



THE REPUBLIC OF UGANDA

IN THE MATTER OF THE CONSTITUTION OF THE REPUBLIC OF UGANDA
AND THE LOCAL GOVERNMENTS ACT CAP 243

AND

IN THE MATTER OF A CONDITIONAL GRANT UTILIZATION AGREEMENT
FOR FINANCIAL YEAR 2013 – 2014

BETWEEN

MINISTRY OF TRADE, INDUSTRY AND COOPERATIVES SECTOR

AND

LOCAL GOVERNMENTS

THIS Agreement is made this 20th day of March 2013 between the *Ministry of Trade, Industry and Cooperatives* of P.O. Box 7103, *Kampala* (hereinafter referred to as the "First Party") of the one part and which expression where the context so permits shall include its assignees, representatives and anyone acting under its authority, and *the Local Governments represented by Uganda Local Government Negotiation and Advocacy Team (UNAT)* of c/o P.O. Box 23120 or P. O. Box 23092 Kampala (hereinafter referred to as the "Second Party ") of the other part and where the context so permits shall include its assignees, representatives and any one acting under its authority. For purpose of this Agreement, the two shall be jointly referred to as "the Parties".

Preamble:

Article 193(3) of the Constitution of the Republic of Uganda and Section 83(3) of the Local Governments Act Cap 243 provide that "*Conditional grants shall consist of monies given to local governments to finance programmes agreed upon between the Government and local governments and shall be expended only for purposes for which it was made in accordance with the conditions agreed upon*". The above provision require the expenditure of the conditional grants on agreed programmes and in accordance with the conditions agreed upon and this necessitates for the Local Governments to sit together with the Sector

Ministries (Government) to agree upon the programmes and conditions for implementation.

Pursuant to the above, the Uganda Local Governments Association and Urban Authorities Association of Uganda, acting on behalf of the Local Governments, established the Uganda Local Governments Negotiation and Advocacy Team (UNAT) in 2004 with an aim of representing them and negotiating on their behalf, with the Sectors, the conditions for Conditional Grants utilization

The UNAT is constituted by members of Uganda Local Governments Association and Urban Authorities Association of Uganda.

The negotiations are organized and chaired by the Local Government Finance Commission, and witnessed by LGFC, Ministry of Local Government, Ministry of Finance Planning and Economic Development, Ministry of Public Service, Office of the Prime Minister and the National Planning Authority.

WHERE AS

1. The Ministry of Trade, Industry and Cooperatives has the statutory responsibility *for policy, national sector planning*, inspection, supervision, monitoring, regulation, coordination, mentoring, and provision of technical guidance to Local Governments in the implementation of government programmes;
2. The Local Governments are the implementers of Government programmes within their locality and jurisdiction in accordance with the Constitution of the Republic of Uganda and the Local Governments Act Cap 243;
3. Both parties have a common objective of implementing agreed upon conditions for expenditure of the Conditional Grants

NOW THEREFORE, having deliberated, the parties do hereby agree to work together towards achieving the above common goal and in so doing, the Parties agree to be bound by the terms and conditions as stipulated here below.

1. Agreement

- a) The Agreement shall come into effect on the date of commencement of the financial year and shall run for a period of one year from 1st July 2013 to 30th June 2014, subject to mid-term review.



- b) Modification of the terms and conditions of this Agreement shall only be made by written and signed Agreement between the Parties hereto.
- c) None of the parties to this agreement shall be held liable on any of their obligations herein if owing to an occurrence or event beyond their control or reasonable foresight and without negligence on their part, execution of this Agreement has been rendered impossible. In such circumstances, the parties shall mutually agree on the appropriate way forward
- d) Failure to implement any of the provisions of this Agreement by any of the parties shall be communicated to the affected party by the defaulting party within two (2) months from the date of failure to implement. The notification shall clearly state the reasons for failure and shall be delivered at the duly appointed and known address of the Local Government Finance Commission, with copies to Uganda Local Governments Association (ULGA), Urban Authorities Association of Uganda (UAAU), Ministry of Local Government, Ministry of Finance Planning and Economic Development, National Planning Authority, Office of the Prime Minister and Ministry of Public Service.
- e) The Parties shall perform the services and carry out their obligations with all due diligence, efficiency, and economy.
- f) The Parties shall have a mid-term review to discuss the progress in implementation; highlight challenges faced and make recommendations to improve the process.

2. Purpose

The purpose of this agreement is to define and set out the terms and the conditions for the expenditure of the conditional grants for the financial year 2013/2014 in the Trade and Commercial Services.

