed their maintenance period, have deteriorated and are being handled by UNRA as backlog cases. The UNRA approach to maintenance is reactive rather than proactive. For example, the 45 km Tororo-Mbale road had surpassed its life span of 15 years without undergoing enhanced maintenance according to UNRA. Delayed maintenance therefore

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[59] ILO, Rural Road Maintenance-Sustaining the benefits of improved access,2007 page 20
[60] UNRA road maintenance management manual 2008
[61] Commenced business in July 2008

resulted in loss of investment and benefits accruing from the road such as access to market for agricultural produce, health facilities and schools.

was further noted that because of lack of proper planning, Ngettta Puranga road (64 km) in Lira (see Picture 1), had failed despite government intervention with a contract of periodic maintenance worth UG SHS 2.7 billion. Works at the time of field inspection stood at 78% completion yet the contractor had already abandoned the site. The station officer could not even carry out routine maintenance activities because the contractor still had possession of the site. This may cause potential loss to government totaling 2.7 billion of the investment as a result of the contractor abandoning the site and thereby making it difficult for the Station to carry out maintenance on the road.

Picture 21: A section of Ngetta Puranga from Km 2+00 to 27 where the entire carriage way has potholes and rutting.

**Managements Response**

**UNRA is in the process of developing a Strategic plan for road maintenance which should be in place by July 2012. In the meantime, UNRA uses the plans that are inbuilt in the works and transport Framework Paper.**

7.2.1.2 <u>Establishing the cause of road failures</u>

Best Best practice[62] and the maintenance and Design Manual, require that the cause of road distress should be established in order to identify the appropriate intervention method to employ in addressing the distress. The causes of distress should be incorporated in the station manager's Annual road surveillance reports to the Principal Engineers, which should be used to compile comprehensive plans for maintenance.

All the 5 out of the 22 UNRA stations visited country-wide did not avail surveillance reports that show the causes of distress on the sampled roads which cover 2,300 kms. Examples of cases of roads being worked on that lacked evidence of causes of distress include: Mbale-Tororo road (25km),Lira–Aduku road(37km), Kapchorwa-Kapkwata Road(77km), Katooke –Kagadi Road (37km), Nyakahita-Rusheru-Rwakitura road (45km) and Jinja-Kamuli road (59km).

Audit revealed that the causes of distress on both paved and gravel roads include inadequate gravel cover, excessive moisture, and inferior sub-grade. Refer to illustrative Pictures 22 to 25 below:

**Picture 22:** A section on Lira-Aduku Road at Banya swamp km 11 with visible inadequate gravel cover that exposed the culvert. Such a culvert is a potential danger to motorists. The culvert stands a danger of being blocked by gravel as evidenced by the developing holes.

[62] Maintenance and design manual, US, department of transportation, November, 2000

**Picture 23**: A section on Kapchorwa-Kapkwata Road  which has a rough riding surface as a result of compaction done under excessive moisture condition and loss of gravel.

**Picture 24**: A section on Katooke –Kagadi Road with inferior sub-grade that did not allow proper bonding, causing poor riding quality due to stoniness.

It was further observed that UNRA committed resources on maintenance (mainly patching on paved roads) of spots on roads where the base had substantially failed. The fundamental problem with patching is that, if not well handled, will not bond well with the surrounding part and hence giving a temporary solution.  It is difficult to keep the workability of hot bituminous materials at/above a level where they are able to receive full compaction, and without full compaction the life of the patched area will be greatly reduced.

**Picture 25**: A section on Fort-Portal Kyenjojo road with over-patching that did not have lasting impression since the road structures had substantially failed. UNRA should have established the cause of the distress and come up with the most appropriate intervention measure instead of spending much time and money on patching.

The areas patched early in the day may be properly compacted but areas patched late in the day may be poor because the temperature of the material is too low to achieve full compaction.  We further observed that UNRA often concentrated on patching roads and paid little or no attention to other road structures such as shoulder and the edge of mat especially on bituminous surfaced roads.

The failure to establish the causes of distress is attributable to reluctance by UNRA to carry out the procedures required to determine the cause of distress by subjecting samples from the failed sections of the road to laboratory tests. Audit further noted that there was no budgetary funding to carry out this activity by the respective concerned station engineers.

The effect of this weakness is that work has to be repeated on the same sport every other month resulting in wastage of human resources, time and  financial resources yet the condition of the road remains the same or continues to deteriorate.

Furthermore, some failed spots were found to be getting worse without management intervention. And yet it is good practice to schedule maintenance works to ensure that works are carried out as preventive measures at an early stage when the deterioration of the road and damage are still limited. We noted that management had concentrated a bigger part of its maintenance resources on maintenance of spots that had failed due to collapsed road bases as a result of aging.

**Picture 26**: A Section on Fort Portal-Kyenjojo Road that had developed crocodile-skin cracks from Km 16+200 to 30 +500. This is a result of delayed intervention on a weakened base. If not attended to, it will turn into multiple potholes. The solution is to reseal the entire stretch of the road at a higher cost than would have been if intervention had come earlier.

**Managements response**

**Management stated that, in most cases, the causes of the failure is known. And that in the majority of cases the roads in question are overdue for periodic maintenance or reconstruction. That a system will be put in place to document the causes of failure on particular roads.**

### 7.2.2 EXECUTION

### 7.2.2.1 Routine and Periodic road Maintenance

7.2.2.1.1 Grass cutting on the carriageway and shoulders

Specification M100-104 of UNRA Road maintenance Manual requires that all grass and other vegetation occurring within the gravel carriageway or gravel shoulder be uprooted and suitably disposed of at least 25 meters from the center line. For gravel roads, shoulders and drains require periodic and routine mowing or cutting of grass to 150 mm above the in-situ ground level. In addition, all vegetation within a width of 3 meters beyond the limits of the side drains or earth works or structures, should be maintained at a height not greater than 500 mm above the in-situ ground level, and activity 1105 of the maintenance manual requires the clearance of surface spills, obstructions, dead animals and damage repairs on the carriageway as routine maintenance.

The field visits of our sample of the 2,300 km roads revealed lack of grading or mowing of grass on the edge of the roadway at various locations. It was observed that grass had grown beyond tolerable height to the extent of diverting storm water onto the carriage-way, destroying the shoulders and part of the carriage-way. This scenario was very prominent on the Ishaka-Katunguru road around Rutoto hill, at Igorora town board, 17km on Ibanda Mbarara road (see Picture 27) and the 18 km stretch of Mbale –Sironko road.

**Picture 27**: An example of ungraded/ un-mowed road edge on km 17 Mbarara Ibanda road at Igorora Town Board. The water had been diverted onto the carriageway and had eroded the.

**Picture 28**: An example on a section of Kyenjojo-Fortportal road where grass was cut but not disposed of as per specification within the manual. Grass was instead dumped in the drainage, blocking running water.

Similarly, the inspection on gravel roads revealed grass that was growing and narrowing the carriageway and obstructing visibility, making the roads prone to accidents. A case in point is Kamuli-Namasagali road (see Picture 29 below).

**Picture 29**: A section on Km 11+800 (Kamuli - Namasagali Rd) has a narrow right of way as a result of overgrown grass on the shoulders.

Additionally, the audit observed several other obstructions like dead carcasses on the road which were not removed as expeditiously as required by the manual. An illustration of this is shown in Picture 30 below;

**Picture 30:** A carcass of a dead animal at Busitema on Tororo-Busia Rd a road which if not cleared could cause accidents to road users and ultimately, damage to the road.

The major reasons for inadequate maintenance of grass on the carriage and shoulders under routine and periodic road maintenance are:

- inadequate supervision human resource in form of foremen and road overseers;
- late remittance of maintenance funds to station offices, which delays maintenance works;
- failure to observe local weather conditions that affect the road maintenance pattern;
- Inadequate road maintenance equipment.

The effect of blocked carriageway and shoulders arising from inadequate maintenance of grass on the carriage and shoulders is the destruction of the carriageway and shoulder drains which makes the road un-motorable. This increases the cost of operating vehicles on the roads, which translates into high business costs which are transferred to consumers and finally deny citizens the social and economic benefits of improved access. Additionally, failure to remove dead animals and other obstacles poses a threat of accidents to road users who try to dodge such obstacles and end up driving in the line of the on-coming vehicles, which could also cause damage to the roads.

**Management response**

**The issue of clearing grass on the entire road width including the road reserves has been brought to the attention of Station Engineers. UNRA is going to reinforce its supervisory teams (Road Overseers, Road Inspectors and Assistant Station Engineers) to ensure that the grass is maintained to acceptable levels. Further, that removal of obstruction is allowed for in the labor based activities and the Station Engineers were advised to ensure that all activities are carried out promptly.**

7.2.2.1.2 Maintenance of Edge of Mat (Road edges)

Specification M205 of UNRA Road maintenance Manual requires that bituminous surface roads should be stripped of the carriageway to the correct level and slope in order to give maximum support to the edge of the surface in order to provide good edge of mat which is relevant in the preservation of the shoulders and hence a sound carriageway.

Audit discovered that a number of spots on the 2,300km roads visited had edge of mat which remained unattended to and continued to eat into the road. The following road stretches had the most common cases of this occurance: Kyenjojo-Mubende (a 110km road stretch), Tororo-Malaba (10km road stretch) see Picture 31 below), Mubende-Mityana (90km), Mbale-Sironko (18.5km), Sironko-Kapchorwa (45.6km),Kampala-Kafu-Karuma (253km), Kamdini-Gulu (62Km) and Tororo-Mbale (25kms)

**Picture 31:** section on the Tororo-Malaba Rd on the left above that is slowly eating away towards the carriageway and on the right a section on Mbale-Sironko Rd that has edge of mat failure up to the road centerline.

Deterioration of the road edge of mat can present a hazard to users and leads to more extensive deterioration of the remainder of the carriageway as the edge support becomes eroded.

The major reasons for failure to maintain edge of mat failure are:-

- Absence of scheduled maintenance plan.
- Use of untested materials which provide substandard work.
- Failure by UNRA to adequately supervise the maintenance exercise.
- For purposes of cutting on costs of construction, UNRA tend to use gravel and a simple layer of surface dressing on the edges and shoulders, which wear out faster than the carriage way, which is usually fairly done.

The failed edge of mat has the potential of:

- Causing accidents arising from vehicles failure to grip and get back to the road in case of skidding off the carriageway.
- Presenting a potential risk to pedestrians and cyclists of getting knocked as they compete for the narrow road.
- reducing the capacity of the road to accommodate traffic due to narrowing of the road running width

- Providing inlet for moisture and storm water into the road base which inflicts severe damage to the road structure thus reducing the life span as seen in Picture 10 above.
- Increasing vehicle maintenance costs due to destruction of tyres that go over the sharp and deformed edges.

**Management Response**

**The observation of the Auditors in respect of several roads having edge failures is appreciated. It is indeed a challenge which UNRA is tackling using a number of approaches in its maintenance works.**

7.2.2.1.3 Maintenance of Culvert and Culvert Bridge Cleaning

Specification M105 of UNRA Road maintenance Manual requires that Culverts should be free of any debris deposits and vegetation suitably removed within the culverts and their inlets and outlets such that they remain clean and free flowing at all times and all cleared spoil and other arising shall be suitably disposed of at least 25 meters distant from the road centerline, all without damaging the road formation pavement or structures or adjacent public/private property in any way and all to the satisfaction of the UNRA.

Audit established that not all culverts on roads were suitably maintained to meet this standard. Culverts were found clogged with debris and overgrown vegetation. This was confirmed through observation of culverts on 35 roads inspected in addition to interviews with the entire six station engineer confirming this situation. The following roads inspected had the most common cases of this scenario: Kapchorwa- Kapkwata road (77kms)-(see Picture 32), Katete-Nsongezi (49km) - culvert at km 1.075. Additionally, the majority of culverts on all the inspected roads were found to be clogged with all sorts of debris and vegetation. Sites of water logged culvert inlets were found on most of the 35 roads inspected. The storm waters had been forced off the drains onto these roads with all its destructive results.

A good maintenance and replacement program of culverts was lacking mainly on the gravel roads.

**Picture 32**: An example of a clogged culvert bridge on Kapchorwa Kapkwata road, as a result of lack of maintenance. This road could fail if debris is not cleared before the next heavy rains.

**Picture 33**: An example of a clogged culvert bridge with broken head walls on Ngeta-Puranga road, as a result of lack of maintenance.

Document review revealed that inadequate maintenance of culverts and Culvert Bridge cleaning was caused by lack of good road maintenance and culvert replacement programs mainly, for gravelled roads.

The effect of not maintaining culverts is the likelihood of the stream water washing away the roads as the water forces its way to alternative passage. This shortens the lifespan of roads, destroying investments on the infrastructure and denying road users the accesses they need to the markets and other service centers.

**Management Response**

**UNRA will come up with a documented maintenance programme to ensure that culverts and bridges are well maintained and the replacements are made over a three year period.**

7.2.2.1.4 Maintenance of Running width and Shoulder drainage

Specification M212 of UNRA Road maintenance Manual requires that all repaired gravel road surface should be restored to a smooth running surface shaped in a straight line from the shoulder up to the centre line of the road to give it the same shape as the roof of a house also termed as parabolic crown. This should be done such that the original cross section and longitudinal profile are restored by grading off points of surface irregularities and evenly spreading the arising to low points, drawing the arising inwards towards the centre of the road while traveling longitudinally. The gradient and the cross fall at the respective off-set from the centre-line of the road shall not, at any point, be so formed not to shed surface water.

The inspection of sampled roads revealed that several sections of the gravel road did not have smooth running width. The road sections had rutting, gullies and potholes running along the drive way and narrowing of the running width as a result of perennial erosion of the shoulders, as can be seen in Pictures 34 and 35 below. The following roads inspected had the most common cases of this scenario: Lira-Aduku-Apac road (57.4kms), Ngeta- Puranga (34.4kms), Kapchorwa-Suam (77kms), Katooke-Muzizi (18 kms) roads and Muzizi-Kagadi (16 kms).

**Picture 34  A spot on Ngeta–Puranga road**. This road located in Lira has very poor cross section. Consequently, drainage and overall driving conditions are bad.

**Picture. 35  Another spot on the same road Ngeta-Puranga**. The road lacked adequate super elevation and therefore, failed to drain water into the ditches.

Consequently, water stagnates onto the driveway, resulting in potholes. Based on documents review and the interviews carried out with management, the cause of the deterioration illustrated above was: Inadequate supervision by UNRA, overreliance on consultants for maintenance contracts, utilization of obsolete and inadequate road construction equipment and engaging contractors with inadequate capacity.

The effect of not maintaining the running width and Shoulder drainage is that water quickly collects on the road surface during rain and softens the crusts which leads to rutting which can become severe if the sub grade begins to soften. Even if the sub grade remains firm, traffic will quickly pound out smaller depressions in the road and water collects and the road will develop potholes. When the roads become impassable it leads to wastage of time for motorists, the vehicles get damaged and as a result their maintenance cost becomes high and eventually society fails to attain sustained social and economic benefits of improved road access.

**Management Response**

**The early deterioration in the case of some roads is attributed to the heavy traffic (axle loading and traffic volumes) on those roads and limited maintenance intervention.**

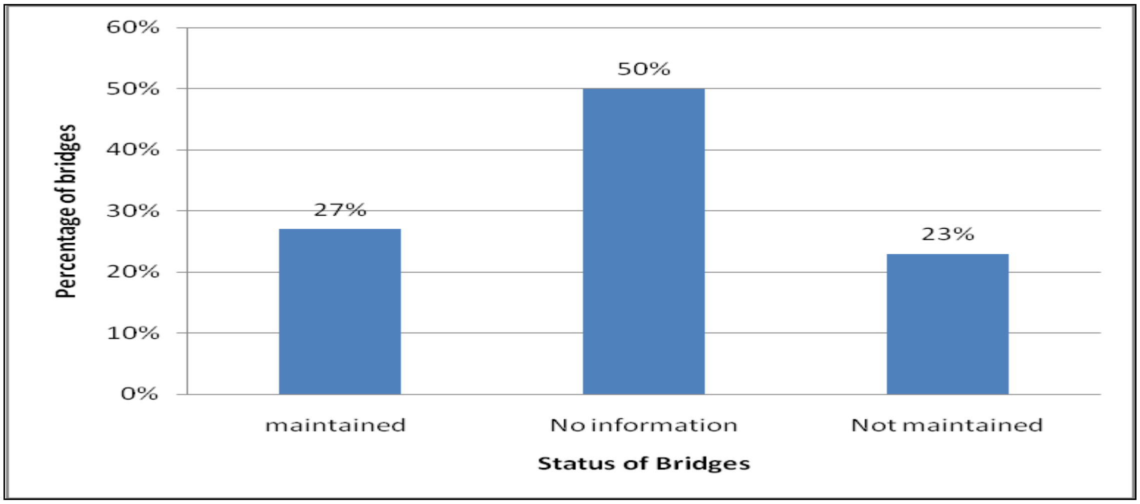
**That to ensure satisfactory work output, UNRA will ensure that due diligence will be carried out to confirm the contractors capacity before award of contracts. A classification of Contractors' according to their capacity will be undertaken.**

7.2.2.1.5 Bridge maintenance

According to the bridge maintenance Manual, all vegetation, flood debris, trees, sand and stones should be cleared away from the road way across bridges. Steel bearing should be cleared of all foreign matter and grease applied in appropriate places. Damaged structures of the bridges should be replaced within twenty four hours (24 hrs). Activities such as cleaning bridge components, overlaying decks, maintaining the integrity of joint seals, and spot-painting beams should be planned and implemented. This prescribed maintenance is intended to prolong the life span of the bridges and guarantee the safety of users.

The analysis of the bridge inventory on the status of the 217 bridges countrywide revealed that, UNRA had no information on the status of 109 bridges. i.e. 50% of the bridges, 58 bridges (i.e. 27%) are being maintained, while 50 bridges (i.e. 23%) are not maintained as reflected in figure 14 below:

**Figure 14: Bar Graph showing status of bridges maintenance as on 2nd June 2009.**




**Source: OAG analysis**

Field inspections of 11 bridges confirmed that the unmaintained bridges had overly grown vegetation piling of debris from underneath the bridges, bearings had rusted from non -greasing, and damaged structures had not been replaced by UNRA within the stipulated time frame of twenty four hours. Similarly, potholes had formed at the edge of the deck as a result of delayed or poor maintenance. See Pictures 36-39:

**Picture 36** Bearing position on ORA Bridge in West Nile clogged with grass. Greasing was not done on this bearing. This weakens the bridge and shortens its life.

**Picture 37** Road not shaped to match bridge deck on ORA Bridge. This is a big danger to the motorists because it could lead to bursting of tyres due to constant banging of the ream.

**Picture 38** Siti Bridge that was constructed in 1953 with knocked down guard walls that were never replaced. Notice the over grown vegetation underneath the deck that blocks free flow of the river.

**Picture 39** A broken bridge structure not replaced within the stipulated time frame. This is a danger to the road users.

This is as a result of not giving priority to bridge maintenance and repair as well as responding to bridge maintenance as a reactive activity, initiated only when deterioration threatens the safety or tolerance of the public. This was attributed to lack of surveillance on bridge conditions.

Failure to maintain a bridge leads to the shortening its life span and hence a wastage of the heavy investments involved in bridge construction. Besides providing links on the road network, the breaking of a bridge renders the road impassable.

**Management Response**

**Bridge Maintenance is considered a priority by UNRA. Work is carried out on an annual basis under both the road maintenance and development programmes. UNRA has also established a Bridge Management Unit to implement and monitor the Bridge Development Plan. That the Unit also offers expert services to the bridge maintenance operations.**

7.2.2.1.6 Maintenance of Signs and Traffic Safety Facilities

According to Specification 1600 of the Maintenance and Management Manual, (Aids to movement and Safety) routine measures should be carried out to provide adequate sight distance throughout the year and to maintain the whole road servitude on wide mat roads. Lay-byes and edge lines must be repainted every eight years. Distance markers must be kept clean at all times and damaged markers are replaced within 24hours.Markers should be kept exposed by special cutting of grass. Markers must be placed at 2km intervals.

Audit established that not all road Signs and Traffic Safety Facilities are being maintained at all times on all national roads. Data availed to the audit team from Mbale Station, revealed that 81% of road signs were missing on nine road links. Data was not availed from the other five stations visited.

According to the station managers interviewed, UNRA procures sign posts centrally, and thus create delays in replacement of the missing furniture.

They also attributed this to the fact that there is widespread of vandalism of road furniture by the public.

The analysis of the documents available, however, revealed that the cause of delays in the replacement of signposts is mainly inadequate surveillance by stations on the roads to establish the road furniture requirements, as evidenced by the few reports availed detailing the required road furniture. The limited number of road overseers and road inspectors has also made the situation worse.

The effect of the absence of road signs and traffic facilities is failure to control accidents which would have otherwise been avoided by prior warnings, usually provided by these signs and facilities. The analysis of accident statistics in Uganda indicate that 5% of accidents are due to road condition including: bad road surface, potholes, poor road designs and inadequate road furniture.[63]

**Management Response**

**Management noted that the recommendations have been noted for implementation. Further, that a programme for the maintenance of Distance Markers will be developed for the FY 2011/12, and that UNRA will budget for bulk procurement of road signs for replacement and installation.**

## 7.2.3 ROADS MONITORING AND CONTROL

### 7.2.3.1 Axle load control points on the National Road Network

Section 6 (1), (a) & (b) of the Uganda National Roads Authority Act, 2006 mandates UNRA to manage, maintain and develop the national roads network. This includes control and management of Axle load, among others. Axle Load management involves the establishment of permanent and mobile weigh bridges along public roads that handle heavy commercial vehicles. These are intended to weigh the axle load of vehicles so that the roads carry only specific loads that they were designed for so as to ensure that the road lifespan is not shortened.

The audit established that not all the national roads handling heavy commercial vehicles have permanent or mobile weigh bridges on them. The 22 roads with heavy commercial traffic are served by six weigh bridges: three permanent located at Busia, Mbarara and Luwero (yet to be commissioned) and three mobile ones located at Lukaya, Mubende and Mbale. This implies that 16 roads with heavy commercial traffic

[63] Hon. John Nasasira, Minister of Works and Transport; Launch of the second Report of Commission of Globle Road safety; 5th May 2009, Rome, Italy.

lack axle load control on them. During 2010, for the months of June, July and August, of the 39,847 vehicles subjected to weigh bridge test on 5 roads, 12,975 (32.6%) had excess axle load as seen in table 46 below:

**Table 46: Showing vehicle load on Uganda Nation Road recorded in 6 weighbridge stations**

| Station | Total Vehicle | Over Weight Vehicles | Normal weight Vehicles | Impounded Vehicles | Overweight Vehicle (Axle weight) | Overweight Vehicles (Gross weight) |
|---|---|---|---|---|---|---|
| Lukaya | 6,483 | 4,297 | 2,186 | 335 | 3,134 | 1,159 |
| Mbale | 5,018 | 2,220 | 2,798 | 131 | 1,697 | 523 |
| Mubende | 4,406 | 3,487 | 919 | 224 | 2,171 | 1,316 |
| Busitema | | | | | | |
| Busia | 11,970 | 1,153 | 10,817 | 152 | 1,001 | 152 |
| Mbarara | 11,970 | 1,818 | 10,152 | 278 | 526 | 1,292 |
| **Total** | **39,847** | **12,975** | **26,872** | **1,120** | **8,529** | **4,442** |

**Source: UNRA data.**

The magnitude of overweight vehicles which plough the remaining 17 roads could not be established by either UNRA or the audit team due to absence of weighing mechanism. Even where the weighbridges existed, there were extensive irregularities noted that made the operations at the weighbridges unreliable, (these are elaborated on later in the report, and they include: failure to offload excess capacity, avoidance of weighbridges by cunning transporters, non-deterrent fines and penalties among others). Management explained that the need for axle load control has been identified and they are in the process of procuring weigh bridges for the following three roads: Mbarara-Fortportal, Soroti-Lira-Kamdini and Nyakahita-Rushere-Kazo while the ones at MagaMaga, Busitema and Luwero are yet to be commissioned.

The cause of inadequate control and management of axle load is due to lack of coordination among the three bodies (MoWT, URA and UNRA) mandated under section 12 of the Uganda National Roads Authority Act, 2006 to manage weighbridge, lack of funding to establish and effectively manage weighbridge and low importance placed on axle load control on the roads.

Failure to effectively control axle load leads to failure to protect investments in roads and bridges, necessitating frequent periodic maintenance of roads hence increased maintenance costs. This reduces savings on maintenance works and complicates identification of other causes of pre-mature road failure. It further complicates the effect to improve road safety, as the weight engine ratios are not controlled; it also increases damage to vehicles; and makes it difficult to control abrupt road damage at roundabouts. An example of such an effect can be seen on the Sironko-Kapchorwa Road constructed in 2004, with a life span of 15 years. But the section at km 00-14 has failed as compared to the section from km 16 towards Kapchorwa which is still in good condition. This was because of a quarry located 2km to Kapchorwa that has heavy trucks carrying materials from the quarry towards Mbale.

