



**CONTRACT AUDIT REPORT INTO THE CONSTRUCTION OF GOT APWOYO  
SEED SECONDARY SCHOOL IN NWOYA DISTRICT LOCAL GOVERNMENT  
UNDER UGIFT PROGRAM: PROCUREMENT**

**CONTRACTOR: MOGEN ENTERPRISES LTD.**

**MAY 2025**

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### ACRONYMS

BOQ:	Bills of Quantity
ESHS:	Environmental, Safety, Health and Social Safeguard
UGIFT:	Uganda Intergovernmental Fiscal Transfer Program
PPDA:	Public Procurement and Disposal of Public Assets
VAT:	Value Added Tax
PS/ST:	Permanent Secretary and Secretary to Treasury

## **EXECUTIVE SUMMARY**

On 16<sup>th</sup> January 2023, Nwoya District Local Government entered into a contract with Mogen Enterprises Ltd to construct Got Apwoyo Seed Secondary School at a cost of UGX.2,565,870,623 VAT inclusive with an intended completion date of 30<sup>th</sup> July 2024.

In view of Section 8 (1) (j) (ii) of the PPDA Act, Cap. 205, the Public Procurement and Disposal of Public Assets Authority conducted a contract audit into the Construction of Got Apwoyo Seed Secondary School in Nwoya District Local Government under UGIFT program with an overall objective of assessing the status of contract implementation with emphasis on verification that all parties to the contract complied with the requirements and standards set forth in the contract and the provisions of the PPDA Law and UGIFT Guidelines.

### **The following key exceptions were noted:**

1. The contractor failed to complete the project within the contractual period of 18 months, thus; from start of the project on 30<sup>th</sup> January 2023 with the intended completion date of 30<sup>th</sup> July 2024, hence, causing delay in education service delivery to the beneficiaries in and round the district. During the above period the Accounting Officer, citing slow progress of construction works and abandonment of site, issued two warning letters to the contractor, Mogen Enterprise on 23<sup>rd</sup> August 2023 and 3<sup>rd</sup> January 2024, respectively with no response from the contractor.
2. The above culminated to the Accounting Officer writing a letter to the Attorney General seeking guidance on how to terminate the contract for the construction of Got Apwoyo Seed Secondary School on 6<sup>th</sup> May 2024, but as at the date of the audit on 10<sup>th</sup> January 2025, the Attorney General had not responded to the Chief Administrative Officer's letter. This amounted to a delay of seven months.
3. Since the contractor had abandoned the site and failed to complete the project by 30<sup>th</sup> July 2024, the Accounting Officer on 1<sup>st</sup> August 2024 issued a letter of termination to the Managing Director, Mogen Enterprise Ltd, as the contract self-terminated upon expiry of the contractual period on 30<sup>th</sup> July 2024. The termination of the contract was based on fundamental breach of the contractual obligation by the contractor cited in GCC 68.2, particularly GCC 68.2(a) and (g) of the contract.
4. As from above, the contractor's abandonment of the site, and subsequently the termination of the contract, the Entity was exposed to:
  - i. The need for valuation of the pending works to completion of the project;
  - ii. The need to identify a new contractor; and the related costs and time lost;
  - iii. Project cost escalation to completion like; contract implementation cost increment, cost for correcting possible defective works done, etc.;
  - iv. The risk of failure to recover the advance payment worth UGX.513,174,124 from the contractor; and
  - v. The need to provide security to the community in the areas surrounding site, since it had no security guard to secure it and guide people who access the site.
5. Use of weak concrete blocks in the structures, expose the walls to quick deterioration and damage during the usage of the facilities.
6. The Entity did not obtain Performance Security and ES Performance Security from the Contractor that was provided for under the SCC (GCC 61.1). This left the Entity unprotected against defective work and non-performance of contractual obligations by the contractor.
7. The contractor was paid without issuance of an interim payment certificate that created uncertainty on the basis upon which the contractor was paid UGX 399,850,158 as the

contract was an admeasurement contract. The above also left the Entity unable to recover part of the monies advanced to the contractor.

8. As a result of the abandonment of site by the contractor Mogen Enterprise Ltd, and the eventual termination of the contract thereafter by the Accounting Officer, the Entity identified a new contractor, M/s Bertlanzz Engineering Limited under direct procurement as per the Attorney General's clearance letter dated 28<sup>th</sup> March 2025 of the contract for the completion of Got Apwoyo Seed Secondary School. However, the clearance by the Attorney General of the draft contract worth UGX.1,655,179,514, had a number of amendments to be implemented by the Accounting Officer, details in Appendix 1.

**In light of the above findings, the Authority recommends the following measures:**

1. In regard to the exited contractor, Mogen Enterprises Ltd, the Accounting Officer should:
  - i. Recover all the advance payment of UGX.513,174,124 from the contractor;
  - ii. Task the Project Manager, the District Engineer Okumu Peter Anywar to do a structural strength test to assess the strength of the buildings and quality of work done by the exited contractor, to guarantee the continuity with the construction works on the structure by the new contractor and safety of the users in future; and
  - iii. Urgently, take appropriate procedures and recommend the exited contractor to the Authority for appropriate action, in accordance with Section 128(e) of the PPDA Act Cap.205.
2. As per the clearance by the Attorney General of the Entity's request to approve a contract for the completion of Got Apwoyo Seed Secondary School, the Accounting Officer should:
  - i. Implement all the Attorney General's recommended changes to the draft contract agreement form and the special conditions of contract, Vide Appendix I;
  - ii. Appoint a Project Manager for the completion project;
  - iii. Task the new Contractor, M/s Bertlanzz Engineering Limited after signing a contract to submit to the Entity a valid Performance Security and ES Performance Security as specified in the SCC (GCC 61.1), within 21 days after contract signing; and
  - iv. Take into consideration the guidance issued by the PS/ST in a circular dated 27<sup>th</sup> November 2024 and referenced FAD/019/068/01, to make sure that the contractor is adequately supervised for the Entity to achieve the project milestones accordingly.
3. The Head Procurement and Disposal Unit should prepare a contract for the new service provider by taking into consideration all the recommended changes by the Attorney General to the draft contract agreement form and the special conditions of contract. Details in Appendix I.
4. The Project Manager should:
  - i. Prepare and put in place a detailed contract implementation plan and quality control measures for the completion project;
  - ii. Task the contractor to provide work program for the project implementation on monthly basis for the Project Manager's review and approval;
  - iii. See to it that the works implemented by the contractor are closely monitored for quality, timeliness and cost such that the project is implemented by the M/s Bertlanzz Engineering Limited within the contract price of UGX.1,655,179,514 as was cleared by the Attorney General. Details in Appendix I;
  - iv. Make sure that the environmental and safety safe guards are in place and adhered to by the Contractor throughout the project implementation period, including installing a temporary gate manned with a full-time security guard, and hoarding off the project site.

