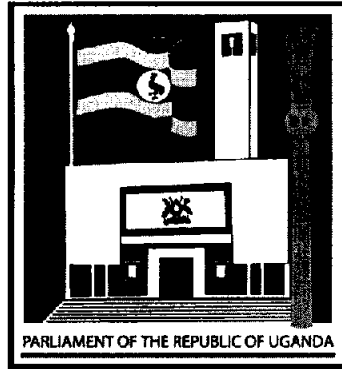


PARLIAMENT OF UGANDA



10TH PARLIAMENT

REPORT OF THE PUBLIC ACCOUNTS COMMITTEE (CENTRAL GOVERNMENT) ON THE VALUE FOR MONEY AUDIT ON THE COMPENSATION OF PROJECT AFFECTED PERSONS UNDER THE REFINERY PROJECT

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Office of the Clerk to Parliament

JUNE 2018

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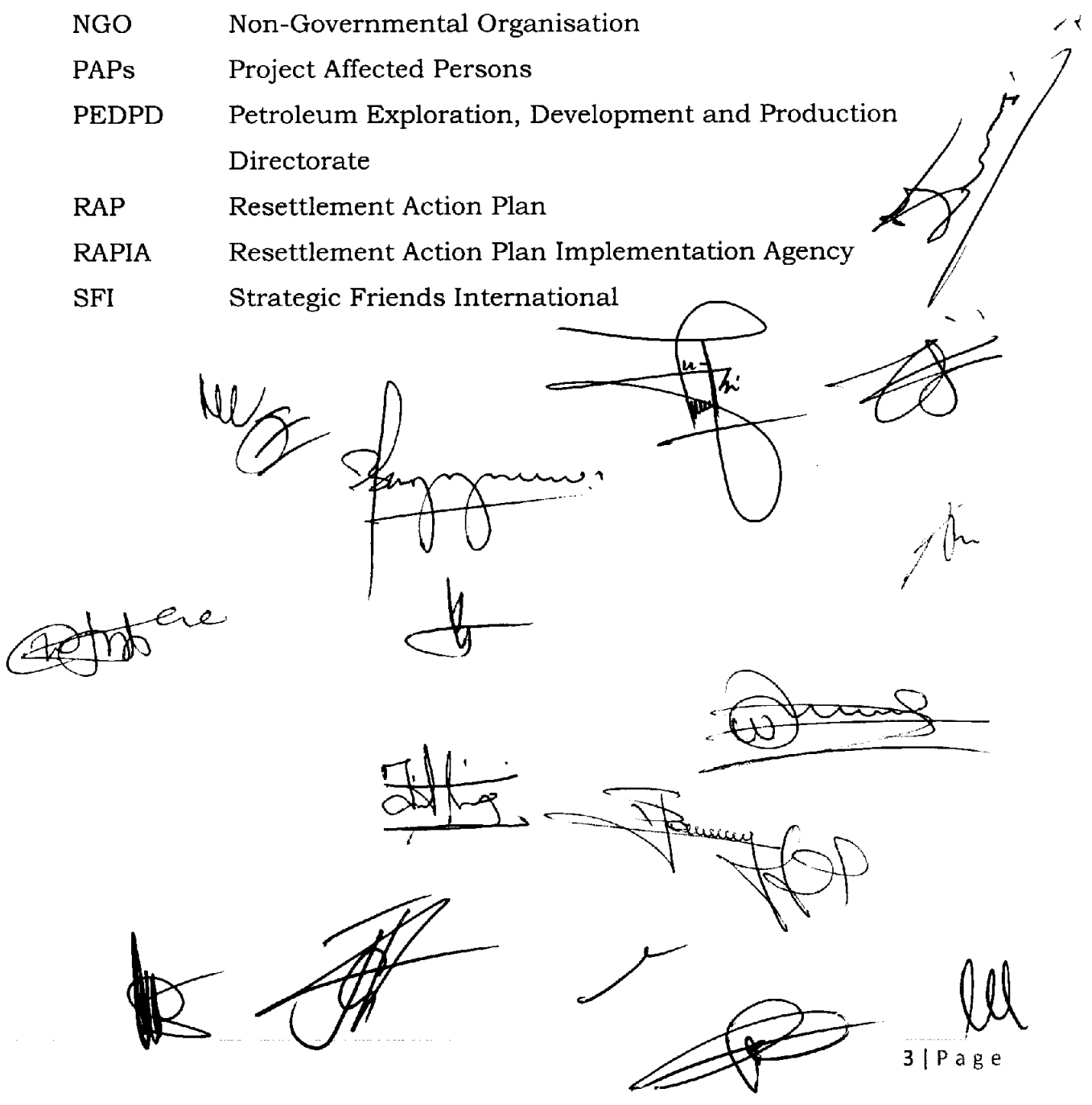
TABLE OF CONTENTS

