



THE REPUBLIC OF UGANDA

REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF
MINISTRY OF JUSTICE AND CONSTITUTIONAL AFFAIRS
FOR THE YEAR ENDED 30TH JUNE 2017

OFFICE OF THE AUDITOR GENERAL
UGANDA

REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF
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FOR THE YEAR ENDED 30TH JUNE, 2017

THE RT. HON. SPEAKER OF PARLIAMENT

REPORT ON THE FINANCIAL STATEMENTS

Opinion

I have audited the financial statements of the Ministry of Justice and Constitutional Affairs for the year ended 30th June 2017. These financial statements comprise of the statement of financial position, the statement of financial performance, and cash flow statement together with other accompanying statements, notes and accounting policies.

In my opinion, the financial statements of the Ministry of Justice and Constitutional Affairs 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, and the Financial Reporting Guide, 2008.

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 Statement's section of my report. I am independent of the Ministry 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 to be key audit matters communicated in my report.

- **Outstanding court awards and compensations**

The Ministry of Justice and Constitutional Affairs is mandated to provide legal advice and legal services as well as supporting the machinery that provides the legal framework for good governance. Its core functions include; drafting legislations, defending Government in courts of law, estates inspection and administration, regulation of legal profession and provision of legal advisory service to Government.

Over the years, the Attorney General has represented Government in various courts and tribunals across the Country. In the financial year 2016/2017, fifty four (54) cases were concluded out of which 23 cases were won. Thirty (30) cases were lost due lack of witnesses and instructions from MDAs.

Consequently, the Ministry budgeted and prepared work plans for court awards and compensations arising from the lost cases. However this matter has remained a relentless challenge because the Ministry has no control over Court Awards and Compensations. The amount for this cost Centre is always escalating, yet the Ministry of Finance provides minimal releases for this item every year.

This area was taken as an area of emphasis from the preliminary stage of office wide planning and shared overall risk assessment. I assessed risks like over/under stating of court awards and compensations amounts, accrued interest arising from unpaid Court Awards and Compensations, missing files for court awards and compensations; and inadequate recording, monitoring and supervision that are likely to be the causes of the escalating liability.

Consequently, I developed specific audit procedures which included the evaluation of the outstanding commitments for court awards and compensations, analyzing accrued interest arising from unpaid Court Awards and Compensations, verifying the accuracy and completeness of court awards and compensations in comparison with court orders in addition to physical enquiries with Management.

I picked a sample of files and verified with the schedules of court awards and compensations availed, I reviewed correspondences with Ministry of Finance Planning and Economic Development to ascertain the direct payments under mandamus orders, I compared IFMS payment extract on this item with bank statements and I recomputed

interest accruing due to non- or delayed payment. I also reviewed in totality the Ministry creditor's ledger.

Based on the procedures performed, I observed that domestic arrears amounted to UGX.682,456,367,662 as at 30th June 2017. I noted a small decrease of liabilities of 0.34% from UGX.684,752,969,473 incurred in the previous financial year to UGX.682,456,367,662. The bulk of the liabilities comprised of unsettled court awards and compensations amounting to UGX.676,818,974,843, while other liabilities for goods and services consumed totaled to UGX.5,637,392,819. The outstanding amount in Court awards and compensations had been accumulating over the last five financial years. The trend is shown in the table below:

No	Financial Year to	Outstanding Amount UGX.	%Percentage increase from previous year
1	30th June 2012	54,009,997,832	
2	30th June 2013	164,163,101,576	100%
3	30th June 2014	253,000,000,000	57%
4	30th June 2015	442,161,234,933	75%
5	30th June 2016	680,830,522,791	54%
6	30 th June 2017	676, 818,974,843	(0.34%)

The statement of outstanding commitments did not disclose the accrued interest amounting to UGX.168,005,612,514, arising from unpaid court awards and compensations which should have been captured as new commitments incurred during the year.

Furthermore, 102 files worth UGX.323,215,602,251 included in in the accumulated liability of UGX.676,818,974,843 were not availed for verification. Files for an amount of UGX.85,650,570,991 captured in the previous year were not reflected in the financial year 2016/2017 and yet the liabilities were not settled during the year under review. This led to an understatement of outstanding court awards by UGX.85,650,570,991.

I also noted that a Cabinet decision guided all MDAs to bear their liabilities arising from court awards and compensations starting from the financial year 2016/17. It was agreed that the Ministry would settle all existing court awards and compensations as at 30th June 2016. I however observed that the policy has not been implemented yet. A review of other MDAs payables revealed that there were no outstanding court awards

and compensation liabilities disclosed in the respective financial statements and neither did they have budget provisions for settlement of the liabilities during the year.