**Management Response**

**UNRA is taking the issue of controlling axle loads on roads with heavy traffic. UNRA is in the process of procuring six new fixed weigh-in –motion weighbridges. The new weighbridge equipments will be used to replace all the mobile weighbridges currently in use and increase coverage of weighbridge stations on vital links.**

#### 7.2.3.2 Absence of Portable or Mobile Weighbridges

Regulation 11 of the traffic and Road safety (weigh Bridges) Regulations 2010 provides for portable weighbridges. It requires the District Executive Engineers (Station Engineers) or officer in charge of a station of the Ministry responsible for Public works to keep a portable weighbridge which shall be used for the purpose of weighing the axle load weights of vehicles.

All the Five stations sampled out of the existing twenty two had no mobile weigh bridges. Mubende and Mbale stations that had mobile weighbridges were utilizing them as permanent and fixed weighbridges.

The failure to make use of mobile weigh bridges by the District Executive Engineers (Station engineers) is attributed to absence of comprehensive axle load control strategy.

Absence of mobile weigh bridges encourages transporters to overload and avoid fixed weighbridges, hence leading to destruction of roads thus reducing the longevity of the road network and increasing overall transport costs.

**Management Response**

**Two vans are being purchased that will be used as patrol (mobile) weighbridges. We have also started incorporating the construction of level platforms at intervals along roads that are being upgraded /constructed. These platforms form the base on which weighbridges are placed before weighing vehicles.**

#### 7.2.3.4 Offloading Excess Load

Regulation 14 (1), (2), and (3) of the traffic and Road safety (weigh Bridges) Regulations 2010, requires weighbridge controllers and police to offload excess load at the owners risk and cost or impound the vehicle up till the excess axle weight is removed. The purpose of axle load control is to reduce axle loading to within tolerable limit levels of the permitted axle loads.

However, audit revealed that not all the weighbridge stations were offloading excess load on identified vehicles as required. Of the four weighbridge stations visited, Mubende and Mbarara had evidence of offloading excess load while Mbale and Busia did not. The weighbridge attendants cited lack of warehousing, nature of items (fuel and perishable goods), URA-sealed goods [64] and reliance on the fines already paid by overloaded transporters to clear them as reasons for not offloading excess loads. Audit further established that 8 vehicles in 2010 that had been impounded at Busitema weighbridge were released with the full excess load on payment of fine and later re-impounded in Mbarara and Mubende where the excess cargo was offloaded.

Failure to offload excess load is a result of management laxity to consistently enforce this regulation in all stations and undue influence (possibility of compromise) on the weighbridge controllers.

Allowing excess axle load to pass on a Ugandan road means that the road constructed for a life span of 10 to 15 years is being reduced to fewer years. As a result,

[64] Only URA can break their own seals

investment in the road translating to billions of shillings is being lost annually. For example, excess axle load of 4,913.10 tones which passed on Ugandan road in July 2010 reported in Mbarara weight station given the equivalent standard axle load that should have been allowed of 3,277.60 tones means the Ugandan road constructed for a life span of 10 to 15 years is being reduced to 3 years. Investment such as on Jinja – Bugiri of 110.5 billion may have a useful life of just 3 years implying an equivalent of 12 years cost (i.e. Ug Shs 88 billion) would have been wasted because of reduced life span. This is confirmed by the extent of damage already seen on such road in less than 3 years, compared to the money collected as fine for overloading of UG SHS 430 million for the whole year 2010 which cannot rehabilitate the equivalent length of road. Additionally, not offloading the excess weight has the following result:

- It defeats the main objective of axle load control which is to protect roads against the effects of excess loads;
- Increased risks of accidents caused by heavy vehicles that are overloaded as the breaking distance and center of gravity are affected by the overload;

**Management Response**

**The offloading of excess load is hampered by logistical problems like lack of storage facilities, coordination with the URA etc which UNRA is trying to address. There is also need to amend some aspects of the law to support the axle load improvements.**

### 7.2.3.5 Non-deterrent and Discretionary Penalties

Regulation 16(1-4) of The Traffic and Road (weighbridges) Regulations 2010 stipulates the penalties and standardized fine in currency points for the various offence types and magnitude.

The audit established that the fines and penalties given to the offenders were not consistently applied between offenders who commit the same offence in the same station and these also vary in the various weigh bridge stations for the same offence. Analysis of documents for Busia, Mubende and Mbarara for the months of July, August and September 2010 revealed that a sample of 379 vehicles subjected to weighbridge test, 186 vehicles (i.e. 49%) were underfined by Ug Shs.62,020,000= while 12% over paid. Only 39% (i.e. 148 vehicles) had carried normal axle load and therefore not charged.

Audit further established that preferential treatment was offered to local transporters as compared to foreign transporters. There were incidents where foreign transporters with low excess load were given high penalties compared to local transporters found with high excess load but paid low penalties. The application of the law discriminately defeats the original objective of protecting the roads given that the damage caused by overload is not discriminatory. Additionally, the Magistrates continue to apply the 2004 regulation governing control of axle load in the dispensation of the law while the weigh bridge controllers are using the 1998 version of the same law yet it is the 2010 version which is applicable with effect from June 2010.

The cause of this is attributable to lack of convergence of interest among the implementing agencies (UNRA, URA, Court and Police), Laxity in enforcement by the various implementing agencies and undue influence on weighbridge controllers by the Magistrates and the Management of UNRA as the penalties stipulated in the law not being deterrent.

The effect of having non-deterrent penalties and excerising discretionary charges has resulted in some transporters earlier charged for overloading continuing to overload. Audit established that Mbale and Mubende weighbridge stations registered 6 cases of second and subsequent offenders. It also leads to loss of revenue to government through charging of lesser fines than those enshrined within the Regulations.

**Management Response**

**The Government of Uganda , through the MoWT has engaged the services of International Development Consultants, in association with LYCIAR Infrastructure Advisory, and Prome Consult and TRL (Transport Research Laboratories of the UK) to develop an appropriate axle load control policy for Uganda.**

**In addition, the East African Community, through the East African Trade and Transport Facilitation Project (EATTFP) is facilitating a study by JICA to develop a harmonized framework for axle load regulation in the region.**

## 7.3 CONCLUSION

### 7.3.1 UNRA Strategic Plan For Road Maintenance

UNRA has no documented strategic plan covering periodic maintenance activities. Some roads whose life span could have been prolonged through periodic maintenance are deteriorating to the levels that require major rehabilitation to make them motorable.

### 7.3.2 Establishing the cause of road failures

All the five stations visited out of the 22 UNRA stations country-wide do not have surveillance reports to show causes of distress on the sampled roads covering 2,300 kms. Carrying out maintenance works without ascertaining the cause of distress is resulting into repeated works on the same spot every other month which leads to misuse of man-power, time and financial resources.

### 7.3.3 Grass cutting on the carriageway and shoulders

The grass had grown beyond tolerable height, at various locations on all the 2,300 km roads inspected. This is diverting storm water onto the carriageway, destroying the shoulders and narrowing the roads.

### 7.3.4 Maintenance of Edge of mat (Road edges)

A number of roads out of the 2,300km inspected during audit have edge of mat failure. The edge of mat failure is hazardous to users and if not attended to, leads to more extensive deterioration of the remainder of the carriageway as the edge support becomes eroded.

### 7.3.5 Maintenance of Culvert and Culvert Bridge cleaning

Not all culverts on the 35 roads inspected are suitably maintained to serve the intended purpose. Failure to maintain the culverts leads to clogging resulting in stream water washing away the roads. This shortens the lifespan of the roads, destroys investment on the infrastructure and denies the road users social and economic benefits of improved road access.

### 7.3.6 Maintenance of Running width and Shoulder drainage

Several sections of the gravel roads inspected do not have smooth running width. The road sections have terrible rutting, gullies running along the drive way and narrowing of the running width. This is resulting in water collecting on the road surface during the rainy season, and is leading to rutting, depressions and portholes which are causing wastage of time and high vehicle maintenance costs.

### 7.3.7 Bridge maintenance

Of the 217 bridges countrywide, UNRA had no information on the status of 109 bridges. i.e. 50% of the bridges, 58 bridges (i.e. 27%) are being maintained, while 50 bridges (i.e. 23%) are not maintained. Failure to maintain bridges is shortening their life span and hence wasting the heavy investments that are involved in bridge construction.

### 7.3.8 Axle load control

#### 7.3.8.1 Axle load control points on the National Road Network

Not all the national roads handling heavy commercial vehicles have permanent or mobile weigh bridges on them. The 22 roads inspected are served by six weighbridges.

The absence of axle load control points on some of the roads exposes them to excess load resulting in the need for frequent periodic maintenance works and vehicle maintenance costs.

#### 7.3.8.2 Absence of portable or mobile weighbridges

Five stations sampled out of the existing twenty two have no mobile weigh bridges. Mubende and Mbale stations that have mobile weighbridges are utilizing them as permanent and fixed weighbridges. The absence of mobile weigh bridges is encouraging transporters to overload and avoid the few existing permanent weighbridges hence leading to destruction of roads and reduction of the longevity of the road network and increase of overall transport costs.

7.3.8.3 Offloading Excess Load

Only Only two of the four sampled weighbridges are offloading excess load on identified vehicles as statutorily required. Allowing excess axle load reduces the lifespan of the road.

7.3.8.4 Non-deterrent and discretionary Penalties

The fines and penalties being given to offenders are neither consistently applied nor deterrent. Preferential treatment was offered to local transporters as compared to foreign transporters. This is encouraging the transporters to continue overloading aware that they will continue paying the low non-deterrent fines and penalties

### 7.3.9 Maintenance of Signs and Traffic Safety Facilities

Not all road Signs and Traffic Safety Facilities are being maintained at all times on all national roads. This is likely to result in accidents as drivers approach obstacles and changed road priorities without prior warning.

## 7.4 RECOMMENDATION

### 7.4.1 UNRA Strategic Plan for Road Maintenance

In addition to having Annual Operational maintenance Plans, UNRA should formulate Strategic Plans to cover periodic maintenance for the entire road network detailing out the frequency of maintenance.

### 7.4.2 Maintenance of the Road

7.4.2.1 Establishing the Cause of Road Failures

UNRA should ensure that the causes of distress are always established first before any intervention method is decided upon.

7.4.2.2 Grass Cutting on the carriageway and shoulders under routine and periodic road maintenance.

- The management of UNRA should step up its supervisory role by ensuring that there are foremen and road overseers on every road as per their staff establishment.

- UNRA should ensure that road-maintenance funds are remitted to the Stations expeditiously and in accordance with their work plans.
- UNRA should stick as far as possible to the technical specifications enshrined in their Technical Specification maintenance Manual on grass cutting and bush clearing.
- The management of UNRA should consider equipping stations with the relevant maintenance equipments.

7.4.2.3 Maintenance of Edge of mat (Road edges)

- Station managers should ensure that surveillance activities are regularly carried out to locate failed and failing road structures for immediate attention.
- Station Managers should ensure that there are maintenance plans for all roads under their Charge and should strive to adhere to the plans.

7.4.2.4 Maintenance of Culvert, Culvert Bridge Cleaning and Replacement

The management of UNRA should establish a prudent maintenance and replacement program for culverts and culvert bridges, mainly on the gravel roads, and the station managers should ensure that they adhere to its implementation.

7.4.2.5 Maintenance of Running width and Shoulder Drainage

- UNRA should ensure that the capacity of the Contractors is adquately evaluated before awarding them contracts.
- Contract managers at UNRA should monitor closely the works of the Consultants to ensure that works are executed as per the terms and conditions of the Contract Agreement between UNRA and the Contractor.

### 7.4.3 Bridge maintenance

- Management of UNRA should prioritize bridge maintenance and repairs among its major activities. There is need to emphasize cost-effective proactive strategies from the start, when the bridge is new. The focus should be on preventive maintenance.
- UNRA Stations should also step up their surveillance function on bridges.

### 7.4.4 Axle load control

7.4.4.1 Axle load control points on the National Road Network

- UNRA should endeavour to control axle load on the roads with heavy traffic count.
- UNRA should establish a mechanism of working with other stakeholders in controlling axle load on the road network.

7.4.4.2 Absence of portable or mobile weighbridges

UNRA should ensure that Mobile Weighbridges are introduced to back up the permanent weighbridges. This will ensure that, transporters who avoid fixed weighbridges are effectively pursued pursued.

#### 7.4.4.3 Offloading Excess Load

UNRA should ensure that all its stations offload excess load without compromise as per Regulation 14 (1), (2) and (3) of the Traffic and Road Safety (Weighbridges) Regulations 2010.

7.4.4.4 Non -deterrent and discretionary Penalties

- UNRA should advise the Minister to lobby Parliament for a more deterrent Law.
- UNRA should further lobby the relevant Ministries (Internal Affairs- Police and Ministry of Justice) on the enforcement of Regulation 16(1-4) of The Traffic and Road (weighbridges) Regulations 2010.

#### 7.4.4.5 Maintenance of Signs and Traffic Safety Facilities

UNRA should ensure adequate sight distance throughout the year and should maintain the whole road servitude on wide mat roads. Distance markers should be kept clean at all times and damaged markers replaced and kept exposed.

# 8 IMPLEMENTATION OF THE RURAL ELECTRIFICATION PROGRAMME BY THE RURAL ELECTRIFICATION AGENCY IN THE MINISTRY OF ENERGY AND MINERAL DEVELOPMENT

## 8.1 INTRODUCTION

### 8.1.1 Motivation

An estimated 1.6 billion people in the developing World have no access to electricity [Saghir, 2005] with Sub Saharan Africa accounting for 37%[65]. According to the International Energy Agency (IEA), Uganda's electricity access was 9% compared to Kenya (15%) and Tanzania (11.5%)[66] in 2008. The access in the urban areas in Uganda was 39% as compared to 3% in the rural areas where 88%[67] of the population lives.

Inaccessibility to electricity has slowed down socio-economic development and led to high dependence on wood fuel. 97% of Ugandan households (Uganda Population and Housing Census, 2002) depend on wood fuel and this has led to loss of forest cover whose annual cost is estimated at US $ 3-6 million (NEMA 2000).

The Government of Uganda (GoU), recognizing the importance of electricity in improving the welfare of people and saving the environment, implemented structural reforms which were in line with the Millennium Development Goals (MDG's) and the Poverty Eradication Action Plan (PEAP) to reduce poverty. The Rural Electrification Agency (REA) was established to spearhead the implementation of the rural electrification program which was aimed at ensuring equitable regional distribution of electricity and increasing rural electricity access from 1% in 1999 to 10% by the year 2012. In order to implement this program, the GoU and development partners spent Ug Shs 197 billion in the financial years 2006/07- 2009/10 on the rural electrification program.

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[65] World Energy Outlook - IEA, 2008

[66] World Energy Outlook - IEA, 2008

[67] Uganda Population and Housing Census, 2002

Despite the substantial investment in rural electrification by the Government and development partners, access to electricity continues to be low and the majority of the population continues to rely on wood fuel which in turn leads to environmental degradation.

It is against this background that an independent assessment of the performance of the Agency was undertaken to assess the extent to which the rural electrification programme has achieved its intended targets.

### 8.1.2 Description of the Audit Area

**Mandate**

The Government of Uganda (GoU), recognizing the importance of energy in transforming the quality of life of Ugandans, embarked on the process of systematic energy planning with the formulation of the National Energy Policy for Uganda in September 2002. One of the Strategies highlighted in the Policy was the implementation of the Rural Electrification Strategy and Plan (RESP) 2001-2010 which had been approved by Cabinet in February 2001 as required by Section 63 of the Electricity Act 1999.

To implement RESP, the Minister for Energy issued the Electricity Statutory Instrument No.75 in 2001 as mandated by Section 65 of the Electricity Act. The instrument established three mechanisms for the management of Uganda's Rural Electrification Programme (REP), namely: the Rural Electrification Fund (REF), the Rural Electrification Board (REB) and the Rural Electrification Agency (REA).

The REB is responsible for managing the Fund and overseeing the Programme on behalf of the Minister for Energy and Mineral Development (MEMD) while REA is the Board's Secretariat with a broad mandate in rural electrification which includes, among others: providing policy advice to the Board and the Minister; operationalization of Uganda's Rural Electrification Strategy and Plan (RESP); Administering the Fund on behalf of the Board and maintaining a reliable and comprehensive database to facilitate Rural Electrification (RE) policy planning and investment decisions.

The institutional mechanisms of REP, however, commenced operations in July 2003, which delayed the implementation of RESP by two years.

REA implements Rural Electrification through the following Rural Electrification Projects:-

- **Grid extension: -** Extend the transmission grid to cover new communities.
- **Mini-Grids: -** Support the installation, management and control of independent grids (off main-grid) in areas where the demand is not large and the distance from the main grid is great.
- **Co-power generation: -** Support and promote co-power generation activities with the private sector.
- **Thermal electricity: -** Provide of assorted diesel generators to the rural communities.
- **Electricity co-operatives: -** Encourage/promote the rural electrification co-operative model that encourages community involvement in rural electrification development.
- **Renewable energy: -** Promote the use of renewable energy as a cost effective method of electrification in areas that are remote from the grid.
- **Photovoltaic (PV) systems: -** Promote the solar electrification programme.
- **Community sensitization: -** Enhance public and stakeholder awareness and involvement in electricity supply, demand and utilization while highlighting benefits of the programme to the rural communities.

### 8.1.3 Vision and Mission

**Vision**

REA's vision is "Universal access to electricity by 2035."

**Mission**

REA's mission is "To facilitate provision of electricity for socio-economic rural transformation in an equitable and sustainable manner."

### 8.1.4 Main Goal, Objectives and Key Functions

**Main Goal**

REA's main goal in the fulfillment of REA's vision is "To facilitate achievement of Uganda's target of 10% rural electrification access by 2012"[68].

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[68] Strategic Plan 2005/06-2011/2012

**Overall Objective**

The overall objective is to improve the rural quality of life and facilitate significant rural non-farm income by accelerating main grid extension based rural electrification with a tentative target of contributing to increasing rural electricity access from 1% in 2000 to 10% in 2012.

**Specific Objectives**[69]

- To facilitate an average connection rate of at least 1% of rural consumers per annum to 10% by the year 2012.
- To promote equitable rural electrification access having special regard to those areas of the country that are currently marginalized.
- To establish and maintain a comprehensive database on Uganda's RE sub-sector to facilitate informed decision making.
- To enhance the available financial resources base for rural electrification by an average of US $40m per annum over the planned period.
- To promote the institutional sustainability of REA.

**Key functions**

- Build and maintain a national data base on rural electrification projects in Uganda.
- Promote rural electrification.
- Facilitate rural electrification projects.
- Receive and review applications for subsidy.
- Advise the MEMD on policies pertaining to rural electrification.
- Implement Government Priority Rural Electrification Projects and community Schemes (PREPS).
- Monitor and evaluate rural electrification projects.

[69] Strategic Plan 2005/06-2011/2012

### 8.1.5 Funding

The Rural electrification program is funded by the GoU and development partners. In the period 2006/07 to 2009/10 the funding amounted to Ug Shs.197 billion as detailed in table 47 below:-

**Table 47: Showing funding by GoU and development partners**

| Source | Financial Years | | | | |
|---|---|---|---|---|---|
| | 2006/07<br>Ug Shs '000 | 2007/08<br>Ug Shs '000 | 2008/09<br>Ug Shs '000 | 2009/10<br>Ug Shs '000 | Total<br>Ug Shs '000 |
| **GoU (REF)** | 13,771,785 | 10,035,839 | 30,799,779 | 35,011,750 | 89,619,153 |
| **Development Partners** | | | | | |
| SIDA-TECH | 788,686 | 354,054 | 804,099 | 363,402 | 2,310,241 |
| SIDA II | 502,472 | 7,223,929 | 6,079,624 | 5,012,262 | 18,818,287 |
| IDA | 7,057,568 | 22,036,923 | 18,546,438 | - | 47,640,929 |
| GEF | 2,967,010 | 2,679,023 | 3,378,639 | - | 9,024,672 |
| JICA | - | - | 29,710,742 | - | 29,710,742 |
| **Total** | **25,087,521** | **42,329,768** | **89,319,321** | **40,387,414** | **197,124,024** |

**Source: REA's Audited Accounts**

- **Not funded**

### 8.1.6 Audit Objectives

The audit sought to ascertain whether:-

- REA activities were well planned,
- REA activities/projects were well funded,
- REA activities were implemented as planned and
- REA projects were well monitored, evaluated and reported on.

### 8.1.7 Scope

The study was carried out at Rural Electrification Agency headquarters. We also visited the Rural Electrification Projects of Kyabugimbi-Buhweju (Bushenyi District), Kakumiro-Kibaale-Kagadi (Kibaale District), Namayemba-Namuntere (Bugiri District) and Nabitende-Namungalwe-Itanda and Iwemba-Bugeso (Iganga and Bugiri Districts), Kikorongo-Bwera-Mpondwe (Kasese), Corner Kilak-Pader-Patongo-Abim with a tee off to Kalongo (Pader and Abim), Mpanga-Kamwenge-Kahunge-Nkingo (Kamwenge), West Nile Rural Electrification Company (WENRECO) (Arua) and Sub stations at Mpanga and

Kahunge (Kamwenge) to ascertain their existence, status of works executed and electricity generation capacity. The study covered four financial years namely 2006/07, 2007/08, 2008/09 and 2009/2010.

## 8.2 FINDINGS

This chapter presents the findings on planning, funding, implementation, monitoring and evaluation of the rural electrification activities by the Rural Electrification Agency (REA).

### 8.2.1 PLANNING

#### 8.2.1.1 Strategic, Business and Annual Planning

According to the electricity Act 1999, Sec 64, the minister is required to prepare a "strategy and plan" setting out rural electrification objectives, targets and implementation framework. REA should develop its strategic, business and annual plans basing on the "strategy and Plan". The strategic plan should be operationalised by the business plans which in turn should be elaborated in the annual work plans and budgets. The annual work plans and budgets should be approved by the Board by end of April every financial year.

It was noted through document review that REA developed a strategic plan covering the period 2005/06-2011/12 setting out rural electrification objectives, targets and implementation framework. It was further noted that two (2) business plans were developed for the period July 2005-June 2008 and July 2008-June 2011.

Although REA prepared annual work plans and budgets, which were approved by the Board, the business plan for July 2008- June 2011 was not approved. We also noted that at the time of audit (January 2011), the plan was only remaining with 5 months to expire. Management attributed the omission to delayed finalization of the plan by the Consultant.

**Management response**

**It was an omission not to have presented the Business Plan 2008 – 2011 to the Board for formal approval because the Consultant delayed to finalize it.**

**However, the Annual work plans and the budget are approved by the Board before the beginning of every financial year.**

### 8.2.1.2 Indicative Rural Electrification Master Plan

According to the strategic plan 2005/06-2011/12 and the three year business plan (2005-08), REA is required to develop the Indicative Rural Electrification Master Plan (IREMP) by mid 2006. REA should use the (IREMP) to disseminate information on investment opportunities to stakeholders through website and mailing. The IREMP should be updated annually[70].

A review of the IREMP revealed that it was produced in January 2009 as opposed to mid 2006 which was a delay of 2½ years. It was also noted that although the data in the spreadsheets of the IREMP was updated, the MAP had not been updated.

We further noted that the dissemination of IREMP to stakeholders through REA website and mailing facility was not possible due to its voluminous nature. However, management explained that stakeholders are given CDs of the IREMP.

Management attributed the delay to develop the IREMP to a shift in REA project implementation strategy from Private financing to Public and donor financing, and as a result the focus of the IREMP changed to identifying rural electrification projects for public financing. This also led to the eventual change in its dissemination strategy.

Management further explained that a consultancy to upgrade the system using the Geographical information System (GIS) technology has been procured which will enable them easily update MAPs and upload information faster on the system.

Failure to update the MAPs in the IREMP hinders management efforts to provide visual and geographical up-to-date information on rural electrification to the public (Government) and donors.

**Management response**

**Initially, the development of the IREMP included identifying 4 priority RE projects for private sector implementation and producing the required bidding and concession documents. However, when the 4 Priority Rural**

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70 The Strategic Plan and the business plans.

**Electrification Projects (PREPS) were advertised, they did not receive interest from the private sector because of perceived risks and low returns. As a result the focus of the IREMP changed to identifying RE project for Public Sector financing. The change in the focus delayed the finalization of the IREMP.**

**Because of the change in the implementation modality, the IREMP is no longer targeting private sector participation in RE but was geared at identifying and prioritizing RE projects for public financing. As a result it was no longer necessary to disseminate the IREMP to the private sector as previously anticipated. The IREMP was therefore disseminated to sector agencies and development partners and a number of projects have been funded by the Government of Uganda and Development Partners.**

**It was not anticipated from the beginning that the entire IREMP would be annually updated, rather it is the spreadsheet in the IREMP that is updated to track the status of implementation of projects. The spreadsheet is updated each time a project is selected.**

**The IREMP is currently being updated with tools that will give REA the flexibility to regularly MAP in the GIS component.**

### 8.2.2 FUNDING

According to the electricity act Sec. 65 as amplified in the business plans REA's financing should be generated from the following sources: appropriations by Parliament, surpluses from operations of Electricity Regulatory Authority (ERA), transmission levy on purchases of electricity from generation companies and donations, gifts, grants & loans acceptable to the Minister of Energy. REA's projected annual funding requirements are shown in Table 48.

According to the three year business plans for FY 2005-08 and 2008-11, REA was supposed to mobilize funds to bridge the forecast funding gap through a funds mobilization strategy.