	PAGE
1.0 INTRODUCTION.....	4
2.0 METHODOLOGY.....	5
3.0 FINDINGS, OBSERVATIONS AND RECOMMENDATIONS.....	5
4.0 CONCLUSION.....	16

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ABBREVIATIONS AND ACRONYMS

CGV	Chief Government Valuer
DLB	District Land Board
HDLB	Hoima District Land Board
IFC	International Finance Corporation
MEMD	Ministry of Energy and Mineral Development
MLHUD	Ministry of Lands Housing and Urban Development
NGO	Non-Governmental Organisation
PAPs	Project Affected Persons
PEDPD	Petroleum Exploration, Development and Production Directorate
RAP	Resettlement Action Plan
RAPIA	Resettlement Action Plan Implementation Agency
SFI	Strategic Friends International



1.0 INTRODUCTION

Rt. Hon. Speaker and Hon. Members,

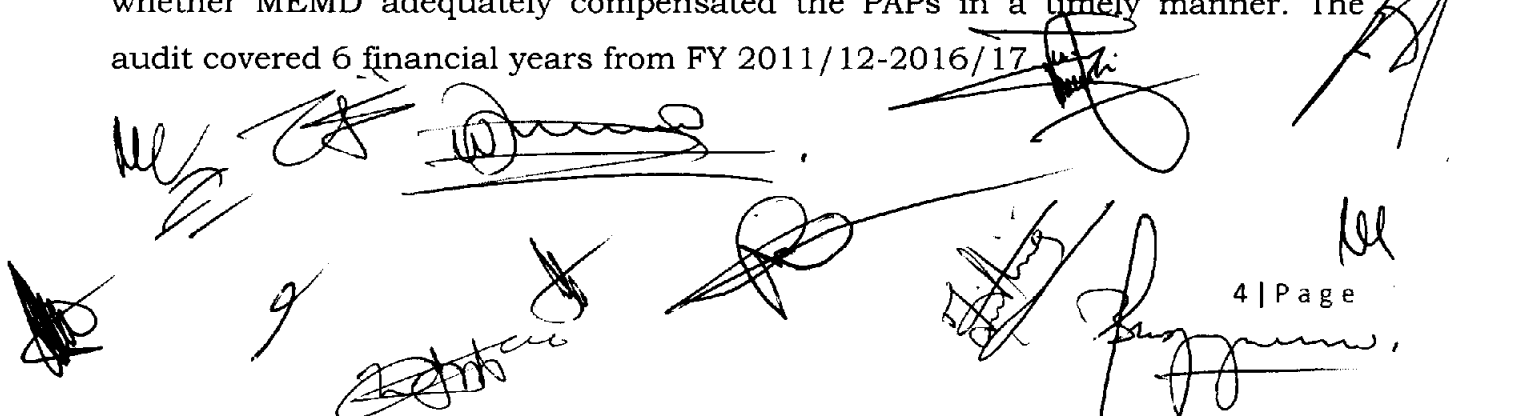
The Public Accounts Committee considered the Value for Money Audit on the Compensation of Project Affected Persons under the Refinery Project as mandated by Rule 171 (5) of the Rules of Procedure and Article 90 of the Constitution of the Republic of Uganda.