Delay to settle the obligations have resulted into government accumulating interest on the principal amounts. In many cases, the interest had more than doubled. Understatement of payables misleads users of the financial statements and hampers budget planning for settlement of liabilities.

Management explained that the liabilities have arisen due to limited funding and increasing number of cases due for court awards and compensations. All on-going court cases are still under Attorney General's Office until such a time when they crystalize into actual liabilities that MDAs will be advised to take charge.

I advised the Accounting Officer to liaise with relevant authorities for improved funding with a view of minimizing penalties and the related charges. The Accounting Officer should also categorise and communicate to MDAs their contingent liabilities to enable them disclose in their respective financial statements.

Emphasis of matter

Without qualifying my opinion, I draw attention to the following matter described on page 20 of the financial statements.

- **Contingent Liabilities and guarantees**

Contingent liabilities for MDAs increased by 13.2% from UGX.6,532,497,083,522 to UGX.7,456,199,576,133. I noted that at the consolidated national level this figure stands at UGX.7,456,199,576,133 (including UGX.1,215,580,044,808 for State Corporation Enterprises and UGX.1,559,185,218 for Embassies and Missions).

Due to the increasing contingent liabilities, there is a risk that the situation may jeopardize government operations in case the liabilities crystalize. Failure to categorise and communicate to MDAs will result into Accounting Officers understating their contingent liabilities.

Management explained that contingent liabilities are premised on cases, notices of intended suits served on the Office of the Attorney General which when pursued successfully by claimants /applicants /plaintiff become actual liabilities. All on-going court cases are still under Attorney General's Office until such a time when they crystalize into actual liabilities that MDAs will be advised to take charge.

I advised the Accounting Officer to expedite the process of establishing contingent liabilities per MDA with a view of ensuring implementation of the government decision.

- **Accumulated arrears of revenues**

According to the letter reference dated 27th June 2017, the external lawyers in the Heritage Oil and Gas Vs the Republic of Uganda case Nos. 2011-12 & 2011-13 wrote to the Solicitor General requesting for a payment worth USD.17,829.17 to enable them undertake investigation services to identify assets owned by Heritage Oil and Gas limited and its parent company Heritage Oil Limited in order to enforce the award of USD.4,083,840.38 resulting from the Heritage Oil and Gas case won by Curtis on behalf of Government. Curtis was subsequently paid on 6th September 2017 to enable them undertake the investigation with an effort to recover the money.

However, it was observed that the Ministry reported outstanding cumulative arrears of revenue amounting to UGX.20,609,131,791. These relate to revenues due from cases won by Government. A bulk of these funds of UGX.14,740,131,791, relate to the Heritage Oil case implying that these funds are still outstanding. There is a risk of loss of Government revenue arising from failure to enforce collection of revenue due from cases won.

Management explained that the Ministry has paid External Lawyers USD.17,829.17 to enable them undertake investigation on Government won cases with an effort to recover the money.

I advised the Accounting Officer to follow up the matter and have the outstanding revenue collected.

Other Matters

I consider it necessary to communicate the following matters other than those presented or disclosed in the financial statements:

- **Failure to Implement Budget as approved by Parliament**

Section 45 (3) of the Public Finance Management Act, 2015 states that "An Accounting Officer shall enter into an annual budget performance contract with the Secretary to the Treasury which shall bind the Accounting Officer to deliver on the activities in the work plan of the vote for a Financial year, submitted under section 13 (15)" of the said Act.

I observed that out of the budgeted revenue of UGX.85.66 billion, the entity received UGX.76.62 billion (91.8%) resulting into a shortfall of UGX.7.04 billion (8.2%). However, I noted that some of the planned outputs were not implemented. **Appendix 3 refers.** Failure to implement activities denies service to the beneficiary communities and defeats the purpose for which budgeting and budgetary controls are instituted.

Management explained that this was a result of lack of adequate resources. The Ministry will continue liaising with relevant stakeholders to secure adequate funding of its activities.

I advised the Accounting Officer to continue engaging the relevant authorities and ensure that budget deficiencies are addressed so that all the allocated funds are released and all activities are implemented according to the budget as approved by parliament.

- **Staffing Gaps**

I observed that out of an approved structure of 442 positions, the Ministry had only filled 276 with 177 vacant (42%). Some of the key vacant positions include; Deputy Solicitor General, Director Civil Litigation, Principal State Attorneys (Branch Heads) in the regional offices of Arua, Gulu and Moroto. Vacant positions burden the Ministry's work load on a few individual and also create a problem in supervision and management especially of Regional Offices since they fall under the office of the Deputy Solicitor General.

