

**UGANDA SUPPORT TO MUNICIPAL INFRASTRUCTURE
DEVELOPMENT PROJECT (USMID)**

E4052 v2

**ENVIRONMENTAL AND SOCIAL SYSTEM
ASSESSMENT (ESSA)**

**ANALYSIS
VOLUME 1**

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ACRONYMS

CAO	Chief Administrative Officer
CBG	Capacity Building Grant
CDO	Community Development Officer
DEO	District Environment Officer
DoOHS	Department of Operational Health and Safety, MoLGSD
DSC	District Service Commission
EIA	Environmental Impact Assessment
EIS	Environmental Impact Study
ESIA	Environmental and Social Impact Assessment
ESSF	Environmental and Social Screening Form
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
ESSA	Environmental And Social Systems Assessment
GOU	Government of Uganda
IDA	International Development Association
IGFT	Intergovernmental Fiscal Transfer
LDG	Local Development Grant
LG	Local Government
LGDP1	Local Government Development Program 1
LGDP2	Local Government Development Program 2
LGMSDP	Local Government Management and Service Delivery Program
LGPAC	Local Government Public Accounts Committee
LHUD-SWG	Lands, Housing and Urban Development Sector Work Group
LoGSIP	Local Government Sector Investment Plan
MCs	Municipal Councils
MDP	Municipal Development Plans
MEO	Municipal Environmental Officer
MGLSD	Ministry of Gender, Labor and Social Development
MoFPED	Ministry of Finance, Planning and Economic Development
MoLG	Ministry of Local Government
MoLG	Ministry of Local Governments
MoLHUD	Ministry of Lands Housing and Urban Development
MoLHUD	Ministry of Lands Housing and Urban Development
MoTWH	Ministry of Tourism, Wildlife and Heritage
MTEF	Medium Term Expenditure Framework
NEMA	National Environment Management Authority
NUDF	National Urban Development Forum
NWSC	National Water and Sewerage Corporation
OAG	Office of the Auditor General
OP/BP	Operational Policy/ Bank Procedures
PAP	Project Affected People/Person
PBG	Performance Based Grant
PforR	Program-for-Results
PPE	Personal Protective Equipment
PSC	Program Steering Committee
PST	Program Support Team
RAP	Resettlement Action Plan
RPF	Resettlement Policy Frameworks
SIL	Standard Investment Lending
TC	Town Clerks
TPC	Technical Planning Committee
UNRA	Uganda National Roads Authority
USMID	Uganda Support for Municipal Infrastructure Development
WB	World Bank

SECTION 1 USMID PROGRAM DESCRIPTION

1.1 Program Summary

As part of Uganda's overall decentralization policy, from 2000 – 2007 the World Bank and other Development Partners supported GoU to pilot the Local Government Development program (LGDP) to Local Governments (LGs). The core elements of the program were the local development grant (LDG) and capacity building grant (CBG). Under the program LGs were required to meet certain minimum conditions consistent with the legal and statutory provisions governing their operations. Every year the performances of LGs were assessed and those which performed above average were rewarded with an additional 20% in their grant allocation in the following year, while those which performed poorly were sanctioned and lost 20% of their grant allocation. From 2003 – 2007, with support from the Bank, and other donors through joint financing, the program was scaled nationally to cover all the 1445 LGs in the country (111 Districts LGs, 22 municipal LGs, 165 Town council LGs, and 1147 Sub-Counties LGs).

From 2008 to date, GoU has fully taken over the financing of the LDG and CBG through the Local Government Management and Services Delivery (LGMSD) program from its national budget and over the four years it has provided on average about UGX64 billion annually to all LGs. The government program (LGMSD) in the FY2012/13 will account for 27.26 percent of the decentralized funding to LGs (unconditional grants (UG), equalization grants (EG) and the LDG/CBG)

Like the LGMSD, the proposed Uganda Support for Municipal Infrastructure Development (USMID) Program will finance two major areas of activities namely (i) urban infrastructure investments with associated investments servicing costs (engineering design, preparation of bidding documents and supervision) - and (ii) capacity building activities to strengthen the institutional capacities of both the MoLHUD and the municipal LGs for the achievement of the Program objectives and results. Over the Program period US\$140 million will be transferred to the 14 municipal LGs of which US\$130 million will be municipal development grant (MDG) for infrastructure investments and US\$10 million as municipal capacity building grant (MCBG). The balance of US\$20 million will be retained at the center at the MoLHUD to support capacity building activities for urban development and management, and overall support for Program implementation.

