

OFFICE OF THE AUDITOR GENERAL



THE REPUBLIC OF UGANDA

REPORT OF THE AUDITOR GENERAL

ON THE FINANCIAL STATEMENTS OF UGANDA LAND COMMISSION

FOR THE YEAR ENDED 30TH JUNE 2017

OFFICE OF THE AUDITOR GENERAL

UGANDA

**REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS
OF UGANDA LAND COMMISSION FOR THE YEAR ENDED 30TH JUNE 2017**

THE RT. HON. SPEAKER OF PARLIAMENT

Qualified Opinion

I have audited the accompanying Financial Statements of the Uganda Land Commission, which comprise the Statement of Financial Position as at 30th June 2017, the Statement of Financial Performance, Statement of Changes in Equity and Statement of Cash Flows for the year then ended, and a summary of significant accounting policies and other explanatory notes, as set out on pages 9 to 36.

In my opinion, except for the possible effect of the matter described in the Basis for Qualified Opinion section of my report, the financial statements of the Uganda Land Commission for the year ended 30th June 2017 are prepared, in all material respects in accordance with section 51 of the Public Finance Management Act, 2015.

Basis of Qualified Opinion

- **Mischarge of Expenditure**

The Parliament of Uganda appropriates funds in accordance with the needs of the country and the appropriation is implemented through the budget, in which funds are tagged to particular activities and outputs using account codes. Expenditure analysis revealed that a total of UGX.277,231,557 was mischarged to various account codes that did not reflect the nature of the expenditure.

Mischarge of expenditure distorts the intention of the appropriation Authority and misrepresents the balances in the financial statements.

Although management stated that the amount was correctly charged, audit verification confirmed the mischarge. I advised management to streamline the budgeting processes and always seek authority for reallocation, where it is inevitable.

- **Inconsistent figures of non-produced assets**

The statement of financial position and Note 22 shows a cumulative figure of non-produced assets (Land) of UGX.113,582,425,026. This figure is however different from the total figure of UGX.112,314,244,000 reflected in the schedule of non-produced assets, leading to a variance of UGX.1,268,281,026. This casts doubt on the authenticity of the figure of non-produced assets. Management did not explain the inconsistency.

I advised management to update the land inventory so that the figure of non-produced assets is authentic and well supported.

Basis of Opinion

I conducted my audit in accordance with International Standards of Supreme Audit Institutions (ISSAIs). My responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of my report. I am independent of the Commission in accordance with the Constitution of the Republic of Uganda (1995) as amended, the National Audit Act, 2008, the International Ethics Standards Board for Accountants Code of Ethics for Professional Accountants (Parts A and B) (IESBA Code), the International Organization of Supreme Audit Institutions (INTOSAI) Code of Ethics and other independence requirements applicable to performing audits of Financial Statements in Uganda. I have fulfilled my other ethical responsibilities in accordance with the IESBA Code, and in accordance with other ethical requirements applicable to performing audits in Uganda. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, were of most significance in my audit of the financial statements of the current period. These matters were addressed in the context of my audit of the financial statements as a whole, and in forming my opinion thereon, and I do not provide a separate opinion on these matters. I have determined the matters described below as key audit matters to be communicated in my report;

- **Inadequate Controls Surrounding Management of Domestic Arrears**

Domestic arrears refer to the total value of unpaid bills for goods and services rendered to a government entity, including wages and pension that remain outstanding at the closure of a financial year. There has been persistent accumulation of domestic arrears to unmanageable levels which has led to settlement of arrears that are not authorized, unbudgeted for, inadequately supported and in some instances there has been inadequate recognition and disclosure of the domestic arrears. The variances between the reported figures in the financial statements and the amounts verified by Internal Auditor General formed a basis of my qualification of consolidated GoU financial statements for the year ended 30th June 2016.

Consequently, domestic arrears were considered a key audit matter, which needed to be examined to assess: the appropriateness of recording, recognition and disclosure of domestic arrears; the trend and the underlying factors; and the adequacy of the internal controls surrounding management of domestic arrears.

During audit planning, I focused on examination of domestic arrears in regard to goods and services, salaries and wages, and pension and gratuity. I undertook the following procedures in relation to domestic arrears: a trend analysis over a period of three years to ascertain the underlying causes of accumulation; reviewed budget and commitment control procedures to assess their effectiveness; ascertained the authenticity of the supporting documentation and assessed the appropriateness of the accounting treatment. I also engaged the Accounting Officer to enable me arrive at the audit conclusions.

Based on the procedures performed, I observed that the Commission had unsettled property rates (committed creditors) amounting to UGX.7,162,227,073 which had been outstanding for more than three years. This makes the trend unsustainable.

This may be as a result of existence of a weak and ineffective internal control system over the control and management of domestic arrears. For example, the government commitment control system was not adhered to.