Article 163(4) of the Constitution requires the Auditor General to submit to Parliament annually a report of the accounts audited by him or her for the financial year immediately preceding.

Following the commercial oil discoveries in the Albertine Graben and the decision by the Government of Uganda to construct an oil refinery in Kabaale, Buseruka sub-county, Hoima district, a Resettlement Action Plan (RAP) was developed by the Ministry of Energy and Mineral Development (MEMD) to guide compensation and/ or resettlement of an estimated 7,118 Project Affected Persons (PAPs) in this area. The PAPs comprised 1,221 households and 2,473 directly affected land owners and licensees.

Despite the social sensitivity of the exercise and the substantial investment in the project of UGX 86.78 billion, there were concerns that the eight months compensation project which began on 13th June 2013 and was expected to have ended by 13th February 2014, was still far from completion at the time of audit in 2017. Significant delays in compensation of over 4 years were reported.

The Office of the Auditor General conducted a Value for Money audit to assess whether MEMD adequately compensated the PAPs in a timely manner. The audit covered 6 financial years from FY 2011/12-2016/17.



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2.0 METHODOLOGY

2.1 Meetings

The Committee held meetings with the Accounting Officer and staff of the Ministry of Energy.

2.2 Document Review

The Committee studied and made reference to the following documents;

- (i) The Value for Money Audit Report on the Compensation of Project Affected Persons under the Refinery Project
- (ii) The Public Finance Management Act 2015
- (iii) Additional documentation on the queries raised from each of the above sectors

3.0 FINDINGS, OBSERVATIONS AND RECOMMENDATIONS

The Committee considered the key findings of the Auditor General and made observations and recommendations as follows:

3.1 Overview of the progress of the RAP implementation

The project experienced significant delays in the implementation of major RAP activities, ranging from 20 months to over 4 years. It was noted that whereas the monitoring and evaluation activities were supposed to be continuous from inception, the consultant was procured in June 2017. Similarly, the livelihood restoration programme which was scheduled to be implemented by September 2013 commenced in August 2017. Additionally, the procurement of an NGO to carry out compliance audits on the implementation of the RAP had not started by the time of audit in November 2017. Delayed implementation of the RAP necessitated extending the contract of Strategic Friends International (SFI), a consultant engaged to manage the RAP, five times and increased the cost of the consultancy services by UGX 1,239,760,000.

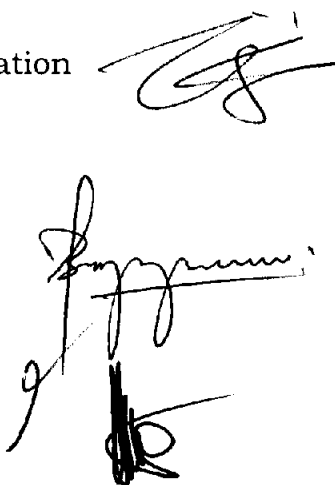
The Accounting Officer informed the committee that Compensation commenced in 2013 for 7,300 acres in a sparsely populated area. She stressed that challenges arose mainly from grievances from some of the PAPs including the rate and insisted that due diligence was done and that the rates given were the ruling rates at that time.


The Accounting Officer also alleged that there were challenges with NGOs bent on disrupting the exercise.

The Committee was further informed that cost overruns of UGX 1,399,760,000 and delays from 20 months to over 4 years were mainly incurred due to challenges in the process of resettlement. UGX 566,467,170 was attributed to activities that remained unimplemented in the previous contract namely relocation of graves and supervision of construction works by the relevant professionals. There was an increase of UGX 673,292,830 which was for execution of activities that resulted from the increase in the number of PAPs who opted for relocation as opposed to cash compensation, from 27 at the time of RAP study to 93 during implementation.