Through document review, it was noted that REA received only US $ 105.88 million (Ug Shs. 197 billion) out of US $ 204 million resulting into a funding gap of US $ 98.12

million (Ug Shs. 181 billion) as shown in Table 48. It was also noted that REA did not mobilize enough funds to bridge the funding gap.

**Table 48: Showing REA's funding gap**

| Actual | 2006/07 | 2007/08 | 2008/09 | 2009/10 | Total |
|---|---|---|---|---|---|
| | Funding in US $ in Millions | | | | |
| Annual Requirements | 36 | 53 | 75 | 40 | 204 |
| Funding | 14.23 | 24.75 | 47.72 | 19.18 | 105.88 |
| **Gap** | **21.77** | **28.25** | **27.28** | **20.82** | **98.12** |

**Source: OAG analysis of REA's funding and internal projections**

Further analysis of GoU funding revealed that funds were not received from the surplus operations of ERA. Management explained that although they received funding from transmission levy, they were not certain of whether they were receiving the correct amounts. We noted that there were no reconciliations between the amounts that were received by REA and the 5% levy on electricity transmission. Management also explained that its effort to mobilize funds is limited by REA's legal status. REA is not a corporate body and that all fund's mobilization strategies have to pass through MEMD and MOFPED.

A review of ERA audited accounts and interviews with REA officials revealed that ERA was not remitting funds because its operations were in deficit throughout the years. The failure to reconcile the 5% levy was because REA had not obtained data on electricity generation and transmission from the respective companies. Failure to realize more funding was also attributed to REA's inability to come up with a comprehensive funds mobilization strategy to attract more investors.

As a result of the failure to mobilize adequate funds, REA has not been able to meet its funding requirements.

**Management response**

**At the time when the Strategy was prepared focus was on giving advice to the private sector on the sources of funding necessary to participate in the RE sector.**

**With the change in implementation modalities from private led to public financing, REA started undertaking feasibility studies that led to the packaging of RE projects for public financing by the Government of Uganda and Development Partners.**

**Packaged RE projects are now sent to MEMD and MoFPED for funding using the normal Government channels. REA no longer sources funding directly as was the case in the past. As a result REA has been able to secure funding from World Bank (US $ 45m), BADEA ($ SFD 21m) and is in the process of obtaining funds from NORAD (US $ 45m), JICA (US $ 30m), and from the Kuwait Fund which will bridge the shortfall.**

## 8.2.3 IMPLEMENTATION

### 8.2.3.1 Rural Household Accessibility to Electricity

According to the business plans, REA is expected to connect at least an additional 400,000, which is 10% rural electrification access by 2012, broken down as 20,000 (FY 2005/06) 30,000 (FY 2006/07), 50,000 (FY 2007/08) and 300,000[71] (FY 2008/09-2011/12). According to the ***investment guide for rural electrification***, by REA, these additional connections should be distributed as 220,000 on main grid, 100,000 on independent grids and 80,000 on solar-PV.

A review of annual rural electrification report by REA revealed that by end of FY 2009/10 REA had attained a 7% rural electrification access. However, management did not maintain data on the actual connections made over the periods and audit could not independently confirm the accuracy of the reported performance.

An analysis of connections revealed that there were low connections compared to the planned connections showing performance levels of 39%, 31% and 26% in FYs 2006/07, 2007/08 and 2008/09, respectively as shown in Table 49 below.

[71] No breakdown

**Table 49: Showing rural electrification connections by REA**

| Period | Planned Connections | Actual connections | Performance (%) |
|---|---|---|---|
| 2006/07 | 30,000 | 11,700 | 39% |
| 2007/08 | 50,000 | 15,562 | 31% |
| 2008/09 | 75,000* | 19,187 | 26% |
| 2009/10** | - | - | - |
| **Total** | **155,000** | **46,449** | **30%** |

**Source: OAG analysis of REA Annual Reports**

* Planned connections during FY2008/09 have been prorated (300,000/4 Yrs)

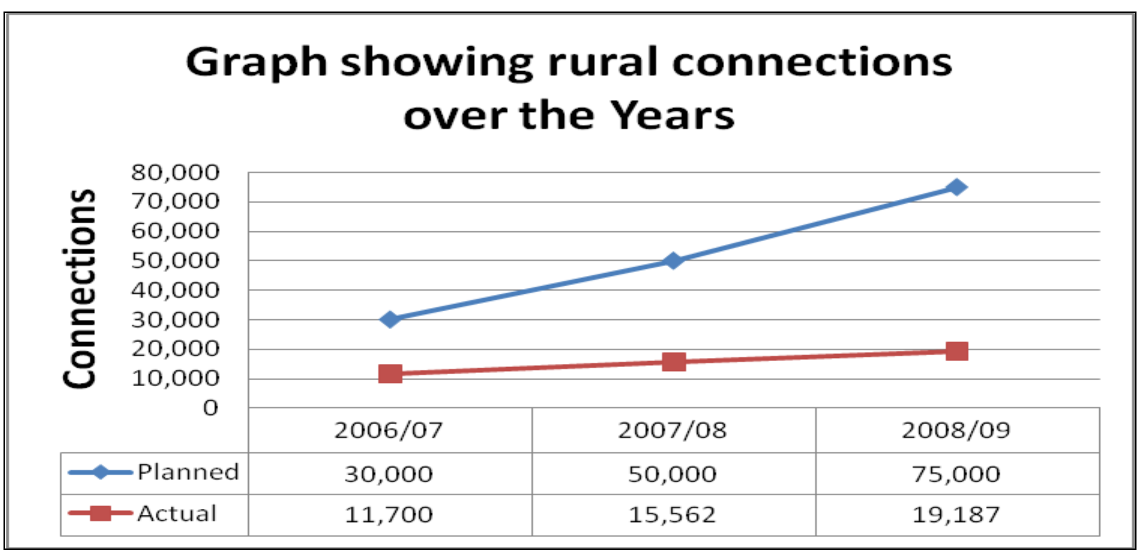
** Figures for 2009/10 could not be availed because the annual report was still being compiled by the time of audit (January 2011).

Connection rates in the project types of main grid, independent grids and PV system could not be analyzed because of incomplete data. A breakdown of connections into: main grid, independent grids and solar PV were not availed and therefore analysis of total connections by type could not be done.

We noted that REA did not have an accurate record of rural connections made. The above quoted actual connections are estimates derived from connections by the main electricity distributing company (UMEME) and contracted rural operators such as FERDSULT. Management explained that the ministry is conducting a survey to establish actual connections.

Through a review of REA's annual performance reports, field visits and interviews with management, we also noted that rural connections were still low as shown in Figure 15.

**Figure 15:**



Management attributed the low level of rural connections to the setbacks in the implementation of the rural electrification strategy model, which was based on the public private partnership approach. The model did not attract enough investors in the rural electrification program due to the high investment costs and uncertainties in the returns. In addition, the capacity of the local private sector to undertake projects was low and this was compounded by the unwillingness of the local financial institutions to provide long term financing for such investments[72].

Interviews with management revealed that REA is currently taking the lead in the development of the power infrastructure and outsourcing the operation and management of the constructed lines.

Management also attributed the low level of rural connections to the delayed implementation of Energy for Rural Transformation (ERT) programme. ERT I, which was designed for capacity building and establishment of institutional framework, delayed to take off. This in turn affected the commencement of ERT II, which was designed for project investment. With successful implementation of ERT II, REA expects a great increase in rural connections under ERT III, which was designed for accelerated investment.

Management further attributed the low level of connections to the low capitalization of rural electrification activities in the period 2005 to 2007 resulting from the diversion of funds meant for rural electrification to thermal generation when the country was hit by adverse power shortage.

Field visits also revealed that the majority of the rural populace was unable to connect to the existing electricity infrastructure. They cited wiring costs, connection fees and unaffordable electricity tariffs. For example West Nile Rural Electrification Company (WENRECO) Ltd., charged new consumers connection fees ranging between Ug Shs. 1.2 million to 1.5 million inclusive of pole service. REA management acknowledged this challenge and explained that it had introduced the ready board technology (See Picture 40)**.** The technology uses a board to house the essential electrical gadgets all in one place. It requires a single wire from the service point instead of wiring the entire house

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[72] Annual Reports

hence reducing both the wiring and connection costs to the rural households. Management explained that the technology has been piloted in Bundibugyo district and found acceptable to the community. It currently costs US $ 80 (Ug Shs.200,000) and this will further reduce to US $ 40 (Ug Shs.100,000) on subsidization by Government. Plans are underway to roll it out to other districts.

**Picture 40: Showing the ready board**


**Pictures taken on 24th January 2011**

According to document review and interviews with management, the low connections were initially attributed to insufficient power generation in the country which leads to load shedding. This made it difficult for REA to extend the grid to rural areas. The electricity demand is between 260 MW and 350 MW (Peak hours) and 190 MW (Off Peak) per day as compared to the current power generation capacity which is between 240 MW and 260 MW per day. Management further explained that the dilapidated electricity infrastructure causes inconsistent power supply which discourages further connections.

The low level of rural electrification connection has impeded the ability of some rural households to engage in income generating activities such as grain milling, food preservation and milk pasteurization, selling cold drinks, entertainment centres, metal fabrication, poultry farming and operation of barber salons.

**Management response**

**Some constraints that contribute to the low rural electricity connection rate include: high connection costs, high domestic house wiring charges and an unambitious low number of mandatory connections in UMEME concession. To try and address some of these constraints, REA has put in place programmes such as community initiated projects and the provision of subsidies for no pole connection. However these programmes delayed because of the late commencement of the ERTII project which was to fund them.**

**REA has piloted connection subsidies using the Electricity Cooperative model in Pader and Abim (through the Pader and Abim Community Multi Purpose Electricity Cooperative (PACMECS), through the Kyenjojo Concession & in Bundibugyo (through the Bundibugyo Electricity Cooperative Society (BECS). This has resulted in increased number of connections. The model will be replicated to the rest of the country.**

**Ready boards to reduce house wiring costs have been promoted in areas where REA has granted concessions to eligible companies. Plans are also underway to introduce micro-financing loans for new connections and rollout loans for solar PV products to cover the entire country.**

#### 8.2.3.2 Electricity Generation

According to business plan (2005-2008), Logical Framework, REA should have facilitated at least 30 Mega Watts (MW) of operating capacity by June 2008 and pipelined at least 40 MW of generation capacity, in advanced stage, by June 2006. A further 50 MW was supposed to be pipelined during the period 2008 to 2011.

Interviews and document review revealed that no power was generated in the FY 2006/07 and FY 2007/08. However, at the time of audit (January 2011), REA had facilitated operating capacity of 37.8 MW, pipelined 37 MW of generation capacity, in advanced stages and 53 MW projects were still under study as shown in **Table 50.**

**Table 50: Showing MWs generated by the projects that REA facilitated**

| | Projects | Mega Watts | Status |
|---|---|---|---|
| 1. | Kakira co-generation project | 16 | In operation |
| 2. | Kisiizi mini grid | 0.3 | In operation |
| 3. | Bugoye hydro project | 13 | In operation |
| 4. | WENRECO | 1.5 | In operation |
| 5. | Kinyara | 7 | In operation |
| | **Total Operating Capacity** | **37.8** | |
| 6. | Mpanga hydro project | 18 | Completed; awaiting commissioning |
| 7. | Ishasha/Kanungu hydro project | 6.5 | Completed; awaiting commissioning |
| 8. | Buseruka hydro project | 9 | Completed; awaiting commissioning |
| 9. | Nyagak | 3.5 | Under construction |
| | **Total pipelined in advanced stage** | **37** | |
| 10. | Kikagati | 14 | Under study |
| 11. | Nyamwamba | 14 | Under study |
| 12. | Siti | 25 | Under study |
| | **Total pipelined NOT in advanced stage** | **53** | |

**Source: REA's IREMP and Investment guide.**

**Picture 41: Showing the Mpanga hydro project**

**Picture taken by OAG on 13th Nov 2010**

Failure to facilitate generation in FY 2006/07-2007/08 and the low generation in the subsequent period was partly due to the funding gap and the poor response by the private sector.

Failure to facilitate generation and operation in time resulted in inadequate power available for rural electrification program during the strategic period (2005-2008).

**Management response**

**REA was supposed to facilitate the generation of electricity from renewable sources through provision of capital subsidy. However, this implementation model was changed to providing a cost reflective tariff in 2007. As a result, REA is no longer directly involved in supporting generation of electricity but only provides the interconnection to grid where it is required.**

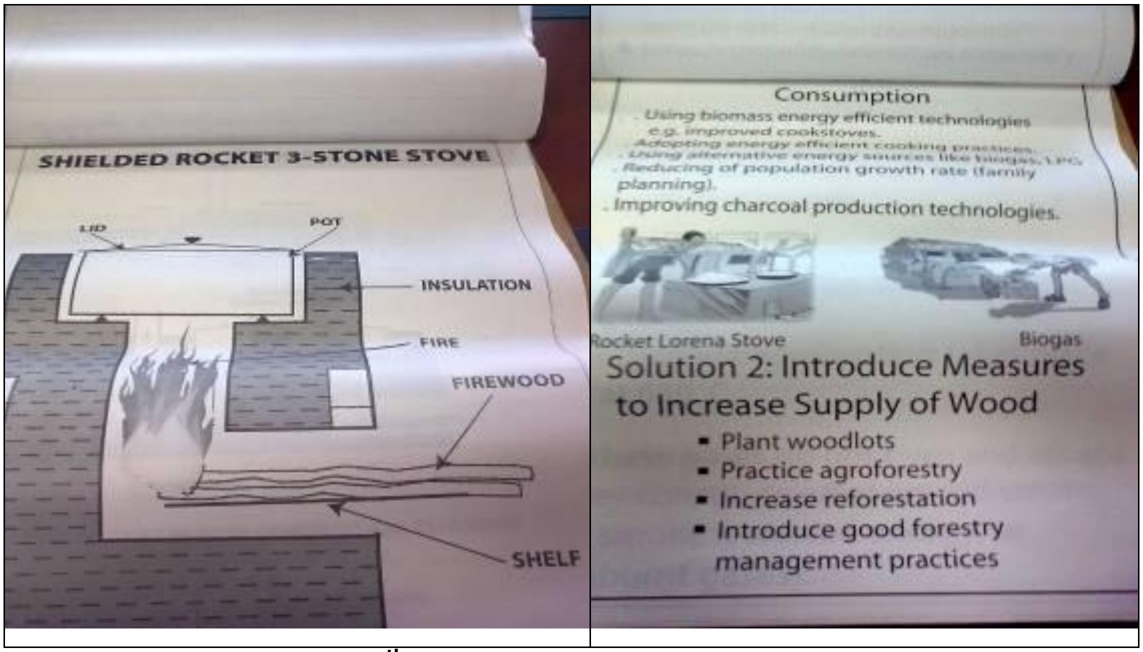
**The target in the business plan of (2005 – 2008) was to facilitate 30 MW in operation and 40MW was meant to be pipelined during the period 2008 – 2011.**

#### 8.2.3.3 Public Education and Awareness

According to the three year business plan for the period 2005-08, REA was to establish a public information and outreach unit which would sensitize communities on project activities, educate the public and raise awareness on the benefits of electricity, efficient use and safety. The unit was also supposed to raise awareness on the rural electrification investment opportunities.

It was observed that the public information and outreach unit was established and sensitization materials developed (See Picture 42).

**Picture 42: Showing sensitization materials used by the unit in public education and awareness**




**Pictures taken by OAG on 17th May 2010**

It was noted that public education and awareness campaigns were conducted prior to project commencement, during implementation and after completion (commissioning). This involved sensitizing the public on the benefits of electricity, efficient use and safety as well as introducing project contractors to local leaders, administrators of the districts and the communities. It was also noted that the investment guide had been uploaded on the REA website.

However the local people interviewed at Mbarara-Kyabirukwa line during inspection of REA projects, stated that they were not aware of connection requirements. Management acknowledged that awareness campaigns were not conducted to cover all rural consumers as they sometimes used radio and TV programmes. Management further explained that for lines constructed and handed over to UMEME, they do not carry out sensitization. Management also attributed the challenge to limited capacity in the unit where there was only one officer and REA's staff structure only provides for only two staff. Plans are underway to appoint the second person.

Inadequate awareness campaigns on rural electrification activities leave an information gap which hinders the rural populace from embracing the program initiatives.

**Management response**

**REA carries out sensitization programmes for all projects before, during and after construction. These include public meetings with stakeholders and the use of mass media. REA regularly interacts with Local Leaders and Members of Parliament whenever a project is proposed in a particular location.**

**Under the ERT I (2003 – 2009) REA carried out sensitization at both regional and district level to explain the benefits of rural electrification and how communities participate and how the local leaders could play a facilitative role.**

**REA is increasing the internal capacity of the unit as well as out sourcing consultants to increase the reach of public education and awareness. A way-leaves unit to address compensation was established and is now fully functional.**

### 8.2.3.4 REA's institutional sustainability

According to the business plan for FY 2005-08, REA should have been granted self accounting status by Dec 2006 and established as an autonomous body by an Act of Parliament by the end of 2008.

By the time of audit (November 2010), REA had not attained self accounting status and it continued to operate as a unit under MEMD with the Permanent Secretary (PS) designated as its accounting officer. It was also noted that a bill that would have established REA as an autonomous body had not been enacted by Parliament. This matter has been featuring in the previous Auditor General's financial audit reports and has not been addressed.

A review of the World Bank Project Appraisal Document revealed that it was decided by the Rural Electrification Framework Review Team not to upgrade REA's legal instrument of creation from the current statutory instrument to an Act of Parliament. The review recommended that REA's focus should remain on achieving overall rural electrification targets in the meantime[73].

Failure to grant autonomy limits REA's ability to operate independently.

[73] World Bank ERT 1 Appraisal Report

**Management response**

**Discussions are underway on the review of the entire electrification sub-sector which may lead to the amendment of the Electricity Act. A bill was drafted and discussions on it commenced, however, there has been slow progress. It is, therefore, assumed that with the amendment of the Act, the challenges of institutional sustainability shall be tackled.**

### 8.2.4 <u>MONITORING AND EVALUATION OF RE PROJECTS</u>

According to the Strategic plan, REA should produce annual Monitoring and Evaluation (M&E) reports.

It was noted that M&E reports were not produced. Management instead conducted inspection and monitoring visits and produced reports. Management explained that initially an M&E unit was designed to monitor the Private sector under the PPP approach. With a shift in approach, the unit has been monitoring and supervising the construction of projects by REA and concessions to private operators. The evaluation of REA's performance was not done due to a lean structure of the agency, but annual performance was always reported in annual performance reports. Management further explained that proposals were being forwarded for setting up a formal and fully fledged M&E unit.

Management did not carry out the evaluation of the activities of REA and as a result the reported performance figures (especially rural connections) in the annual performance reports were not validated by REA.

Due to failure by REA to carry out evaluation of its overall performance; the progress in rural electrification could not be tracked, and diversions from targets recorded and addressed. This explains why REA lacks information on the number of rural households provided with electricity in the country.

**<u>Management response:</u>**

**The focus has been mainly in monitoring and evaluation of project implementation progress and impact. However, REA is in the process of building capacity to continuously monitor overall performance of Rural**

**Electrification indicators. A manual was developed and tools are being put in place to effect proper monitoring.**

## 8.3 CONCLUSIONS

This chapter presents conclusions on planning, funding, implementation, monitoring and evaluation of the rural electrification activities by the Rural Electrification Agency (REA).

### 8.3.1 PLANNING

#### 8.3.1.1 Strategic, Business and Annual Planning

REA's business plan for the period from 2008 to 2011 was not approved by the Board and this led to preparation of annual work plans for the FYs 2008/09 and 2009/10 basing on an unauthentic business plan.

#### 8.3.1.2 Indicative Rural Electrification Master Plan

The Agency did not update the visual and geographical information in the IREMP, which was meant to provide information on existing and potential electrification projects to Government and donors. The dissemination of the IREMP is still inadequate, and this coupled with old Maps in the IREMP, may hamper the ability of stakeholders to make informed investment decisions.

### 8.3.2 FUNDING

REA did not mobilize enough funds to run its activities as planned and it may not be able to fully implement rural electrification programs and this may affect the realization of the 10% target by 2012.

### 8.3.3 IMPLEMENTATION

#### 8.3.3.1 Rural Household Accessibility to Electricity

REA has not connected electricity to rural households as planned and given the low connection rate, there is a possibility that REA may not realize its 10% target by 2012.

#### 8.3.3.2 Electricity Generation

REA did not facilitate operating and generation capacities as targeted and this affected planned connection of additional rural households during the period (2005-2008).

#### 8.3.3.3 Public Education and Awareness

Inadequate awareness leaves an information gap on connection requirements and benefits which may hinder public participation in and ownership of rural electrification projects thus affecting connection levels in the rural areas.

#### 8.3.3.4 REA's institutional sustainability

REA has not attained autonomy and this may affect its ability to make independent decisions regarding its operations to increase rural access to electricity.

### 8.3.4 MONITORING AND EVALUATION OF RURAL ELECTRIFICATION PROJECTS

Management of REA has not evaluated its performance and as a result, the challenges faced in electrifying rural households have not been tracked and corrective measures taken to address them. This condition may affect the attainment of the 10% rural connections by 2012.

## 8.4 RECOMMENDATIONS

To improve on the activities of REA, the audit recommends as follows;

### 8.4.1 PLANNING

#### 8.4.1.1 Strategic, Business and Annual Planning

Annual work plans should be prepared by REA on the basis of business plans, which are approved by the Board, to enable the alignment of the Board's policy/decisions with management operations.

#### 8.4.1.2 Indicative Rural Electrification Master Plan

- The Consultancy work to upgrade the Agency's IT systems using Geographical Information System (GIS) should be expedited to allow regular updates of Maps in the IREMP.
- Management should improve its strategy on the dissemination of the IREMP to allow a wider coverage.

### 8.4.2 FUNDING

- REA should mobilize funds as stipulated in the electricity Act and business plan so as to bridge the funding gaps

- REA should reconcile the revenue received on transmission levy with the amount levied on generation by the electricity transmission company.

**8.4.3 IMPLEMENTATION**

**8.43.1 Rural Household Accessibility to Electricity**

- Institutional structures should always be set up in time to avoid implementation delays.
- Appropriate investment models should be developed to attract investors to the rural electrification program.
- Initiatives should be developed to explore possibilities of lowering the connection costs and providing affordable electricity to the rural populace.
- REA should expedite the process of updating their data base to include connections under rural electrification.

**8.4.3.2 Electricity Generation**

REA should continue facilitating the on-going electricity generation projects and encourage the operation of the completed ones so as to have adequate power to enable increased rural household electricity connections.

**8.4.3.3 Public Education and Awareness**

REA should build the capacity of the public information and outreach unit to enable it to carry out its awareness activities.

**8.4.3.4 REA's institutional sustainability**

REA should continue engaging relevant stakeholders in the pursuance of attainment of autonomy as stipulated in the strategic plan.

**8.4.4 MONITORING AND EVALUATION OF RE PROJECTS**

REA should build the capacity to monitor and evaluate its performance to enable it to track progress, identify challenges and devise corrective measures.

# 9 MANAGEMENT OF UNIVERSAL EDUCATION CAPITATION GRANT

## 9.1 INTRODUCTION

### 9.1.1 Motivation

Universal Primary Education (UPE) is a policy by the Government of Uganda intended to enable children of school going-age to enter and remain in school and successfully complete the primary cycle of education in order to achieve human development and poverty reduction. This initiative is in line with the Government Poverty Eradication Action Plan (PEAP) which aimed at achieving the Millennium Development Goals (MDG's) on education, which are: achieving universal primary education by the year 2015; and, promoting gender equality and empowering women, by the elimination of gender disparities in primary education, preferably by 2005, and at all levels of education not later than 2015.

To facilitate this policy, the Government of Uganda (G.O.U) introduced the School Facilities Grant (SFG) and the UPE Capitation Grant. SFG was meant to provide the necessary school infrastructure such as classrooms, houses for teachers, latrines and school furniture; while the UPE capitation grant was to provide for instructional/scholastic materials, co-curricular activities, and the management and administration of the schools. At the time of introducing UPE (1997), there were 2.2 million pupils in primary schools and the number had risen to 8.3 million[74] pupils by 2010. G.O.U had spent Ug Shs.139 billion in capitation grant over the period FY 2006/07 to FY 2009/10.

Despite the increasing rate of pupil enrolment and the substantial investment in the UPE programme, there have been concerns about the high school dropout rate, the high Pupil to Book ratio (PBR), lack of minimal instructional materials, the high teacher and pupil absenteeism and the increasing number of candidates failing the Primary Leaving Examinations (PLE).

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[74] MOES Education Abstract 2009

Two (2) VFM audits have been conducted in the past on primary education. The audits focused on SFG and Inspection of Primary Schools by MOES and reports were issued to Parliament in 2003 and 2009, respectively.

It is against this background that a value for money audit was conducted in the management of UPE program focusing on the capitation grant to verify the challenges faced, investigate their causes and make recommendations to address them. In order to assess the effectiveness of the Capitation grant, this report also gives highlights on the performance of UPE support facilities, such as: availability of teachers, classrooms and desks; and the performance of pupils.