The *Program Development Objective (PDO)* is to enhance the institutional capacity of selected municipal LGs to improve urban service delivery.

The *Program envelope* is US\$160 million of which IDA funding will be US\$150 million and GoU contribution from the existing LGMSD will be US\$10 million. The Program will be implemented over five years period (2013 – 2018)

The *Program scope and coverage* is 14 municipalities: Arua, Gulu, Lira (Northern Uganda); Soroti, Moroto, Mbale, Tororo, Jinja (Eastern Uganda); Entebbe, Masaka (Central); Mbarara, Kabale, Fort Portal and Hoima (Western Uganda).

1.2 Program-for-Results Financing Instrument

Program-for-Results (PforR)¹ is a new World Bank lending instrument that provides support to the member countries to improve the design and implementation of their development programs in

¹ Program-for-Results Financing, The World Bank, 2012, <http://www.worldbank.org/PforR>

infrastructure, education, health, and other sectors, in local government and community development, and in cross-sectoral areas such as public sector management and private sector development. PforR places more direct emphasis on development results by linking disbursements to results or performance indicators that are tangible, transparent, and verifiable. PforR works directly with the Program's institutions and systems and, when appropriate, seeks to strengthen those institutions' governance and their capacities and systems over time. Finally, PforR will be an instrument for strengthening partnerships with the Government of Uganda as well as other Development Partners and other stakeholders by allowing the World Bank to effectively support larger programs and co-finance in pooled funding arrangements.

The key features of the new instrument are as follows²:

- (a) financing the expenditures of specific borrower development programs;
- (b) disbursing on the basis of the achievement of key results (including prior results) under such programs;
- (c) using and, as appropriate, strengthening the Program systems to provide assurance that Program funds are used appropriately and that environmental and social impacts are adequately addressed by such programs; and
- (d) strengthening, where appropriate, the institutional capacity necessary for such programs to achieve their intended results.

SECTION 2 USMID ENVIRONMENTAL AND SOCIAL SYSTEM ASSESSMENT (ESSA)

2.1 ESSA and PforR

PforR approaches environmental and social issues differently from Bank investment lending operations: where investment lending is subject to the World Bank Safeguard Policies, PforR requires a comprehensive assessment of the systems in place for managing environmental and social effects of the Program (including benefits, impacts and risks). This Environmental and Social Systems Assessment (ESSA) analyzes not just the system itself, but the capacity to plan, monitor and report on environmental mitigation measures; the risks from program activities; and related mitigation measures.

The ESSA examines the Program's systems for environmental and social management for consistency with the standards outlined in OP/BP 9.00 (*Program-for-Results Financing*), with an aim to manage Program risks and promote sustainable development. Paragraph 8 of OP 9.00 outlines what the ESSA should consider in terms of environmental and social management principles in its analysis. Those core principles are:

Environmental Management Systems:

- Promote environmental and social sustainability in the Program design; avoid, minimize, or mitigate adverse impacts, and promote informed decision-making relating to the Program's environmental and social impacts
- Avoid, minimize, or mitigate adverse impacts on natural habitats and physical cultural resources resulting from the Program
- Protect public and worker safety against the potential risks associated with: (i) construction and/or operations of facilities or other operational practices under the Program; (ii) exposure to

² [OP 9.00 - Program-for-Results Financing](#), World Bank Operational Manual, 2012.

toxic chemicals, hazardous wastes, and other dangerous materials under the Program; and (iii) reconstruction or rehabilitation of infrastructure located in areas prone to natural hazards

Social Management Systems:

- Manage land acquisition and loss of access to natural resources in a way that avoids or minimizes displacement, and assist the affected people in improving, or at the minimum restoring, their livelihoods and living standards
- Give due consideration to the cultural appropriateness of, and equitable access to, Program benefits, giving special attention to the rights and interests of the Indigenous Peoples and to the needs or concerns of vulnerable groups
- Avoid exacerbating social conflict, especially in fragile states, post-conflict areas, or areas subject to territorial disputes.

In Section 4 below, the ESSA considers the consistency of the Program systems with these principles in two ways: (i) as systems are defined in laws, regulation, procedures, etc (the “system as written”) and (ii) the capacity of Program institutions to effectively implement the Program environmental and social management systems (the “system as applied in practice”). The gaps identified through the ESSA and subsequent actions to fill those gaps (Section 5) directly contribute to the Program’s anticipated results to enhance institutional structures and local governance. Well-performing environmental and social management is considered to be an integral part of both.