Breakdown:

Professional fees (VAT inclusive)	1,079,760,000
Shifting graves	48,000,000
Transport and communication	50,000,000
Printing and Stationery	30,000,000
Contribution to field rent	22,000,000
Contingency	10,000,000
Total reimbursables	160,000,000
Grand total (UGX)	1,399,760,000

The initial contract was UGX 3,741,343,400, by end of 2015/16, UGX 3.2 billion had been paid with a balance outstanding of UGX 566,467,170. There was extra UGX 673,292,830 for additional scope occasioned by PAPs changing from cash compensation to resettlement.

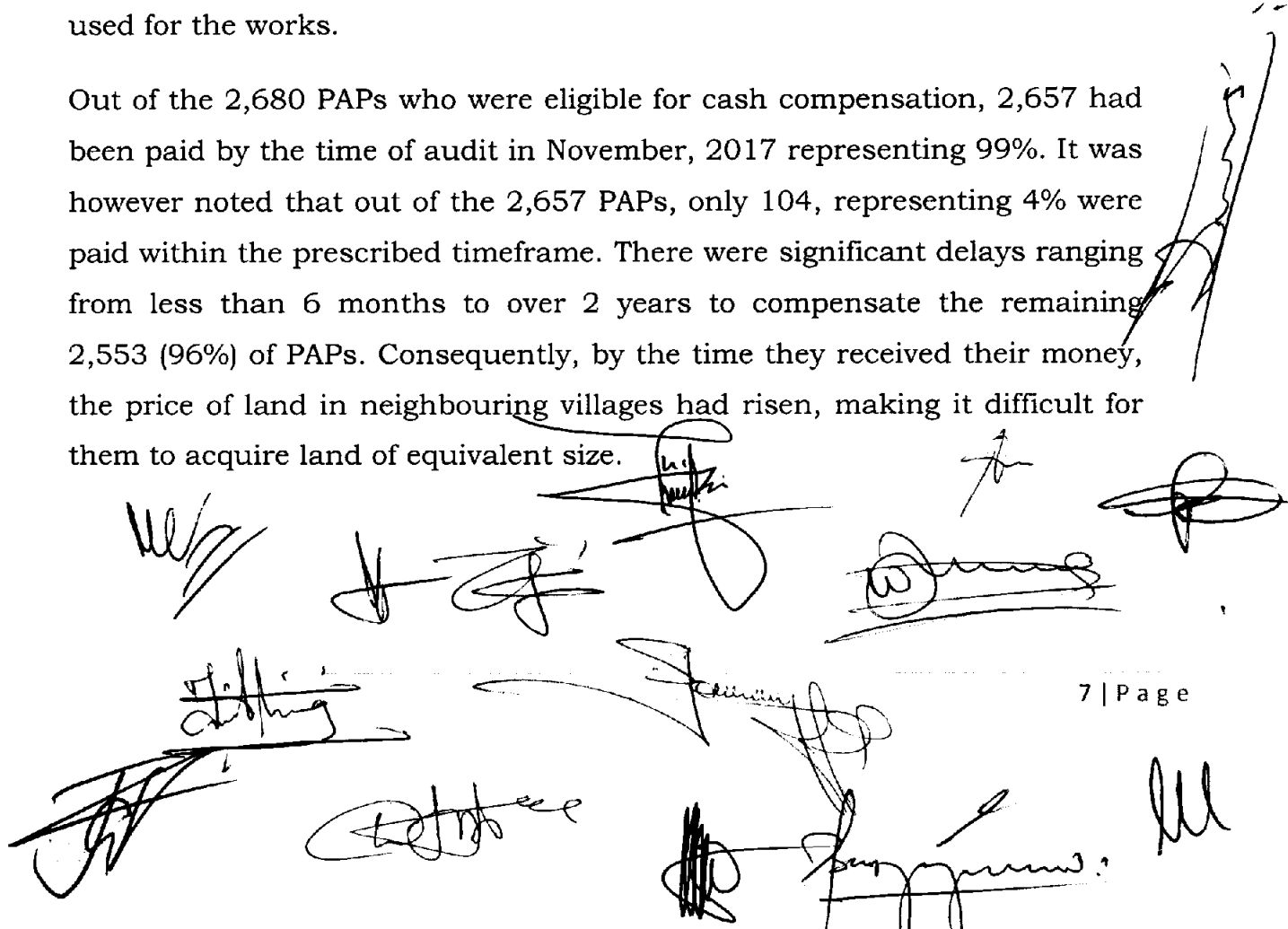
Observations

1. The project should have run for 8 months but got 5 extensions and ran for more than four years.
2. The Ministry had a resettlement plan, however it wasn't followed as had been scheduled.
3. The Accounting officer had no evidence to justify the payment of UGX 673,292,830 for additional scope occasioned by PAPs changing from cash compensation to resettlement.

