OFFICE OF THE AUDITOR GENERAL

THE REPUBLIC OF UGANDA

REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF UGANDA COMMUNICATIONS COMMISSION FOR THE YEAR ENDED 30TH JUNE 2018

OFFICE OF THE AUDITOR GENERAL

UGANDA

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LIST OF ACRONYMS

FY	Financial Year
GOU	Government of Uganda
IESBA	International Ethics Standards Board for Accountants
INTOSAI	International Organization of Supreme Audit Institutions
IPSAS	International Public Sector Accounting Standards
ISSAI	International Standards of Supreme Audit Institutions
MDA	Ministry, Department, and other Agencies
MoFPED	Ministry of Finance, Planning and Economic Development
NAA	National Audit Act
PDU	Procurement and Disposal Unit
PFMA	Public Finance Management Act, 2015
PPDA	Public Procurement and Disposal Unit
RT. HON	Right Honourable
TAI	Treasury Accounting Instructions
UCC	Uganda Communications Commission
UGX	Uganda Shillings

REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF UGANDA COMMUNICATIONS COMMISSION FOR THE YEAR ENDED 30TH JUNE, 2018

THE RT. HON. SPEAKER OF PARLIAMENT

REPORT ON THE AUDIT OF THE FINANCIAL STATEMENTS

Opinion

I have audited the accompanying financial statements of Uganda Communications Commission (UCC) for the year ended 30th June, 2018. These financial statements comprise the Statement of Financial Position as at 30th June, 2018, the Statement of Financial Performance, Statement of Changes in Equity and Statement of Cash Flows for the period then ended, together with other accompanying statements, notes and accounting policies.

In my opinion, the financial statements of Uganda Communications Commission for the year ended 30th June 2018 are prepared, in all material respects, in accordance with International Public Sector Accounting Standards (IPSAS), and Section 51 of the Public Finance Management Act 2015.

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 Organization of Supreme Audit Institutions (INTOSAI) Code of Ethics, the International Ethics Standards Board for Accountants (IESBA) Code of Ethics for Professional Accountants (Parts A and B), 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 matter described below to be a key audit matter communicated in my report;

- **Implementation of the Approved Budget**

  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. It has been observed over the years that planned and budgeted for activities of a number of Government entities are not implemented thereby affecting service delivery.

  During the overall office wide planning, I assessed risks of inadequate release/collection of funds, and failure to undertake budget monitoring and supervision that are likely to be the causes of failure to implement entity planned activities. The focus was put on the planned major outputs of the entities which greatly impact on the wellbeing of communities. Consequently, I developed specific audit procedures which included the evaluation of the financial and annual physical performance by analysing revenues, testing consistency of planned outputs with the approved budget and verifying the accuracy and completeness of the reported actual outputs.

  Based on the procedures performed, I observed that the Commission obtained certificates of compliance to the National Development Plan (NDP) with an overall compliance level of 63.5%. According to NPA, the overall UCC Budget was found to be satisfactory in terms of planning and National Budget Framework paper.

  I further noted that that the Commission budgeted to collect revenue amounting to UGX.107,188,629,960 in the year under review. By the end of the financial year, a total of UGX.97,563,401,931 (performance level of 91%) had been collected; leading to a shortfall of UGX.9,625,228,029 (9%). The shortfall was attributed to technological developments that had not been envisaged at the time of budgeting. I also noted that, out of the total expenditure of UGX.90,690,378,275 presented in the Statement of Financial Performance of the Commission, UGX.4,776,155,324 (5.2%) remained as committed funds due delayed implementation of activities as indicated in **Appendix A.** Delays in implementation of planned activities were attributed to: delays in initiating procurements leading to awarding of contracts towards the close of the financial year, lengthy negotiations with contractors, delays in contract approvals by the Solicitor General's office and non-responsiveness of bidders where procurements had to be repeated.

Failure to implement planned activities within the financial year undermines the objectives set during the budgeting process. Besides, existence of unspent funds imply delayed or non-implementation of planned activities which in turn affects service delivery. I advised the Accounting officer to always expedite the procurement processes so as to enable execution of the resultant contracts within the financial year.