### 9.1.2 Description of the audit area

UPE program was introduced in January 1997 following the recommendations of the Government White Paper on education. Initially, Government was to meet the cost of primary education for four (4) pupils per family. This was expanded in 2002 to allow for the education of all children of primary school going age, regardless of the number per family.[75]

### 9.1.3 Statutory Mandate

The Education Act of 2008 Section 1 (C) gives full effect to the UPE policy of Government. The MOES is responsible for setting policies on all matters concerning education, including UPE. The UPE guidelines specify the roles and responsibilities of the stakeholders in the implementation of the UPE.

### 9.1.4 Main Goal of UPE Capitation Grant

The main goal of the UPE capitation Grant is to "provide the minimum necessary facilities and resources to enable Ugandan children of school-going age to enter and remain in school and successfully complete the primary cycle of education".

### 9.1.5 Main objectives of UPE Capitation Grant

The main objectives of the UPE capitation grant are: improving equitable access to basic education by removing the burden of paying school fees from the parents and

[75] Enhancing UPE: A Stake holder's hand book Page 9.

enhancing of the quality of primary education by Government providing the necessary resources to run the schools.

### 9.1.6 Components of UPE Capitation Grant

There are 4 components provided for under the UPE capitation grant and these are:

i. **Extra instructional/scholastic materials:** these materials include: supplementary books for readers, teacher reference books, syllabi, lesson preparation books, ball pens, markers, teaching aids, slates, chalk, blackboards, teachers' tables and chairs, maps, wall charts, globes and duplicating paper.

ii. **Co-curricular activities:** these activities include: games and sports, music, dance and drama activities, art and crafts and school clubs like debating clubs.

iii. **Management of the schools:** under this component, the items catered for include: class registers and refreshments for School Management Committees (SMC) and School Finance Committees (SFC) during monthly budget meetings.

iv. **Administration:** this component includes: head teachers' travels and other miscellaneous expenses while on official schoolduties.

### 9.1.7 Funding of UPE Capitation Grant

UPE capitation grant is funded by the Government of Uganda (GOU) and supported by development partners. The total funding for the period 2006/2007 to 2009/2010 is shown in table 51.

**Table 51: Showing funding to UPE capitation grant; from FY 2006/2007 to 2009/2010**

| FINANCIAL YEAR | BUDGETED AMOUNT ( UG Shs) | AMOUNT RELEASED (UG Shs) | OUT-TURN (In percentage) |
|---|---|---|---|
| 2006/2007 | 32,826,559,000 | 30,761,651,000 | 94 |
| 2007/2008 | 32,476,910,000 | 30,262,462,000 | 93 |
| 2008/2009 | 41,010,000,000 | 38,959,501,000 | 95 |
| 2009/2010 | 41,008,531,000 | 38,958,105,000 | 95 |
| **Total** | **147,322,000,000** | **138,941,719,000** | |

**Source: MOES Actual Release Schedules**

### 9.1.8 Audit Objectives

The audit objectives were: to ascertain whether the funds required for the UPE capitation grant are properly planned for, released, and accounted for; also to ascertain whether schools are adequately facilitated with adequate numbers of teachers, classrooms and desks for the UPE capitation grant to be utilized effectively; and to ascertain whether the beneficiary schools for the UPE capitation grants are properly supervised, monitored and evaluated at both the national and district/municipality levels.

### 9.1.9 Audit Scope

The audit was conducted in the MOES and focused on the management of the UPE capitation grant covering a period of four (4) FYs from 2006/2007 to 2009/2010. The audit also covered twenty three (23) EDs of which included eighteen (18) Districts of Kampala, Masaka, Mukono, Luwero, Wakiso, Kalangala, Gulu, Moroto, Bukwo, Mbale, Mbarara, Bushenyi, Bundibugyo, Kabale, Kabarole, Rukungiri, Arua, Nebbi, and five (5) Municipalities of Arua, Gulu, Masaka, Mbarara and Mbale.

## 9.2 FINDINGS

This chapter presents the findings and conclusions of the audit which have been arranged under the headings of planning and budgeting, implementation and and monitoring.

### 9.2.1 PLANNING AND BUDGETING

According to Section 2.1 (a) of the UPE guidelines of May 2007, MOFPED is supposed to communicate capitation grant indicative planning figures (IPFs) to all districts in November every year. Section 2.1 (b) of the UPE guidelines of May 2007 requires the education districts (EDs) to plan and budget for the available funds as advised by MOFPED basing on pupil enrolment. Section 2.6 of the UPE guidelines of May 2007 requires that Sub-county / division local governments should be directly involved in the process with respect to the verification of pupil enrolment. Section 2.3.1 (b) of the UPE Guidelines of October 2008 requires the annual budgets to be submitted to the MOES for approval prior to the commencement of a new FY.

Through review of budget call circulars and interviews with senior staff in the MOES and the education officers in 17 out of 23 Education Districts (EDs) visited, it was noted that MOFPED communicated UPE capitation grant IPFs in November every year.

We also noted that EDs were planning and budgeting for UPE capitation grant basing on pupil enrolment and IPFs; however, the pupil enrolment figures were not verified by the Sub-county / Division Local Governments.

Through a review of Annual school census forms and interviews with head teachers in 23 education districts, it was noted that the pupil enrolment figures are directly submitted to the DEO/MEO without being verified by the sub-county/Divisional local government officials. Further review of the forms revealed that they lacked a provision for signature by the sub-county/Divisional local government officials upon verification of the pupils' enrollment.

Through a review of the annual work plans and budgets in the 23 EDs visited, it was noted that although the annual work plans were prepared, there was no evidence of submission to the Ministry. Through a review of the first quarter advice letters for the FYs 2006/2007, 2008/2009 and 2009/2010 to MOFPED, we noted that the EDs did not prepare their annual work plans prior to the commencement of the FYs.

According to the Sub County/Division chiefs interviewed, the failure to verify pupil enrolment figures was because they were not informed of their duties and responsibilities by the EDs. They further explained that even if they had been informed, they would not have the facilitation to enable them to carry out the verification.

Because of the poor records archiving and retrieval at the Ministry, we were unable to access and verify the annual work plans submitted by EDS.

The failure by the EDs to submit annual work plans prior to the commencement of the FY was due to laxity and lack of prioritization of the preparation of the annual work plans.

Without involving the sub-county/Divisional officials in the verification of pupil enrolment, the likelihood of the head teachers inflating the pupil enrollment figures cannot be ruled out.

Failure to submit the annual work plans by EDs prior to the commencement of the FY affected the timely submission of supported release advices by the Ministry.

Ug Shs 663,385,649 spent on the annual schools census exercises in FYs 2006/2007 to 2009/10 as indicated in Table 52 below may not have achieved its intended objective of obtaining reliable data for planning.

**Table 52 showing Expenditure on Annual School Census**

| S/No. | Financial Year | Amount (Ug Shs) |
|---|---|---|
| 1. | 2006/07 | 25,300,250 |
| 2. | 2007/08 | 105,621,400 |
| 3. | 2008/09 | 213,410,000 |
| 4. | 2009/10 | 319,053,999 |
| | **Total** | **663,385,649** |

**Source: MOES IFMS extract**

**Management responses**

**This is a function of the Local Authorities with the CAO/TC as the Accounting Officer. The Ministry of Education and Sports disseminated the guidelines and explained the roles of all stakeholders. Nevertheless, continuous engagement/ dissemination will be possible using the communication and advocacy strategy which MOES is finalizing. A copy of this VFM report should be shared with the PS/MOLG for information and followup.**

**The facilitation of Sub county/Division officials to ensure that they carry out the pupil enrolment verification exercises as required by the UPE guidelines is also a function of the Local Governments/Authorities but subject to adequate funding provisions made by MOFPED.**

**In regard to the poor records archiving and retrieval, we concur and have this as a priority action when we transfer to the proposed more spacious offices, probably two years from now. In the meantime we are upgrading our EMIS through installation of new technologies (electronic link between the centre and districts).**

**Regarding the preparation of annual work plans, greater emphasis is to be placed on reminding EDs of their responsibility to ensure timely submission of Annual Work Plans.**

**The annual school Census can only be conducted when schools have opened for the New Year (February/March) and the data provided does actually inform the process of generating the IPFs that are reflected in the Annual Work Plans for the EDs. The MOES normally conducts selected validation of the Census results to enhance the reliability of the data collected.**

### 9.2.2 FUNDING

#### 9.2.2.1 Release of Funds to Education Districts

Sections 5.1 and 2.5.1 of the UPE Guidelines of May 2007 and October 2008, respectively, require the PS MOES to advise PS/ST/MOFPED on the funds to be released to the EDs depending on the fulfillment of the following conditions: receipt of a satisfactory District/Municipal annual UPE budget, the signing of a Letter of Understanding (LOU) between the District/Municipal LG and the MOES, and the submission of quarterly and cumulative progress reports as well as quarterly budget requests. The release should be twice in every quarter; 1/9 of the annual budget of UPE grant should be released in the first month of the quarter and the balance for the quarter released in the second month.

Where the release is less than that requested by the district/municipality, the MOES and MOFPED are supposed to give reasons for the underfunding.

Through scrutiny of release advice letters from PS MOES to PS MOFPED and interviews with senior staff in both Ministries, it was noted that in some cases the PS MOES advised the PS/ST/MOFPED on the amounts to be released, however, in others as shown in Table 53, there was no evidence of advice.

**Table 53 showing Amount released without advice by PS/MOES**

| FY | Month | Amount released by MOFPED (in Ug Shs) |
|---|---|---|
| 2006/07 | January | 3,479,579,000 |
| | April | 3,589,619,000 |
| 2007/08 | July | 2,706,409,000 |
| | August | 4,387,973,000 |
| | June | 147,493,000 |
| 2008/09 | August | 3,889,943,000 |
| | November | 3,829,980,000 |
| 2009/10 | March | 6,684,611,000 |
| | April | 12,589,399,000 |
| **Total** | | **41,305,006,000** |

It was also noted that in some instances the Ministry advised MOFPED even when EDs had not submitted annual work plans, budget requests and cumulative progress reports, and signed LOUs as shown in Table 54.

**Table 54: Showing Instances where MOES advised MOFPED to release funds without fulfillment of release conditionalities.**

| FY | QUARTER | AMOUNT (Ug Shs Billion) | REMARKS |
|---|---|---|---|
| 2006/2007 | Q1 | 3,647,395,000 | No work plans, budgets and LOUs signed. |
| 2008/2009 | Q1 | 4,556,667,000 | No work plans, budgets and LOUs signed. |
| 2009/2010 | Q1 | 4,556,672,000 | No work plans, budgets and LOUs signed. |
| **TOTAL** | | **12,760,734,000** | |

**Source: OAG Compilation from release advice letters to MOFPED from MOES**

A review of releases to districts revealed that the manner in which funds were released was contrary to the UPE guidelines which required that funds be released twice in every quarter (1/9 of the annual budget of UPE grant released in the first month of the quarter and the balance of the quarter in the second month) . For instance in the first quarter of FY 2009/10 a ninth of the annual budget was Shs.4,556,503,444 and MOFPED released Shs.9,294,069,000 resulting into an over funding of Shs.4,737,566,000 in the first month of the quarter. In the second month of the same quarter, Shs.5,695,629,306 required was not released resulting into a net underfunding of Shs.958,063,000 for the quarter. We also noted a constant under funding of Shs.2 billion in each of the four years under review as shown in Table 55.

**Table 55 showing (Under) and Over funding of UPE Capitation grant to districts**

| | Q1 | | Q2 | | Q3 | | Q4 | | Total |
|---|---|---|---|---|---|---|---|---|---|
| **FY** | **July** | **August** | **Oct** | **Nov** | **Jan** | **Feb** | **April** | **May** | |
| | **Shs''000** | **Shs''000** | **Shs''000** | **Shs''000** | **Shs''000** | **Shs''000** | **Shs''000** | **Shs''000** | **Shs''000** |
| 2006/07 | 0 | (1,289,005) | 125,996 | (2,203,834) | (167,816) | 1,960,069 | (57,776 ) | (432,539 ) | **(2,064,908)** |
| **(Under) /Over Funding** | | **(1,289,005)** | | **(2,077,838)** | | **1,792,253** | | **(490,315)** | |
| 2007/08 | (902,137) | 413,237 | 166,603 | (995,686) | 47,316 | (928,896) | 4,107,279 | (4,122,165) | **(2,214,447)** |
| **Under) /Over Funding** | | **(488,900)** | | **(829,083)** | | **(881,580)** | | **(14,886)** | |
| 2008/09 | (619) | (1,805,890) | 1,775,234 | (1,865,853) | 699,068 | (294,319) | 5,137,712 | (5,695,833) | **(2,050,500)** |
| **Under) /Over Funding** | | **(1,806,509)** | | **(90,619)** | | **404,749** | | **(558,121)** | |
| 2009/10 | 4,737,566 | (5,695,629) | 5,833,523 | (5,695,629) | (4,556,503) | 988,982 | 8,032,896 | (5,695,629) | **(2,050,426)** |
| **Under) /Over Funding** | | **(958,063)** | | **137,894** | | **(3,567,521)** | | **2,337,267** | |

**(): Underfunding**

**Source: OAG Analysis of MOES release advices and MOFPED actual releases**

In cases where the funds released were less than advised, there was no evidence to show that MOFPED had given reasons for the underfunding.

A further review of releases to the districts visited revealed that releases from MOFPED were made in the second month to the districts of Mbarara, Masaka, Mukono and third month for Bushenyi district and not in the first month of the second and third quarters for the F/Y 09/10 as shown inTable 56.

**Table 56 Showing Releases To Selected Districts For 2nd & 3rd Quarter Of FY 2009/10**

| DISTRICT | FY | Date when funds should have been released by MOFPED (1ST MTH OF 2ND QTR) | Date of actual release by MOFPED |
|---|---|---|---|
| BUSHENYI | 2009/10 | 5-Oct-09 | 2-Nov-09 |
| | | 5-Jan-10 | 26-Mar-10 |
| MBARARA | 2009/10 | 5-Oct-09 | 2-Nov-09 |
| | | 5-Jan-10 | 4-Feb-10 |
| MASAKA | 2009/10 | 5-Oct-09 | 2-Nov-09 |
| MUKONO | 2009/10 | 5-Oct-09 | 2-Nov-09 |
| | | 5-Jan-10 | 4-Feb-10 |

Because Because of poor records archiving and retrieval at the Ministry, we were unable to access and verify some release advice letters relating to the releases shown in Table 3 above.

There was no explanation from MOES and MOFPED as to why funds were released by PS/ST MOFPED to districts without advice from PS MOES.

The Ministry attributed the failure to abide by the UPE guidelines governing the release of funds to districts to MOFPED's policy of releasing funds according to what is available (operating a cash budget).

The release of funds by MOFPED to districts without advice from the Ministry may lead to non compliant and non beneficiary schools accessing UPE funds. This may also lead to under or over funding of UPE schools and misuse of public funds.

The failure by MOFPED to release UPE funds to districts according to the funds release pattern recommended in the UPE guidelines and delayed release of funds by MOFPED to districts led to the disruption of school programmes, such as: the provision of scholastic materials, facilitation of co-curricular activities and management of theschools.

**Management responses**

**attention to be paid to eliminating any weaknesses or laxity observed**. **However, changes in the new reporting arrangement**s, **introduced by MoFPED, (Through the OBT) require that the LoUs and/guidelines be reviewed.**

**Challenges also emerge when accountabilities and/or progress reports and work plans are not submitted in time by EDs. This causes late release of funds. Capitation grants like SFG are conditional grants. Where there are no work plans or progress reports, MoES cannot advise MoFPED to release funds to EDs/Schools. It should also be noted, however, that release performance of capitation grants by MoFPED has consistently been approximately 98% over the years, notwithstanding the submission of required work plans, progress, reports or signing of LoUs.**

#### 9.2.2.2 <u>Disbursement of Funds to Schools</u>

Sections 5.3(d) and 2.5.3(d) of the UPE Guidelines of May 2007 and October 2008 respectively, require the district/municipality Local Government to release the UPE grant to schools within the first week of receipt of funds from MOFPED.

Through review and analysis of releases from the district/municipality to the schools, it was noted that all the districts visited did not disburse funds to schools within the first week of receipt of funds contrary to the UPE guidelines. In the districts of Bushenyi, Mbarara, Masaka, Nebbi and Rukungiri, the average delay in disbursement of funds from the districts to the schools was 3 days, 4 days, 11 days, 14 days and 2 days, respectively. The longest delay, which was 55 days, was noted in Mbarara district for the November release in FY 2006/07.

Delay to disburse funds to the schools was caused by laxity of the district officials responsible for processing and transfer of funds to the school accounts. The longest delay (55 days) was attributed to schools being on holiday, in the month of December 2006, at the time of receipt of funds in the district account; these funds were withheld on the district account until the schools opened for the new term in February 2007.
The district finance department officials interviewed also attributed the delayed release of funds to some schools to delayed submission of accountabilities by school head teachers.

The delayed release of funds to schools disrupts the timely implementation of planned school activities, like: provision of scholastic materials, facilitation of co-curricular activities and management of the schools.

**Management responses**

**There has been discussion between MoES and MoFPED to the effect that releases should be made directly to school accounts (STP) to eliminate delays already observed at the point of EDs remitting to schools. Piloting of this arrangement has delayed because MoFPED seems to have difficulty with getting all school A/C numbers set up on the financial management system.**

**However, challenges have been observed in using the STP approach including: remittance of funds to accounts of non-existent schools when they close; or even enrolment numbers may fall or increase, and information is not immediately relayed. There are also administrative costs that have to be borne by the beneficiary schools which have to be defrayed from the meager provision of capitation grants to schools.**

### 9.2.2.3 Accounting for UPE Capitation Grant

Sections 4.2(a) (iii) and 2.4(a) (iii) of the UPE Guidelines of May 2007 and October 2008 respectively, require the district/municipality to submit UPE accountabilities to the PS MOES on or before the last working day of the 1st month after the close of the quarter. Section 5.4 (d) of the UPE Guidelines of May 2007 requires automatic withholding of any further UPE release to districts/Municipalities which fail to comply with the above requirement.

Through review and analysis of the accountability returns submitted by the EDs to MOES for the FY 2009/10 as shown in Table 57, it was noted that on average EDs delayed by 11 days to submit accountabilities. We also noted that 12 (50%) out of the 24 EDs visited submitted accountabilities in time. Further analysis revealed that some districts did not submit quarterly accountabilities. Kampala and Bududa districts never submitted accountabilities at all yet they continued accessing UPE funds in all the quarters.

**Table 57 Showing Quarterly Submission of Accountabilities by EDs in FY 2009/10**

| EDS | Q1 | Q2 | Q3 | Q4 | Average |
|---|---|---|---|---|---|
| Submitted in time | 14 (58.4%) | 15 (62.5%) | 9 (37.5%) | 9 (37.5%) | 12 (49%) |
| Delayed | 5 (20.8%) | 1 (4.2%) | 0 (0%) | 4 (16.7%) | 2 (10.4%) |
| Never submitted | 5 (20.8%) | 8 (33.3%) | 15 (62.5%) | 11 (45.8%) | 10 (40.6%) |
| **Total** | **24 (100%)** | **24 (100%)** | **24 (100%)** | **24 (100%)** | **24 (100%)** |
| Average delay | 12 days | 1 day | 0 | 31 days | 11 days |

**Source: OAG analysis of EDs accountability returns at MOES**

An analysis of accountabilities for the period from FY 2006/07 to FY 2008/09 could not be made due to the failure by the Ministry to avail records. Management explained that the records had been archived and kept in a container away from the Ministry due to lack of space.

The Management of MOES attributed the non submission of accountabilities by some EDs to laxity of the officials. Audit also attributed non submission of accountabilities by Kampala and Bududa EDs to the failure by the Ministry to advise MOFPED not to release funds to the districts which had not complied with accountability requirements.

Failure to submit accountabilities in time will affect timely release of further UPE capitation grants to the EDs and, subsequently, to schools if the provision in Section 5.4 (d) of the UPE Guidelines of May 2007 is implemented.

**Management responses**

**Timely submission of UPE grant accountabilities by schools and EDs to the Ministry is a function of the Local Government/Authorities. The Ministry will continue reminding all stakeholders of their responsibilities. However, the MoES will continue playing its advisory role with the desired vigilance to ensure compliance. For example, MoES raised (at MoFPED workshop on the OBT in 2009) issues regarding the introduction of Performance Form B to MoFPED and the implications or gaps arising there from.**

## 9.2.3 SUPERVISION, MONITORING AND EVALUATION

### 9.2.3.1 Monitoring and Evaluation by MOFPED and MOLG

Section 7.2 (b) of the UPE Guidelines of May 2007 requires the inspectorate departments of MOFPED and MOLG respectively to periodically monitor and evaluate UPE implementation and submit monitoring reports to MOES on a quarterly basis.

Through interviews and review of consolidated reports from the internal audit and inspectorate department of MOFPED, it was noted that no supervision, monitoring and evaluation was carried out by this department on UPE activities.

A review of inspectorate reports from the MOLG revealed that inspection visits were carried out on all government programmes conducted by the districts. However, there were no matters relating to UPE capitation grant raised in the reports.

According to officials from MOFPED inspectorate department, supervision, M & E was not done because this was not their mandate. They further stated that they carried out inspection of secondary schools only and sometimes inspected primary schools on special request. However, audit noted that the mandate regarding this function is spelt out in Section 7.2 (b) the UPE Guidelines of May 2007.

Lack of supervision, M & E of UPE Implementation by MOFPED Inspectorate department, leads to failure to identify implementation challenges of the UPE programme, thus failing to provide timely remedial action.

**Management responses**

**Management agrees with the audit observation, but probably the office of the Rt. Hon. Prime Minister should be notified of the omissions to facilitate this office (of Rt Hon. PM) to co-ordinate the various MDAs in executing their responsibilities.**

**9.2.3.2 Monitoring and Evaluation by MOES**

Section 7.2(a) and Section 8.1 (viii) of the UPE Guidelines of May 2007 and October 2008 respectively require MOES to periodically monitor and evaluate districts/municipalities by verifying compliance of activities with the UPE implementation guidelines, appraising the districts/municipalities, on the progress in UPE implementation and providing or arranging support to the districts/municipalities, where necessary.

Through interviews with MOES officials and review of M & E reports by MOES, audit noted that MOES periodically monitored and evaluated the performance of the UPE programme in selected districts and sometimes on special requests by high Government officials.

Audit further noted that the districts chosen for the M & E exercises were not scientifically selected and hence the results of the exercise could not generate information on the nationwide performance of the programme.

Audit also noted that in some instances no action was taken on the recommendations made to rectify the areas of weaknesses identified. For example, a recommendation by DES to conduct a comprehensive survey of all primary schools in the Karamoja sub region to corroborate the annual school census with information contained in the EMIS database regarding district specific enrollment figures and number of teachers was not effected by the Ministry.

Audit further noted that the guidelines did not state how often M & E should be carried out by the Ministry.

Absence of specific time frame of carrying out M & E may result in M & E being done on an adhoc basis.

**Management responses**
**Monitoring and evaluation (M&E) is done continuously, including during the Annual Sector Performance Reviews. The Ministry periodically conducts joint monitoring exercises/visits together with the Education Development Partners. Reports generated from these exercises are used during discussions at the Annual Education Sector Performance Review Workshops. The MOES will, in future invite OAG, to participate in these Review Workshops and share the findings of Reports for VFM audits and recommendations in M & E reports and Sector reviews incorporated into the Aide Memoires under the responsible office or institutions.**

**Actions on the recommendations made in the M&E reports, are done both for activities conducted by the Education Planning and Policy Analysis Department (EPPAD) and the Directorate of Education Standards (DES). The former conducts joint monitoring exercises after zoning the entire country on the basis of education activities.**

**9.2.3.3 Supervision and Monitoring by Districts/Municipalities**

Section 7.4 of the UPE Guidelines of May 2007 require the districts/municipalities to develop annual monitoring visit work plans providing for each school to be visited at least once a term of the school year (3 times a year) by the district/municipal Inspector/Education officers.

Section 7.3 of the UPE Guidelines of May 2007 requires districts/municipalities to carry out supervision and monitoring visits to schools to assess: evidence of expenditure, compliance with guidelines and financial accountability. These visits should be reported quarterly, as part of the conditions for continued release of funds.

An analysis of inspection work plans and reports submitted by EDs to Directorate of Education Standards (DES) during FYs 2008/09 and 2009/10 revealed that few EDs were preparing and submitting work plans and inspection reports every quarter. In FY 2008/09, an average of 30 EDs (25%) out of 118 EDs prepared and submitted inspection work plans to DES and 33 EDS (30%) submitted inspection reports. In FY 2009/10, an average of 7 EDs (6%) out of 118 EDs prepared and submitted inspection work plans to DES and 24 EDS (21%) submitted inspection reports. The details of quarterly performance in this regard are as indicated in Table 58.