The current report, the ESSA Analysis, is the first part of a two volume series: the Background Annexes volume presents a detailed description of the Program activities and the baseline conditions for existing environmental and social management systems. This Analysis draws on the background report and presents an analysis of the existing system vis-à-vis the core principles for environmental and social management in OP/BP 9.00, and presents an ESSA Action Plan that feeds into the overall Program design.

The ESSA Analysis presents a synthesis of the existing system, gaps, and actions to strengthen systems. This is structured to examine arrangements for managing the environmental and social effects (i.e., benefits, impacts and risks) of the Program that were found through the ESSA process, and also examines whether the system as written in policies, laws, and regulations compares to how it is applied in practice at the national and local levels. In addition, the analysis examines the institutional capacity to implement the system as demonstrated by performance to date.

The analysis examined how the current system: (i) mitigates adverse impacts; (ii) provides transparency and accountability; and (iii) performs in identifying and addressing environmental and social risks. The overarching objectives are to ensure that the risks and impacts of the Program activities are identified and mitigated, and, importantly, to strengthen the underlying system and build capacity at the local and national levels in order to do so.

2.2 USMID ESSA Objectives

The objectives of the USMID Environmental and Social Systems Assessment (ESSA) are:

- to document the environmental and social management procedures, standards and institutional responsibilities that will apply to the proposed USMID Program;
- to evaluate the institutional capacity to manage the likely environmental and social effects in accordance with the country’s own requirements under the proposed Program;

- to assess the consistency of the borrower's systems with core principles and attributes defined in World Bank OP/BP *Program for Results Financing*;
- to identify the risks and potential negative environmental impacts of the Program and ensure that these will be subjected to an adequate initial screening so that relevant mitigation measures can be identified prepared and implemented;
- to recommend specific actions for improving counterpart capacity during implementation to ensure they are able to adequately perform their mandate. These measures will be agreed on between the Government of Uganda and the World Bank, and will be included in the activities to be supported by the World Bank and the borrower during the life of the Program.

2.3 USMID ESSA Process and Methodology

The ESSA was prepared by a multidisciplinary team from the World Bank in collaboration with relevant officials and technical staff members of the counterpart implementing agencies. The methodology included:

Field visits. Visits to 14 MCs to establish the status and standard of environmental and social safeguard systems at the municipal level and interviews with technical staff in relevant institutions within the Government and Development Partners. The field survey results are contained in Annex 4 (USMID Field Survey for Municipalities) and Annex 5 (Consultation Summary for Municipalities) in Volume 2;

Desk review. The review covered current environmental and social legislations and regulations, relevant environmental and social reports (e.g. ESMF and RPF used in the urban sector), and district reports on the implementation of the previous and current World Bank projects (LGDP I and II and LGMSDP);

Identification of potential scope and scale of associated environmental and social effects. This process entailed assessment of potential environmental and social impacts of envisaged Program activities, and assessment of their significance based on experience in Uganda to date. It served as a basis for judging whether present systems utilized by the Program have the resources and authority necessary to mitigate unavoidable impacts and achieve maximal social and environmental benefits;

Initial Consultation Meetings. Meetings were held with environmental and social management counterparts in municipalities, MoLHUD and other ministries and government institutions, including MoLG, MGLSD, NEMA and National Water and Sewerage Corporation (NWSC) to develop understanding of procedures, standards, and approach. A list of personnel involved in this consultation is contained in Annex 6;

Recommendations for Actions. Identification of gaps lead to recommendations for measures to enhance the Program systems and their performance;

Validation workshop. A workshop was held on the 8th May 2012 with technical staff from the Government (both national and municipal levels), Development Partners and Civil Society Organizations. The ESSA draft report was provided in advance of this meeting. Feedback from the workshop has been incorporated into the ESSA and a full list of participants and summary of their feedback is included in the background Annexes;

Document dissemination. The draft ESSA report was posted on World Bank Uganda website, publically disclosed through the World Bank's InfoShop and advertised in the national press for public comments.

SECTION 3 CONTEXT AND POTENTIAL IMPACTS

3.1 Environmental and Social Context

Poor environmental conditions in many urban areas in Uganda are exacerbated by inadequate planning leading to development in inappropriate areas e.g. open spaces, swamps, and steep slopes. Common environmental issue identified through surveys with municipal officers included: wetland encroachment, noise and air pollution in 86% of the 14 MCs, inadequate funding of environment department hence poor monitoring and supervision, political interference in environmental management leading to wetland degradation, poor sanitation and pollution of water sources especially in slums.