3. Obligations of the Ministry of Trade, Industry and Cooperatives

- a) The Ministry shall prepare and disseminate the sector guidelines which will become effective at the commencement of the year for which the negotiation is targeting (FY 2013/2014)
- b) Shall communicate through circulars addressed to the Chief Administrative Officers and Town Clerks, the issues agreed upon in the negotiations for local governments to implement in their respective sectors.




Obligations of the Local Governments

- a) The UNAT through their Constituent organizations (ULGA and UAAU) shall disseminate to their members the agreements and highlight the obligations of the local governments.
- b) Implement their programmes based on the guidelines issued by the MoTIC.
- c) Ensure timely response to issues raised by the Sector Ministry.
- d) Provide timely and accurate data on their plans, achievements and status on programme implementation to the MoTIC.

Mid-term Review (October 2013)

There shall be a mid-term review of the implementation process of this agreement and the Local Government programmes it supports so as to obtain feedback and disseminate it to the parties. This review shall be organized with the following framework:

- (1) There shall be a Joint Technical Committee (JTC) comprising of six (6) members drawn in the following ratio
 1. Local Governments Finance Commission: 1
 2. Uganda Local Governments Association: 1
 3. Urban Authorities Association of Uganda :1
 4. Sector Ministries: 2 from sector
 5. Office of the Prime Minister: 1
- (2) It is agreed that the following shall be ex-officio members to the Committee for purposes of providing technical guidance.
 6. Ministry of Finance : 1
 7. Ministry of Local Government: 1
 8. Ministry of Public Service: 1
 9. National Planning Authority: 1
- (3) It is further agreed that Local Government Finance Commission shall be the Chair of the JTC
- (4) It is agreed that the following shall be the terms of reference (TORs) for the Joint Technical Committee.
 - Oversee implementation of the agreements and monitor the progress of either party.
 - Ensure that the Agreements are disseminated to all stakeholders.
 - Conduct a mid-term review of the implementation process so as to obtain feedback and disseminate it to the parties.



- Identify the non complying parties and make recommendations to MoFPED, and Office of the Prime Minister for appropriate sanction
- Handle any other upcoming issues.
- The Joint Technical Committee shall report to the respective Policy Organs of their Institutions.
- Any other activity that may be agreed upon by the parties.

Way Forward on Outstanding Issues

1. Commercial Services and Trade

The meeting noted that Commercial services and trade are under production and marketing which limits its visibility both in structure and function.

Agreed That:

Ministry of Trade should advocate for an independent department for Commercial Services and Trade, and the development of a structure to cater for the mandated responsibilities namely trade, marketing, cooperatives, industry and tourism.

2. Funding of Commercial Service and Trade Functions in Local Governments

The meeting noted that save for the fifteen districts under the commercial conditional grant pilot, the rest of the district commercial services and trade offices are funded on locally raised revenue. Unfortunately local revenue is minimal, and has many priorities attached to it, which means that the unfunded districts are not facilitated to play their role on wealth creation.

The meeting further noted that the funding under the conditional grant is still meager at approximately UG SHS 7.2 million per year given the mandate of the office and the distribution ratio trade takes 30%, cooperatives 20%, tourism 20%, industry 15%, Small and Medium enterprises 15%. With the current total grant, these distributions are unrealistic.

Agreed That:

MoTIC should lobby and advocate for the expansion in resources of the 501-850 District Trade and Commercial Services Grant under the Sector's MTEF, and in its coverage to all districts and municipalities, to ensure improved commercial services and trade performance and commercial extension service delivery in Local Governments.

3. Trade Licensing

Concern was expressed by the Local Governments over the Trade Licensing Act and Regulations pertaining thereto being unrealistic in the sense that in some areas, the licenses paid are higher and low in some




areas. To some Local Governments in urban/peri urban areas that neighbor the City and Urban Authorities. For example the law for a higher trade license to businesses in Kampala City Council Authority KCCA like at Garden City Mall, and a smaller license paid by Businesses at Freedom City along Entebbe Road in Wakiso.

The meeting noted that currently the law is under review as part of the ongoing legislative review by the Uganda Law Reform Commission. A bill is before Parliament.

The meeting was informed that there is a Grading Order which determines the fees and the Ministry wrote to all Local Governments to submit advice on the grades and fees by 31st October but some local governments have not submitted their responses hence the Ministry sent a uniform grade.

The meeting was further informed that there was a study on deregulation under MoFPED and later transferred to Ministry of Trade, there was also another study by MOLG on business levies and at the time of submission to cabinet, it was advised that the Ministry of Trade takes up the matter.

Agreed That:

- i) The trade licensing law should be revised in consultation with the Local Governments to suit current developments in all Local Governments.
- ii) The LGs should make their input proposals on the amendment of the Trade licensing law to the Parliamentary Committee on Tourism, Trade and Industry.
- iii) The Ministry should take into consideration the Business Levies Study and De-Regulation Study recommendations, in the review of the Trade Licensing Act and Regulations.