Emphasis of Matter

Without qualifying my opinion, I draw attention to the following matter presented and or disclosed in the financial statements that, in my judgement, is of such importance and fundamental to users' understanding of the financial statements.

- **Overdue Trade Receivables - UGX.26,170,253,357**

  Section 7.3.4 (ii) (e) of the Uganda Communications Commission Finance Manual, 2015 states that "where payment remains outstanding for more than 60 days and there has been an unsatisfactory response from the customer, a final demand letter signed by the Executive Director shall be issued and the letter shall be sent via registered mail and a record of this notice shall be entered onto the overdue customer payment record".

  According to the schedule of Aged Accounts Receivables, UGX.26,170,253,357 representing 90% of the total trade debt, was outstanding for over 62 days. This implies Management was taking longer to recover the amounts, and there is a risk of losing funds involved if the receivables crystalized into bad debts and are written off as unrecoverable. In response, the Accounting Officer acknowledged the observation but reaffirmed the Commissions commitment to have the debts fully paid up. He explained that several measures were being utilised including taking legal action, engaging external debt collection agents, and even amending the conditions of license where in bank guarantees will be required to cover any failure by any operator to meet its obligations going forward.

I advised the Accounting Officer to strengthen the Commission's debtor management strategy by ensuring the collection of all receivables due to the Commission and also consider engaging relevant stakeholders regarding the company-debtors that are owned by government.

Other Information

The Accounting Officer is responsible for the other information. The other information comprises the statement of the Board's responsibility and other general information about the Commission. The other information does not include the financial statements and my auditors' report thereon.

My opinion on the financial statements does not cover the other information and I do not express an audit opinion or any form of assurance conclusion thereon.

In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially consistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement of this other information; I am required to report that fact. I have nothing to report in this regard.

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 Uganda Communications Commission.

The Accounting Officer is also responsible for the preparation of financial statements in accordance with International Public Sector Accounting Standards (IPSAS), Section 51 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 Commission's ability to continue delivering its mandate, disclosing, as applicable, matters related to affecting the delivery of the mandate of the Uganda Communications Commission, and using the International Public Sector Accounting Standards (IPSAS) unless the Accounting Officer has a realistic alternative to the contrary.

The Accounting Officer is responsible for overseeing the Commission`s financial reporting process.

Auditor General'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 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 Commission'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 Commission'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 Commission's ability to continue as a going concern. 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 Commission to cease to continue as a going concern.
- 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 Commission 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 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.

Other Reporting Responsibilities

In accordance with Section 19(1) of the National Audit Act, 2008, I report to you, based on my work described on the audit of Financial Statements that:

- Except for the matters raised in the compliance with legislation section below, and whose effect has been considered in forming my opinion on the financial statements, the activities, financial transactions and information reflected in the financial statements that have come to my notice during the audit, are in all material respects, in compliance with the authorities which govern them.

REPORT ON THE AUDIT OF COMPLIANCE WITH LEGISLATION

In accordance with Section 13 of the NAA 2008, I have a responsibility to report material findings on the compliance of the Uganda Communications Commission with specific matters in key legislations. I performed procedures to identify findings but not to gather evidence to express assurance. The material findings in respect of the compliance criteria for the applicable subject matters are as follows;

- **Share of 2% GAR (Under remittance of UGX.1,107,029,960)**

  Section 68 (3a) and (4) of the Uganda Communications Act, 2013 stipulates that the Commission shall remit half of the GAR levy charged under this section to the Consolidated Fund. I noted that the Commission received a sum of UGX.50,809,869,012 as 2% GAR of which UGX.25,404,934,506, being 50% of this amount, should have been remitted to the consolidated fund. However, only UGX.24,297,904,546 was remitted leaving a balance of UGX.1,107,029,960 un remitted. Non remittance of funds to the Consolidated Fund is not only irregular but denies government revenue for financing the budget.

  Management explained that the balance due to the consolidated fund of UGX.1,107,029,960 will be remitted after the final collections are received as well as reconciliation of the levy and financial statements. I advised the Accounting Officer to ensure that correct amounts as per the sharing ratio are remitted to the consolidated fund in a timely manner.