The expansion of these Municipalities is occurring at the expense of the environment in and around the urban centers. From the field surveys done, it was observed that the urban centers are often surrounded by swamps, wetlands and forest reserves extending into the rural hinterland. This undeveloped land with associated natural resource components is under threat of conversion or degradation from the fast expanding urban centers. According to interviews with Municipal Environmental Officers (MEOs), encroachment on the green areas/sensitive areas (wetlands, forests, swamps, and water resources) was one of their biggest environmental challenges associated with urban growth.

It was observed that in all municipalities with exception of the Fort Portal MC that slum dwellings were predominantly located in low-lying areas and floodplains. These slums are rapidly expanding into ecologically sensitive areas particularly wetlands due to the increasing population in the municipalities. In addition, projects seeking to deliver improved services to municipal populations can inadvertently result in further environmental and social harm, through displacement of marginalized people, particularly squatters and informal traders.

Finally, daytime population in the municipalities almost doubles due to many who commute to municipalities for work and leisure. This puts further pressure on already stretched public facilities and transportation systems in the MCs during the day. While the urban areas have to meet the demands of the commuters, government financial transfers to urban authorities are based on the permanent population.

3.2 Description of USMID Infrastructure Works

Support to the fourteen MC's will be provided through a Municipal Development Grant (MDG), where the main purpose is to enhance the governance systems of MCs and finance municipal infrastructure investments. While the MDG is discretionary based on MC investment priorities, scope and scale of eligible investments is limited. The municipalities can select activities only from a "menu" of eligible works presented in the Box 1 below.

Box 1: Activities eligible for funding under the MDG (investment menu) - US\$ 130 million

Objective - enhance the financial resources of the participating municipal LGs for provision of improved core municipal services
1. Urban roads and associated infrastructure (rehabilitation and construction)
2. Urban solid and liquid waste management ³
3. Water and sewerage extension ⁴ ; to peri-urban areas

4. Urban local economic infrastructure (markets, slaughter houses)
5. Urban transport infrastructure (bus/taxi/lorry parks)
6. Urban beautification⁵

Screening of proposed sub-projects for environmental and social effects.

Municipal infrastructure sub-projects to be funded under the Program will be planned in a participatory manner, with involvement of the municipal divisions as well as the Municipal Development Forum (MDF). This is consistent with the legal requirement which provides for bottom-up participatory planning and budgeting in Uganda LGs. To ensure transparency and accountability, the sub-projects to be funded under the Program will be included in the municipal five year development plan, which means they were demanded by the community/CSOs/MDF; reviewed by the technical planning committee of the municipal LG; the municipal LG budget committee provided for the financing in the annual budget; and both the municipal plan and budget discussed and approved by the municipal elected council.

Sub-project will be screened by the municipal technical planning committee (heads of departments) using the screening criteria outlined in Box 2 below:

Box 2: Screening criteria in the selection of sub-projects to be funded under the Program

- Municipal needs and a wide number of beneficiaries with due consideration of the gender balance;
- Economic impact and justification, focusing of project which have large impact on the urban growth and local economic development;
- Spatial location of the investments to ensure some equity across the areas;⁶
- Focus on projects which will benefit more than one division, i.e. cross-divisional projects;
- Crosscutting issues are properly addressed in the proposals;
- Linked to the physical plan and the spatial development;
- Capacity available for operational and maintenance; and support instruments in place to ensure this in future;
- Consultations with the sectors on the links with sector plans, investments and prioritization;
- HIV/AIDs implications and handling of these issues, e.g. in the contracting process and project implementation;
- Systems for project implementation and monitoring to ensure completion and future quality and sustainability;
- Issues of environmental and social impact and screening;
- Issues of land acquisition and its attendant measures and adherence to the Land Acquisition Framework.
- Projects, which can be efficiently completed within budgets and commissioned for use.

Note that the screening criteria include both “Issues of environmental impact and screening” and “Issues of land acquisition”. While the scope and scale of works under the Program are highly unlikely to cause significant adverse impacts, as mentioned above during the environmental impact assessment process outlined in the Program Operational Manual all investments will be screened for significant negative impacts. The screening process at the municipal level under the Program that feeds into the prioritization of investment activities for USMID financing will have criteria to exclude certain categories of projects as well as projects of a scale that would include significant negative impacts that are sensitive, diverse, or unprecedented on the environment and/or affected people. Such types of investments are excluded from the Program (per OP/BP 9.00). In addition to screening for significant impacts, the following exclusionary criteria apply to works financed under USMID:

⁴ Water and sewerage being under the jurisdiction of National Water and Sewerage Corporation (NWSC), may be included on a case by case basis through partnership arrangements between the corporation and the municipalities that chose to prioritize it.