2) TIMELINES AND ADEQUACY OF CASH COMPENSATION TO PAPS

Section 73(3) of the Land Act, Cap 227 requires prompt payment of compensation to any person having interest in the land for any damage caused to crops or buildings and for the land and materials taken or used for the works.

Out of the 2,680 PAPs who were eligible for cash compensation, 2,657 had been paid by the time of audit in November, 2017 representing 99%. It was however noted that out of the 2,657 PAPs, only 104, representing 4% were paid within the prescribed timeframe. There were significant delays ranging from less than 6 months to over 2 years to compensate the remaining 2,553 (96%) of PAPs. Consequently, by the time they received their money, the price of land in neighbouring villages had risen, making it difficult for them to acquire land of equivalent size.



Observations

1. The Committee learnt that PAPs were made to sign for money not received. On probing this, the Accounting Officer informed the committee that the intention was to capture the details of the PAPs to avoid them vacating land before acknowledging payment.
2. An NGO to ensure compliance under the project was never procured, although this should have been done in the first month of implementation in 2013. Mr. Kasande, the Head of the Mid-stream Department was in charge of the procurement together with his team.
3. The Evaluation and Monitoring Consultant who was supposed to be procured in the 8th month (2013) was only procured 4 years later (in 2017) towards the project completion.

Recommendations

The Committee recommends that beneficiaries whose properties were undervalued should be revalued and compensated adequately. PAPs not yet compensated should be handled at the prevailing rates not later than 60 days from adoption of this report.

The officers who altered compensation rates be charged for fraud in accordance with Section 79 of the Public Finance Management Act, 2015 which provides for punitive measures on conviction.

3) ADEQUACY IN CASH COMPENSATION

a) Formulation of rates

Property permanent in nature

- Whereas the Chief Government Valuer (CGV) approved the valuation methodology submitted by SFI outlining the procedures to be used for valuation of property permanent in nature, this methodology was not followed during valuation of customary land in the 5 villages of Nyamasoga and Nyahaira, Bukoona A, Katooke and Kayera. The value of customary land was overvalued in two (2) villages and undervalued in three (3). These anomalies resulted in a loss of UGX 295,750,800 to government and UGX 16,172,100 to the PAPs, respectively.

Property non-permanent in nature

- Unapproved rates were used for compensation of almost all PAPs. Whereas compensation commenced in FY 2013/14, the rates used were for the FY 2011/2012 which were unapproved and obsolete. In addition, the CGV did not approve rates submitted by the Hoima District Land Board (HDLB) between FY 2013/14 and FY 2015/16. This resulted in grievances among the PAPs and delays in the compensation process.

- Compensation rates were not applied uniformly. 43.2% of sampled PAPs had their crops valued at rates different from the recommended rates by the district land board. Some were over compensated and other under compensated.

- Although cash compensation was done over several years, MEMD did not adjust the compensation values to cater for the market price adjustments in the various years of payment. In 2016/17 when updated rates for properties were approved by the CGV, only 2 PAPs had their rates revalued. Consequently, their total payments increased from UGX 1.029 billion and UGX 74,222,200 to UGX 2.220

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billion and UGX 189,250,750 respectively. This violated the principle of fairness in compensation.