I advised management to continue following up with MoFPED to ensure that funds are set aside for the settlement of domestic arrears.

Other Matter

In addition to the matter raised above, I consider it necessary to communicate the following matters other than those presented or disclosed in the financial statements:

- **Failure to properly manage Government Leases**

Section 53(c) of the Land Act Cap.227 states that for the purpose of performing its functions under the Constitution and the Land Act, ULC may sell, lease or otherwise deal with the land held by it.

A review of a sample of leases revealed that ULC was not properly managing leases. Audit noted instances of leases that had expired and whose lease terms had not been extended, for example out of 31 files reviewed, 13 (42%) leases had expired and had not been renewed. In addition, most tenants had not been paying ground rent and no action had been taken in form of reminders, demand notices and eviction letters; and the ground rent rates had not been revised for a very long time for most of the leases.

This affected the revenue collection potential of the Commission, which affects implementation of planned activities. Furthermore, the non-disclosure of the ground rent receivable implies that the financial statements are misstated.

Management stated that ULC faces challenges including the limited resources/finances, time and understaffing with only two (2) technical staff/Land Officers.

I advise the Accounting Officer to assign an officer to enforce collection of ground rent, manage the extension or termination of expired leases, send reminders to defaulters and maintain receivables ledger to keep track of payments.

- **Non-registration of bonafide occupants in Kibale**

The Commission spent up to UGX.29,112,547,221 on land compensation. However, it was noted that the ULC did not carry out pre-acquisition inspection

to ascertain both the evidence and the extent of occupancy on the applicants' land in Kibale.

There is possibility that not all land acquired was occupied as alleged by the applicants. It is also possible that some of the land could have been part of public land (Wetlands and Forests) that was surveyed by unscrupulous individuals. The lack of data regarding the occupants before compensation/acquisition by ULC leaves room for unscrupulous applicants being compensations.

In response management stated that the main activity for pre-acquisition inspection is boundary opening surveys, which are undertaken by the Commissioner Surveys and Mapping and the District staff surveyors and forms the basis of valuation by the Office of Chief Government Valuer and the Commission pays as per the Report provided by the Chief Government Valuer.

The management's response does not address the issue of registration of bonafide occupants during pre-acquisition inspection. I therefore advised that the registration be undertaken, so that the determination of who to distribute land to is made easy.

- **Payment of ineligible claimants**

A review of sampled files revealed that applications for compensations totalling UGX.2,446,490,000 was paid out of the total valuation of UGX.4,824,340,000 in Kibale District. However, the payments are considered ineligible owing to the fact that government only compensates land that had been allocated during the 1900 agreements. Any current titles acquired thereafter are not eligible.

Compensation of ineligible claimants, denies funds for bonafide beneficiaries, some of whom have taken many years without being paid.

Management acknowledged that they had compensate some claimants who had obtained freehold titles in Kibale district, but had since halted payments for these parcels and had subsequently written to inform them of the same. The

cancellation of the titles will be done by MoLHUD, as it is their mandate to process titles as well as cancel.

I advised the Accounting Officer to ensure only bonafide claimants are reimbursed, I advised that follow up should be done with MoLHUD, to ascertain the circumstances under which such claimants were compensated.

- **Lack of Comprehensive Government Land inventory**

Section 49 of the Land Act, Cap.227, stipulates the functions of Uganda Land Commission, among others as holding and managing any land in Uganda, which is vested in or acquired by the Government in accordance with the Constitution. I noted that the Commission lacked a Comprehensive Government land inventory. In the circumstances, there is risk of trespassing, encroachment and grabbing of Government land.

Management responded that the Honorable Minister of Lands, Housing and Urban Development had set up a committee, Chaired by the Minister of State for Housing, to kick start activities, including surveying all un-surveyed land and titling in favor of the Government. The committee was awaiting funding.

I await the outcome of the work of the Committee towards ensuring that a comprehensive Government land inventory is developed for better management of Government Land.

- **Excess payment of Compensations**

The valuation and the survey reports prepared by the Chief Government Valuer (CGV) recommended for payments for the percentage of land occupied while the percentage that was un-occupied (ie the portions of the land gazetted for wetlands, forest reserve also described as free from squatters) was not supposed to be paid for.

Contrary to the above, audit noted that management in some cases paid for 100% of the land despite the recommendations in the survey and valuation reports. A review of the compensation files revealed that ULC paid a total of UGX.3,463,930,600 over and above the amounts recommended by the Chief

Government Valuer. This was attributed to management's failure to adhere to the recommendations of the valuation and survey reports. This occasions financial loss to Government.

Management responded that the valuations determined by the CGV for land compensations are for 100% of the land and ULC pays for it in full because the absentee landlords submit their titles for all the land even if part of it is not encumbered. Government would have obtained ownership for all the land and thus no financial loss as paying for only encumbered land would necessitate having to mutate the certificates of Title.