⁵ This may include Public parks; Play grounds; Urban landscaping; Planting of tree on road sides.

⁶ See NPA: National Guidelines for Development Planning in Local Governments, Draft March 2011.

- Wastewater treatment plants,
- New landfills, and
- Activities that would significantly convert natural habitats or significantly alter potentially important biodiversity and/or cultural resource areas.

3.3 Potential Impacts of USMID Activities

A detailed assessment of potential effects of the types of investments eligible for financing in the context of USMID can be found in the ESSA Volume 2, Annex 1. This found that most negative impacts associated with the types of works funded by the MDG are associated with the construction phase, as well as the possibility of land acquisition, resettlement, and livelihood impacts. Potential adverse environmental impacts include air pollution from dust and exhaust; nuisances such as noise, traffic interruptions, and blocking access paths; water and soil pollution from the accidental spillage of fuels or other materials associated with construction works, as well as solid and liquid wastes from construction sites and worker campsites; traffic interruptions and accidents; and temporary disruptions to businesses.

These types of impacts, however, are generally site-specific and temporary; the Program activities are unlikely to cause significant adverse impacts⁷ considering their anticipated scope and scale⁸. Experience from implementation of similar types of urban works in Uganda indicates that short-term construction impacts for the most part can be avoided, minimized or mitigated with standard operational procedures and good construction management practices. These types of procedures are already included in Uganda's environmental and social management system, and will be included in the Program Operational Manual.

Overall, the investments under USMID are intended to have substantial environmental, economic and social benefits to municipalities, through better infrastructure, improved sanitation, participatory planning processes, and greening of public spaces. Many of the Program components are expected to contribute positively to environmental sustainability, health, socio-economic development, and improved quality of life.

3.4 Institutions, Roles, and Responsibilities

Under USMID, the main institutions involved with environmental and social management are as follows:

MoLHUD: Ministry of Lands, Housing and Urban Development (MoLHUD) is responsible for overall implementation of the Program. Because MoLHUD is a new Ministry that requires additional capacity to coordinate urban development and management, it will be supported by focused technical Program

⁷ PforR cannot not include activities judged to be likely to have significant adverse impacts that are sensitive, diverse or unprecedented on the environment and affected people, i.e. activities akin to investment lending operations requiring full Environmental Assessment (EA category A). Such activities are highly unlikely to be proposed for USMID financing: none of the recent activities in the urban sector, including expansion of the Kampala City landfill, were considered by the Bank to meet the threshold of have significant adverse impacts that are sensitive, diverse or unprecedented. In fact, across the entire active Bank portfolio in Uganda, only one project, Bujagali Dam, was considered to meet that threshold (of EA category A).

⁸ Scale of works is commensurate to available financing. Considering about \$140 million (including GoU contribution) available for infrastructure projects to 14 municipalities over 5 years, average annual financing per municipality is about \$2 million. This would suffice for about 2 kilometers of road construction or 1 municipal waste composting plant (neither of which would correspond to EA category A under investment lending operation).

Support Team (PST) attached to the relevant departments of the Ministry to ensure that USMID is implemented as per IDA/GoU protocol agreement. MoLHUD is also responsible for land administration.

NEMA: The National Environment Management Authority (NEMA) is established under Section 4 of the National Environment Act as the principal agency in Uganda for the management of the environment to coordinate, monitor and supervise all activities in the field of the environment and many elements of natural resource protection. NEMA coordinates the process of Environmental Impact Assessment, reviews EIAs and issues certificate of approval, monitors and enforces compliance with environmental standards and with the conditions contained in certificates of approval for EIAs, and has promulgated general guidelines for EIA as well as EIA guidelines for specific economic sectors and is currently in the process of updating them.

Office of the Chief Government Valuer (CGV): CGV is responsible for compensation issues in terms of clearing resettlement packages for the project affected people based on the current policy, legal and regulatory framework for land acquisition.