4. Involvement of the District Commercial Officers

The Ministry of Trade has not fully engaged with the District Commercial Officers in the Local Governments. As a result some commercial officers are not fully aware of their mandate and hence are not able to perform their duties as expected. This has rendered some commercial officers irrelevant. In other LGs where the DCO are aware of their mandate, they do not have any resources available to fulfill this mandate.

Agreed That:

The Ministry of Trade, Industry and Cooperatives should continue to actively engage Local Government commercial officers in their activities.



5. Investment

The meeting noted that LGs suffer low levels of local investment, and attraction of investors. LGs want the Ministry to take the lead initiative in guiding the LGs.

The Ministry informed the meeting that it is working closely with UIA in setting up Industrial Parks in 22 MCs as directed by H.E the President and that at least 5% of all lands in the industrial parks should be earmarked for SMEs.

Agreed That:

- i. The MoTIC should obtain copies Public Private Policy from Ministry of Finance and disseminate it to the Local Governments to encourage investment in the Local Governments.

7. Development of Tourism in LGs

The meeting noted that there are no standards for promotion of tourism development in the country with no strategies to protect and preserve tourism sites. It was further noted that the tourism sector after separation from Trade was not represented in the meeting.

Agreed That:

- i) The Local Government Finance Commission will ensure that for the negotiations of financial year 2014/2015, the Ministry of Tourism, Wildlife and Antiquities will be invited as part of the sector.

8. Rating of Commercial Services and Trade functions in the Local Government

For efficient and effective performance, compliance and service delivery in Local Governments, the Ministry of Local Government annually carries out a National Assessment to this effect. Results of which influence amount of funds released to the Local Government and specific departments and recognition of the sectors. Unfortunately, none of the Commercial Services and Trade functions is covered under this important exercise. Consequently, this contributes to neglect of the sector especially when it comes to priorities to be funded at the Local Government, using either the Locally Raised Revenue or Unconditional Grants.

MoLG is currently reviewing the Local Government Assessment manual which is almost 95% complete, but the Ministry of Trade, Industry and Cooperatives can get in touch with Commissioner Local Councils Inspection with indicators for inclusion into the assessment manual.

Agreed That:

The Ministry of Trade, Industry and Cooperatives shall provide Sector Key Performance Indicators (KPIs) to the Ministry of Local Government for inclusion in the Annual Local Government Performance Assessment.



9. Prosperity for All – SACCO Model

The meeting noted that it's the mandate of the Cooperative Department – MoTIC to promote and regulate Cooperative Development in the country. With the coming of the Prosperity for All, well facilitated parallel structures were created (Microfinance Department in the Ministry of Finance – which consequently entered into working partnership with Uganda Cooperative Savings and Credit Union (UCSCU) Ltd. to start and promote cooperative development) working more less independently. The meeting further appreciated whatever has been achieved in this arrangement. The only challenge noted is that the mandate of this structure in relation to the Cooperative Department is not consistent with the level of facilitation.

Ministry of Trade concurred with the Local Governments that although this issue is housed under Finance, the management of SACCOS is actually the mandate of the Ministry of Trade. Currently the Cooperatives Bill is being drafted and the Ministry of Trade has incorporated clauses which indicate that the Management of SACCOS shall be under the Ministry of Trade.

Agreed That:

- i) The Cooperative Department of the Ministry should negotiate or lobby for support to enable the Cooperative Movement to play a key role in the implementation of the Prosperity for All programme. This shall go a long way to streamline programme implementation up to Local Government level and harmonize functions of the various stakeholders/players in the Cooperative movement.
- ii) Efforts should be made to retrieve the management of SACCOS from Ministry of Finance to Ministry of Trade.

IN WITNESS WHEREOF the appointed representatives of Parties hereto have set their hands on this agreement on the day, month and year first above written.

Signed for and On Behalf of *Local Governments*:

By: Odok Peter W'ochieng

Authorised Representative
UNAT

Signed for and on behalf of the Trade, Industry and Cooperatives

By: Eng. Samuel Ssenkungu

Authorized Representative
MoTIC

In witness hereof:

(Authorized Representative)

For and On Behalf of LGFC
Mr. Lawrence Banyoya

.....}

For and On Behalf of MoFPED
Mr. Godwin Kakama

.....}

For and On Behalf of MoLG

Mr. Samuel Amule

.....}

For and On Behalf of MoPS

.....}

.....}

For and On Behalf of NPA
Mr. David Katungi

.....}

Okw

b.