**Table 58: Showing Analysis of inspection work plans and reports submitted by EDs**

| FY | 2008/09 | | | | **Average** | 2009/10 | | | | **Average** |
|---|---|---|---|---|---|---|---|---|---|---|
| **Inspection** | **Q1** | **Q2** | **Q3** | **Q4** | | **Q1** | **Q2** | **Q3** | **Q4** | |
| Work plans | 13 (11%) | 31 (26%) | 36 (31%) | 38 (32%) | **30 (25%)** | 8 (7%) | 10 (8%) | 7 (6%) | 4 (3%) | **7 (6%)** |
| Reports | 56 (53%) | 34 (29%) | 26 (22%) | 17 (14%) | **33 (30%)** | 28 (24%) | 23 (20%) | 27 (23%) | 19 (16%) | **24 (21%)** |

**Source: OAG analysis of submission of inspection work plans and reports to DES**

We also noted from the above analysis that on average, more inspection reports were submitted compared to work plans. For example in FY 2008/09, an average of 33 inspection reports were submitted compared to 30 work plans and in FY 2009/10, 24 reports were submitted as compared to 7 work plans.

We also noted that prior to FY 2008/09 EDs were not reporting on a quarterly basis, however, this situation improved while DES was still involved with direct release of inspection funds to EDs on a quarterly basis.

A review of quarterly monitoring and supervision reports by District Inspectors of Schools (DISs) in 8 EDs revealed that although monitoring and supervision was done, not all the schools were visited at least once in a term contrary to Section 7.4 of the UPE Guidelines of May 2007. Further scrutiny of the reports revealed that assessments were made on evidence of expenditure, compliance with guidelines and financial accountability. Schools were facing challenges of late release of UPE funds, late submission of accountabilities, nonexistent School Management Committees, failure to approve school budgets by SMC, poor record keeping, limited display of mandatory notices (funds released, enrollment figures, number of staff) by head teachers, teacher/pupil absenteeism and high drop-out rates.

Management at DES explained that the failure to prepare and submit inspection work plans and reports was due to laxity by the district inspectors of schools who were not under the direct control of DES, but under the CAO, and this makes it difficult to enforce the submission of work plans and reports. Management further explained that inspectors, especially those in the newly created districts, were not trained due to limited funding of the directorate.

Management at EDs attributed the failure to carry out inspection visits of every school at least once in a term, and compile quarterly reports, to inadequate funding by districts and the ministry, and limited human resources to enable them carry out school inspections.

The failure to carry out regular inspection of all schools and compile quarterly reports hampered EDs' ability to assess the compliance of schools with expenditure and other UPE guidelines and financial accountability. The absence of quarterly inspection reports denied districts and schools an opportunity to solve the challenges faced in the implementation of the programme.

Failure by DISs to prepare and submit inspection work plans and reports to DES impairs DES's ability to monitor and evaluate the progress of the UPE programme due to insufficient information from EDs.

**Management responses**

**Management agrees with the audit observation since responsibility rests with CAOs at the EDs as the Accounting Officers for decentralized services, including primary education, to ensure that District Inspectors of Schools prepare and submit inspection work plans and reports to the DES.**

**Inspection funds are now sent directly to the Local Governments by MOFPED. The Ministry will continue to monitor and advise MOFPED whenever any stakeholder reneges on responsibilities. In addition, the external and internal audit sections of the Local Governments should be more vigilant in supporting Local Governments to execute this function.**

**DES in the interim has trained and recommended the use of associate assessors, comprising retired educationists, to plug the gap created as a result of inadequate inspectors.**

## 9.2.4 OTHER SUPPORT FACILITIES TO UPE CAPITATION GRANT

### 9.2.4.1 Availability of Teachers

According to the Ministry Minimum Quality Standards (MQS) on teachers, a class of fifty four (54) pupils should have one (1) teacher, commonly referred to as "Pupil to Teacher Ratio" (PTR) of 54:1.

An analysis of MOES Education abstracts on pupil to teacher ratio revealed that at the national level there was one (1) teacher, for every fifty five (55) pupils on average in the period 2006 to 2010 instead of fifty four (54). This was a presumably good performance compared to the national target as shown in Table 59.

**Table 59: Showing national average PTR between 2006 and 2010.**

| Year / Details | 2006 | 2007 | 2008 | 2009 | 2010 | Average |
|---|---|---|---|---|---|---|
| Total Pupil Enrolment **(a)** | 6,668,931 | 6,777,675 | 6,871,588 | 7,185,584 | 7,196,922 | 6,940,140 |
| Available Gov't Teachers **(b)** | 126,990 | 127,694 | 124,595 | 123,901 | 124,851 | 125,606 |
| **PTR (a/b)** | 53 | 53 | 55 | 58 | 58 | 55 |

**Source: OAG compilation from MOES-Education Abstracts**

A trend analysis of the PTR revealed that the ratio had increased from 53 in the years 2006 and 2007 to 55 in the year 2008 and then 58 in the years 2009 and 2010. However, further analysis of PTR of individual districts showed divergence from the national average ranging between 32 to 94 pupils per teacher (2006), 32 to 116 pupils per teacher (2007), 33 to 112 pupils per teacher (2008 and 2009) as shown in Table 60**.**

**Table 60: Showing Districts with the Highest and Lowest PTR**

| Academic Year | Lowest PTR (best) | District | Highest PTR (poor) | District |
|---|---|---|---|---|
| 2006 | 32:1 | Kalangala | 94:1 | Kitgum |
| 2007 | 32:1 | Kalangala | 116:1 | Kaabong |
| 2008 | 33:1 | Kalangala | 112:1 | Kaabong |
| 2009 | 32: 1 | Kalangala | 112: I | Kotido |
| 2010* | * | * | * | * |

***The education abstract for 2010 had not been compiled at the time of Audit (February 2011)**

**Source: MOES-Education Abstracts**

Although Kalangala had the lowest PTR, presumably the best district with the lowest PTR, the district is composed of islands in Lake Victoria and with a relatively low population and school enrolment.

Management attributed the highest PTR in Kitgum, Kaboong and Kotido to un-favorable working conditions in the districts, such as: poor infrastructure and amenities.

Further analysis of PTR of 13 schools visited in the 7 districts also indicated a divergence from the national target ranging from 19 to 64 pupils per teacher. Nagalama mixed P.S-Mukono (52:1), Rwentuha P.S-Bushenyi (41:1), St. Aloysius P.S-Mbarara (42:1), Katojo Biharwe P.S-Mbarara (33:1), Kigezi High P.S-Kabale (36:1), Nyamiyaga P.S-Kabale (19:1) and Rwere P.S-Kabale (40:1). The poorly performing schools included: Orawa P.S-Arua (61:1), Jiako P.S-Arua (64:1), Nebbi P.S-Nebbi (57:1), Agwok P.S-Nebbi (60:1), Bubirabi-Mbale (64:1) and Nyondo Dem. P.S-Mbale (55:1).

Audit attributed the high PTR to inadequate recruitment of primary teachers by the districts which could not match the high demand of teachers caused by increased pupil enrolment in the country.

The failure to attain the requisite PTR by districts and schools affects pupils' performance in class resulting from inadequate attention the pupils receive from teachers. The teachers are overwhelmed by the number of pupils in a class.

**Management responses**

**The Ministry uses district PTR during the deployment of teachers, but this has changed with the recent approval by Cabinet of a new formula for teacher recruitment, which ensures equitable deployment, whereby at least each class has a teacher. The Ministry of Public Service (MOPS) is responsible for the design and implementation of the "hard to reach" programme which attracts teachers in hard to reach districts, and recently, Cabinet approved new geographical (hard to reach) areas and also redefined the scope to include secondary, TVET and tertiary institutions. MoES will nevertheless continue interfacing with MoPS and other stakeholders on this matter.**

### 9.2.4.2 Availability of Classrooms

According to the Ministry Minimum Quality Standards (MQS), each classroom should have fifty four (54) pupils, also known as Pupil to Classroom Ratio (PCR) of 54:1

An analysis of MOES Education abstracts on pupil to classroom ratio (PCR) revealed that at the national level there were seventy eight (78) pupils per classroom on average in the period 2006 to 2010 instead of fifty four (54) as shown in Table 61.

**Table 61: Showing national average PCR between 2006 and 2010**

| Year / Details | 2006 | 2007 | 2008 | 2009 | 2010 | Average |
|---|---|---|---|---|---|---|
| Total Pupil Enrolment **(a)** | 6,668,931 | 6,777,675 | 6,871,588 | 7,185,584 | 7,196,922 | 6,940,140 |
| Available Gov't Classrooms **(b)** | 85,902 | 86,306 | 88,410 | 91,668 | 95,134 | 89,484 |
| **PCR (a/b)** | 78 | 79 | 78 | 78 | 76 | 78 |

**Source: OAG compilation from MOES-Education Abstracts**

A trend analysis of the PCR revealed that the ratio had increased from 78 in the year 2006 to 79 in 2007. It stagnated at 78 in the years 2008 and 2009 and dropped to 76 in 2010. However, further analysis of PCR of individual districts showed divergence from the national average ranging between 28 to 156 pupils per classroom (2006), 29 to 153 pupils per classroom (2007), 27 to 148 pupils per classroom (2008) and 27 to 112 pupils per classroom (2009) as shown in **Table 62.**

**Table 62: Showing Districts with the number of pupils in a classroom**

| **Academic Year** | **Lowest PCR (best)** | **District** | **Highest PCR (poor)** | **District** |
|---|---|---|---|---|
| 2006 | 28: 1 | Kalangala | 156:1 | Pader |
| 2007 | 29: 1 | Kalangala | 153:1 | Pader |
| 2008 | 27: 1 | Kalangala | 148:1 | Koboko |
| 2009 | 27: 1 | Kalangala | 112: I | Kaabong |
| 2010* | * | * | * | * |

***The education abstract for 2010 had not been compiled at the time of Audit (February 2011)**

**Source: MOES-Education Abstracts**

Although Kalangala had the lowest PCR, presumably the best district with the lowest PCR, the district is composed of islands in Lake Victoria and with a relatively low population and enrolment in schools.

Further analysis of PCR of 12 schools visited in the 7 districts also indicated a divergence from the national target ranging from 24 to 478 pupils per classroom. A PCR of 478:1 was noted in Agwok P.S in Nebbi district with an enrollment of 956 pupils, where there were only two complete classrooms and ten others were under construction. Only 4 schools (33%) were performing well and they included: St. Aloysius P.S-Mbarara (24:1), Katojo Biharwe P.S-Mbarara (41:1), Kigezi High P.S-Kabale (36:1) and Nyamiyaga P.S-Kabale (47:1). The majority of schools (67%) had more than the requisite number of pupils in a classroom and they included: Nagalama mixed P.S-Mukono (72:1), Rwentuha P.S-Bushenyi (62:1), Orawa P.S-Arua (175:1), Jiako P.S-Arua (122:1), Nebbi P.S-Nebbi (98:1), Agwok P.S-Nebbi (478:1), Nyondo P.S-Mbale (59:1) and Rwere P.S-Kabale (58:1).

Audit attributes the high PCR to inadequate planning for the classrooms construction by the MOES so as to match the increasing pupil enrollment.

The failure to attain the requisite PCR by schools leads to congestion of pupils in the classrooms as shown in 43 and this affects pupils' concentration and performance.

**Picture 43: showing congested pupils at Nebbi Primary School**

**Photograph by OAG staff**

**Management responses**

**The Ministry uses district PCR during allocation for construction of classrooms. The challenge, however, is in securing appropriate/adequate funding from MoFPED. Almost five years ago, funds for classroom construction (under the SFG Program) were shifted to financing salary increment for primary school teachers and never returned during subsequent financial years, as had been envisaged. Besides, other competing demands, including: sanitary facilities (latrines) and teachers' houses have emerged. The PRDP has also impacted, negatively, on the available funds to the sector for classroom construction.**

### 9.2.4.3 Availability of School Desks

According to the Ministry Minimum Quality Standards (MQS), three (3) pupils should use one (1) desk, also known as Pupil to Desk Ratio (PDR) of 3:1.

Audit could not establish whether the required PDR of 3:1 had been achieved at the national and district levels because the Ministry and districts did not have the stock of desks available in Government Primary Schools. However, in the schools visited, we noted that many pupils, especially in lower classes, did not have enough school desks and pupils were found seated on floors. For example, in Orawa P.S in Arua district all pupils in P.1 were found seated on the floor, in Jiako P.S in Arua district 6 pupils shared a desk in P.1, Bubirabi P.S in Mbale district and, Nebbi P.S in Nebbi district 5 pupils shared a desk in P.3.

Audit attributes the high PDR to inadequate planning for procurement of desks so as to match the increasing pupil enrollment.

The failure to attain the requisite PDR by schools leads to pupils squeezing themselves on desks and others sitting on the floor as shown in Picture 44 and this affects pupils' concentration and performance.

**Picture 44: showing pupils at Bubirabi Primary School seated on the floor due to limited school desks**

**Photograph by OAG staff**

**Management responses**

**The Local Governments and schools will be urged to keep an inventory of school desks. The local authorities have the discretion to determine how to utilize the resources availed to them on the basis of need. They may choose to invest in the construction of classrooms, teacher houses or furniture. Once the new EMIS technologies are fully installed, the stock of furniture will be maintained on the system.**

### 9.2.5 PERFORMANCE OF PUPILS

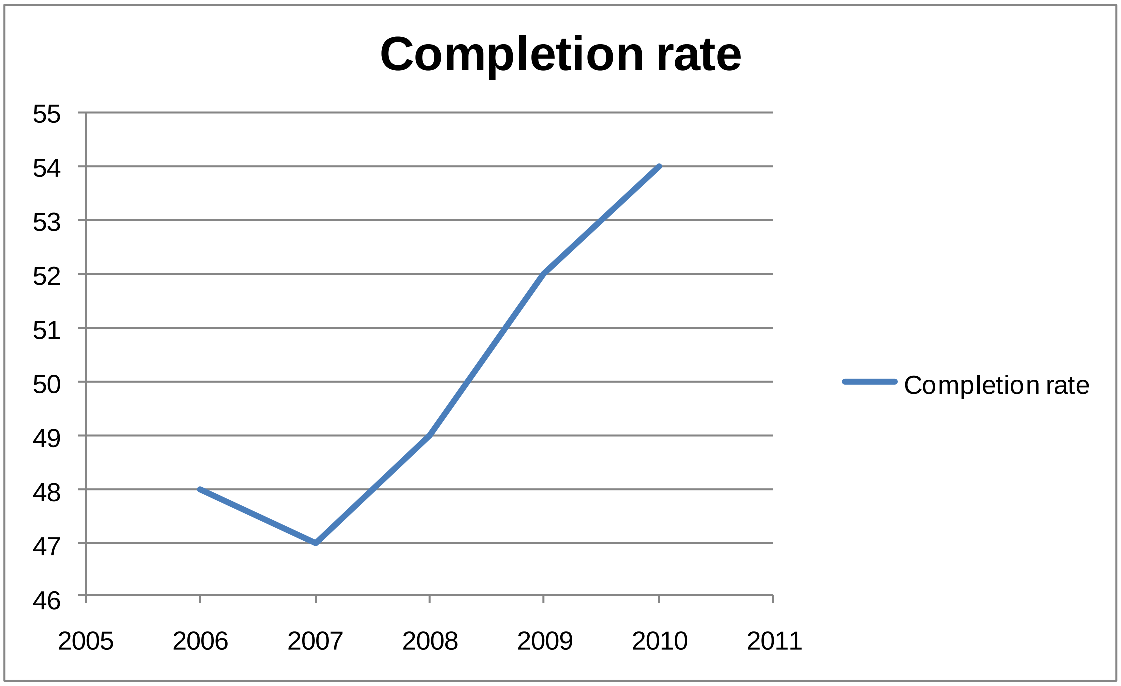
We also analyzed the performance of pupils as a whole in order to assess the effectiveness of the UPE capitation grant. We carried out a trend analysis of performance indicators which are directly related to the effectiveness of the grant as reported by MOES as follows:

#### 9.2.5.1 Course Completion

According to the UPE guidelines of October, 2008, Section 1.2, the main goal of UPE is to provide the minimum necessary facilities and resources to enable all Ugandan children of school going age (6+Years) to enter and remain in school compulsorily and complete the primary education cycle.

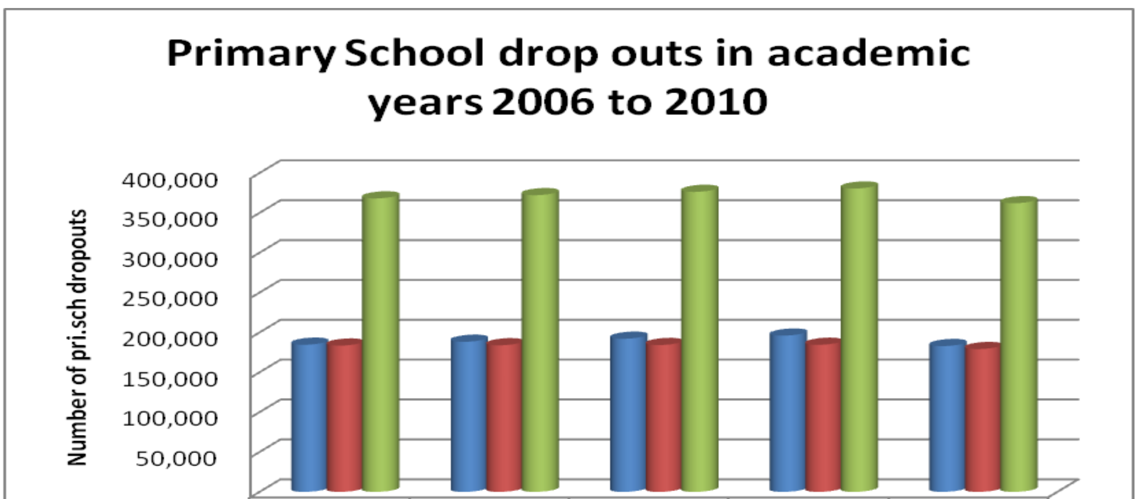
A trend analysis of the completion rate to P.7 as reported by the MOES revealed a performance rate of below 50% in academic years 2006, 2007, and 2008. In academic years 2009 and 2010, the completion rate was of 52% and 54%, respectively. This however is below the required 100% completion rate as shown in Figure 16.

**Figure 16: Showing Completion rate to P.7 over the years 2006 to 2010**




A further analysis of the MOES performance indicators revealed that the low completion rate to P .7 was caused by the school dropouts as shown in Figure 17.

**Figure 17: Showing number of pupil drop outs over the years 2006 to 2010**




| | 2006 | 2007 | 2008 | 2009 | 2010 |
|---|---|---|---|---|---|
| Boys | 184,612 | 188,338 | 192,139 | 196,016 | 182,908 |
| Girls | 183,535 | 183,896 | 184,228 | 184,528 | 179,207 |
| Total | 368,147 | 372,234 | 376,367 | 380,544 | 362,115 |

**Source: OAG analysis of MOES data on Annual Performance Reports for FY 2009/10**

The rate of school drop out over the academic years 2006 to 2010 fell from 5% to 4.3% as shown in Table 63.

**Table 63: Showing school dropout rates over the years 2006 to 2010**

| | 2006 | 2007 | 2008 | 2009 | 2010 |
|---|---|---|---|---|---|
| **No. of drop outs** | 368,147 | 372,234 | 376,366 | 380,544 | 362,115 |
| **%age of drop out** | 5.0 | 4.9 | 4.7 | 4.5 | 4.4 |

**Source: MOES data on Annual Performance Reports for FY 2009/10**

The School head teachers interviewed attributed the high number of school dropouts to: the use of pupils by parents as a source of production labor; early marriages; failure by parents to send children to school; and lack of provision of lunch by parents, among other reasons.

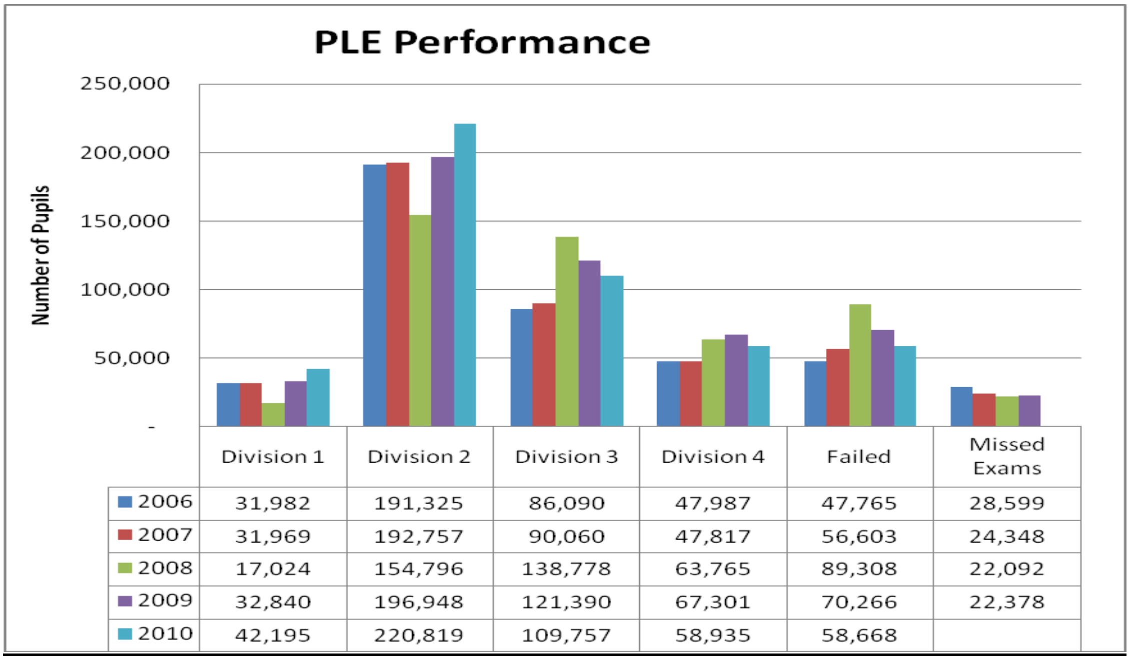
**Management responses**

**Since management of SMCs, Local Councils and head teachers is a Local Government's/Authorities' function, they are directly involved in ensuring that LCs, SMCs and head teachers sensitise and encourage parents to keep their children in school. The MOES will continue to remind them accordingly and reinforce their efforts through communication and advocacy initiatives.**

#### 9.2.5.2 Performance of Pupils at Primary Leaving Examinations

An An analysis of the Primary Leaving Examination (PLE) results for the academic years 2006 to 2010 revealed that most pupils were passing in Division 2 and Division 3. The number of pupils who failed was more than those who passed in Division 1 in all the years. Although the number of pupils who failed exams reduced in 2009 and 2010, the rate of reduction was low. Better performance was registered in 2010 and the worst results were noted in 2008. Detailed performance is shown in Figure 18.

**Figure 18: Showing PLE performance over the years 2006 to 2010**




We also noted that registered pupils were missing exams; yet government paid for their registration (PLE fees). From 2006 to 2009 a total of 97,417 pupils missed PLE exams, resulting in a loss of Shs.974,170,000 by Government as shown in Table 64.

**Table 64 showing amount lost by Government**

| **Academic Year** | **2006** | **2007** | **2008** | **2009** | **Total** |
|---|---|---|---|---|---|
| Missed Exams | 28,599 | 24,348 | 22,092 | 22,378 | 97,417 |
| Fee per pupil | 10,000 | 10,000 | 10,000 | 10,000 | |
| **Loss (Ug.Shs.)** | **285,990,000** | **243,480,000** | **220,920,000** | **223,780,000** | **974,170,000** |

**Source OAG analysis of MOES PLE Payments to UNEB**

Through interviews and document review, the low performance at PLE exams was attributed to absenteeism of both pupils and teachers, limited scholastic materials in schools, and inadequate classrooms, teachers and desks as explained earlier.

**Management responses**

**MOES is only constrained by the resource envelope which cannot finance the plans/requirements that are put to MoFPED.**

**Together with the Ministry of Public Service, implementation of Performance Agreements is underway starting with Head teachers, which is an objective approach for assessing their performance.**

**The Education Service Commission has recently made appointments in the Directorate of Education Standards, which will enhance its efficiency and effectiveness in overseeing this function in collaboration with the District Inspectorate. Inspections are supposed to be conducted every term and reports issued to enable follow-up.**

**The automatic promotions policy was one such measure to ensure primary school completion. However, good performance in examinations or preferably provision of quality education is conditioned by several other factors such as the entire infrastructure for teaching and learning, sanitary conditions or facilities, instructional materials, teacher availability, time on task and, most importantly, attainment of specific competencies by learners, some of which may not be examinable. Nevertheless, Local authorities and school authorities should be held directly answerable for any wastages arising from non-completion or failure to appear for examinations when the MoES has already paid UNEB based on candidates.**

## 9.3 CONCLUSIONS

The following conclusions are drawn from the findings made in the previous chapter:-

### 9.3.1 PLANNING AND BUDGETING

Key players in the planning process did not adhere to the UPE planning and budgeting guidelines and this may hamper efforts to produce realistic and timely educational planning figures at school, district and national level.

### 9.3.2 FUNDING

#### 9.3.2.1 Release of Funds to Education Districts

Failure to abide by the UPE guidelines on release of funds to districts disrupts the implementation of the UPE programme in the district.

#### 9.3.2.2 Disbursement of Funds to Schools

Failure to abide by the UPE guidelines on disbursement of funds to schools disrupts the timely implementation of the UPE programme at the school level and this may affect the overall performance of pupils.

#### 9.3.2.3 Accounting for UPE Capitation Funds

Failure by districts to account for UPE funds in time may lead to delayed release of funds for the subsequent quarters, which in turn hampers the day to day running of schools and may ultimately affect pupils' academic performance.