- **Unfair Disqualification of Bidder**

Regulations 16 and 24 of the PPDA Regulations 2014, give guidance on the rules and procedures to be followed while conducting evaluation of bids by an evaluation committee for non-consultancy services and goods. In addition, Regulation 49(3b) of the PPDA (Procurement of Consultancy Services) Regulations 2014 requires the technical evaluation report for consultancy services to contain the results of the technical evaluation, including the scores allocated to each proposal, a narrative on the strengths and weaknesses of each proposal and the ranking of the proposals as may be required by the selection method.

A review of the evaluation reports on a sample of procurements revealed that the evaluation rules were not strictly followed as required by the Regulations. It was noted that under the procurement for the services of events management for the Uganda film festival 2017, a compliant bidder who quoted UGX.306,416,038 was eliminated on grounds that the firm did not provide evidence of previous works of the same magnitude. I observed that 'magnitude' was not defined in the solicitation document issued to bidders but the evaluation committee used the estimated value of the procurement of UGX.450,000,000 as magnitude to disqualify bidder. The use of magnitude of service as a yardstick for disqualification appears to have been unfair and led to the award of the contract to another firm which had quoted a much higher value of UGX.493,923,574. This could have saved the Commission an amount of UGX.187,507,546 if the disqualified bid had not been eliminated unfairly. It was further noted that the experience submitted by the awarded firm was not supported with evidence (contracts and completion certificates) and no due diligence was done to confirm the assertion. These omissions were attributed to failure by the evaluation committee to discuss and agree on the evaluation criteria prior to the evaluation exercise.

Under the circumstances, the contract was awarded to a non-compliant firm at a higher price, culminating into possible loss of public funds. In his response, the Accounting Officer explained that the contract for events management was estimated to cost UGX.450 million and that to qualify for award of contract, the firm needed to demonstrate experience in provision of similar services. The said firm failed these criteria and was rightfully disqualified.

However, Management's response was found unsatisfactory because the estimated cost of UGX.450 million was the reserve price meant to guide the evaluation committee, and not to be used as a yardstick to disqualify a potential firm. In addition, the demonstration of experience in provision of similar services did not mean the magnitude of service. I advised the Accounting Officer to ensure that evaluations are always carried out according to the guidelines stipulated in the PPDA Regulations.

- **Weaknesses in Contract Management**

Regulations 51-53 of the PPDA Regulations, 2014 (Contracts) specify the roles of the Accounting Officer, PDU, user department and the contract manager in contract management. The regulations also advise on the records to be kept by the PDE and the user department regarding contract management. The following irregularities regarding contract management were observed;

- Regulation 51(3) of the PPDAR 2014 (Contracts) requires the contract manager to prepare a contract management plan and submit it to PDU for purposes of monitoring contracts. Audit however noted that no contract management plans were prepared and forwarded to PDU for contract monitoring.
- Some contracts had no formal appointments of contract managers or contract management teams as required by Regulation 52. In addition, there were no contract management files with details of monitoring reports, meeting minutes, contract register showing cumulative payments, and all correspondences between the commission and the contractors/suppliers as required by Regulations 53(1 & 3) of the PPDAR 2014 (Contracts).
- Some contracts were renewed even where the original contracts did not provide for subsequent renewal.

Failure to adhere to established controls in contract management may hamper the achievement of the contract objectives and thereby constrain the delivery of services to the beneficiaries. In his response, the Accounting Officer explained that Contract Management will be strengthened to ensure that contract managers are appointed, and that contract management plans as well as monthly contract management reports are produced and filed.

I advised the Accounting Officer to strengthen contract management by ensuring that all parties to a contract perform their roles as stipulated by the regulations to ensure successful implementation and completion of contracts.

- **Conflicting Sections of the Law in Regard to the Position of the Executive Director also being a Board Member**

  Section 9(2) (f) of the UCC Act 2013, provides that the Executive Director will be a member of the Board and subsection (5) provides that a member of the Board shall hold office for a term of 3 years, renewable only once. Section 16 of the UCC Act, establishes the office of the Executive Director and specifically Section 16(3) provides that the Executive Director shall hold office for 5 years, renewable only once. This means that whereas the Executive Director can hold office for 10 years, as a Board member, he can only hold office for 6 years. This conflict has been caused by a lack of consistency in the applicable laws.

