



THE REPUBLIC OF UGANDA

REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF
MINISTRY OF ENERGY AND MINERAL DEVELOPMENT
FOR THE YEAR ENDED 30TH JUNE 2018

OFFICE OF THE AUDITOR GENERAL
UGANDA

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LIST OF ACRONYMS

F/Y	Financial Year
GOU	Government of Uganda
HPP	Hydro Power Plant
INTOSAI	International Organization of Supreme Audit Institutions
ISSAI	International Standards of Supreme Audit Institution
ERA	Electricity Regulatory Authority
MEMD	Ministry of Energy and Mineral Development
MoFPED	Ministry of Finance Planning and Economic Development
PAPs	Project Affected Persons
PPA	Power Purchase Agreement
PFMA	Public Finance Management Act
TAI	Treasury Accounting Instructions
UGX	Uganda Shillings
UEGCL	Uganda Electricity Generation Company
UETCL	Uganda Electricity Transmission Company
NDP	National Development Plan
JUPPL	Jacobsen Uganda Power Plant Ltd.
RAP	Resettlement Action Plan

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OF MINISTRY OF ENERGY AND MINERAL DEVELOPMENT
FOR THE YEAR ENDED 30TH JUNE, 2018

THE RT. HON. SPEAKER OF PARLIAMENT

Opinion

I have audited the accompanying financial statements of Ministry of Energy and Mineral Development for the year ending 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, accompanying schedules and a summary of significant accounting policies and other explanatory notes, as set out on pages 10 to 42.

In my opinion, the financial statements of Ministry of Energy and Mineral Development for the year ended 30th June 2018 are prepared, in all material respects, in accordance with section 51 of the Public Finance and 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 Ministry 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 Code of Ethics for Professional Accountants (Parts A and B) (IESBA Code), 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.

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

In the overall office wide planning, I assessed risks of inadequate release of funds, and failure to undertake budget monitoring and supervision as the likely causes of failure to implement 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 government releases, 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 a total of UGX. UGX.442,935,617,484 was budgeted to cater for the Ministry of Energy and Mineral Development activities. However, by the close of the financial year 92% of the approved budget comprising UGX. UGX.407,778,610,640 had been received, which resulted into a budget shortfall of UGX. 35,157,006,844 (8%).

Management implemented a number of planned activities during the year. The major activities that were implemented included; Acquisition of land for the Refinery project of which 98.3% of project Affected Persons had been compensated, submission of the draft Mining and Mineral Policy to Cabinet, launching of the East African Crude Oil export pipeline project (EACOP) in November 2017.

However, I noted that some planned activities were not undertaken such as; Acquisition of land under Resettlement Action Plan (Kampala- Buloba terminal, Hoima-Buloba Project), Purchase of Specialised Machinery & Geophysical equipment, Mapping and profiling of artisanal miners, inspection of mining activities, upgrading of the Mining

cadastre, construction of Mining data Centre laboratory and completion of the Petroleum Authority offices. **Appendix 1 refers.**

Management attributed the failure to implement the activities to inadequate funding, and pledged to engage MoFPED to improve financing of the Ministry activities.

The Accounting Officer is advised to ensure implementation of planned activities, as well as working in liaison with other stakeholders for timely receipt of appropriated funding.

Emphasis of matter

Without qualifying my opinion, I draw your attention to the Statement of contingent liabilities and guarantees disclosed in the financial statements that, in my judgement, is of such importance and fundamental to users' understanding of the financial statements.

- **Court cases relating to compensation of sub-surface rocks**

I observed that there are a number of ongoing court cases arising from legal suits by Project Affected Persons (PAPs) against the Ministry. The legal suits relate to compensations for subsurface rock amounting to UGX.389.8 billion as at 30th June 2018. Audit noted that an amount of UGX.379.1bn relates to compensation claims for land affected by the construction of Isimba HPP and the amount of UGX.10.75bn relates to land compensation claims under construction of Karuma HPP.

There is a risk that the eventual determination of the cases and/or payment could significantly constrain the financial resources of the Entity.

Management acknowledged the observation and stated that the relevant disclosures have been made in the financial statements awaiting the outcome of the court ruling.

Management is advised to expedite the process of streamlining the law in relation to compensation of sub surface rocks to avoid costly litigations involving Project Affected Persons.

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.

- **Alignment of Budget Instruments to the National Development Plan II**

I noted that the Ministry of Energy and Mineral Development was not compliant in the alignment of its Budget Instruments to NDPII. A review of the assessment report by the

National Planning Authority indicated that compliance of the Budget Framework Paper to the NDPII was at 64%, while alignment of the Annual budget was at 36%. This performance was attributed to the non-prioritization of key interventions in the minerals subsector such as; establishing the mineral potential of Karamoja region, having an operational mining certification institution, slow implementation of activities and objectives compared to NDP II targets such as refinery and oil pipeline construction.