- v. Ascertain the that the securities submitted by the contractor are authentic and remain valid throughout the contract implementation period, including 28 days thereafter as per the requirement of GCC 61.4;
- vi. Adequately supervise the project implementation by the contractor as guided by the PS/ST in a circular dated 27<sup>th</sup> November 2024 and referenced FAD/019/068/01; and
- vii. See to it that both parties to the contract perform the roles and responsibilities, accordingly so as to have the project implemented unencumbered through the contract period.

## CHAPTER 1: INTRODUCTION

### 1.1 Background

The Government of Uganda received a loan from the World Bank to fund the Uganda Intergovernmental Fiscal Transfer (UgIFT) Program for construction of seed secondary schools and expansion of existing ones in selected Sub-Counties in Uganda. Nwoya District Local Government was one of the beneficiaries in the FY2023/2024.

On 16<sup>th</sup> January 2023, Nwoya District Local Government entered into a contract with Mogen Enterprises Ltd to construct Got Apwoyo Seed Secondary School at a cost of UGX.2,565,870,623 with an intended completion date of 30<sup>th</sup> July 2024.

In line with Section 8 (1) (j) (ii) of the PPDA Act, Cap. 205 the Public Procurement and Disposal of Public Assets Authority conducted a contract audit into the construction of Got Apwoyo Seed Secondary School with an overall objective of assessing the status of contract implementation.

Table 1 below shows the summary of the contract for the construction of Got Apwoyo Seed Secondary School.

**Table 1: Contract summary**

Entity:	Nwoya District Local Government		
Project Name	Construction of Got Apwoyo Seed Secondary School		
Contract Ref. No.	MoES/UGIFT/WRKS/2021-2022/00001 (Lot 1)		
Project contract price (UGX)	2,565,870,623		
Contractor	Mogen Enterprises Ltd, P.O Box 720 Tororo.		
Project Funding	UGIFT		
Date contract signing	16 <sup>th</sup> January 2023		
Date of site Handover	30 <sup>th</sup> January 2023		
Contract start date	30 <sup>th</sup> January 2023		
Intended completion date	30 <sup>th</sup> July 2024		
Contract duration	18 Months		
Project Manager	District Engineer		
<b>S/N.</b>	<b>Costed Scope of works.</b>	<b>Qty</b>	<b>Estimated cost (UGX)</b>
1.	Preliminaries	1	177,300,000
2.	Site levelling work	1	38,054,000
3.	2-Classroom block	3	405,548,628
4.	2-Unit science laboratory block	1	215,193,500
5.	Administration block	1	126,420,000
6.	2-Unit teachers house	3	361,477,500
7.	2-Unit teachers kitchen	3	94,368,000
8.	2-Stance lined VIP latrine block – administration block	1	16,163,500
9.	2-Stance lined VIP latrine block – teachers house	3	57,574,500
10.	5-Stance lined VIP latrine block - boys	1	31,679,500
11.	5-Stance lined VIP latrine block - girls	1	30,668,500
12.	External works	1	53,370,000
13.	Rain water harvest system with 5000ml water tank	1	4,795,000
14.	ICT – Library block	1	298,226,000
15.	Multi-purpose hall	1	203,468,000

16.	Sports field	1	50,000,000
	Total		<b>2,164,306,628</b>
	VAT 18		389,575,193
	<b>Total value (18% VAT inclusive)</b>		<b>2,553,881,821</b>
<b>Project status based on progress report of 31<sup>st</sup> May 2024 to 18<sup>th</sup> August 2024.</b>			
i.	Physical project report – 12.91%.		
ii.	Time lapse - Eighteen (18) calendar months.		
iii.	Time lag - Two weeks passed completion date.		
iv.	Financial progress - Amount paid 20% Advance payment		513,000,000
v.	Payment voucher No. 6439464 paid the Contractor on 28 <sup>th</sup> June 2023, but with no interim payment certificate prepared.		399,850,158
	<b>Total payment to the Contractor.</b>		<b>913,024,282</b>

**Note:** The Contract price computed by the Authority above of UGX. 2,553,881,821 varied from that in the contract agreement of UGX.2,565,870,623 causing an arithmetic variance of UGX.11,988,802.

### 1.2 Objective of the audit

The primary objective of the contract audit exercise was to assess the status and effectiveness of implementation of the contract.

The specific objectives for undertaking the contract audit were to assess:

1. The progress of works with regard to effectiveness of time, quality and cost controls of works undertaken; and
2. Adherence to Environmental, Safety, Health and Social Safeguard (ESHS) requirements.

### 1.3 Scope of the audit exercise

The audit covered the contract implementation and management for the construction of Got Apwoyo Seed Secondary School, Nwoya District.

### 1.4 Audit methodology

The Authority adopted the following methodology:

- i. Review of documentation on the procurement action file.
- ii. Physical verification of the project site.
- iii. Debrief of the Entity management on the preliminary findings.
- iv. Issuance of a management letter to the Entity for its official management response
- v. Reporting on the audit findings and providing actionable recommendations where applicable.

### 1.5 Limitation of scope

The contract audit was undertaken by Auditors who did not have professional competence in engineering and building construction hence could not give an opinion on the technical quality of the works undertaken. However, the overall responsibility of the quality of works lied with Nwoya District Local Government's management and the Contractor, Mogen Enterprises Ltd.