Observation:

1. There was inadequacy of rates and variations of payment to the PAPS.
2. The Chief Government Valuer informed the committee that customary land was to be assessed at approximately 90% of the market value of the registered land with a variance of 10%.
3. Methodology was approved in April 2012 and the market survey done in June of the same year.
4. The Chief Government Valuer did not provide any supervision reports regarding the application of the methodology used.
5. Although compensation started in FY 2013/14 the rates used for almost all PAPS were obsolete as they were for 2011/12 and they had not been approved by the Chief Government Valuer.
6. The consultant set rates at his discretion, which resulted in under or over payments arising from irregular variations.
7. The committee notes that two of the PAPS were assessed at different rates from the rest of the PAPS with values of 2016/17 leaving the other PAPS dissatisfied with the selective method applied. Mr. Kasangaki Fred (from UGX 1.029 billion to UGX 2.220 billion) and Mr. Galimaka (from UGX 74,222,200 to UGX 189,250,750). The A/O informed the committee that the said land in Nyamasoga was urgently required for the construction of the airport.
8. Mr. Kasangaki had a land title while Mr. Galimaka had no land title.

4) TIMELINESS AND ADEQUACY OF RESETTLEMENT

- Construction of the houses for the PAPs and other resettlement infrastructure such as schools and health centres which was supposed to commence in October/November 2013 was delayed by two (2) years.

The residential houses and Buseruka Health centre III were completed in 2017 while the construction of the schools was not yet complete by the time of audit in November 2017.

- Forty six (46) resettlement houses were constructed. Results from tests undertaken for the school facilities revealed that they were within the required range of concrete strength for the various structural components of the buildings.

Based on visual assessment during inspections undertaken in November 2017, the quality of works of the health centres, 46 resettlement houses, and the schools was not acceptable. There were instances of poor workmanship, mainly on the schools; for example, the concrete tank bases had failed, cracks were noted on precast slabs and were poorly aligned.

- Whereas the PAPs were consulted during land acquisition as per the RAP, their concerns, unfortunately, were not considered during implementation by SFI.

5) GRIEVANCE HANDLING

Section 5.10 of the RAP, required the Resettlement Action Plan Implementation Agency (RAPIA) to maintain a grievance management database, grievance files and grievance initiation forms.

The audit team found that there was neither a grievance management database nor grievance files as was expected. The audit team was only provided with a book where PAPs' grievances were recorded and one status report of March 2014.

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Observations

The committee noted that there were still unresolved conflicts by both paid and unpaid PAPs.

The Ministry of Energy abdicated its role in grievance handling which could have made the entire compensation process easier handled.

Recommendation

The Accounting Officer should ensure that a grievance management database and grievance files are put in place for all outstanding grievances, and ensure they are addressed within six months of completion of a project.

The Accounting Officer should ensure that in future projects, proper grievance-management mechanisms are put in place to address any complaints that arise as per prescribed process.

6) SOCIO-ECONOMIC BASELINE SURVEYS

It was noted that whereas the RAP study registered 7,118 PAPs in total, there was no documentation on how this number of PAPs was identified, and neither an explicit list to show all the PAPs due to absence of primary data. There was also a variance between the number of PAPs reported during the census and those that were actually paid. 2473 PAPs were identified during RAP while 2,657 were paid.

It was explained that during the socio economic survey, the names of the PAPs were not captured but the consultant – SFI was interested in the socio and economic characteristics of all members of the affected households.

Without attaching the names during the socioeconomic survey, it was difficult to reconcile the directly affected land owners and licensee tenants

(2473) with the project affected persons (7118) and the 2657 who were compensated as per the payment files.

Also, without adequate baseline data, it may be hard for the Ministry to carry out the livelihood restoration activities and also to evaluate whether the objectives of the project have been met.

Recommendation

The Accounting Officer should ensure that in future projects, sufficient data of the PAPs is captured during the social economic survey to enable proper reconciliation of the total population and the PAPs eventually paid for assurance that eligible people benefit from the compensation.

3 KEY RECOMMENDATIONS

The committee makes the following key recommendations

1. The Ministry of Energy and Minerals should ensure that key planned project activities are prioritized, closely supervised and monitored to ensure that the expected deliverables are achieved as planned.