### 9.3.3 SUPERVISION, MONITORING AND EVALUATION

#### 9.3.3.1 Monitoring and Evaluation by MOFPED and MOLG

Monitoring and evaluation of UPE implementation was not done by MOFPED thus creating a gap in the feedback process which ultimately affects planning and control of the UPE programme by MOFPED. The M & E carried out by MOLG was not adequate to bring out the issues concerning the UPE programme.

#### 9.3.3.2 Monitoring and Evaluation by MOES

Absence of a specific guideline on how often M & E should be conducted by MOES, makes the carrying out of this activity arbitrary thus rendering M & E of the UPE programme inadequate.

Failure to take action on the recommendations made through M & E may result in the recurrence of identified challenges, which affects the implementation of UPE activities.

#### 9.3.3.3 Supervision and Monitoring by districts/municipalities

Supervision and monitoring of the UPE programme was not regularly carried out by districts/municipalities. The lack of regular supervision and monitoring by the districts and municipalities limits the identification of UPE implementation problems at schools for remedial actions.

### 9.3.4 OTHER SUPPORT FACILITIES TO UPE CAPITATION GRANT

#### 9.3.4.1 Availability of Teachers

Although the national average figure indicates a PTR of 55:1 compared to the MQS of 54:1, the number of teachers in some districts is still low and this affects the academic performance of pupils under the UPE programme.

#### 9.3.4.2 Availability of Classrooms

There are more pupils in a classroom than required by the ministry's minimum quality standards. Pupils are congested in classrooms and this affects their performance and, as result, the Programme may fail to provide and maintain quality education as a basis for promoting the necessary human resource development.

#### 9.3.4.3 Availability of School Desks

The Ministry has not captured information on the availability of school desks in schools and this hampers its ability to adequately plan for procurement and allocation of desks amongst schools.

### 9.3.5 PERFORMANCE OF PUPILS

#### 9.3.5.1 Course Completion

The pupils' completion rate is still very low and if this challenge is not addressed, Government will not attain the MDG goal on education: of ensuring that all children, boys and girls alike, are able to complete a full course of primary schooling by 2015.

#### 9.3.5.2 Performance of Pupils at Primary Leaving Examinations

performance of pupils at primary leaving examinations is not good and if not improved Government's mission to eradicate illiteracy while equipping every individual with basic skills and knowledge for national development will not be achieved.

## 9.4 RECOMMENDATIONS

From the findings and conclusions made in the previous two chapters, the following recommendations which are aimed at addressing the weaknesses noted in the management of UPE capitation grant can be drawn:-

### 9.4.1 PLANNING AND BUDGETING

- The EDs should sensitize the Sub-county/Division officials of their roles in regard to the verification of pupil enrolment figures from primary schools within their jurisdiction before they are submitted by head teachers to EDs.
- The Local Governments/Authorities should prioritize and earmark funds for the facilitation of Sub county/Division officials to ensure that they carry out pupil enrolment verification exercises as required by UPE guidelines.
- The Ministry should establish a proper system of records management so as to ensure prompt retrieval of documents whenever requested by all stakeholders.
- EDs should prioritize the activity of preparing annual work plans so as to ensure their timely submission to the Ministry.
- The school census exercises should be conducted in time for the results to be fed into the planning processes at all levels of UPE implementation.

### 9.4.2 FUNDING

#### 9.4.2.1 Release of Funds to Education Districts

- The Ministry should ensure that Education Districts comply with the terms and conditions in the Letter of Understanding to ensure timely preparation and submission of annual work plans, budgets and progress reports.
- The Ministry should champion the harmonization of the UPE guidelines governing the release of funds to districts with MOFPED's policy of release of funds to ensure timely release of funds to EDs.
- The Ministry should establish a proper system of records management so as to ensure prompt retrieval of documents whenever requested by all stakeholders and government officials.

#### 9.4.2.2 Disbursement of Funds to Schools

The district education departments should ensure timely release of funds to schools in accordance with UPE guidelines to avoid disruption of school programmes/activities.

#### 9.4.2.3 Accounting for UPE Capitation Funds

- School head teachers should ensure timely submission of UPE grant accountabilities to district education officers to enable timely processing and disbursement of funds to their schools.

- District Education officers should ensure timely submission of district UPE grant accountabilities to enable timely advice by PS MOES to PS/ST MOFPED on release of funds to districts.
- The MOES should adhere to its role of advising MOFPED of any ED which does not comply with UPE guidelines on accountability.

### 9.4.3 SUPERVISION, MONITORING AND EVALUATION

#### 9.4.3.1 Monitoring and Evaluation by MOFPED and MOLG

- MOFPED should comply with the requirement in the UPE guidelines to ensure that it conducts monitoring and evaluation of UPE programme.
- Supervision, monitoring and evaluation activities of MOLG should be carried out to comprehensively cover activities of UPE programme in the districts as required by UPE guidelines.

#### 9.4.3.2 Monitoring and Evaluation by MOES

- UPE monitoring and evaluation guidelines should be reviewed to regulate how often the MOES should carry out M & E activity.
- MOES should review its M & E methodology so as to ensure that the districts in which M & E activities are done are scientifically selected to enable the generation of M & E results which will enable Government to make representative decisions on the UPE programme as a whole.
- MOES should take action on the recommendations made in the M & E reports so as to ensure successful implementation of UPE programme.

#### 9.4.3.3 Supervision and Monitoring by Districts/Municipalities

- Chief Administrative Officers at the districts should ensure that the District Inspectors of Schools prepare and submit inspection work plans and reports to the Directorate of Education Standards (DES) at the Ministry.
- MOFPED should not release inspection funds to EDs which fail to submit inspection work plans and reports to it in time.
- Districts should consider addressing the inadequacy of school inspectors and to train those in the newly created districts.

### 9.4.4 OTHER SUPPORT FACILITIES TO UPE CAPITATION GRANT

#### 9.4.4.1 Availability of Teachers

- The Ministry and districts should use district PTRs to review the deployment of teachers to ensure equitable distribution of teachers in both urban and rural areas.
- The programme of payment of "hard to reach" allowances to teachers in hard to reach districts by the Ministry of Public Service should be improved to attract more teachers in such areas.
- MOES should systematically plan for the recruitment of primary teachers to match the increasing demand for primary teachers resulting from increased enrollment of pupils.

#### 9.4.4.2 Availability of Classrooms

- The Ministry should use district PCRs as a guide for planning and allocation of construction of classrooms in districts and schools, to avoid congestion of pupils.

#### 9.4.4.3 Availability of School Desks

- Districts and schools should keep an inventory of school desks at both levels which should be submitted to MOES, to facilitate planning and allocation of school desks.
- The Ministry EMIS should initiate a process of capturing data on the availability of desks in schools which should be used for planning for the procurement of desks and for decision making.

### 9.4.5 PERFORMANCE OF PUPILS

#### 9.4.5.1 Course Completion

- Local Councils, School Management Committees, Parents-Teachers Associations and Head teachers should sensitize parents and encourage them to keep their children in school.
- The Ministry, Districts and Schools should enforce the UPE guidelines on stakeholders' responsibility to compel parents to provide school lunch to their children.
- The provisions in the Education Act, Act 13 of 2008 section 5 requiring parents to enroll all children of school going age and Section 51 which imposes penalty for failure to enroll children for UPE should be enforced by Government.

#### 9.4.5.2 **Performance of Pupils at Primary Leaving Examinations**

- The ministry should address the challenges of inadequate teachers, classrooms and desks as previously recommended above to create a conducive learning environment.
- School Head teachers should discourage pupil and teacher absenteeism at their schools to enable timely completion of syllabi and good preparation for exams.
- District District inspectors of schools should intensify their inspection activities to curb down the vices that lead to poor performance at schools.
- EDs and the Ministry should investigate why registered pupils fail to sit for PLE exams.
- The Ministry should establish a mechanism of identifying pupils uniquely right from enrolment to completion so as to track them and monitor retention and dropout rates.

# 10 ENVIRONMENTAL AUDIT REPORT ON FORESTRY ACTIVITIES IN UGANDA

## 10.1 INTRODUCTION

### 10.1.1 Mandate

The mandate for conducting environmental audits is derived from Section 13(1)(a), of the National Audit Act 2008, which states that 'the Auditor General shall conduct financial, value for money audits and other audits such as gender and environment audits in respect of a project or activity involving public funds'. As an independent external auditor of Government, the role of the Auditor-General is to provide an independent oversight of government operations through financial and other management audits. The objective of the audits conducted by the Auditor General is to:-

- determine whether public funds are spent efficiently, effectively, and in accordance with applicable laws
- evaluate internal controls and help improve governance in Government and in public sector agencies
- to undertake investigations to assess whether illegal or improper activities are occurring;
- determine whether public sector agencies are in compliance with applicable laws and regulations; Rules and procedures and,
- To provide assistance to the Parliament and the Public Accounts Committee in support of their oversight and decision-making responsibilities.

### 10.1.2 Justification for the Forestry audit

The environment has become a world – wide concern in the last decade, being the focus of discussions in a variety of forums both at national and international levels. Because environmental problems are rooted in economic and social policies, they occur at all levels from local to global, and success requires action by many players over long periods of time. The government is responsible for dealing with these problems and working towards solutions. Accordingly the government has tried to address this over the years by creating policies, and programs enacting environmental legislation, and through international institutions and treaties, laws and regulations and expenditures. Although it is not the Auditor Generals function to question policy, It is his responsibility to investigate the effect of policy and the management measures that lead to policy decisions. In this way the Auditor General can help the Government do a better job. Addressing environmental matters falls squarely within the above mandate more precisely because of the following reasons:-

- The Government spends significant public resources on managing environmental problems; the Auditor General needs to hold the government accountable for prudent financial management, reporting, and results.
- The Government has signed numerous international agreements and enacted domestic laws and regulations; the Auditor General needs to hold the government accountable for compliance.
- Government in its financial statements must account for environmental costs and liabilities created by its land holdings and operations – accounting standards require that there should be adherence to proper accounting practices.

The purpose of this management report/environmental audit report is therefore to make known the findings of the audit regarding the management of forestry resources in the country. The report is not intended to be exhaustive. In line with audits of this nature, the intention is to provide the reader with a general understanding of the current situation with regard to forestry management and in particular, the adequacy of the management measures with regard to the risks and applicable legislation, regulations and procedures associated therewith.

It is hoped that the report will give rise to corrective steps, which will contribute constructively to the establishment and implementation of proper management measures regarding forestry management. It is also hoped that the applicable legislation, regulations and procedures will, in the interest of the environment as well as sustainable development, be adhered to.

### 10.1.3 Audit Objectives

The following were the audit objectives:-

i. To ascertain whether the forestry management practices are in compliance with policies and guidelines and the laid down laws and regulations.
ii. To assess the performance of the key players in forestry management.
iii. Make a report of the findings to parliament

## 10.2 SPECIFIC AUDIT CRITERIA USED AND THEIR CORRESPONDING SOURCES

The following criteria were applied during the audit:-

i. **The constitution of the republic of Uganda of 1995**:

It is stated in the constitution that: '**It is the duty of parliament to protect and preserve the environment from abuse, pollution and degradation and also to provide for measures intended to manage the environment for sustainable development and promotion of environmental awareness'**.

ii. The Forestry and Tree planting Act 2003, whose purpose is to:-

- to create an integrated forest sector that will facilitate the achievement of sustainable increases in economic, social and environmental benefits from forests and trees by all the people of Uganda;
- to guide and cause the people of Uganda to plant trees;
- to ensure that forests and trees are conserved and managed in a manner that meets the needs of the present generation without compromising the rights of future generations by safeguarding forest biological diversity and the environmental benefits that accrue from forests and trees;
- to promote the improvement of livelihoods through strategies and actions that contribute to poverty eradication;
- to encourage public participation in the management and conservation of forests and trees;
- to facilitate greater public awareness of the cultural, economic and social benefits of conserving and increasing sustainable forest cover;
- to promote the decentralization and devolution of functions, powers and services within the forest sector; and
- to ensure that environmental benefits, costs and values are reflected in strategies and activities relating to forestry.

iii. **National Environment statute 1995** whose objective is to promote sustainable development by:-

a. Integrating environmental requirements into all planning and production processes

b. Ensuring that renewable resources are optimally used through reduced waste use of appropriate technology and finding of alternatives to present use of resources.

iv. The Budget and financial statements of NFA from inception to 30th June 2009

v. Regulations and procedure guides issued by the NFA, including:

- Management of Natural Forests in CFRs (December 2006)
- Guidelines for Land Allocation in CFRs (December 2005)
- A field guide to Integrated Stock Survey and Management Inventory (December 2005)
- Standards for Boundary demarcation
- Logging in Natural Forests – Supervisors toolkit (June 2005)
- Managing Central Forests Reserves for the People of Uganda (Volume 2: 2008)

viii. Best Practice guide on the audit of Forestry

ix. Contracts – leased Forest reserves to private developers

x. INTOSAI: Guidance on conducting audits of activities with an environmental perspective

xi. International accords:-

Uganda is an active member of the global community of Nations, having entered into several regional and international environmental protocols, conventions and agreements aimed at biodiversity conservation. Some of these include The Ramsar Convention, Ramsar (1971), Convention on the protection of World Cultural and Natural Heritage, Paris, 1972, Convention on International Trade in Endangered Species (CITES), Washington, 1973; Agreement on a tripartite Environment Management programme for Lake Victoria, 1994; The United Nations Convention to Combat Desertification, 1994; The United Nations Framework Convention on Climate Change (FCCC), 1992.

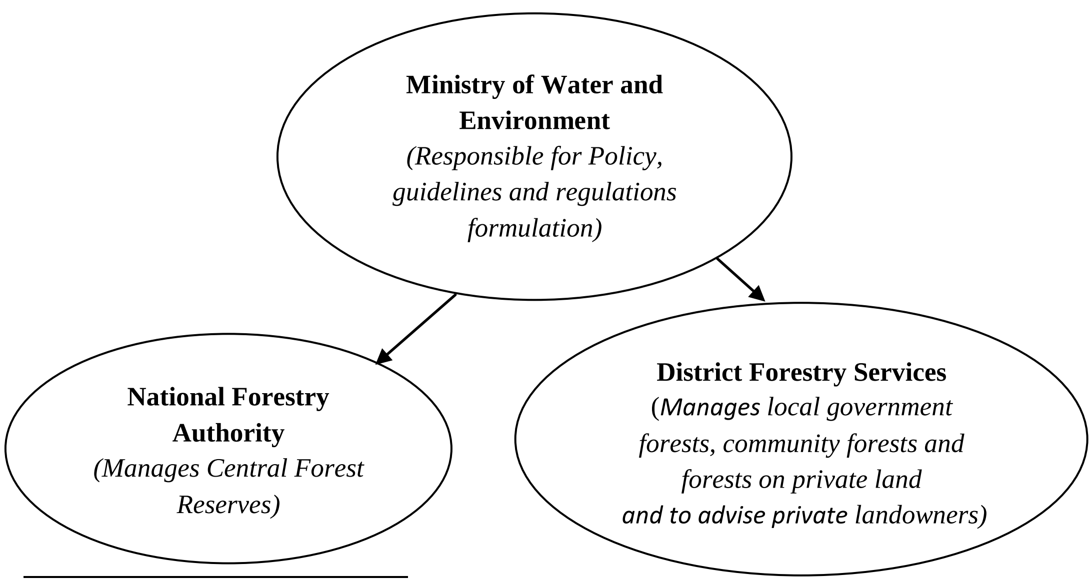
## 10.3 BACKGROUND OF THE FORESTRY SECTOR

The Forestry department under the MWE is the oldest Government Scientific department established in 1898[76]. Government embarked on the restructuring of the forestry sector with support from development partners. The outcome of the restructuring exercise included the National Forestry Policy (2001) and the establishment of the **National Forestry Authority** (to manage the country's Central Forest Reserves which currently total to 506 representing about 15% of the total forest cover in Uganda) under the National Forestry and Tree Planting Act (2003).

The same Act establishes the **District Forestry Services** to manage Local Forest Reserves (representing about 85% of the forest cover in Uganda) and to advise private landowners on how to sustainably manage the forests on their lands and on-farm forestry matters.

The Act assigns the role of Policy, guidelines and regulations formulation for the sector to the line **Ministry of Water, and Environment**. The Forestry Sector Support Department (FSSD) offers supportive back-up to both the NFA and District Forest Services. A schematic representation of the above roles is as presented in Figure 19 below:-

**Figure 19: A Schematic representation of the roles played by key stakeholders in the Forestry Sector.**




[76] Source: Third National Biodiversity Report Prepared by the National Environment Management Authority (NEMA), January 2006

## 10.4 SIGNIFICANT AUDIT FINDINGS AND RECOMMENDATIONS

### 10.4.1 Regulations to operationalise the National Forestry and Tree Planting Act, 2003

It has been noted that although the National Forestry and tree Planting Act came into force in August 2003, the regulations to operationalise it as stipulated under section 92 of the Act, have never been developed. Such Regulations are supposed to provide for among other things; the basis of determining fees, manner of sale of forest products, species of trees to harvest and their movement, what may/ may not be harvested, prohibition/regulation of trade in forest produce and genetic materials, prohibition, control and management of fires, introduction of alien and exotic species, the certification of forests and labeling of forest products to verify their origin and whether from sustainable source of supply.

In the absence of the regulations, adherence to the provisions in National Forestry and tree planting the Act may not be effectively enforced by all the concerned stake holders.

In their response, NFA management (as one of the key stake holders in the Forestry sector), explained that the relevant sections of the old regulations were being used. However, this is considered illegal, since with the coming into force of the National Forestry and Tree Planting Act, 2003, all the regulations relating to the old Act were repealed (as per Section 96).

It is recommended that the Ministry of Water and Environment expedites the process of formulation and approval of the regulations to enable effective implementation of the Act.

### 10.4.2 Funding for the NFA

The NFA has over the years since its inception relied on funding from Development partners and the Government of Uganda. According to the NFTPA 2003, the NFA was slated to attain financial sustainability by the fourth year of operation i.e. by June 2008. This is further amplified in the entity's five year strategic plan for 2004-2009.

However, this has not been possible as management has continued to register shortfalls in revenue over the years. By the end of June 2008, the combined contribution of the internally generated resources was at 51%. However the entity-generated funds could cover only 80% of the recurrent costs as per the end of June 2008. From the table 65 below, it's evident that financial sustainability may not be achieved in the short run given the stagnation of the own generated resources at just above 60 % over the period of 3 years:-

**Table 65: Proportion of budget funded from government and own sources**

| | 2004/5 | 2005/6 | 2006/7 | 2007/8 |
|---|---|---|---|---|
| Target | 29% | 56% | 70% | 85% |
| Actual | 48% | 62% | 62% | 64.5% |
| **Variance** | **19%** | **6%** | **8%** | **20.5%** |

Source : Start up final performance report 2003-2008

My annual financial audit reports have pointed out several anomalies in revenue collection and inventory management which have to an extent contributed to NFAs failure to attain its set targets as shown in table 66. These include the following:-

**Table 66: Anomalies in Revenue collection and Inventory management.**

| Financial Year | Issues raised |
|---|---|
| 2007/8 and 2008/9 | • Failure to have proper growing stock records including details of the location, size and values<br>• loss of seeds worth UUg Shs.228,265,000 which occurred at the National Tree Seed Centre- Namanve<br>• Arbitrary Allocations of central Forest Reserves for harvesting<br>• Anomalies in award of contracts to harvest mature trees<br>• Poor supervision of licensed sand miners in some forest reserves<br>• Loss of revenue (UUg Shs.760,000,000) from Lendu (Okavu-Reru) Forest Plantation and also another UUg Shs.100,000,000 from Mwenge plantation)<br>• Failure to maintain proper stock records<br>• Non Performing Tree Planting Permits<br>• Failure to properly account for the pre-numbered and accountable Forest Produce Declaration Forms |

Management explained that much as NFA's Internally Generated Revenue (Non Tax Revenue) increased from Ug Shs.5.4 billion in June 2005 to Ug Shs.15 billion in June 2009, it was short lived and unsustainable as most of this was from mature timber plantations which are now exhausted. They also indicated that funding from Development Partners had dropped from Ug Shs.6.4 billion in June 2005 to Ug Shs.2.1 billion in June 2009.

Management should come up with strategies to boost internally generated revenues and also strengthen the internal control procedures in the revenue collection and inventory management systems to enable the entity achieve its goal of financial sustainability.

### 10.4.3 Forestry cover

It was noted that there has been continued decline in forestry cover despite various Government interventions over the years and NFAs commitment to substantially increase the size of the Central Forest Reserves area, being managed under arrangements with local governments, communities and private investors. Additional Government intervention has been through gazetting, entering into public-private partnerships, reclaiming of forest land and sensitization of the population on the need for better forest cover.

However, no material positive trends have been noted so far.

It was further noted that NFA on its part has failed to meet its afforestation targets as detailed in table 67 below[77]:-

**Table 67: NFA Afforastation targets for the period 2004/05 to 2007/08**

| | **2004/5** | **2005/6** | **2006/7** | **2007/8** |
|---|---|---|---|---|
| Target (Ha)` | 4,400 | 5,600 | 7,600 | 10,100 |
| Actual (Ha) | 2,123 | 2,118 | 1,361 | 1,370 |
| **Variance** | **2,277** | **3,482** | **6,239** | **8,730** |

The other forests not managed by NFA have even declined at a higher rate. According to the State of the Environment Report 2007/8, the overall national rate of

[77] Source: start up final performance report 2003-2008

deforestation is about 2%, but some parts of the country are losing their forest cover at higher rates than others as exemplified in table 68 below[78]:-

**Table 68: Areas loosing forest cover**

| District | 1990 (ha) | 2005 (ha) | Loss | % Loss |
|---|---|---|---|---|
| Kibaale | 114,102.66 | 58,268.06 | -55,834.60 | 48.9 |
| Mukono | 100,626.65 | 63,977.12 | -36,649.53 | 36.4 |
| Wakiso | 28,461.12 | 3,781.68 | -24,679.44 | 86.7 |
| Hoima | 75,143.95 | 58,889.27 | -16,254.68 | 21.6 |
| Mayuge | 15,162.05 | 0 | -15,162.05 | 100 |
| Mubende | 18,618.86 | 3,906.65 | -14,712.22 | 79.0 |
| Mpigi | 40,300.64 | 27,169.67 | -13,130.98 | 32.6 |
| Mityana | 10,247.86 | 4,137.66 | -6,110.20 | 59.6 |
| Masindi | 36,373.82 | 31,933.49 | -4,440.34 | 12.2 |

The above analysis shows that Mayuge District has lost all its forest cover. Mayuge is followed by Wakiso which has a deforestation rate of 86.7%, Mubende (79.0 %), Mityana (59.6%) and Kibaale (48.9%) respectively. This decline is particularly worrying since the demand for the forests products has been steadily rising over the years.

NFA management explained that most of the deforestation is outside the Protected Areas (PAs) where it has no jurisdiction and that despite resource constraints NFA has a plantation strategy up to 2025 to plant 200,000 Ha together with the Private Sector.
It is recommended that management of the forestry sector reviews the strategies it has applied over the years if positive trends on forestry cover are to be attained.

### 10.4.4 Policy on the partnership with private sector

In a bid to improve on the forest cover, the National Forestry Authority took an initiative to have a partnership with the private sector to allow for community participation in forest management on both government and private land in line with policy statement 3 and 5 of the Uganda forestry policy. Under this initiative, the authority licensed part of the central forest reserves to various private tree developers to plant fast maturing species like pine and eucalyptus. This was in addition to licences that had been issued during the forestry department administration. This was mainly done in the ranges of Budongo, Kyoga, and the south western region.

[78] Source: NFA 2006

During inspections it was noted that several licensed individuals have not adhered to the conditions stipulated in the contracts signed with Government.  Some developers have not planted any tress at all, while others have grown other types of trees (other than the recommended ones) or even cut trees in the leased areas without replanting. Notable cases were cited in the Bujawe and Nyakunyu CFR of the Budongo ranges where a total of 5,837 hectares previously licensed have not been planted, Namatale and Sala CFRs where land licensed has been put to other use.

<table>
<tr><td></td><td></td><td></td></tr>
<tr><td colspan="2">Land allocated to a one Onzima in Bujawe forest reserve (Hoima) more than 5 five years but planting has not taken off.</td><td>Un planted area in Nyakunyu forest reserve (Masindi).</td></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td>Land in Sala CFR allocated to Bugwere High School being used for grazing.</td><td>Cultivation in land licensed to private tree planter in Namatale CFR (Mbale)</td><td>Fresh clearing of land for cultivation in Sala CFR</td></tr>
</table>

**Picture 45: Status of utilisation of licensed land in Bujawe, Nyakunyu, Namatale and Sala.**

**Picture 46: Potato garden in the Sala CFR**

It was noted that out of 120,000 ha licensed, only 20% (24,000 ha) were planted over the 4 year period ending June 2008[79]. Apparently, monitoring the licensed individuals has not been adequate.

NFA management explained that it is currently auditing the performances of licensed tree farmers in each CFR with the intention of cancelling all licenses of those who have not performed. They indicated that so far over 570 non performing licenses have been cancelled.

It is recommended that management intensifies its monitoring arrangements to identify all the non compliant farmers and ensure enforcement of all the contracts they entered with them.