### 1.6 Legal documents applicable

The applicable laws and legal framework were:

- i. The Public Procurement and Disposal of Public Assets Act, Cap. 205;

- ii. The Local Governments (PPDA) Regulations, 2006 and Guidelines, 2008;
- iii. The PPDA (Contracts) Regulations, 2023;
- iv. The bidding document issued to bidders;
- v. The signed contract between Nwoya District Local Government & Mogen Enterprises Ltd,
- vi. The Circular on contract management and safeguard requirements under the Uganda Intergovernmental Fiscal Transfer (UgIFT) program dated 16<sup>th</sup> March 2021.

## CHAPTER 2: FINDINGS AND RECOMMENDATIONS

### 2.0 PROGRESS OF THE WORKS

#### 2.1 Time Control

##### 2.1.1 Delayed completion of the project

The Authority found that as at 30<sup>th</sup> July 2024, the contractor had achieved a time progress of 100%, and the physical progress was assessed at 12.91% as per the valuation report attached to the clearance by the Attorney General for the completion projects dated 28<sup>th</sup> March 2025 revealing that the project was significantly incomplete. The contractual timelines are summarised in Table 2.

**Table 2: Project contractual timeline analysis**

S/N	Project activity	Timelines
1.	Contract signing date	16 <sup>th</sup> January 2023
2.	Project start date	30 <sup>th</sup> January 2023
3.	Expected project completion period	30 <sup>th</sup> July 2024.
4.	<b>Project implementation analysis in days</b>	<b>Days</b>
a	Time taken: 30 <sup>th</sup> January 2023 to end date on 30 <sup>th</sup> July 2024 (18 months).	548 (100%)
b	Project time lapse as at the date of audit: 30 <sup>th</sup> January 2023 to 10 <sup>th</sup> January 2025.	712
	<b>Percentage time lapse as at date of audit on 10<sup>th</sup> January 2025</b>	<b>130%</b>

##### **Implication**

Failure by the contractor to complete the project within the contractual period of 18 months impacted negatively on the education service delivery to the beneficiaries in and round the district.

##### **Management response**

*The new service provider has been procured and by the time of audit the document had been sent to Solicitor General for clearance.*

##### **Authority's comment**

The Authority took note of the Entity's response, but notes that the identification of the new service provider under direct procurement as justified by the Accounting Officer was conditionally cleared by the Attorney General's Chambers, Gulu Regional Office on 28<sup>th</sup> March 2025, with a number of changes to made to the draft contract agreement form and the special conditions of contract and as such the Authority recommends as follows.

##### **Recommendations**

1. The Accounting Officer should therefore:
  - i. Implement all the Attorney General's recommended changes to the draft contract agreement form and the special conditions of contract, (Vide Appendix I);
  - ii. Appoint a Project Manager for the completion project;
  - iii. Task the new contractor, M/s Bertlantz Engineering Limited after signing a contract to submit to the Entity a valid Performance Security and ES Performance Security as specified in the SCC (GCC 61.1), within 21 days after contract signing; and

- iv. Also take into consideration the guidance issued by the PS/ST in a circular dated 27<sup>th</sup> November 2024 and referenced FAD/019/068/01, and ensure that the contractor is adequately supervised, for the Entity to achieve the project milestones accordingly.
2. The Head Procurement and Disposal Unit should prepare a contract for the new service provider by also taking into consideration all the recommended changes by the Attorney General to the draft contract agreement form and the special conditions of contract. Details in Appendix I.
3. The Project Manager should:
  - i. Prepare and put in place a detailed contract implementation plan and quality control measures for the completion project;
  - ii. Task the contractor to provide work program for the project implementation on monthly basis for the Project Manager's review and approval;
  - iii. see to it that the works implemented by the new Contractor are closely monitored for quality, timeliness and cost such the project is implemented by the Contractor within the contract price of UGX.1,655,179,514 as was cleared by the Solicitor General. Details in Appendix I;
  - iv. make sure that the environmental and safety safe guards are in place and adhered to by the Contractor throughout the project implementation period.
  - v. Monitor the validity of the securities submitted by the Contractor, as requested by the Entity for proper execution of the project works and ensure that they remain valid for 28 days after the project implementation period as per the requirement of GCC 61.4; and
  - vi. Ascertain that both parties to the contract perform the roles and responsibilities, accordingly so as to have the project implemented unencumbered through the contract period.






**Note:** In implementing the above audit recommendation, the Project Manager should take into consideration that the UGIFT program implementation was expected to end on 30<sup>th</sup> June 2025.





### 2.1.2 Incomplete physical progress of the project




The Authority found that the Contractor achieved a physical progress up to superstructures/walling only, as per the photographs in Table 3 below. The percentage physical progress of work done by the Contractor was at 12.91% as per the valuation report attached to the clearance by the Attorney General for the completion projects dated 28<sup>th</sup> March 2025.

**Table 3: Progress achieved in the project implementation**

No	Project milestone	Contract value (UGX)	Site visit photographs to support the audit findings and the progress achieved as per the progress report of 31 <sup>st</sup> May 2024 to 18 <sup>th</sup> August 2024.
1.	Preliminaries	177,300,000	No preliminary works had been done on the site.
2.	Site levelling work	38,054,000	No site levelling work had been done on the site.

No	Project milestone	Contract value (UGX)	Site visit photographs to support the audit findings and the progress achieved as per the progress report of 31 <sup>st</sup> May 2024 to 18 <sup>th</sup> August 2024.
3.	3 blocks of 2-Classroom block	405,548,628	 <p>The construction works in the 3 blocks of 2-Classroom block was at ring beam level.</p>
4.	2-Unit science laboratory block	215,193,500	 <p>The construction works in the 2-Unit science laboratory block was at ring beam level.</p>
5.	Administration block	126,420,000	 <p>The construction works in the Administration block was at ring beam level.</p>
6.	2 blocks of 2-Unit teachers house	361,477,500	 <p>The construction works in the 2 blocks of 2-Unit teachers house was at window level.</p>
7.	2-Unit teachers' kitchen	94,368,000	 <p>The construction works in the 2-Unit teachers kitchen was at foundation level.</p>
8.	2-STANCE lined VIP	16,163,500	No site photograph, as there was no

No	Project milestone	Contract value (UGX)	Site visit photographs to support the audit findings and the progress achieved as per the progress report of 31 <sup>st</sup> May 2024 to 18 <sup>th</sup> August 2024.
	latrine block – administration block		construction works done on the 2-Stance lined VIP latrine block – for the administration block.
9.	2-Stance lined VIP latrine block – teachers house	57,574,500	 <p>The construction works in the 2-stance lined VIP latrine block – teachers house was at the start of sinking the pit.</p>
10.	5-Stance lined VIP latrine block - boys	31,679,500	 <p>The construction works in the 5-Stance lined VIP latrine block – boys was at the start of sinking the pit.</p>
11.	5-Stance lined VIP latrine block - girls	30,668,500	 <p>The construction works in the 5-Stance lined VIP latrine block – girls was at the start of sinking the pit.</p>
12.	External works	53,370,000	 <p>There was no construction works done in the external works.</p>
13.	Rain water harvest system with 5000ml water tank	4,795,000	The installation works of the 5000ml rain water harvesting tank was not done.