I advised the Accounting Officer to reconcile the payments with the recommendations of the CGV and if need be to recall all the outstanding payments and ascertain the correct amounts due to the applicants and consider issuing new offers.

- **Titles not transferred to ULC after compensations**

Procedure 14 of the compensation guidelines requires that after compensation payments, titles are supposed to be transferred in the names of ULC. By the time of the audit (September 2017), some of the land acquired and fully paid for, worth about UGX.8,582,795,000 had not yet been registered/transferred to ULC.

In the circumstances, the ownership of the purchased land remains doubtful and there is risk of theft of the titles.

Management stated that the transfer of certificates of title after compensation are submitted through the MoLHUD to the various land offices, however, owing to the lengthy process involved in land transactions, land acquired by the Commission takes long to be transferred.

I advised the Accounting Officer to follow-up the process and ensure that all purchased land is transferred in the names of ULC and captured in the Land Inventory.

- **Delayed payment of compensations**

Procedure 13 of the ULC compensation guidelines states that upon receipt of funds, the Commission compiles a list of successful applicants on the basis of "first come first serve" and the provisions of the Land Fund regulations authorizes the Accounting Officer to effect payments to the applicants to the accounts provided as and when funds are available.

A review of the compensation ledgers revealed that the basis of "first come first serve" was not adhered to, because some applicants were paid immediately in the year of clearance while others had remained outstanding for a very long time. Some applicants had their claims pending as far back as the financial year 2012/13.

There is a risk that of some claimants may seek for revaluation of the compensation offers and others out rightly rejecting them. There is also likelihood of frustrated claimants resorting to courts of law for redress. Management responded that, while making payments, the issue of directives for payments by highest authorities to a great extent undermines adherence to the compensation guidelines.

I advise the Accounting Officer to adhere to the requirements of the compensation guidelines and make payments on "first come first serve" basis.

- **Missing Lease files**

A review of the Commission's minutes revealed that it had issued new leases and granted extensions of leases, however, the files pertaining to these leases and the associated revenues were not availed for audit. Consequently, it was not possible to verify existence, completeness and status of payment of ground rent.

Management responded that, at the time of the audit, many files had been referred for action at different offices and desks outside the registry office and others for action to other departments and offices outside ULC. On the issue of keeping aside duplicate files, ULC started on the process in 2016 but faced a challenge of resources.

I advised the Accounting Officer to facilitate the registry department with stationery and funds to travel to various administrative units to back-up the lease files and create a linkage for reference purposes.

- **Missing Compensation files**

Procedures 1-14 of the ULC Procedure for land purchase under the land fund program clearly stipulates the steps and the necessary documentation required for processing compensation claims under the land fund. A review of a sample of compensation files revealed that 3 (three) files valued at UGX.131,334,336 were missing and thus not availed for audit. Consequently, I could not ascertain the validity and reasonableness of compensations and/or payments.

Management acknowledged that files were missing due to the fact that when they are forwarded to various Ministry Zonal Offices for processing lease extensions and renewals, they are never returned. A communication was made to the Commissioner Land Registration to effect the return of ULC files but no response has been received.

I advised the Accounting Officer to discuss the issue with the registry staff and initiate a system of referencing files in the registry to make it easy to locate them.

Responsibilities of the Accounting Officer for the Financial Statements

Under Article 164 of the Constitution of the Republic of Uganda, 1995 (as amended) and Section 45 of the Public Finance Management Act, 2015, the Accounting Officer is accountable to Parliament for the funds and resources of the Ministry.

The Accounting Officer is responsible for the preparation of the financial statements in accordance with the requirements of the Public Finance Management Act, 2015 and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatements, whether due to fraud or error.

In preparing the financial statements, the Accounting Officer is responsible for assessing the Ministry's ability to continue delivering its mandate, disclosing, as applicable, matters

related to delivery of services, unless Government either intends to discontinue the Agency's operations, or has no realistic alternative but to do so.

Auditors' Responsibilities for the audit of the Financial Statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement, when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users, taken on the basis of these financial statements.

As part of an audit in accordance with ISSAIs, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:-

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Ministry's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Ministry's ability to deliver its mandate. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's

report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Ministry to fail to deliver its mandate.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

I also provide the management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.

From the matters communicated with management, I determine those matters that were of most significance in the audit of the financial statements of the current period and are therefore the key audit matters. I describe these matters in my auditor's report unless law or regulation precludes public disclosure about the matter or when, in extremely rare circumstances, I determine that a matter should not be communicated in my report because the adverse consequences of doing so would reasonably be expected to outweigh the public interest benefits of such communication.



John F.S. Muwanga

AUDITOR GENERAL

18th December 2017