The implication is that the annual budget priorities are not prepared and aligned to the national development plans hence creating a risk of implementing activities that are not in line with the national development agenda.

Management explained that the certification mechanism had not commenced due to lack of an enabling regulatory framework however a bill addressing the challenge had been passed by parliament. Under the oil and gas subsector, management indicated that it was in the process of negotiating a number of agreements with the pipeline project sponsor upon which the final investment decision would be taken leading to commencement of construction of the pipeline and for the refinery, the Front-End Engineering Design had commenced with the final investment decision expected within two years.

Management is advised to ensure that Budget Framework Papers and Annual Work plans are aligned to the NDPII.

- **Default on payment of Annual Mineral Rent fees**

I noted that UGX.2,544,240,000 was outstanding as annual mineral rent fees from exploration and mining companies contrary to Section 106 (1) and (2) of the Mining Act 2003. In the previous year I reported a figure of UGX.2,718,388,000 in this regard. This figure has accumulated over the last four years as shown in the Table below refers.

Table 1: Analysis of Outstanding Mineral Rent Fees

Period (F/Y)	2014/15	2015/16	2016/17	2017/18	Total
Uncollected Annual Mineral Rent	167,620,000	1,110,920,000	388,830,000	876,870,000	2,544,240,000

Failure to collect the annual mineral rent fees by the Directorate may result into loss of government revenue.

Management explained that it had cancelled licences of defaulting mineral right holders and engaged the Attorney General to take action against the defaulters.

I wait results of management's action in this regard.

- **Undistributed Royalties**

Review of the collection and sharing of Mineral royalties revealed that various land owners were not paid the prescribed 3% of the total of the royalties amounting to UGX.451,524,900 as at 30th June 2018 contrary to Section 98 (2), of the Mining Act, 2003 which requires royalties to be shared by the Government, Local Governments and owners or lawful occupiers of land. The practice denies the landowners the revenues arising from use of their land, which potentially can affect the relationship between mineral right holders and land owners.

Management explained that information on land owners in areas where mineral productions were declared had been collected and payments will be effected. It had additionally published lists of all undistributed royalties and updated the mining leases and dealers return forms to include land owners.

Management is advised to streamline and expedite the process of identifying the entitled landowners so as to effect the payment of royalties as stipulated in the law.

- **Mischarge of Expenditure**

A review of the Ministry's expenditure for the financial year 2017/2018 revealed that a total of UGX.382,401,609 was charged on inappropriate budget lines, contrary to the Public Finance and Management Regulations, 2016. This is not only misleading to the users of the statements but also negatively affects the implementation of activities from which funds were diverted. In the previous year the mischarge of expenditure amounted to UGX.410,969,548. Management acknowledged the audit observation and pledged to avoid such mischarge in the future.

Management is advised to liaise with the Ministry of Finance, Planning and Economic Development to ensure that budget lines are allocated sufficient amounts of funds to undertake planned activities.

- **Funds Not accounted for**

A sum of UGX.150,524,855 which was advanced to various persons as facilitation to travel abroad for conferences and training lacked relevant supporting documents such

as Back to office reports, copies of air tickets and/ or boarding passes. Audit could not confirm whether the funds were used for the intended purpose.

Management acknowledged the delayed filing and submission of accountabilities and indicated that individual officers would be held responsible.

I advised management to ensure that necessary accountability is submitted. In the alternative the funds are recoverable.

- **Conflict Between Loan Agreement, Power Purchase Agreement and Generation and Sale Licence**

The power purchase agreements (PPA) signed between UEGCL and UETCL in relation to Karuma and Isimba dams and approved by EXIM Bank required UETCL to make capacity payments to UEGCL. Under the capacity payment method the purchaser is required to pay for the entire available capacity of the hydro power facility.

Contrary to this arrangement, Audit noted that clause 6 and Annex D (2) of the generation and sale licences issued by the Electricity Regulatory Authority (ERA) to UEGCL in relation to Karuma and Isimba dams, authorise UEGCL to charge UETCL an Energy charge. Under the energy charge method the purchaser is only required to pay for energy consumed, as measured by a meter. The purchaser is not required to pay for the available energy that it does not consume.

This implies that UEGCL shall not realise sufficient funds from the energy sales to meet the loan repayments, including the costs of operating and maintaining the facilities. Further still, it amounts to an event of default under Article 7 of the loan agreements which entitles EXIM Bank to terminate the contract and declare all the principle and interest immediately due. UETCL being the sole purchaser in the country will not be compelled to find market for all the available energy.