No	Project milestone	Contract value (UGX)	Site visit photographs to support the audit findings and the progress achieved as per the progress report of 31 <sup>st</sup> May 2024 to 18 <sup>th</sup> August 2024.
14.	ICT – Library block	298,226,000	 <p>The construction works in the ICT – Library block was at ring foundation level.</p>
15.	Multi-purpose hall	203,468,000	 <p>The construction works in the multi-purpose hall was at ring beam level.</p>
16.	Sports field	50,000,000	 <p>No construction works was done on the proposed site for the sports field.</p>

### **Implications**

The physical progress achieved as above of 12.91%, exposed the Entity to the risk of:

- Delay in having the facility read for use by the user as the works were behind schedule, thus, delaying education service delivery to the beneficiaries in the district; and
- Increase in the project implementation cost to completion, including cost associated with identifying a suitable contractor to undertake the construction to completion within the project design standard.

### **Management response**

*The valuation report was produced and that was the basis of securing of the contractor, as per the attached valuation report, Appendix I.*

### **Recommendation**

The Authority has taken note of the Entity's response; however, the Accounting Officer should task the Project Manager to make sure that:

- i. A structural strength tests are undertaken on all the buildings and pit latrines for safety, reliability and to avoid the risk of collapse of the structure in case of poor workmanship done by the exited contractor, Mogen Enterprises Ltd.
- ii. Before the new contractor, M/s Bertlanzz Engineering Limited starts construction works on the incomplete structures, any identified weaknesses in the structures are corrected before any continuation of works in the structures.
- iii. The new contractor hoards the site with a temporary security gate installed and maned with a full-time security personnel, for safety of the construction materials, equipment and workers on site.
- iv. The new contractor plants necessary compound trees around the site upon commencement of site work, for the proper growth and management by the contractor while still on site.

### **2.1.3 Abandonment of site by the contractor**

The Authority found that no work was in progress at the construction site of Got Apwoyo Seed Secondary School and the contractor had abandoned the site for 5 months as at the date of the audit on 10<sup>th</sup> January 2025. The background to the abandonment of site were as summarised below:

1. On 16<sup>th</sup> January 2023 the Entity signed an 18 months contract worth UGX.2,565,870,623 with the contractor, Mogen Enterprises Ltd and on 30<sup>th</sup> January 2023 the site was handed over to the contractor to commence the construction of the Seed School.
2. Because of slow progress of works, the Chief Administrative Officer on 23<sup>rd</sup> August 2023, wrote to the Managing Director of Mogen Enterprises Ltd a warning letter noting that site work was moving at a very slow pace as seven months had elapsed since the site work commenced on 30<sup>th</sup> January 2023. The purpose of the letter was to draw attention of the Managing Director to GCC 68.2 which highlights areas of fundamental breach of contract, particularly GCC 68.2(a) and 68.2 (g) to avoid the contract from being terminated.
3. According to the Clerk of Work's progress report of 19<sup>th</sup> December 2023 to 15<sup>th</sup> January 2024 to the District Engineer, the Officer brought out key issues that needed attention on the site, and among others these included:
  - i. A picture showing that the contractor Mogen Enterprises Ltd had abandoned site;
  - ii. A remark indicating that the contractor had abandoned site for about a month.
4. On 3<sup>rd</sup> January 2024, the Chief Administrative Officer issued another warning letter to the contractor, Mogen Enterprises Ltd, citing the same Clauses of the General Conditions of Contract as above in No.2 above and also informing the contractor that the Chief Administrative Officer's office would not hesitate to terminate the contract and submit the company to PPDA for blacklisting. However, the contractor did not offer any response or acknowledgement of receipt of the Chief Administrative Officer's communication.
5. Similarly, the Clerk of Works in his progress report of 16<sup>th</sup> January 2024 to 30<sup>th</sup> January 2024, further, noted that there were still no works on site and the contractor had abandoned the site for about two months.
6. From the foregoing, the Chief Administrative Officer on 6<sup>th</sup> May 2024 wrote to the Attorney General seeking advice on termination of the contract for the construction of Got Apwoyo Seed Secondary School in Got Apwoyo Sub-County. But, as at the date of

- the audit on 10<sup>th</sup> January 2025, no response had been received by the Entity from the Attorney General on the guidance to terminate the contract with the contractor.
7. In the work progress report of 31<sup>st</sup> May 2024 to 18<sup>th</sup> August 2024, the Clerk of Works, indicated that the contractor had resumed site work on 2<sup>nd</sup> August 2024 and was casting concrete on the ring beam but the workmanship was poor, with too many honeycombs and unlevelled opening and noting that he advised the contractor to correct the area of poor workmanship. Notable here was that the contractor resumed work when the contract had expired had expired on 30<sup>th</sup> July 2024.
  8. On 1<sup>st</sup> August 2024, the Chief Administrative Officer issued a notice of termination to the Managing Director, Mogen Enterprises Ltd, informing the Director that as from 1<sup>st</sup> August 2024, the Entity no longer had any contractual obligation with the contractor in the construction of Got Apwoyo Seed Secondary as the contract self-terminated upon expiry of the eighteen months on 30<sup>th</sup> July 2024.
  9. However, at the termination of the contract, the Entity's payment status for the contractor were as below:
    - i. UGX.513,000,000 as advance payment evidenced by payment voucher No.3602786 on 14<sup>th</sup> February 2023, that was requested for by the contractor, Mogen Enterprises Ltd on 19<sup>th</sup> January 2023; and
    - ii. UGX.399,850,158 for the construction works done on 29<sup>th</sup> June 2023 on payment voucher No.6439464, without recovery of the 20% advance payment worth UGX.79,970,032.