Management explained that they are in discussions with Ministry of Public Service and Ministry of Finance, Planning and Economic Development to ensure that funding is secured to operationalize the new structure. The Ministry made submissions to the Public Service Commission on replacement basis for the post of Principal State Attorney and Senior State Attorney, who retired and resigned respectively.

I advised the Accounting Officer to continue to liaising with the responsible authorities to ensure that these positions are filled.

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 also responsible for the preparation of financial statements in accordance with the requirements of the Public Finance Management Act 2015, and the Financial Reporting Guide, 2008, 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 affecting the delivery of the mandate of the Ministry, and using the Financial Reporting Guide 2008 unless the Accounting Officer has a realistic alternative to the contrary.

The Accounting Officer is responsible for overseeing the Ministry's financial reporting process.

Auditor's 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 the 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 judgment and maintain professional skepticism 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 our 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 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 Accounting Officer 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 Accounting Officer with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with him/her 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 the Accounting Officer, 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.

A handwritten signature in black ink, appearing to read 'J. Muwanga', with a large, sweeping flourish extending to the right.

John F.S. Muwanga

AUDITOR GENERAL

KAMPALA

19th December, 2017

APPENDIX 1

BUDGET PERFORMANCE

Vote output	Function	Item Description	Planned Output/Qty	Actual Output/Quantity (as per 4th Quarter cumulative performance report)	Amount Budgeted (UGX) "000"	Amount Released (UGX) "000"	Variance (UGX) "000"	Mgt. explanation	Audit Remarks
1249-	Policy, Planning and Support Services	124975- Purchase of Motor Vehicle and other Transport Equipment	Purchase of 3 Vehicles for Regional Offices for court attendance, estates inspection and meeting	Motor Vehicles purchased	900,000	900,000	0		<ul style="list-style-type: none"> The three purchased vehicles were for the Solicitor General, Director Legal Advisory Services and the Deputy Attorney General instead of being Regional Offices for court attendance as had been planned
1249-	Policy, Planning and Support Services	124976- Purchase of office and ICT Equipment, including software	Purchase of photocopier, computers, laptops and voice of IP	Procurement on-going	94,000	94,000	0		<ul style="list-style-type: none"> Ministry spent UGX 30,099,772 under this MTEF. Diverted UGX 2,088,137 to purchase tyres Did not purchase a photocopier and Voice of IP.
1249-	Policy, Planning and Support Services	124978- Purchase of Office and Residential Furniture and Fittings	Purchase of lockable filing cabinets, office desks and chairs, filing cabinets and library books and shelves	Procurement On-going	176,000	176,000	0		<ul style="list-style-type: none"> Ministry spent UGX 61,640,000 under this MTEF Diverted UGX 2,000,000 to purchase stationery that was not planned for Purchased a paper shredder that was not in the plan
1242-	Construction of the JLOS House	124972- Government Buildings and Administrative Infrastructure	Support to construction of JLOS House	The designs prepared by the consortium of the private investor were approved by the Sector Leadership Committee in the	1,000	744	256		<ul style="list-style-type: none"> No expenditure incurred under this MTEF.

			reporting period. The consortium has submitted the costed re-designs and negotiation are at commercial close stage. The private investor is now preparing detailed structural, mechanical and electrical drawings and seeking preliminary approvals from the local authorities.					
1201- Legislation and Legal Services	120101- Bills, Acts, Statutory Instruments, Ordinances and By Laws	Draft and publish 15 Bills and 10 Acts	No outputs reported	444,449 (Wage is 117,703)				<ul style="list-style-type: none"> • Ministry spent UGX 1,539,278,072 of which UGX 489,081,472 was spent on wage. • Advanced UGX 52,560,900 to personnel mainly for purchases • The Ministry also spent UGX.24,840,000 on kilometrage allowances to various staff • The Ministry spent UGX.208,524,600 on travel abroad and tuition • The balance of the money was spent on facilitating various staffs' travels upcountry • All the above expenses were diversions
		Publish 55 statutory Instruments	No outputs reported	430,898 (Wage is 145,398)				
		Publish 3 Ordinances, 3 Bye Laws and Legal Notices	No outputs reported	481,553 (Wage is 226,653)				
1203- Administration of Estates/ Properties of the deceased	120301- Estates Registration and Inspection	<ul style="list-style-type: none"> • 4000 new files for clients to be opened • 100 estates to be inspected 	<ul style="list-style-type: none"> • Opened 3314 new files • Inspected 82 estates 	461,000 (Wage is 127,000)	461,000	0	N/A	<ul style="list-style-type: none"> • The Ministry spent UGX.126,950,190 on wages and UGX.160,000,000 on administration of estates as budgeted. • The balance was of UGX.174,049,810 was diverted to other activities mainly