2. In the subsequent projects requiring compensation of PAPs, the Ministry of Energy and Mineral Development should ensure the following:

- Comprehensive planning is done, including sensitization of the PAPs and the involvement of NGOs.***
- The RAP consultant adheres to compensation guidelines for purposes of fairness. PAPs should be profiled so as to ensure timely payment to avoid speculation***

- The CGV closely supervises and monitors the valuation exercise for future compensation projects and ensure that the approved valuation methodology is adhered to by the implementing entity/consultant.
- Similarly, where circumstances may require deviation from the approved methodology, the CGV should ensure that the amendments are approved before they are applied for valuation. This will not only avoid discontent among PAPs but would also save government funds allocated to specific compensations.

3. The Ministry should liaise with the CGV to ensure the following:

a. The rates used to compensate PAPs are the prevailing rates in the year of payment in order to minimize disputes with PAPs.

b. Guide DLBs on when they should submit proposed rates in order to ensure timely approval. In case of non-approval, the CGV should communicate his/her reasons to the DLB in a timely manner.

c. The rates submitted by HDLB are comprehensive to cater for all categories of property of non-permanent nature before approval. In cases where compensation rates are determined at the discretion of MEMD/ consultant, they should be done in consultation with the CGV and applied uniformly.

d. Compensation values are adjusted annually to reflect prevailing market prices. In addition, MEMD in liaison with the CGV should ensure that in future compensation projects, the

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RAP consultant applies the adjusted rates uniformly to all PAPs to ensure fairness and adequacy in compensation.

4. The Accounting Officer (MEMD) should ensure that:

- Payments are effected as per terms in the signed contract as any delay in effecting payments affects the contractor's cash flows and subsequently the progress of works.**
- Better planning for any future projects in respect of delayed site possession by the contractor.**
- Adequate planning and thorough review of design documents before approval and implementation. This would enable any major omissions to be noted and included at an earlier stage for better planning.**
- Better coordination with any of the line Ministries involved in future projects in respect of approvals of designs for health facilities and opening of boundaries where boundary disputes are impeding project implementation.**
- Defects are remedied by the Contractor before handover of the schools, and expiry of the defects liability period for the 46 houses and health centres.**
- Supervision and monitoring of capacity for works is strengthened to ensure adherence to agreed quality standards during contract execution.**
- In future projects, issues of concern discussed with the PAPs are duly implemented and where there are deviations adequate sensitization of PAPs should be undertaken for acceptance of the project and compliance with international standards.**

4. MEMD should ensure that proper grievance management mechanisms are put in place to address any complaints that arise as per prescribed process.

5. The MEMD should ensure that in future projects, sufficient data of the PAPs is captured during the social economic surveys to enable proper reconciliation of the total population and the PAPs eventually paid for assurance that eligible people benefit from the compensation.

4 CONCLUSION

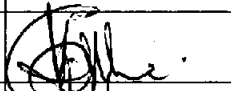

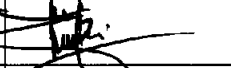

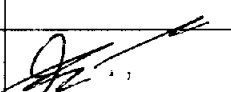
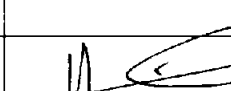

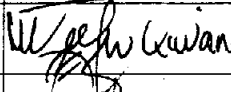

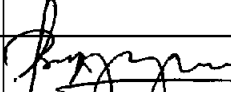

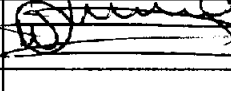
There were notable achievements in the compensation of PAPs in the refinery project. MEMD successfully compensated 99% of the PAPs who were eligible for compensation. Some infrastructure works such as construction of 46 residential houses and improvement and expansion of Buseruka Health Centre have been completed and handed over to the Ministry.