### **Implications**

As from above, the termination of the contract by the Accounting Officer as a result of the contractor's abandonment of the site and expiry of the contract on 30<sup>th</sup> July 2024, the Entity was exposed to:

- i. The risks associated with delay in project completion like; increase in project cost to completion, including the cost of identification of a new contractor, cost for correcting possible defective works done, time lost, etc.; and
- ii. The risk of not recovering the advance payment worth UGX.513,174,124 from the contractor.

### **Management response**

*Valuation of the work was done and the district have got the clearance from solicitor General for the M/s Bertlanzz Engineering Limited and the copy is herewith attached, in Appendix I.*

*The district sought advice from Attorney General on the termination of contract as per the attached letter, as in Appendix I.*

### **Recommendation**

The Authority has taken note of the Entity's response, however, the Accounting Officer based on the terms and conditions of the abandoned contract that expired on 30<sup>th</sup> July 2024 should immediately institute appropriate actions:

1. To recover the advance payment of UGX.513,174,124 from the Contractor, Mogen Enterprises Ltd as was required in SCC (GCC 60.3) and in accordance to Regulation 43 (5) of the PPDA (Contracts) Regulations, 2023.
2. By taking disciplinary proceedings against the contractor, Mogen Enterprises Ltd for the breaches of the contractual terms and conditions and failure to execute its contractual obligations and forward the recommendation(s) to the Authority for appropriate actions against the contractor, in accordance with Section 128(e) of the PPDA Act Cap.205.

## 2.2 Quality control in the project

To achieve the intended objectives of the project, effective quality control was paramount. However, gaps below were observed in the project management by the Entity.

### 2.2.1 Unsatisfactory quality concrete blocks used

The Auditors observed that the concrete blocks used by the contractor lacked the material quality test results approved by the Project Manager and as such, the quality of the construction blocks used in the structures looked weak as they exhibited ease of disintegration. Photographs of some of the block work in the structures are presented in Table 4 below.

**Table 4: Weak quality concrete blocks used in the project**

No.	Project milestone	Audit findings.	Site visit photos to support the audit findings.
1.	Walling	<ol style="list-style-type: none"><li>i. Suspected weak quality of the concrete blocks used for walling works; and</li><li>ii. The wall lines were not straight as can be seen in the walls of the teachers' house in the adjacent photo.</li></ol>	 The table contains four photographs showing concrete block walls. The top-left photo shows a wall with a significant vertical crack and uneven block alignment. The top-right photo shows a wall with a similar crack and misaligned blocks. The bottom-left photo shows a close-up of a block with a large hole and irregular shape. The bottom-right photo shows a corner of a wall with crookedly laid blocks.

### Implications

- Use of weak concrete blocks in the structures, exposed the walls to quick deterioration during usage of the facilities.
- Crooked laying of block works, affects the wall linings and aesthetics of the buildings, that showed poor workmanship by the contractor.

### Management response

*The first work executed had all the material tested and the test results are here in attached, however, the latest work done was not tested and this work has been included in the engineers report for valuation as the workmanship look poor and is recommended for demolition and rework.*

### Authority's comment

The Authority takes note of the responses, however, allowing the contractor to use untested material for works in the project, showed weakness in contract management by the Project Manager that violated the requirements of Regulations 52 (1)(b) and 53 (a)(iv) of the PPDA (Contracts) Regulations, 2023.

### Recommendations

The Project Manager should in accordance with the technical specifications of the contract:

1. Always test the quality of blocks and other materials delivered on site before their use and ensure that they meet the requirements in the specifications and BOQ; and

2. See to it that crooked block wall works of the structures are demolished by the new contractor and closely supervised by the Entity to ensure good quality work and safety of the future user of the facilities.

### **2.2.2 Contract implementation without Performance Securities**

The Authority found that the Contractor i.e., Mogen Enterprises Ltd implemented site works without submitting the 8% Performance Security and 2% Environmental and Social Performance Security of the contract price, contrary to the requirements under Special Conditions of Contract (GCC 61.1).

#### **Implication**

Failure by the contractor to submit the Performance Security and ES Performance Security was a fundamental breach of the terms and conditions of contract as provided under the Special Conditions of Contract (GCC 61.1). This left the Entity unprotected against defective work and non-performance of contractual obligations by the contractor.

#### **Management response**

*The contractor submitted a performance security however it was later realised it is a forged document which was rejected by the bank attempt to make contractor reproduce a authentic performance security was fruitless and the contractor disappeared.*

#### **Authority's comment**

The Authority takes note of the response, however from the forementioned, the Authority observe that the Entity did not take any action to reprimand the Contractor on the forgery, since the Entity could not detect the unauthentic nature of the Performance Security.

#### **Recommendation**

1. The Entity based on the above response, should include the forgery case among its recommendation(s) under 2.1.3 on the contractor's breaches of the contractual obligation for action by the Authority, accordance with Section 128 (e) of the PPDA Act, Cap. 205.
2. The Accounting Officer should direct the Project Manager to ensure that the contractor, M/s Bertlanzz Engineering Limited submit the required securities as specified in SCC (GCC 61.1) that are authentic within 21 days upon commencement of site works. In addition, the Project Manager should closely supervise the works implementation by the contractor as guided by the PS/ST in a circular dated 27<sup>th</sup> November 2024 and referenced FAD/019/068/01.

## **2.3 Cost Control**

### **2.3.1 Financial progress**

The Authority established that the financial progress of the project was at 36%, as the contractor had been paid UGX. 913,024,282 out the contract price of UGX 2,565,870,623 (VAT exclusive). However, the audit also found that part of the above payment worth UGX 399,850,158 was paid without an interim payment certificate prepared by the Project Manager. The forementioned are summarised in Table 5 below.