Management stated that a meeting with key stakeholders is being organised to harmonise the different positions and agree on how to address the matter.

Management is advised to liaise with Solicitor General, UEGCL and ERA to ensure that the generation and sale licences are reconciled with the loan agreements and the power purchase agreements.

- **Thermal Power Subsidies/Capacity Charges**

In May 2007, UETCL entered into a power purchase agreement (PPA) with Jacobsen Uganda Power Plant Limited (JUPPL) where UETCL agreed to pay a monthly capacity charge and loan repayments for the Thermal power generation plant. The term of PPA was extended after expiry in September 2014.

Audit noted that for the period October 2014 to August 2018, capacity charge payments by UETCL to JUPPL, totalled to UGX.47,688,569,683.

Whereas the implementation agreement provides government with options of paying the entire loan debt, purchasing the plant and acquiring all the shares in the company, it was observed that the continued renewal of the PPA draws government towards payments of unsustainable thermal subsidies. These capacity charges/thermal subsidies can be avoided if government takes over the operations of the Thermal Power Plant.

Management indicated preference for the option of taking over the plant as provided for in the PPA, and indicate that the action would mitigate the challenge of obtaining funds from MoFPED for clearing of the outstanding loan.

Management is advised to engage MoFPED highlighting the potential savings to Government as result of takeover of the thermal Plant as provided for in the PPA.

- **Delayed completion of Projects**

Regulation 53 (1) b of the PPDA (Contracts) regulations, 2014 A requires contract managers to make certain that the provider performs the contract in accordance with the terms and conditions specified in the contract. This includes ensuring that contracts are completed on time. It was however noted that a number of projects in the sum of UGX.2,864,240,236 were not completed in the scheduled time.

Failure to complete the contracts within the agreed time delays accessibility of citizens to the services and attracts other costs such as commitments charges and related compensations.

Management acknowledged the audit observation and explained that construction of the church and Mosque at Karuma could not be completed due to delay in payment of invoices submitted by the contractors. In addition unsettled disputes with PAPs resulted into contract extensions under the RAP consultancy.

Management is advised to strengthen contracts management by developing capacity to anticipated disputes and putting in ensure that contract terms are adhered to both strategies for timely resolutions.

Other Information

The Accounting Officer is responsible for the other information. The other information comprises the statement of responsibilities of the Accounting Officer and the commentaries by the Head of Accounts and the Accounting Officer, and other supplementary information. 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 Ministry of Energy and Mineral Development.

The Accounting officer is responsible for the preparation and fair presentation of these 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 the delivery of the mandate of the Ministry of Energy and Mineral Development and using the Financial Reporting Guide 2018, 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 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 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 Ministry 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 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.

Other Reporting Responsibilities

In accordance with sections 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 sections 13 of the NAA, 2008, I have a responsibility to report material findings on the compliance of Ministry of Energy and Mineral Development 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;

- **Failure to implement the ICGLR Lusaka Declaration**

On December 15, 2010, Uganda endorsed the ICGLR Lusaka Declaration, committing to implement six tools as part of the Regional Initiative against the Illegal Exploitation of Natural Resources (RINR) in the Great Lakes Region. The six tools included;

- Regional Certification Mechanism (RCM),
- Harmonization of National Legislation,
- Regional Database,
- Formalization of Artisanal and Small Scale Mining,
- Extractive Industry Transparency Initiative (EITI) and
- Whistle Blowing Mechanism.

Audit observed that, none of the six (6) tools had been implemented by the ministry.

The failure to implement the Regional mechanisms affects exports of Uganda's mineral exports especially cassiterite, Gold, wolframite and coltan, which ultimately promotes smuggling.

Management explained that the International Conference on the Great Lakes Region (Implementation of the Pact on Security, Stability and Development in the Great Lakes Region) Bill 2016 intended to domesticate the protocol was passed by Parliament assented to by H.E. The President of the Republic of Uganda and was gazetted on 5th October, 2018. The ministry has set up a mineral certification Unit at DGSM and procured the relevant equipment to enforce the tools of the protocol.

Management is advised to implement its obligations under the ICGLR Lusaka Declaration, enhance staff capacity, and commit itself to implement the six tools as part of the Regional Initiative against the Illegal Exploitation of Natural Resources (RINR) in the Great Lakes Region.