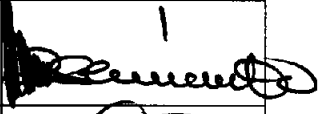

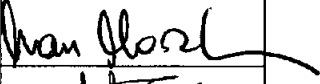

The above notwithstanding, significant delays were noted in the overall implementation of the project particularly in payment of PAPs and construction of resettlement infrastructure. Key activities of the RAP such as procurement of a consultant to undertake monitoring and evaluation of the project, construction of schools and places of worship, as well as implementation of the livelihood restoration programme were delayed.

The use of unapproved/obsolete valuation rates was noted in almost all the years of compensation, and rates were not applied uniformly thereby causing grievances and delays in the compensation process. Failure to adhere to the PAPs' proposals during construction of resettlement houses also affected acceptance.

It is hoped that the proposed recommendations will go a long way in improving the management of future compensation projects.

APPENDIX I: SIGNATURE LIST

SR. No.	NAME	CONSTITUENCY	PARTY	SIGNATURE
1.	HON. ANGELINE OSEGGE	DWR SOROTI	FDC	
2.	HON. GERALD KARUHANGA	NTUNGAMO MUNICIPALITY	INDEP	
3.	HON. MUGABE KAHONDA DONOZIO	RUHINDA COUNTY	NRM	
4.	HON. LOY KATALI	JINJA DISTRICT	NRM	
5.	HON. HENRY MUSASIZI	RUBANDA COUNTY	NRM	
6.	HON. DHAMUZUNGU GEOFFREY	BUDIOPE EAST COUNTY	NRM	
7.	HON. BYARUGABA ALEX	ISINGIRO COUNTY SOUTH	NRM	
8.	HON. NDAMIRA CATHERINE	DWR KABALE	NRM	
9.	HON. ABABIKU JESCA	ADJUMANI DWR	NRM	
10.	HON. AZAIRWE DOROTHY N K	DWR KAMWENGE	NRM	
11.	HON. SILWANYI SOLOMON	BUKHOLI CENTRAL	NRM	
12.	HON. TWESIGYE JOHN NTAMUHIIRA	BUNYARUGURU COUNTY	NRM	
13.	HON. KIWANUKA KEEFA	KIBOGA EAST COUNTY	NRM	
14.	HON. ANYAKUN ESTHER DAVINA	DWR NAKAPIRIPIRIT	NRM	
15.	HON. KAHIMA MOSES	RUHAAMA COUNTY	NRM	
16.	HON. OGONG FELIX OKOT	DOKOLO SOUTH	NRM	
17.	HON. ASIKU ELLY ELIAS	KOBOKO NORTH	NRM	
18.	HON. BINTU LUKUMU JALIA	MASINDI DWR	NRM	
19.	HON. WAKABI PIUS	BUGAHYA COUNTY	NRM	
20.	HON. AYOO TONNY	KWANIA COUNTY	NRM	
21.	HON. AMONGIN JACQUILINE	NGORA DWR	NRM	

22.	HON. SSEKIKUBO THEODORE	LWEMİYAGA COUNTY	NRM	
23.	HON. KISA STEPHEN	LUUKA SOUTH	NRM	
24.	Hon. WALYOMU MUWANIK MOSES	KAGOMA COUNTY	NRM	
25.	HON. MBWATEKAMWA GAFFA	KASAMBYA COUNTY	NRM	
26.	HON. LOKII JOHN BAPTIST	MATHENIKO COUNTY	NRM	
27.	HON. KORETA IVAN (LT GEN)	UPDF	UPDF	
28.	HON. BASEKE FRED	NTENJERU SOUTH	IND	
29.	HON. MUKODA JULIE ZABWE	DWR MAYUGE	IND	
30.	HON. ALIONI YORKE ODRIA	ARINGA SOUTH	IND	
31.	HON. FRANCA JUDITH AKELLO	DWR AGAGO	FDC	
32.	HON. SSEMUJJU IBRAHIM NGANDA	KIRA MUNICIPALITY	FDC	
33.	HON. PATRICK AKORA EBONG	MURUZI COUNTY	UPC	
34.	HON. SEWUNGU JOSEPH	KALUNGU WEST	DP	
35.	HON. MPUUGA MATHIAS	MASAKA MUNICIPALITY	DP	