**Table 5: Project financial progress**

No.	Activity	Amount (UGX)
1.	Contract value	2,565,870,623
2.	Advance payment (20%)	513,174,124
3.	Payment voucher No. 6439464 paid the Contractor on 28 <sup>th</sup> June 2023, but with no interim payment certificate prepared.	399,850,158
4.	Total payment to the Contractor	913,024,282
	<b>Outstanding contract value</b>	<b>1,652,846,341</b>

**Implication**

Failure to issue an interim payment certificate by Project Manager created uncertainty on:

- i. The basis upon which the contractor was paid UGX 399,850,158 as the contract was an admeasurement contract; and
- ii. Whether the contractor was paid commensurate to the value to work undertaken.

**Management response**

*The entity had caveat agreement with the bank and the contractor that the bank would receive that amount and release on condition that a certificate was raised for work performed. However, to date no substantial progress have been made and the contractor has never raised any request for interim certificate.*

**Authority's comment**

The Authority takes note of the above response; however, the Authority posits that the payment of UGX.399,850,158 was made to the contractor's bank account without a payment certificate issued by the Project Manager. In addition, evidence of the caveated payment agreement with the bank was not been submitted. This exposed the Entity to the risk of loss of the above funds.

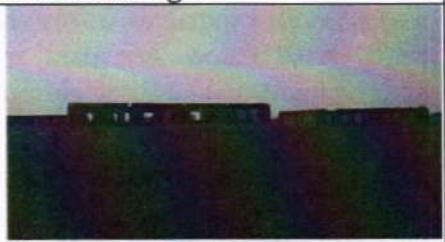
**Recommendation**


The Accounting Officer should, based on the terms and conditions of the abandoned contract that expired on 30<sup>th</sup> July 2024, immediately institute appropriate actions to recover the advance payment of UGX. 513,174,124 from the contractor, Mogen Enterprises Ltd in accordance to Regulation 43 (5)(b) of the PPDA (Contracts) Regulations, 2023.

**2.3.2 Failure to implement all requirements in the preliminary and general conditions.**

The Authority found that the Contractor failed to implement some of the costed activities in the BOQ under Bill 1: Preliminary and General Conditions, as presented Table 6.

**Table 6: BOQ Unimplemented activities in Bill 1: Preliminary & General Conditions**

Activity	Activity cost estimate in the BOQ (UGX)	Site visit photos to support the audit findings.
Temporary hoarding / fencing of the construction site (Item D). No hoarding of the site was done by the contractor and as such the security of the contractor's staff and the construction materials were at risk as the site can easily be accessed by the public.	4,000,000	 <p>Site was not hoarded.</p>

Activity	Activity cost estimate in the BOQ (UGX)	Site visit photos to support the audit findings.
<p>Security Management (Item D). The site security was inadequate because:</p> <ul style="list-style-type: none"> <li>• No gate /gate house was constructed by the contractor at site entrance; and</li> <li>• No security personnel were deployed to manage the security of the site and the entrance(s), that only had a safety sign board.</li> </ul>	1,000,000	 <p>No gate and project signboard were installed.</p>

**Implication**

The above security lapses, made the site unsecure for the staff; expose the construction materials to the risk of loss; and expose members of the public to construction site hazards.

**Management response**

*The district has procured another contractor and the contractor shall be task to observe the construction of the fence as a very serious matter also to observe the implementation of items in the preliminary. And all the item in the preliminary will be implemented.*

**Recommendation**


The Authority appreciates the response above, however, the Project Manager should task the new contractor of the project to secure the site at commencement of site works, by constructing a temporary security fence / hoarding of the site and putting in place an appropriate security gate manned by a fulltime security personnel.





**2.4 Environment, Social, Health and Safety Safeguards (ESHS)**

**2.4.1 Site posed security and safety risks to the surrounding community**

The Authority found no records on Environment, Health and Social Safeguards. In addition, the project site was bushy and had no security guard, and as such the structures posed a safety and security risk to the nearby community, as can be seen in the pictures presented in Table 7 below.

**Table 7: Abandoned site posed security and safety risks to the nearby community**

Findings	Site visit photos to support the audit findings
<p>General overview of the abandoned site as seen from the entrance to the seed school site.</p>	 <p>Abandoned site view of Got Apwoyo</p>

Findings	Site visit photos to support the audit findings
<p>Temporary site house not locked and can house wrong individuals for the community</p>	<p>Seed Secondary School.</p>  <p>Abandoned temporary site store house that was on site.</p>
<p>Equipment abandoned on site i.e., a generator, concrete mixer and block making machine, that is exposed to vandalism.</p>	 <p>Abandoned generator, concrete mixer and block making machine that was on site.</p>
<p>Construction material – twisted bars abandoned on site that can be taken off site and used in other constructions in the locality.</p>	 <p>Abandoned twisted bars that was on site.</p>
<p>Pit latrine site left unprotected and a risk to the community</p>	 <p>Unprotected excavated pit latrine on the site.</p>

**Implication**

The abandonment of the site without any security guard, posed security and safety risks to the community.

**Management response**

*The entity has noted the concern and would take necessary step to address the security gap at site.*

**Recommendation**

The Authority took note of the response; however, the Project Manager should enforce the construction of temporary fence with a gate around the site by the Contractor, M/s Bertlanzz Engineering Limited.

### CHAPTER 3: AUDIT CONCLUSION

In the audit, the Authority found that the Contractor Mogen Enterprises Ltd had abandoned site for a period of 5 months, thus from 30<sup>th</sup> July 2024 when the contract works was expected to be completed to 10<sup>th</sup> January 2025, date of audit. In addition, the physical progress was assessed at 12.91% as per the valuation report attached to the clearance by the Attorney General for the completion projects dated 28<sup>th</sup> March 2025, but the project had achieved a time progress of 130% and financial progress of 36%.

However, given that the UGIFT program was expected to be closed by the end of the FY 2024/2025 and the Entity was cleared to contract M/s Bertlanzz Engineering Limited by the Attorney General on 28<sup>th</sup> March 2025, there was a risk that the project completion period maybe delayed past the end of the FY 2024/25, when the UGIFT program was expected to end.