								allowances.
1203- Administration of Estates/ Properties of the deceased	120302- Letters of Administration and Land Transfers	<ul style="list-style-type: none"> Apply to court to grant 25 letters of administration 200 estates to be filed for winding up 	<ul style="list-style-type: none"> 19 Applications for letters of Administration Wound up 33 estates 	452,048 (127,298 Wage)	452,048	0		<ul style="list-style-type: none"> The Ministry spent UGX.94,921,770 on wages. The balance of the funds of UGX.402,096,358 was diverted to other activities mainly allowances for guards, facilitations for travel and UGX.100,000,000 was diverted to Family Arbitration and Mediation.
1203- Administration of Estates/ Properties of the deceased	120303- Estates Administration	<ul style="list-style-type: none"> 350 land transfers to be issued to beneficiaries 2200 certificates of no objection to be issued to eligible administrator 	<ul style="list-style-type: none"> Issued 202 certificates of land transfers Issued 3305 certificates of no objection 	398,298 (127,298 Wage)	398,298	0		<ul style="list-style-type: none"> The Ministry spent UGX.113,341,926 on wages. The rest of the funds (UGX.238,497,277) were diverted to purchase of air tickets, per diem, and; kilometerage, subsistence, Guard and consolidated allowances.
1203- Administration of Estates/ Properties of the deceased	120304- Family Arbitrations and mediations	<ul style="list-style-type: none"> Conduct 1000 family arbitrations and mediations 	<ul style="list-style-type: none"> 797 family arbitrations and 785 family mediations 	449,096 (127,596 Wage)	449,096	0		<ul style="list-style-type: none"> The Ministry spent UGX.102,426,030 on wages. The rest of the money was diverted as follows; Purchase of air tickets from Bunyonyi of UGX.338,573,095 Allowances for inspection of Universities at UGX.13,395,000 Verification exercise of West Nile and Lango regions of UGX.3,780,000 Advances to procure items of UGX.4,321,000 Subsistence allowances for special activity by Parliament of

								UGX.14,695,000
1204- Regulation of the Legal Profession	120401- Conclusion of disciplinary cases	Hold disciplinary committee meetings and conclude at least 150 cases in 60 sittings	60 cases completed in 26 Disciplinary committee sittings	611,942 (Wage 102,942)	611,942	0	<ul style="list-style-type: none"> Limited number of sittings due to lack of quorum due to the busy schedule of members Interruption by other Law Council activities 	<ul style="list-style-type: none"> The Ministry spent UGX.104,541,493 on planned activities; UGX.102,161,493 on salaries and UGX.2,380,000 on sitting allowances for members of the Law Council. The balance of UGX.510,510,195 was diverted to other activities like kilometrage and subsistence allowances and per diem.
1204- Regulation of the Legal Profession	120402- Inspection and Supervision	<ul style="list-style-type: none"> Inspection of at least 700 chambers of advocates Inspect at least 12 universities teaching law Inspect at least 55 legal aid service providers Make at least 55 legal aid supervisory visits 	<ul style="list-style-type: none"> Inspected and approve 1203 law firms and rejected 156. Approved 50 Legal Aid Service Providers and rejected 14. 10 Universities were inspected and 3 were accredited 	536,702 (102,942 Wage)	536,702	0	<ul style="list-style-type: none"> Inspection of universities was pushed to 2017 when students were at school. The few inspections were within Kampala; upcountry inspections were affected by late release of funds by Development Partners. 	<p>A Total of UGX.123,603,050 was diverted to the following activities;</p> <ul style="list-style-type: none"> Kilometrage Allowance- UGX.14,700,000 Per diem- UGX.55,733,050 Sitting Allowance for members of the Law Council- UGX.17,434,000 Fuel for Policy Planning Unit- UGX 8,000,000 Facilitation for the Production of 4th Quarter report- UGX.14,400,000 Tuition for various courses- UGX.11,246,000 Subsistence Allowance to attend court sessions- UGX.2,090,000 <p>It was also observed that there was no mention of inspection of law universities or chambers of advocates</p>

FINANCIAL STATEMENTS