John F.S. Muwanga

AUDITOR GENERAL

12th December, 2018

Appendix 1: Budget Performance on Program Outputs

Vote Function output	Item Description	Planned Output/Quantity	Actual Output/Quantity	Variance Output/Quantity	Amount Budgeted (UGX) BN	Amount Released (UGX)	Amount spent (UGX) BN	Variance (UGX) BN	Management Responses
0303	Petroleum Exploration, Development, Production								
030371	Acquisition of Land	-Feasibility studies for - 200MW Nuclear Power Project -RAP for EACOP - -EIA for finished products pipeline -Kabaale Industrial Parl Master Plan -Storage facilities at Nakasongola - Study on Use of LPG -FEED of crude export pipeline & refined products to buloba. RAP- Hoima-Buloba project.	Activity on-going -RAP for EACOP on-going -EIA Activity on- going Activity not done Front End Engineering Design received and reviewed. RAP studies on- going.	EIA not completed. Activity on FEED not yet completed. RAP studies not completed.	19.71	12.45	12.45	7.26	Limited Funds Delay in Procurement process

030372	Government Buildings and Administrative Infrastructure	-Complete phase 3 construction of Data centre, laboratory. PAU Office Buildings. -Redesign of Amber House & adjacent Plot,	Progress of construction at 50% Engineering design & studies on going	Activity not completed as Planned Activity not completed	17.32	10.65	10.65	6.67	Limited Funds- Delay in payment of Contractors -Delay in Procurement Process
030303	Capacity Building for oil & gas sector	-National content Policy - Training of 16 staff in short courses in refinery and pipeline development. Monitoring and evaluation of National content -National expertise for midstream oil refining, gas processing, utilization of transport & storage -Provision of support to higher institutions -	-The Local Content policy approved by cabinet not undertaken. Activity undertaken in kasese, Hoima & Mukono -Activity not done No Internship placement in department	None None No Activity undertaken Activity not undertaken	9.95	8.17	7.99	1.96	
1258	Down stream Petroleum Infrastructure	-Land acquisition of Buloba terminal -RAP for Malaba –Kampala -Buloba terminal land -50% civil works for completion of Nakasongola storage tanks - Study on transportation of petroleum products by barges	Land acquisition on going -RAP activity not undertaken - Construction on Nakasongola	-Activity not completed Activity not done Activity not	12.25	9.85	9.80	2.45	Limited Funds Delay in processing of payments Delay in

		on L. Victoria.	storage tanks not undertaken -Interim report submitted.	undertaken Activity not completed.					Procurement process
0305	Mineral Exploration, Development & value Addition								
030504	Health safety and social Awareness for miners	-Mapping, Profiling of Artisanal/ miners - ASMs Registered - Sensitization & training of miners - Formalization and regulation of ASM	-Activity on-going Activity on-going -Activity not adequately undertaken Activity under progress	Mapping & profiling of artisanal miners not completed Exercise not completed Formalization of regulation not completed	0.76	0.63	0.63	0.13	-A challenge in relocation of artisanal miners – Mubende -Procurement of consultant for registration of miners on-going. -limited staff for monitoring -Limited funds for awareness campaigns. -Limited funds
030505	Licensing and Inspection	-Exploration and mining operations inspected -Mining cadaster and registry system upgraded and maintained. - Development of Mining models of environmentally sustainable mines. -Installation of lightening arrester(improving populations security against lightening strikes)	Inspections & Licensing on going. Procurement for upgrading cadaster is on going Contract for upgrading mining cadaster launched Activity not done	Inadequate inspection of mining operations Activity not done Activity not undertaken Activity not undertaken	2.00	1.75	1.75	0.25	Delay in procurement process Lack of Funds
030577	Purchase of specialized	-5 Institutional stoves, 5 biolatrines	5 bio latrines installed		4.00	2.88	2.88	1.12	-Lack of Funds

	Machinery & Equipment	Rehabilitation of 4 windmills -Use of Liquefied Gas(LPG) -Petroleum Gas(LPG) promoted - Procurement of geophysical equipment , Earthquake Equipment, Laboratory Equipment	-No Rehabilitation done LPG baseline study done, Activity not completed -Geophysical Equipment and Earthquake equipment not procured -Laboratory equipment procured	No Geophysical Equipment No Earthquake equipment Procured.					-Procurement of geophysical Equipment postpone due to lack of funds in procurement process of Earthquake equipment
1353	Mineral Wealth and Mining Infrastructure Development	-Human Resource capacity built -Mineral laboratory equipped -Development of Information & communication strategy -Engineering designs studies& plans for capital works Consultancy services	-Staff trained in various courses. -Activity not undertaken -Procurement process on-going -Activity not undertaken Activity ongoing	None	12.60		10.26		Delays in procurement of contractors -Delay in approval of designs Delays in procurement process.