Therefore, from the foregoing audit observations, the Accounting Officer should:

1. Take urgent actions to see to it that the new contractor commenced site works and closely work with the contractor, M/s Bertlanzz Engineering Limited to have the school project completed and put to use for the benefit of the learners and members surrounding communities.
2. See to it that the Project Manager;
  - i. Prepares a contract management plan for the completion project;
  - ii. Closely supervises the contract implementation by the contractor;
  - iii. Has in place an update approved work program as a tool for monitoring progress of work achieved and timelines; and
  - iv. Prepares and submits to the accounting officer monthly progress reports.

**Appendix I: Attorney General's approval of contract for the completion of Got Apwoyo Seed Secondary School.**

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In any correspondence on this subject  
please quote: Ref. ADM. 7/65/1



**ATTORNEY GENERAL'S CHAMBERS**  
**GULU REGIONAL OFFICE**  
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28<sup>th</sup> March 2025

**The Chief Administrative Officer**  
**Nwoya District Local Government,**  
**P O Box 1033**  
**GULU.**

**APPROVAL OF CONTRACT FOR THE COMPLETION OF GOT  
APWOYO SEED SECONDARY SCHOOL, NWOYA PROCURMENT  
REFERENCE NUMBER MoES/UGIFT/WRKS/21-22/00001**

Reference is made to your letter referenced CR dated 25<sup>th</sup> February 2025 by which you requested this Office to clear a draft contract in which Nwoya District Local Government intends to enter into a contract with M/s Bertlantz Engineering Limited for construction of Got Apwoyo Seed Secondary School at a contract price of UGX 1,655,179,514/= (Uganda Shillings one billion six hundred and fifty five million five hundred and fourteen shillings), VAT inclusive.

**BACKGROUND**

This contract was submitted to our Office on 10<sup>th</sup> December 2024.

The entity used the direct procurement method. We thus required the entity to provide us with the justifications for using this method. The provider being contracted herein was taking over from an initial contractor who it is said had abandoned the work without completion. We therefore required the entity to provide us with the engineer's report so that we could ascertain how much work had been done so far.

The entity, however, took long to provide a proper engineering status report which was eventually received by this Office on 20<sup>th</sup> March 2025 thus the delay in clearance of this contract.

Be that as it may, we have perused the contract and noted that;

1. The contract was awarded at the Contracts Committee meeting held on 24<sup>th</sup> September 2024;

2. The method of procurement was direct procurement;

Under Section 91 of the PPDA Act, direct procurement is a sole source procurement method for procurement requirements where exceptional circumstances prevent the use of competition.

Under section 91(2), direct procurement shall be used to achieve efficient and timely procurement, where the circumstances do not permit a competitive method. Additionally, Regulation 25 (1) of the Public Procurement and Disposal of Public Assets (Contracts) Regulations 2023 provides that direct procurement may be used where there is insufficient time for any other procedure such as in an emergency situation.

Under Paragraph 2.0 (e) of the Public Procurement and Disposal of Public Assets Guidelines (Guidance on Procurement in Emergency Situations), Guideline Ref: No.1/2021 emergency situations can include instances where a *Government programme would be delayed or seriously compromised unless a procurement is undertaken within the required time frame.*

According to the letter of CAO dated 6<sup>th</sup> January 2025, she advanced the following reasons to justify the use of direct procurement;

- a) *"The district entered into a contract with Mogen Enterprises Ltd on 16<sup>th</sup> January 2023 for the construction of Got Apwoyo Seed School for the duration of 8 months from 20<sup>th</sup> January 2023 to 30<sup>th</sup> July 2024 but the contract lapsed with little done;*
- b) *The Seed School was supposed to be completed by December 2024 but to date it has not been completed according to letter from CAO on the file which is dated 6<sup>th</sup> January 2025;*
- c) *Presently, the Ministry of Education and Sports has advertised vacancies for the purpose of recruiting teachers for the school and the recruitment process is ongoing;*
- d) *In addition to that, the development fund to procure ICT equipment and laboratory reagents for the seed school was sent to the entity and the procurement process is ongoing;*

- e) *The entity is late and the deadline for completion of the school hasn't been realized thus the urgency in procurement for the completion of the seed school*

In our opinion, the reasons advanced justify the use of the direct procurement method in the circumstances.

3. The bid is valid until 30<sup>th</sup> June 2025;
4. The Best Evaluated Bidder notice was displayed on 4<sup>th</sup> April 2024 and removed on 17<sup>th</sup> April 2024 accordingly, the display was within 10 days stipulated under Regulation 3 (1) of the Public Procurement and Disposal of Public Assets (Contracts) Regulations, 2023;
5. Funds for the procurement are available as per procurement form 5 reflecting the availability of funds of an estimated total cost of UGX 1,650,000,000/= (One billion, six hundred and fifty million shillings);
6. As per the District Engineer's report on works of the procurement, the remaining balance from construction was UGX 1,884,879,128/= (One Billion, eight hundred eighty-four million, eight hundred seventy-nine thousand, one hundred twenty-eight shillings);
7. It is further stated in the District Engineer's report that the percentage completed is 12.91% while the Percentage of the work remaining is 87.09%

The draft contract is cleared for signature subject to the following:

1. Contract Agreement Form: In the first paragraph of the Agreement, the contractor's name should be changed from M/s Mogen Enterprises Limited to M/s Bertlanzz Engineering Limited.
2. SCC (GCC) 1.1(dd): This provision is mis referenced and should be referenced SCC (GCC) 1.1(cc) (on location of site) and the provision should read; *the site is located in Got Apwoyo Sub County, Nwoya District.*
3. SCC (GCC) 1.1(gg): This provision is mis referenced, it should be changed to SCC (GCC) 1.1 (ff) (on start date).