  Under the circumstances, the Executive Director will illegally sit on the Board after 6 years since he will still be serving his second term as an Executive Director. Alternatively, this conflict can lead to a gap in the composition and governance of the UCC Board after 6 years in case the Executive Director is stopped from sitting on the Board.

  I further observed that, Section 17(2) of the UCC Act provides that the Executive Director is answerable to the Board in the performance and execution of his duties. In addition, the UCC Board charter stipulates that the Board is on a periodic basis, required to measure the Executive Director's performance in line with the expectations of the Board. A review of the Executive Director's personal file and the UCC Board minutes showed that there was no evidence that the Executive Director's performance has been measured in line with the expectations of the Board. This could have been caused by the fact that the Executive Director is a full Board member with full voting rights and as such, could not measure himself.

The above implies that there is a potential conflict of interest situation, since the Executive Director is an originator of policies while on the Board and on the other hand he is an implementer of policies as the head of management. This can lead to self-review since the decisions he makes as the Accounting Officer will be subject to approval and review by the Board on which he sits as a member.

In his response, the Accounting Officer explained that Management has taken note of the observation and the need for harmonization of the two sections of the law. Under the current law, the person appointed as Executive Director automatically becomes a member of Board. The spirit of law is that the holder of the post of Executive Director at any one time shall be a member of the Board. This is not only in the UCC Act, but also in the Acts of most other statutory agencies set up by Acts' of Parliament. It is also generally in line with good corporate governance. The issue of 3 years term and 5 years shall be followed up with a view of harmonization.

I have advised the Management and Board of UCC to ensure that the conflicting sections of the law are amended and harmonized to ensure proper alignment of the position of the Executive Director. In the meantime, the Board should review the Executive Director`s performance, document and file the review results for appropriate Board action.

John F.S. Muwanga
AUDITOR GENERAL
KAMPALA
18th December, 2018

Appendix A: Major Commitments at the End of the Financial Year

No	Item Description	Amount - UGX	Management's comments
1	3 units station wagon vehicles	788,195,644	The Procurement Commenced on 24th Oct 2017 and the vehicles are expected to be delivered before 30th Sept 2018. The supplier gave a delivery schedule of 6 months hence resulting into this delay.
2	4 units double cabin vehicles	662,630,000	The procurement Commenced on 5th Dec 2017. The Commission received these vehicles in September 2018
3	Electronic broadcast monitoring system	810,520,000	Procurement commenced on 20th Nov 2017, equipment has just been received and is being assembled for use.
4	MTR of UCC strategic plan	128,127,000	The procurement process commenced on 5/02/2018. The final report is being reviewed for eventual approval by TMT and the Board before implementation.
5	Renewal of MS licenses	323,907,220	The procurement process commenced on 27/04/2018. The delay was because of the lengthy negotiations with the supplier on the terms of the license. The licenses were renewed in July 2018.
6	Cyber threat Intelligence Solution	462,686,680	The procurement process commenced on 17th/10/2017.
7	Electronic Research Tools	100,770,000	The procurement process commenced on 18/4/2018
8	Interference Detection System	209,835,385	The procurement process commenced on 18th/01/2018.
9	Disaster recovery site	219,008,447	The procurement process commenced on 6th /02/2018. The delay was as a result of the delays in approvals by the office of the Solicitor General.
10	Firewall	270,474,948	The procurement process commenced on 17th/01/2018 and the delivery was received on 10th Sept 2018.

11	Review of IA policy documents	150,000,000	The procurement process commenced on 7th/6/2018. There was no responsive bidder and is due for retendering.
12	Upgrade of content monitoring logger	500,000,000	The procurement process commenced on 15th/05/2018 There was no responsive bidder and is due for retendering.
13	Phone testing Equipment	150,000,000	The procurement process commenced on 22nd/5/2018 There was no responsive bidder and is due for retendering.
	TOTAL	**4,776,155,324**	