### 10.4.5 Forest Management Plans (FMPs)

The National Forestry and Tree Planting Act requires that all forests have approved management plans to ensure proper management of the forestry resources in the respective reserves. Section 28 of the Act further provides for the procedures for preparation of the management plans including consultation and dissemination of the plan to the local communities and the approval by the minister.

A review revealed that out of the 506 central forest reserves, only one had an approved management plan, 51 had draft plans of which only 18 had been submitted

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[79] Source: Start-up Support Performance Report November 2003-June 2008

for approval by the minister. Most of the management plans had been prepared between 2006 and 2008 to cover periods of 10-20 years subject to a review every 5 years.

In addition, the 51 draft plans relate to positions of these forest reserves and appear to be generic documents drawn to be applicable for several forests. The extent to which these general plans could be followed will be limited since they are not drawn to cater for specific development or management needs of specific forests.

Failure to have specific and approved management plans leaves an administrative vacuum which encourages practices that do not favor sustainable management of the forest resources. Management plans for leased out/private forests planted on government land is however called for at the level of application for the land.

Management attributed the shortcoming to the long, tedious and expensive procedures leading to the approval of the FMPs.

Management is advised to expedite the process of preparation and approval of the management plans to enable systematic management of the forests. A clear strategy for monitoring compliance with the management plans should also be developed.

There is also need for a review of the approval procedures to eliminate delays and improve efficiency.

### 10.4.6 <u>Forest boundaries</u>

It was noted that the NFA has set standards for boundary demarcation in the central forest reserves for proper management. These include use of mounds, trenches, live markers and corner cairns to demarcate forest reserve land. In addition, re-opening of boundaries in forest reserves was being done.

However, standards have not been uniformly applied to all forest reserves. Some Central Forest Reserves like Alwi, Oming and Opio in Nebbi; Kisangi in Kasese and Kabarole; some sections of Bugoma, Bujawe and Kasongoire had no clear boundaries and this could partly explain the extensive encroachment on these reserves, characterized by overgrazing and rampant charcoal burning within the reserves. In addition, most of the central forest reserves lack land titles which has led to several boundary complaints and encroachment.

NFA management explained that out of a total boundary length of approximately 11,000km around the 506 CFRs, NFA has managed to re-open about 6,670km.

There is need to expedite the process of demarcating and re-opening of boundaries for all forest reserves.

### 10.4.7 <u>Degazetting of forests</u>

The National Forestry and tree planting Act requires that before a forest is degazetted, another land of equal measure should be allocated for the plantation of new forests to strike a balance between development initiatives and the environment.

During inspections, exceptions to this requirement were noted in cases where no alternative land was allocated for tree planting. This was mainly noted in the urban areas where prime forest land is allocated for alternate uses. Cases in point include the Namanve forest reserve that was degazetted to an industrial park, but no alternative land was identified for plantation of replacement forests. In a related development the Nebbi urban forest reserve was allocated by the District Land Board but no other land was allocated for replacement of the forest. The Pictures below were taken from such degazetted land:-

<table>
<tr><td></td><td></td><td></td></tr>
<tr><td colspan="2">Development activities in the given away Nebbi forest reserve. Relocation of the reserve and planting has not been done yet.</td><td>Fresh clearing in the Nebbi forest reserve</td></tr>
</table>

**Picture 47: Status of utilisation of gazetted land in Nebbi**

Without the National Forestry Regulations to operationalise the Act, there is currently no mechanism in place to ensure that this requirement is adhered to by all the stake holders involved.

Management explained that Namanve forest was degazetted basing on 1964 Forest Act which did not provide for Land exchange. However, this was illegal, since with the coming into force of the NFTPA 2003, all the regulations relating to the old Act were repealed (as per Section 96 of the NFTPA 2003).

It is recommended that the requirements of the current law regarding degazetting of forest land be strictly enforced.

### 10.4.8 Illegal Activities in the forest reserves

The National Forestry and Tree Planting Act defines illegal activities as cutting, burning, disturbing or destroying any forest produce without permission from the relevant authority. During field inspections, it was noted that a number of such activities continued to be carried out, unchecked, in the forest reserves. These were mainly in the form of land clearing for agriculture, settlement on the reserves, charcoal burning, and animal grazing by the communities adjacent to the reserves.

For example, in Kapinpina forest reserve, large chunks of land have been fenced off for animal grazing while some portions have an upcoming trading centre and a school. In addition, in Fort portal, part of a forest reserve has been occupied by a private developer for construction of a school. In Hoima district, a big part of the Bujawe forest reserve has been and continues to be cleared for crop cultivation by local communities. Charcoal burning has been common in the districts of Luwero, Nakasongola and Nebbi where they form the main source of livelihood for the local populations. This is further aggravated by the need for local revenue by the district administrations. For instance in Masindi district, charcoal burning licence has been identified as a revenue source and is tendered out which makes the control over the activity a challenge.

These illegal activities in the forest reserves deplete the forest cover and affect the value of the forest resource. Continued illegal activities in the forest reserves could have devastating effects on the environment like climatic changes, an imbalanced ecosystem, etc.

The Pictures below show the extent of the illegal activities in the forest reserves inspected:-

| | | |
|---|---|---|
|  |  |  |
| A local valley dam in Kalagala forest reserve | Fresh charcoal burning in Alwi forest reserve (Nebbi) | Dam excavated in the Kapinpina forest reserve (Luwero). |
|  |  |  |
| Fresh land clearing for cultivation in Bujawe forest reserve | Tobacco garden in the Bujawe forest reserve (Hoima) | Construction materials in the forest reserve. Permanent buildings not within the terms of the plantation licences. |
|  |  |  |
| Cassava crop in the Omier FR | Fresh clearing for agriculture-Omier FR | Hardened ground in Alwi FR due to extensive animal grazing. Vegetation growth is curtailed. |

**Picture 48: Evidence of illegal activities in selected Forest Reserves.**

There is need for coordinated action by all stake holders including government, local communities, politicians, etc, to address the problem of illegal activities in the forest reserves, in addition to intensified monitoring and promotion of public awareness.

### 10.4.9 District Forest Services (DFS)

The National Forestry and Tree Planting Act, 2003 establishes the District Forestry Services to manage Local Forest Reserves (representing about 85% of the forest cover in Uganda) and to advise private landowners on how to sustainably manage the forests on their lands and on-farm forestry matters.

It was noted however, that this mandate of the districts in regard to the sustainable forests management is not being adequately undertaken. The majority of the districts in the country have not set up DFS. DFS's are under staffed, insufficiently funded and poorly facilitated, this hampers effective control, given the vulnerability of the forests to charcoal burning which forms one of the main forms of lively hood in the districts. There has been several cases where the districts have authorized the harvesting of forests without clarifying clearly the exact area to be harvested and sometimes harvesters have gone to the CFR's. Cases include Mpigi, Namwasa, and Mayuge. In Mpigi district, forest land in Kazooba, Kitubulu and Kyewaga has been given away to individuals. Other cases include Bukaleba CFR, where the district leased 999 hectares to M/S Arise Africa for establishment of a secondary school and an orphanage centre; and leased of part of the Budongo forest reserve to M/S Bahesco Ltd, and the whole of Kahurokobwire forest reserve to individuals.

NFA management explained that this is the responsibility of Ministry of Water and Environment and the Ministry of Local Government and that they are aware of the encroachment in areas like Bukaleba and Budongo which have resulted from issuing of illegal land titles in CFRs, in addition, to licensing harvesters in CFRs by some District Forest Services.

The illegal allocation of forest lands should be properly investigated and appropriate action taken against those responsible. The Ministry of Water and Environment should also strengthen its monitoring and inspection and ensure proper coordination between the stakeholders activities.

### 10.4.10 Encroachment of the forest reserves

Encroachment of the forest land is one of the major challenges to sustainable forest management. Encroachment has been due to human activities like quest to increase arable land, settlement, urbanization. A review of the forestry reports indicated that over a period of 15 years Uganda's forest cover has dropped from 4.9 m hectares in 1990 to 3.6 m in 2005 representing an overall reduction of 27% and a 1.9% depletion rate per annum[80]. This rate is high compared to other countries in the region with rates below 1%. The highest encroachment is noted mainly in the lake shore range where there are an estimated number of 150,000 encroachers.

During the field inspections the highest incidences of encroachment were noted in the following central and local forest reserves: Omier and Awang in Nebbi, Namatale in Mbale, Nakwiga in Butaleja, Kasongoire in Hoima, Bukaleba in Mayuge district. Others include; Rakai where the entire Kagamba sub county is within the forest reserves of Kijanibalola and Kyamazi.

In Mburamaizi, Kanungu District, It was noted that an army battalion was established in the forest reserve and this is already having an impact on the environment. In Mbarara extensive encroachment has been noted in the Rwemitongole block where forest land has been used for setting up of schools, churches and an orphanage centre.

The Pictures below show the extent of encroachment in the forest reserves inspected:-

| | | |
|---|---|---|
|  |  |  |
| A secondary school built on the forest reserve | Bible institute in Lwemitongole Block | A primary school constructed in the Forest reserve |

[80] Start up funding financial performance report of March 2009

| | | |
|---|---|---|
|  |  | |
| Secondary school under construction in Bukaleba Forest reserve in Mayuge | Orphanage in Bukaleba CFR, land leased to Arise Africa by the Iganga district land board | |
|  |  |  |
| Encroachment in the Nyagak local forest reserve (Nebbi) | Up coming trading centre in Kapinpina forest reserve | Settlement in the extensively encroached Omier forest reserve |

**Picture 49: Evidence of encroachment in selected forest reserves.**

### 10.4.11 <u>Risk management</u>

Management is exposed to varying levels of risk. Notable among the risks is that of loss of the plantations through fire, malicious destruction and crop failure. Other forms of risks manifest in loss of land under the private partnership or court challenges and security threats to the operational staff.

Management has tried to implement preventive measures like maintenance of fire lines and provision of some fire fighting devices at the stations.

However, there appears to be no proper strategy for addressing all the risks identified by management. In addition, capacity to handle the fire risks are limited due to lack of adequate field equipment and materials (like fire towers, underground water tanks, etc). Several reserves have been affected by fires as exemplified in the photographs below, which were taken during our field inspections:-

|  |  |
|---|---|
| Remnants of pine trees in the part of Nyakunyu forest reserve burnt in February 2010 | Section of the burnt natural forest in Murchison game park |

**Picture 50: Forest Reserves affcted by fire.**

Management needs to adopt a proactive and comprehensive approach to management of risks by crafting a clear strategy to manage all the identified risks.

Management explained that capacity is being built to manage risks from fire and others that affect forests.

### 10.4.12 <u>Logging in natural forests</u>

It was noted that there exists guidelines on logging in natural forests (i.e. supervisor's toolkit of June 2005). The guidelines cover among other things; staff responsibilities, pre-harvesting operations, harvesting operations and public auction of logs. Field observations indicated that the guidelines were being complied with to an extent, in respect to stock mapping, log grading, and measurement.

However, it was established that NFA and the logging clients do not maintain a record of the timber milled from the sold logs in order to carry out a proper assessment of the efficiency of the milling activities. During field inspections, evidence of inefficiencies in milling was observed at some milling sites, such as the one exemplified below:-

**Picture 51: Milling site in Katugo Forest, showing pieces of cut timber left to waste**

According to the Uganda forestry policy[81] there is wastage in the milling activities with a timber conversion rate of only 25%. The high rates of wastage in milling activities leads to increased need to cut more trees.

In their response, NFA explained that the recovery percentage has since increased from 25% to 40% in all plantations.

Management is advised to ensure that it encourages adoption of more efficient milling practices so as to save on the need to cut more trees.

### 10.4.13 Environmental Impact Assessment (EIA)

It is a requirement under Section 7(c) of the NFTPA that all CFRs have EIA reports produced and approved by NEMA. For all the management plans that were developed, EIAs were carried out.

However, it was noted that many central forest reserves without Management Plans do not have approved EIA reports contrary to the law.

Where EIAs were carried out, there appears to be no evidence of follow up to ensure that mitigation measures stated in the EIA reports are actually undertaken. A case in point is the oil exploration by M/S Dominion in Malamagambo forest, where offset planting was supposed to be done by the implementers, but this remains undone to date.

There is need therefore, to comply with the law and ensure that EIAs are produced, approved and appropriately followed up.

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Management explained that they are training their entire field staff in EIA to be able to follow up the environmental issues at their level.

### 10.4.14 Invasive and endangered species

During the field inspections, an un-identified invasive species was seen covering large parts of the Alwi forest reserve in Nebbi district as shown below:-

**Picture 52: The unknown climbing plant in ALWI forest reserve which is threatening the lives of other plants.**

It was also noted that the shear nut butter tree continues to be threatened by the charcoal burners in the districts of West Nile where it is common.

**Picture 53: The shear nut Butter tree**

There appears to be no formal plans to deal with the above matters.

Management explained that NARO is working on this matter in collaboration with other lead institutions. In addition, the Minister had already gazetted the shear nut butter tree as reserved tree species.

# 11 VALUE FOR MONEY AUDIT OF BUILDING AND CONSTRUCTION UNDER JUSTICE, LAW AND ORDER SECTOR

## 11.1 INTRODUCTION

The Justice, Law and Order Sector (JLOS) is a sector-wide approach adopted by Government to bring together institutions with closely linked mandates for administering justice, and maintaining law and order, into developing a common vision, policy framework, unified objectives and plan over the medium term. JLOS focuses on a holistic approach to improving access to and administration of Justice through a sector-wide approach to planning, budgeting, programme implementation, monitoring and evaluation.

JLOS activities are funded from the GoU Development Budget under *vote: 007: Support to Justice, Law and Order Sector* under the Ministry of Justice and Constitutional Affairs, with the Solicitor General as the Accounting Officer. The budget support consists of funds channelled by JLOS Development Partners (DPs) into the GoU Consolidated Fund. The DPs support the sector in two ways:

i. Through a basket fund arrangement where funds are channelled through the JLOS Secretariat who in turn remits the funds to respective Institutions based on work plans.
ii. Directly funding the sector institutions without physical funds remitted through JLOS Secretariat.

The Office of the Auditor General contracted COWI Uganda Ltd in association with Design Int. Ltd and Kisaka & Company to undertake a financial and value for money audit of buildings under the Justice Law and Order Sector (JLOS) constructed during the period FY 2005/06 to FY 2007/08.

### 11.1.1 Objectives of the Consultancy

The The purpose of the audit was to provide an independent opinion as to whether the funds and other resources that had been applied to construct buildings for various JLOS Institutions were:

i) inadequate, adequate or excessive;

ii) well utilised on planned activities; and

iii) have provided the intended outputs and thus achieved value for money.

The Funding for the activities implemented by JLOS Secretariat was provided by the Government of Uganda (GoU) and multi-lateral Development Partners (DPs) through a basket funding arrangement.

### 11.1.2 The Audit Methodology

The Consultancy team, reviewed work plans for FYs 2005/06 to 2007/08 based on the recommendations of the JLOS taskforce of 19th May 2009 that required projects funded with DANIDA and Netherlands support also to be sampled.

After consultations with the various institutions that were responsible for the implementation of the JLOS building constructions, and adhering to the ToR, the consultant was able to identify all the projects to be covered under this assignment. The projects are in eight institutions namely:

i) Uganda Prisons Services – 11 of 13 projects sampled

ii) Uganda Police Force – 21 of 35 projects sampled

iii) The Judiciary – 8 of 14 projects sampled

iv) The Directorate of Public Prosecutions – 4 of 6 projects sampled

v) Ministry of Internal Affairs – all 3 projects sampled

vi) Ministry of Gender, Labour and Social Development – all 5 projects sampled

vii) Ministry of Justice and Constitutional Affairs – all 3 projects sampled

viii) Law Development Centre – only 1 project was sampled

A total of 80 building construction projects were compiled from the JLOS institutions' work plans and progress reports for the period FYs 2005/06 to 2007/08 as per the ToR scope of work and the Task Force decision of 19th May 2009 of including projects funded directly to Institutions. Of the 80 projects, the Consultant selected 56 projects (70%) to be subjected to the audit which included a thorough desk document review and field (physical) inspection.

The total cost of the sample space was Shs.26,967,096,390 of which the sampled projects for audit total Shs.18,290,052,108 (68%).

The consultant selected the works to be subjected to in-depth physical assessment using the past experience gained on previous audits of a similar nature. The consultant used the following criteria in selecting the projects in reference:

i. Building projects implemented by all JLOS institutions funded through JLOS Secretariat,
ii. Building Projects implemented by all JLOS Institutions funded directly by the DPs,
iii. The contract amounts – the selected projects were a representative of projects of different contract values i.e. very high to very low;
iv. Project Status – Building Constructions that were completed and in use.
v. Project Status– Building Constructions that were in progress but of particular interest to verify e.g. force on account projects
vi. Abandoned projects
vii. Economic availability of the institutions' technical staff to witness the audit

The VfM audit involved both technical and financial audits.

The Technical audit involved physical verification of the projects implemented or being implemented and actual takeoff of the quantities done as compared to the quantities paid for. The quality of materials and workmanship was observed and where necessary pictures were taken. The Financial audit involved the review of how the projects were planned, procured, and followed the payment process. Finally, the audit captured the assessment of projects handover, commissioning for use, level of utilisation as well as Operation and Maintenance arrangements under effectiveness.

## 11.2 VALUE FOR MONEY AUDIT FINDINGS AND RECOMMENDATIONS

The following paragraphs and table provide a status listing of key findings, recommendations and corresponding responsibility centre for each of the thematic areas of: planning, procurement, implementation, payment procedures, commissioning/ handover and utilization. The conventional VfM formula was applied to each of the implemented projects and a complete assessment was done for completed projects. The audit also provided an analysis with regard to the performance of contractors and the performance of the contracts committees.

This report noted the areas needing improvement for the future implementation of the programme and thus findings from all the JLOS Institutions audited are presented in this report so as to be shared amongst themselves.

**KEY FINDINGS**

### 11.2.1 Planning Process

There was general compliance to the planning guidelines as set by JLOS Secretariat in nearly all participating Institutions. However, there is need to provide more guidance to the departments under each institution on the statement of project descriptions.

The development plans for the buildings were included in most of the Institutions' work plans for respective Financial Years (FYs), submitted to and approved by the JLOS Secretariat Steering Committee for funding under SWAP Development Fund.

Some participating Institutions are not giving adequate opportunity to the beneficiary departments to adequately participate in the identification and prioritisation of development issues. In Uganda Prisons Services, in particular, it was not possible to identify any prison department that actively participated in the planning process for identification of projects for SWAP Funding as there were no records at the various prison departments, more especially upcountry, where planning is expected to initiate. Documentation was poor or non-existent as all documents were kept at the head offices.

Some of the sampled projects particularly those implemented in earlier years of JLOS, did not have project profiles and clear project descriptions. This was very much evident in the Ministry of Gender, Labour and Social Development.

### 11.2.2 Procurement Process

The Procurement process under most of the sampled contracts was generally handled in accordance with PPDA guidelines and regulations, 2003. PPDA guidelines seek to clarify and expedite the process of requesting, purchasing and hiring of goods and services in all public institutions.

Twenty nine (29) projects were procured using Open Domestic Bidding while for sixteen (16) projects, Restricted Domestic Tendering was used. One (1) project was procured using Direct Procurement while two (2) projects were procured using Force on Account.

#### i. Tender Documentation, Valuations, Certification and Cost Control

In a number of cases copies of contracts and other tender documents could not be accessed due to poor records keeping and retrieval systems. Bidding documents for some projects were inadequate. The correlation between the Bills of Quantities and the works specifications was lacking. In some cases (e.g. Entebbe Police barracks toilet block and sewer line) appropriate drawings were not provided to bidders, thus making it difficult for contractors to reasonably price their bids.

There were many instances of weaknesses in cost control and cost control documentation. Often it appeared that payments were simply made to match the project sum without necessarily correlating payment to actual works satisfactorily done. Many instances of actual quantities on site being less than what is indicated in the payment certificate or more than that indicated in the payment certificate were noted.

There were also a number of instances where the payment certificates include items that were not implemented at all or that were not satisfactorily implemented. This undermined the enforcement of the rectification of defects by the contractors as they had already been paid for the works.

The Ministry of Works Engineers did not provide adequate supervision as they were busy elsewhere. This was the case not only in the MoGLSD but also in other participating Institutions, like UPS, UPF and others where MoWT was responsible for checking the works done and payments were made by the Institutions.

**ii. <u>Force on Account</u>**

There were two instances where the Force on account procurement option was used, namely: Renovation of Namalu Prison and construction of Luzira Prison Staff houses Complex. It was noted that in both cases best value for money was not delivered as poor standard of work was being delivered.

However, management responded that the main reason for adopting this method was because the prison structures had been badly ravaged and the department did not have all the funds needed to do a major reconstruction. The renovations were carried out over a 5 year period whereby no business contractor would have accepted such a long period of time. The Department opted to use prisoners' labour and the department technical staff. A waiver was requested and obtained from PPDA for the use of Force on Account on the two projects.

It was also established that the overall cost of each unit in Luzira and Namalu was less than the cost of a similar facility elsewhere where private contractors were used.

However, this practice to use force on account as a procurement option has been discouraged for future projects implementation.

**iii. <u>Weak and unprofessionally drafted Contracts</u>**

In a number of cases the copies of contracts seen were rather weak. This was the case in almost all Renovation of Remand Homes contracts under the MoGLSD where some contracts were found to be one to two pages. These contracts lacked details of specifications as expected in a standard contract document, to avoid the supplier or contractors taking advantage of employers.

Management responded that it was true most of the contracts were weak due to the staff responsible for this activity not being qualified. However, in future, they would be sending all contracts to the Solicitor General for clearance before they are officially signed.

**iv. Poor Procurement Records Management & Retrieval**

The Audit Team noted that there was inefficient methods of retrieval and management of procurement documents within the implementing authorities. This was witnessed in the length of time it took for the auditors to receive bids submissions, evaluation reports, minutes of contracts committees, award letters and copies of contracts.

**v. Lack of Engineers' Estimates (Reserve Prices)**

The Procurement process was further flawed by some of the audited contracts that lacked the Engineer's estimates to guide the Evaluation Committees during their assessment and awarding of contracts. It is advisable that bids should normally be within the 5% range of the engineer's estimates.

The following projects were found to have lacked Engineer's Estimates:

- UPF-Construction of Mid-Western Regional Police HQ. Hoima
- Renovation of Nsambya Police Barracks
- Construction of Katakwi ASTU Police HQ
- Construction of Bukedea, Pader and Katakwi ASTU Zonal Police offices
- Construction of Pallisa and Entebbe Chief Magistrate's courts
- Construction of DPP offices in Luweero, Moroto and Kasese
- Construction of Immigration offices at Malaba.
- Construction of Ministry of Justice Regional office, Mbarara.

**vi. Variations or Addenda of construction contracts**

The PPDA regulations require that contract variation for extra works or services exceeding 15% of the original contract sum must be cleared by PPDA. The Contract amendments are governed by Regulation 262, Sub-sections 5&6 of the

PPDA Regulations, 2003. It is also a requirement that a new contract for the variations stating the terms and conditions of the works must be prepared.

A total of eleven (11) project activities had addenda or Variations issued, two (2) of which were above the 15% ceiling requiring PPDA clearances. The variations for the construction of Gulu Regional Laboratory MoIA were not cleared by PPDA and a new contract was not prepared as required. However, variations for the Construction of the LDC Complex at Makerere (Phase 1) were approved by the contracts committee and also cleared by PPDA. (See table 69 below).

**Table 69: Showing contract variations over 15% of the original contract price and requiring PPDA clearance**

| **s/r** | **Contract** | **Original contract** | **Revision** | **%** | **Revised contract** | **Remarks** |
|---|---|---|---|---|---|---|
| 1 | Construction of Gulu Regional Laboratory MoIA | 436,445,468 | 68,998,544 | 15.8 | 505,444,012 | PPDA clearance not obtained |
| 2 | Construction of LDC Complex at Makerere (Phase 1) | 366,195,631 | 261,274,233 | 71.3 | 627,469,864 | PPDA clearance obtained |

### 11.2.3 Implementation, Monitoring and Supervision

#### a) Supervision and Project Management

While Institutional Engineers / Engineering Department seemed to be certifying projects, there did not seem to be systematic mechanisms for the supervision and monitoring of project implementation. This was particularly evident in the defects that were identified by the audit team on the completed structures that could have been corrected during the construction phase.

**In Uganda Prisons Services for example**, it was found out that most of the projects sampled were managed and supervised internally. The UPS Engineering Department has limited capacity for the supervision of all the projects undertaken and which are spread all over the country.

The workmanship of most of the finished facilities visited was, however, fair.

**In Uganda Police Force**, **DPP and Ministry of Internal Affairs,** it was found out that most of the projects sampled were managed and supervised by inadequately staffed Engineering Departments. The Departments have limited capacity for supervision of all projects undertaken, which are spread all over the country.

Although, the workmanship of most of the finished facilities visited was fair, some projects were abandoned while others stalled as indicated below:

i. Abandoned projects included:
   - Construction of Bukedea, Pader and Katakwi Police ASTU Zonal HQ; Dokolo and Pader Police Stations and Barracks; and Entebbe Police Sewer line Overhaul,
   - Construction of DPP Regional offices, Amolatar

ii. Stalled projects included:
   - Construction of Kaberamaido, Amuria Police Barracks and Stations and Kira Division Police HQ
   - Construction of Malaba Boarder Post Immigration office.