4. SCC (GCC) 1.1(aa): This provision is mis referenced, it should be referenced as SCC (GCC) 1.1 (z) (on project manager). However, SCC(GCC)1.1(z) should be amended to provide for only a definition of one word since it defines two words that is 'plant' and 'project manager';
5. SCC (GCC) 2.1 (on any other documents forming part of the contract): This is mis referenced, it should be referenced as SCC (GCC) 2.1(h). Additionally, the following listed documents should be deleted since they are a repetition of what is listed in GCC 2.1; a) bill of quantities, (d) Drawings and standard specifications and (f) submission sheet which is part of the documents in the contractor's bid document.
6. SCC (GCC) 3.7(on the type of contract): The word '*admeasured*' should be changed to '*Admeasurement*';
7. SCC (GCC) (10.2) (On PDE's specific approval): Under Item (e) on extension of the intended completion date, the correct clause is 37.1; under item (f), on issuing a variation order, the correct clause is 49; under item (g), on fixing rates, clause 40 should be deleted and under item (h) on ordering suspension or termination of contract, the correct clause is 68.
8. SCC (GCC) 18.1 (on insurance): This should be amended to provide for "*insurance at 110% of the contract price.*"
9. SCC (GCC) 22: (on intended completion date): The date as stated therein should be deleted and replaced with "*the intended completion date shall be 8 months from the from the date of contract signature*"
- 10.SCC (GCC) 26 (on site possession): The provision should be amended to provide that "*the site possession date shall be the commencement date.*"
- 11.SCC (GCC) 34.1 (on procedure for settling disputes): This should be deleted because GCC 34.1 is applicable and there is no modification required;
- 12.SCC (GCC) 34.3 (on fees and reimbursable expenses): This should be amended to read as follows:

*"Any Adjudicator appointed under the contract shall be paid at the UIPE rate, as expenses and the cost shall be divided equally between the Procuring and Disposing Entity (PDE) and the Contractor. Whatever*

*decision is reached by the Adjudicator, either party may refer the dispute to a Court of competent jurisdiction in Uganda within 28 days of the Adjudicator's written decision. If neither party refers the dispute to a Court of competent jurisdiction, the Adjudicator's decision will be final and binding".*

- 13.SCC (GCC) 34.4: As a consequence of the change in SCC (GCC) 34.3 above, this becomes inapplicable and "Not Applicable (N/A)" should be written against it.

In other words, the formal mechanism of dispute resolution shall be litigation before a competent court with jurisdiction in Uganda.

- 14.SCC (GCC) 35 (on the appointing authority for the adjudicator): This should be inserted so as to provide as follows:

*"The appointing authority for the adjudicator shall be the Uganda Institute of Professional Engineers (UIPE),"*

- 15.SCC (GCC) 44.1 (on defects liability period): The provision should be amended to read "12 months after completion date".

- 16.SCC (GCC) 57.1 (on retention): this provision should be amended to read; "the proportion of payment retained shall be 10% of the contract price."

- 17.SCC (GCC) 61.1 (on performance security): Indicate the acronym "N/A" since the works shall be performed by a local company and in line with the Presidential Directive ref: PO/10 and dated 23<sup>rd</sup> September 2024 to the effect that local companies are exempted from guarantees from banks;

- 18.SCC (GCC) 61.3 (on the form of performance guarantee): Indicate the acronym "N/A" since local construction companies are exempted from guarantees from banks";

- 19.SCC (GCC) 61.3 (on the form of Performance Security): This provision should be amended to read:

*"Pursuant to the guidance of the Secretary to the Treasury through his Circular letter ref: FAD/019/068/01 to the effect that instead of a performance security, the entity may be required to secure a performance*



16 SPORTS FIELD 15S 1 50,000,000 50,000,000 0%

21A.S. 4 - GC 3 Rev. 11/11/11

50,000,000	279,427,500	279,427,500	0%	50,000,000
1,364,873,128	50,296,950	50,296,950	191%	2,184,306,628
533,276,236	329,724,450	329,724,450	12.91%	369,575,193
1,364,873,128	329,724,450	329,724,450		2,553,881,821
1,364,873,128	329,724,450	329,724,450	12.91%	2,553,881,821

Signature of Employer: *[Signature]*

Witness: \_\_\_\_\_

Date: 30/9/2021

**OFFICE OF THE DISTRICT ENGINEER**  
**NWOYA DISTRICT LOCAL GOVERNMENT**



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Incase of any correspondence on  
this subject matter  
Please Quote :CR



NWOYA DISTRICT LOCAL GOVERNMENT  
Office of the Chief Administrative officer  
P O Box 1033, Gulu  
UGANDA

Date: 6<sup>th</sup> May 2024

*SPC  
file*

The Attorney General  
Ministry of Justice and Constitutional Affairs  
Plot 7, Parliament Avenue  
Baumann House,  
P.O Box 7183, Kampala

*C. file*

**RE: SEEKING FOR ADVICE ON TERMINATION OF CONTRACT FOR THE CONSTRUCTION OF GOT APWOYO SEED SECONDARY SCHOOL IN GOT APWOYO SUBCOUNTY.**

Reference is made to the above subject matter,  
Nwoya District Local Government entered into contract to construct Got Apwoyo Seed Secondary School with Mogen Enterprises Ltd under contract no: MoES/UgIFT/WRKS/2021-2022/00001/LOT1 at a contract sum of 2,565,870,623/= (Two Billion Five Hundred Sixty Five Million Eight Hundred Seventy Thousand Six Hundred Twenty Three Shillings Only on the 16<sup>th</sup> of January 2023, the contract is for 18 months ending 30<sup>th</sup> July 2024.

Work commenced on the 30<sup>th</sup> of January 2023 after payment of advance of 20% totalling to 513,174,124/= From the time of commencement of works on site we are counting 16 months that the company has been in possession of the site and work is moving at a very slow pace

In the course of executing works, the company was also paid additional money to the tune of 399,850,158/= part of which was recovered to cover the advance payment made to the contractor at commencement of work.

Despite constant reminders, the company is not in any way trying to make good on the contract signed, the entity has also written warning letters citing GCC 68.2 which highlighted areas of fundamental breach of contract that can lead to termination of contract which have all not yielded any improvement in the contractors' performance.

It is against this background that the entity writes to seek advice on the decision to terminate the above mentioned contract. Please find attached copies of the contract, warning letters, reminders and performance reports for perusal.

*[Handwritten signature]*  
CHIEF ADMINISTRATIVE OFFICER  
NWOYA DISTRICT  
LOCAL GOVERNMENT

Hon. Nantume Janepher Egunyu

Chief Administrative Officer

C.C Mogen Enterprises Ltd

C.C File



**MISSION:** To empower the community in their various capacities to enjoy qualitative life.  
**VISION:** A transformed and prosperous community by 2040.  
**GOAL:** A stable, healthy and productive society.