**In the Ministry of Gender, Labour and Social Development,** the level of supervision on the projects visited was generally weak, and evidently affected the standard of the works. All the sites visited had poor to fair standard of workmanship.

**In The Judiciary and Ministry of Justice and Constitutional Affairs,** where most of the projects visited were designed and supervised by a team of consultants, the projects seen were generally of a good standard.

It was also noted that where Supervision and Project Management were undertaken by The Supervisory Team from the Ministry of Works and Transport, an Institution which is overstretched with very few supervision personnel, the projects visited were generally of poor workmanship and evidently affected the standard of finished works and timely completion. This affected the projects undertaken by the

Law Development Centre, UPF, UPS, Ministry of Gender, Labour and Social Development and Ministry of Internal Affairs.

**b) <u>Follow up on disbursements</u>**

Some cases were noted where there was no adequate follow up on disbursements by the Secretariat in order to avoid unauthorised diversion of funds from one project to another. A case in point is the construction of Store and Armoury at ASTU HQ – Katakwi under UPF. The ASTU Headquarters building was constructed but the store has yet to be done. Construction of Ngarium - Katakwi ASTU Zonal Offices has never started although the funds were disbursed.

**c) <u>Contract Enforcement</u>**

In many instances, time control was generally weak. Many projects were not implemented based on specific time frames, even where the contract stipulated that the contractor was to regularly submit a program of works.

Time overruns occurred in many projects, with some projects even taking more than double the contract period. This is a reflection of inadequate initial planning and under-estimates of the time required to complete the project. On the other hand, in the construction industry, many contractors, particularly local contractors, do not have the skill/discipline of working with time frames. This trend demands extra effort from project supervisors if the projects are to be delivered within the allocated time frames.

Some of the contracts that exhibited management weaknesses included: the Government Analytical Laboratories in Gulu and Mbale; and the immigration offices in Malaba for the Ministry of Internal Affairs. All were well past the contract completion dates yet there was no documentation/ communication from the contractor, the supervisor or the client regarding time extension. There was no evidence of any attempt to initiate dialogue on breaking the stalemate that had been reached. The projects had therefore not achieved their intended objective, and required a purposeful intervention to chart a way forward.

Some cases were noted where contractors were fully paid yet the defects liability period had not elapsed. At Gulu Remand Home staff housing, for example, the contractor was fully paid before the end of the defects liability period. The defects list was issued after payment. The contractor was off the project yet a number of defects were still pending, and in some cases the defects were being made good at the end users expense.

**d) Project Definition**

There were some weaknesses in project definition. For example, it is inconceivable to provide housing without sanitation yet a number of housing projects were implemented with no provision for bathrooms and toilets. Examples of this scenario included: construction of Namalu staff houses and completion of one block of low cost houses at Rukungiri prison.

**e) Institutional Bureaucracy**

In two instances, completed staff houses were not yet occupied because of Institutional Bureaucracy. At Kisoro and Amolatar Police Barracks, completed staff houses were not yet occupied because of apparent ambiguity on who is to give the go ahead for occupants to move in.

**f) Disability Provisions**

Provision for PWDs access to the public buildings, wherever it was provided, was mostly limited to an external ramp at the veranda, with no provision for access into the building as there was often a step from the veranda into the building. Inside the buildings, the door widths and circulation space e.g. at WCs were generally insufficient for disabled (PWD) access, and without supporting anchors. This is an inadequacy in design. The only place where provision for PWDs concerns was adequate was at the LDC Complex.

## 11.3 Financial Management

The payment process under most of the sample contracts was generally handled in accordance with The Public Finance and Accountability Act, 2003 and the Public Finance and Accountability Regulations, 2003. The Act seeks to clarify and expedite the process of paying for goods and services in all public institutions.

**a) Inadequate attachments**

Payments to contractors for finished works were particularly noted to have inadequate attachments. Such attachments would include interim certificates, measurement sheets, and payment history and a copy of the contract documents.

**b) <u>Poor Payment Records Management and Retrieval</u>**

The Audit Team noted that there was inefficient methods of retrieval and management of financial documents within the implementing authorities. This was witnessed in the length of time it took for the auditors to receive payment vouchers and related documents and in some cases documents were not received at all.

Institutions complained that the documents had been taken to the JLOS Secretariat for accountability and that they had not been returned.

**c) <u>Delays in Payment Executions</u>**

There were notable delays in processing and effecting payments to contractors due to bureaucracy and poor documentation. It was noted under technical findings that delays in effecting timely payments to contractors could have affected the timely delivery of services by limiting the contractors' cash flow and causing works to stall. For example, the construction of Kolir - Bukedea ASTU Zonal Offices and Lapono – Pader ASTU Zonal Offices had stalled due to late payments for certified works.

**d) <u>VAT deductions</u>**

It was noted that at JLOS Secretariat, VAT deductions were made at source. This should not have been the case, only WHT should have been deducted at source. It is the responsibility of the Contractor or Service provider to remit VAT returns to URA.

**e) <u>Disbursement of insufficient Funds</u>**

Sometimes funds received by the Institution were not sufficient for the implementation of the project in question. Often the money sent did not take into account the VAT component and the Institution was left with the burden of finding alternative sources of funding to meet the VAT. The Ministry of Gender, Labour and Social Development was given money for the purchase of a Double Cabin Pickup without the VAT component and were forced to divert funds from other budget lines to cover the shortfall.

Another example was the Government Analytical Laboratory (GAL) under the Ministry of Internal Affairs, were given Shs.62, 000,000 for the construction of a cold room without the money to cover the cost of drawings. The money is still on their account pending acquisition of approved technical drawings.

**HANDOVER, UTILISATION, OPERATION AND MAINTENANCE OF COMPLETED PROJECTS**

JLOS, through the participating Institutions, has invested much money in infrastructure projects but there is inadequate provision for the operation and maintenance of completed projects.

Institutions did not have budget allocations for maintenance works for the constructed facilities. In some cases, even basic maintenance activities like cleaning, rectifying lose lighting fittings, re-fitting items that may have fallen out etc were neglected. UPF institutions in particular were poorly maintained e.g. Katwe Police station toilet block. UPS generally had well maintained, clean facilities with the exception of Luzira Prison Staff Housing and Namalu Prison

At an Institutional level, instances of neglect, poor cleanliness and lack of routine maintenance on completed and occupied projects were also pronounced on upcountry magistrates' courts like: Kapchorwa, Moyo and Yumbe Courts.

Many of the projects that had been completed and in use had not been handed over transparently.

**Performance of contractors**

The standard of workmanship exhibited by contractors undertaking the various projects was generally fair. Nonetheless, there were a few cases where the standard of work was very poor e.g. Construction of Malaba Immigration office.

Contractors did not carry out Materials tests for most of the audited projects. In some instances, there was weak enforcement of specifications and the standard of some fittings used was poor or not appropriate e.g. window stays and fasteners in many projects were already broken/not functional especially for staff housing where there is high occupancy.

Some contractors exhibited some form of incompetence through poor workmanship, lack of basic technical competence, and non-commitment to the provisions of the contract when constructing.

Aquifer International Ltd., for example, abandoned works on construction of prison wards at roofing level and two staff houses at walling stage for Ibuga Government Prison. The company also obtained an advance payment on submission of a forged Advance Guarantee document.

M/s Alpha- Gama Engineering Enterprise Ltd. was the sole contractor for all the three projects implemented by MoJCA. The same contractor had contracts with other Institutions under JLOS at the same time. The use of the same contractor on many different contracts potentially raises questions on his ability to execute the works in accordance with the provisions of contract due to too much work overload.

**Performance of Contracts committees**

In the majority of projects audited, the Contracts Committees of the various Institutions performed their statutory functions very well, exceptions being in a few cases when revisions to the original contracts were not ratified by the committees.

On the whole, the quality of works done under the projects audited was found to be good and the facilities were providing the services for which they were intended.

The delivery of justice in the country has greatly improved; where court sessions used to be held in rented rooms, delivery is now held in permanent court buildings.

The DPP regional offices are now providing closure legal guidance to the communities. The Uganda Police Force has also benefited from increased police stations, improved transport facilities and communication equipments. The various prisons constructed under the JLOS SWAP development funds have improved the living conditions of the inmates. Prison and Police staff have benefited from housing although more is still required. The rehabilitation of Remand Homes at various stations in the country has led to separation of adult from Juvenile offenders as provided for internationally.

## RECOMMENDATIONS

From the audit findings, for the benefit of all the stakeholders in the construction industry in Uganda and all the JLOS Institutions, the following recommendations were made. The recommendations are based on the findings arising out of this audit and the various observations received from the stakeholders involved in the implementation of this programme, hitherto referred to as the Participating Institutions of JLOS. It is hoped that at the end of this exercise, the stakeholders and beneficiaries will have learnt valuable lessons which will be of great assistance for future implementation of similar programmes.

### Technical Recommendations

**a) Contract Enforcement**

Enforcement of Contractual clauses should be addressed either by outsourcing supervisory consultants or by building internal capacity i.e. by recruiting appropriate technical staff; or a combination of both options so as to improve delivery of the institution's projects.

**b) Valuations and Certification**

The contract supervisors should be keen at taking off or measuring accomplished work items together with the contractors.

**c) Disability Provisions**

All contracts from the design stage should take into consideration equity issues or cross-cutting issues. Considerations for PWDs access to facilities and issues of gender and environment should be key in the design and implementation of JLOS projects.

**d) Maintenance**

The JLOS institutions should budget for adequate funds for maintenance of built facilities for sustainability purposes.

**e) Project Definition**

All projects to be implemented should undergo strict appraisals to ascertain viability e.g. a case for Ngarium-Katakwi ASTU Zonal offices had not taken off because of a land wrangle. Important aspects, like provision of bathrooms and toilets should be captured in appraisal reports.

**f) Force on Account**

The Force on account contracts, if inevitable, could be improved upon by employing a full time skilled supervisor to oversee the implementation of the works, otherwise, this procurement method should be discouraged.

**g) Further Audit**

Further Technical audit should be conducted for projects that were in progress at the time of this audit.

**<u>Financial and Procurement Recommendations</u>**

**a) Dissemination of planning guidelines**

The Institutions' Planning Units must ensure that planning guidelines as spelt out by JLOS Secretariat are adequately disseminated and that all participating Institutions understand and are aware of the various allocations under the various projects/programmes planned for funding under the JLOS-SWAP Development Fund.

**b) Profiling of projects**

The Personnel assigned the responsibility of coordinating the planning function in each Institution must ensure that all the projects included in the development plans have detailed profiles written according to the standard format.

**c) Open Domestic Competitive Bidding Method**

The Audit Team strongly recommends that the Open Domestic Competitive Bidding method be the norm to ensure transparency in securing contractors. With a good planning mechanism in place, cases of using emergencies as an excuse for using Direct procurement method could be avoided, unless otherwise as stated in PPDA Regulation 110 (2) a-c.

**d) Cost Estimates**

In order to avoid further flaws in the Procurement process, confidential Cost Estimates should be prepared for all future projects. It is nice to note that this audit has one of its components, the production of Standard Building Designs and Costing. The Ministry of Works and Transport should also have an up-to-date 'schedule of rates' for the construction sector. The bids should normally be between 10-15% ranges of the engineer's estimates.

**e) Addenda or Variations for Extra Works**

Addenda or Variations for extra works cannot be avoided in the construction industry but they should be authorised by the Contracts Committee and where the sum is above 15% of the original contract value PPDA clearance should be sought.

**f) Proper Filing of Documents**

The Secretaries to the various contracts committees should ensure that copies of all documentation relating to given contracts were properly kept. Each contract must have a separate file where key documents are kept and made available for easy reference.

Accounting and Finance officers and Internal Audit sections must ensure that copies of all documentation relating to a given contract are properly attached to the payment requisition.

**g) Unauthorized Payments**

In order to avoid unauthorized payments, proper attachments should accompany all payment vouchers. These include: a copy of contract agreement, letter of contract award, interim certificates or in case the contract is complete, a penultimate completion certificate must accompany the voucher. This will help the paying authorities to avoid making unlawful or unauthorized payments. The paying officer should always insist on obtaining a receipt from the recipients.

**h) Unnecessary Delays in Payments of Contractors**

The implementing agencies should avoid unnecessary delays in payments of Contractors' certified works. Contractors should be made aware of the time it takes for them to be paid after certification of the works. This helps them to adequately plan for their cash flow for affective and timely implementation of the works.

**i) Budgeting and Budgetary Control**

Annual work plans and budgets for the funds were at the time of audit being done by Participating Institutions and submitted to the JLOS Secretariat for discussion, approval and disbursement. Many beneficiary Institutions, like Regional Police offices and Police Stations, Reception Centres or Remand Homes, Prisons Farms Institutions, like Rwimi and Ibuga Prison Farms etc, expressed the desire to be involved in the planning process because they had their priorities which they felt should have been funded.

It is therefore recommended that beneficiary institutions are involved in the planning process.

**j) Follow up on Disbursements to Implementing Institutions**

In order to avoid diversion of funds from one project to another without proper authorisation by the Implementing Institutions there must be adequate follow up on Disbursements by the Secretariat. A clear follow up procedure either by monthly progress reports from the Institutions to the Secretariat or inspection visits by the Secretariat to the various project sites must be encouraged.

**k) Accountability for Funds received**

Proper and timely accountability for funds received by Participating Institutions is a prerequisite for improved performance. The system of reporting should be strictly enforced by the Secretariat and adhered to.

**l) VAT deductions**

Value Added Tax should be paid to the Contractors and Service Providers for them to statutorily perform their duty of submitting monthly VAT returns to Uganda Revenue Authority.

**m) Handover and commissioning of completed projects**

Accounting officers of the various benefiting Institutions must ensure that all completed projects are handed over and commissioned. During the commissioning, the roles of beneficiaries in project operation and maintenance must be clearly spelt out. The assets must be included in the assets Register and projects identified in accordance with the guidelines.

## GLOSSARY OF TERMS

**Active Ingredient**
An active ingredient is any component that provides pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or animals.

**Adverse Drug Reaction**
A response to a medicine which is noxious and unintended and which occurs at doses normally used in man for the prophylaxis, diagnosis or therapy of diseased or for the modification of physiological function.

**Approval date**
The date on which the appropriate authority of the ADB approves the loan or grant.

**Auctioneer**
An Auctioneer or a person who carries out business of an Auctioneer is defined as one who inter alia sells or offers for sale any movable or immovable property at any sale or auction.

**Axle load**
The total weight felt by the roadway for all wheels connected to a given axle. Viewed another way, it is the fraction of total vehicle weight resting on a given axle. Axle load is an important design consideration in the engineering of roadways and railways, as both are designed to tolerate a maximum weight-per-axle (axle load); exceeding the maximum rated axle load will cause damage to the roadway or rail tracks.

**Backlog**
Every Civil Suit older than 24 months shall be regarded as backlog and qualify to be fast tracked in the system for expedited disposal.

**Bail**
Security, usually a sum of money, exchanged for the release of an arrested person as a guarantee of that person's appearance for trial.

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| **Bituminous** | containing or impregnated with bitumen |
| **Bonafide Occupants** | A person who before the 1995 Constitution of the Republic of Uganda had occupied and utilized land or developed any land unchallenged by the registered land owner or agent for 12 or more years or, a person who was settled on a given piece of land by either the Central, Local Government or agent of both governments, prior to the 1995 Constitution of the Republic of Uganda. |
| **Camber** | refers to a variety of curvatures and angle, usually an outward inclination of the front wheels of a road vehicle so that they are slightly closer together at the bottom than at the top |
| **Carriageway** | The surface normally traversed by vehicles and which consists of one or a number of contiguous traffic lanes, including auxiliary lanes, but excluding shoulders. |
| **Caseflow Management** | A coordinated management by the court of the processes and resources necessary to move each case from filing to disposition, whether that disposition ultimately is by settlement, guilty plea, dismissal, trial, or other method. |
| **Cause** | A matter to be resolved in a Court of law. |
| **Civil Case** | A court proceeding which involves legal issues between individuals/organizations/governments; court proceedings other than criminal matters. |
| **Clinical trial** | Any investigation in human and animal subject intended to discover or verify the clinical, pharmacological and/or other pharmacodynamic effects of an investigational product(s) and/or to identify any adverse drug to investigational product(s) and/or to study absorption, distribution, metabolism and excretion of an |

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| | investigational product(s)with the objective of ascertaining its safety and/efficacy. |
| **Court Bailiff** | A Court Bailiff is a person charged with the duty of executing Court orders. |
| **Criminal Case** | A case brought by the government against an individual accused of committing a crime. Acts that are seen as harmful to society are crimes. Only the state can bring a criminal case to court. |
| **Customary land** | Form of land tenure system providing for communal ownership, regulations, management and use of land. It is governed by the customs, practices and beliefs of the local people in a specific area, predominantly found in rural areas, no time limitations on ownership and use, and is usually unsurveyed with no certificate of title and has relatively low value. |
| **Date of 1st disbursement** | means the date on which the ADB determines that the Borrower has fulfilled all conditions precedent to the first disbursement. |
| **Deadline for last disbursement/closing date:** | means the date specified in the loan agreement after which the ADB may, by notice to the Borrower, terminate the Borrowers' right to make withdrawals from the loan/grant account. |
| **Defendant** | A person against whom a civil suit has been instituted in a court with competent jurisdiction. |
| **Detour** | A route around a planned area of prohibited or reduced access on a road construction site |
| **Disbursement letter** | means a letter that provides the borrowers and executing agencies with specific instructions on disbursements for the particular loan/grant. |

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| **Distress** | Types and signs of road failure |
| **Dossier** | A dossier is a collection of papers containing detailed information about a particular product or subject. |
| **Drug** | Any substance or preparation used or intended to be used for internal or external application to the human or animal body either in the treatment or prevention of disease for improving physiological functions or for agricultural or industrial purposes. |
| **Edge of the mat** | The fretting or breaking of the edge of a bituminous surface. Usually this should be a neat, straight edge that ensures that the gravel shoulder is of correct level and slope that will give maximum support to the edge of the surface. |
| **Effective date** | means the date on which the Bank determines that the Borrower has satisfied all conditions for effectiveness of the loan agreement. |
| **Ex-parte** | Is a Latin Legal term meaning "from (by or for) one party". An *ex parte* decision is one decided by a Judge without requiring all of the parties to the case to be present. |
| **Freehold land** | The holding of registered land in perpetuity or for a period less than perpetuity which may be fixed by a condition (Section 3 (2) (a) and (b) of the Land Act CAP 227). The land is well demarcated and surveyed with survey maps and title deed plans included in the certificate of title. |
| **Generic Drug:** | A generic drug is the same as a brand name drug in dosage, safety, strength, how it is taken, quality, performance, and intended use. Drug products evaluated as "therapeutically equivalent" can be expected to have |

equal effect and no difference when substituted for the brand name product.

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| **Government land** | Land vested in or acquired by the government in accordance with the Constitution, or acquired by the government abroad. Government land includes all land lawfully held, occupied and/or used by government and its agencies, including parastatal bodies for purposes of carrying out the core functions of government. Government includes central and local governments. |
| **Gravel road** | A gravel road is a type of unpaved road surfaced with gravel that has been brought to the site from a quarry or stream bed |
| **Grid extension** | means extending the transmission grid to cover a new community. |
| **Herbal medicine** | Consists of finished, labeled medicinal products that contain as active ingredients aerial or underground parts of plant, or other plant materials, or combinations thereof, whether in the crude state or as plant preparations. Plant material includes juices, gums, fatty oils, essential and any other substances of this nature. Herbal medicines may contain excipients in addition to the active ingredients. |
| **Hologram** | An image registered with use of coherent laser light. It allows to preserve the 3-D information of a holographed subject. With a single source of white light, the image is "played back" and appears in 3-D exactly as it was registered in the studio. Image can project deep inside, or "stick" out of the picture. |
| **In-situ** | Refers to construction which is carried out at a site using raw materials or simply meaning "in position" |

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| **Interlocutory Application** | An application/Proceeding taken during the course of, and incidental to a trial; a housekeeping order that relates to the process of the trial as opposed to the substance of the pleadings. |
| **Land administration system** | The system implemented by the Government to administer rights in land and these include; process of recording, registering and disseminating information about rights and ownership in land, both for the private individuals and state land. |
| **Land Title** | A unique document, with details of land ownership like names, address, date of commencement of ownership, special instrument members and size (acreage). |
| **Lawful Occupants** | A person occupying land by virtue of certain colonial legislation specified in the Land Act of 1998 or, a person who occupies land with the consent of registered owner including the purchaser from the said person above, or a person who occupies land as a customary tenant but whose tenancy was not disclosed or compensated for by the registered owner at the time of acquiring the certificate of title. |
| **Leasehold land:** | This is the holding of land created either by contract or law for an agreed period of time (Section 3 (5) a-e of the Land Act CAP 227). The lease agreement sets out the terms and conditions of the contracting parties. The respective dates of commencement and expiry of the leasehold period are clearly agreed upon in advance, together with the rights and obligations of each party. The leasehold offer does not confer land title forever and may be voluntarily or forcefully terminated before the expiry of the agreed period, if terms are breached by any |

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| | of the concerned parties subject to the specific limitations imposed by the Constitution and the Land Act of 1998. |
| **Logger** | means a person whose job is to cut down trees. |
| **Mailo land** | This is the holding of registered land in perpetuity. Usually hundreds of square miles of land are registered and held in perpetuity, evidenced by certificate of title. (Also called Native Freehold, in Ankole and Kigezi regions) |
| **Main grid** | means the main network transmitting electricity in the country. |
| **Mediation** | A method of dispute resolution involving a neutral third party who tries to help the disputing parties reach a mutually agreeable solution. |
| **Medicine** | Any substance used in treating diseases or illnesses; medicament; remedy. |
| **Mini-grids** | Means expansion generating capacity used for self-generation, or on diesel or renewable energy capacity. Such grids are particularly well adapted to relatively concentrated areas with a potential for productive uses like trading centres and other clusters of businesses and homes. |
| **Mitre** | A drain constructed at an angle to the centerline of the road to divert water from a side drain. Mitre drains include mitre banks placed across the side drains |
| **Patching** | Patching is an area of pavement surface that has been removed and replaced with patching material or an area of pavement surface that has had additional patching material applied. |

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| **Pharmacovigilance** | A science and activities relating to the knowledge, detection and prevention of adverse effects or any drug-related problems. |
| **Plaint** | A document filed by a plaintiff to institute a civil suit. |
| **Plaintiff** | A person who has instituted a civil suit against another. |
| **Post Market** | A stage when the drug is generally available on the market. |
| **Public Health Product** | A product or item or device used for public Health Programs for vector control or for other recognized health protection uses, including mitigation of viruses, bacteria or other micro-organisms (other than viruses, bacteria or micro-organisms on or in living man or other living animal) that pose a threat to public health. |
| **PV:** | means photovoltaic technology for solar power. |
| **Rejoinder** | A pleading in common law, made by the defendant to answer a replication by the plaintiff. |
| **Replanting** | means replacements of seedlings that have failed to take root after transplantation |
| **Road Servitude** | State or condition of a road |
| **Road Shoulder** | When referred to as a surface: the area between the outside edge of the carriageway and the shoulder break point. When referred to as pavement layer(s): the upper pavement layer(s) lying between the outside edge of the base and the surfacing courses and the shoulder breakpoint. |
| **Running width** | The area consisting of the carriageway and the shoulders |
| **Rutting** | Rutting is a longitudinal surface depression in the wheel path |
| **Scheduling Conference** | It is a pre-trial court meeting between the judge/magistrate, the parties to a suit and their lawyers to |

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| | determine how the case will proceed and/explore the possibilities of settlement. |
| **Signature date** | The date on which the Borrower (Government of Uganda) and the ADB sign the Loan Agreement or Protocol of Agreement. This date determines the start date for commitment fees, where applicable, and the repayment schedule of the loan. |
| **Squatter** | A person who is occupying land without the consent of the registered owner and does not qualify as a lawful occupant. |
| **Stoniness** | The presence of large stones in the wearing course resulting in extreme roughness and severe difficulties in maintaining the road |
| **Summons** | A court command to the defendant to file a defence and appear for court proceedings. |
| **Traditional Medicine** | The sum total of all knowledge and practice whether they can be rationally explained or not, used in the diagnosis, prevention, elimination of physical, psychological and social imbalances and relying exclusively on practical experiences and observations handed down from generation to generation, either verbally or in writing. |
| **Unit of Account** | The value of unit equivalent to one Special Drawing Right of the International Monetary Fund (IMF) as defined in Article 5.1 (b) of the Agreement establishing the ADB and in Article 1 (1) of the Agreement establishing the ADF. |
| **Universal Primary** | The provision of basic education to all Ugandan children of |

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| **Education (UPE)**[82] | primary school-going age (6 years and above). In providing UPE, the following must be guaranteed: Access, Equity, Quality and Relevance of education to the Government and the people. |
| **Written Statement of Defence** | It is the defendants written reply to the claims of the plaintiff. |

[82] Guidelines on: Policy, Planning, Roles and Responsibilities of Stakeholders in the Implementation of UPE for Districts and Urban Councils, October 2008, Page 1.