Ministry of Local Government (MoLG): MoLG is mandated to carry out a number of responsibilities in the Local Government Act, including to inspect, monitor and offer technical advice, support supervision and training to all Local Governments, to coordinate and advise Local Governments for the purposes of harmonization and advocacy, to act as a liaison ministry with respect to other Central Government Ministries and other institutions and to research and develop national policies on all taxes, fees, etc, for LGs. The Ministry was the client for the LGDP/LGMSDP Projects and thus has experience of working with the World Bank. Environmental support staff for the LGMSD Project are still in place and could provide valuable advice to the MoLHUD as part of the Program Steering Committee.

Municipal Local Government: In addition to implementing the investments that USMID will support, the municipalities are responsible for development planning and, depending on the project, at times responsible for oversight of environmental impact management within their boundaries. The key person for environmental management is the Municipal Environmental Officer (MEO). The municipalities are also at the center of land acquisition for USMID activities.

SECTION 4 SYSTEM PERFORMANCE AND CAPACITY ASSESSMENT

Drawing on the baseline data presented in detail in the ESSA Background Annexes, including detailed analysis of the environmental and social effects of the Program and the institutional context, this section provides an analysis of the performance and capacity of the two main systems of environmental and social management: (i) environmental and social impact assessment (ESIA) and (ii) land acquisition. For each the Analysis summarizes the system currently in place, the gaps in the system as written, and the gaps in the system as applied in practice. Greater detail can be found in the background Annexes. The findings in this section are the basis for the measures outlined in the ESSA Action Plan in Section 5.

4.1 Environmental and Social Impact Assessment

Projects currently implemented by municipal local governments primarily employ the existing Ugandan systems for environmental and social management. The ESSA conducted an analysis of existing systems for environmental and social management for consistency with the core principles of OP/BP 9.00, described above. The complete list of findings is outlined in detail in the ESSA Technical Annexes, with the main gaps summarized below.

4.1.1 Summary of System for Environmental and Social Impact Assessment

Previous World Bank projects (LGDP and LGMSDP) have led to the adoption by the MoLG and the municipalities of screening procedures associated with the use of Bank safeguard instrument – Environmental and Social Management Framework (ESMF), and recorded in the Environmental and Social Screening Form (ESSF). The result is a seven-step process that leads to the preparation of an environmental and social management plan (ESMP), which MoLHUD has also proposed to be used for USMID. This process can be found in Volume 2 of the ESSA, and the updated procedures in the Program Operational Manual are also based on these established steps.

The system for environmental and social impact assessment is relatively comprehensive, reflecting international practice. As written, it is sufficient to ensure that potential significant impacts will be identified and managed. See Annex 2 for detailed system description.

Due diligence and oversight of the impact assessment process for projects with lower levels of environmental risk are typically handled by local governments, while projects requiring full Environmental Impact Assessments are handled by NEMA at the central level. Most projects under USMID would fall under local government environmental oversight.

The ESSA found a number of positive developments in how the existing system has been working and able to deliver improvements to the system for environmental and social impact assessment. Support from the World Bank through the LGDP project, as well as other sectoral support initiatives, has enabled an improved planning environment to develop, particularly with regard to environmental effects. With oversight from relevant parent Ministries (primarily MoLG) and government institutions (such as NEMA), systems have been put in place to screen projects for environmental (and to some extent social) impacts, and to ensure that environmental assessments are carried out for projects and mitigation actions are identified for environmental issues. Social impact assessment forms part of this process, although this is not yet so well advanced in implementation. Regular reporting requirements allow the MoLG to ensure that existing systems are implemented, although two overarching issues can be identified that still lead to underperformance: i) resources constraints at all levels; and ii) the lack of mainstreaming of environmental and social issues into planning and implementation at both local and national levels.

The use by municipalities of the standard screening form and the assessment using the environmental and social checklist is based on World Bank Safeguards requirements and Ugandan regulations for assessment of these projects which fall outside the scope of EIA is not yet well developed, although there are indications that government (led by NEMA and MoLG) are in the process of formalizing these systems and procedures. Under the LGDP2 a National Committee was set up to prepare standardized training materials and guiding notes for use in capacity building and training workshops (“Environmental Management in Local Governments”).

The experience of applying the ESMF in the World Bank supported LGMSP, in place prior to USMID, has allowed the identification of some gaps in current practice by both MoLG and MoLHUD and they report that they are moving to address these gaps at the present time. The process in place does have the ability to be responsive provided that issues are included in the initial screenings and assessments and as long as resources allow.

Initiatives on environmental and social planning have started to improve and strengthen systems. There is now a clear need to ensure that further support to the municipalities leads to the achievement of observable and measurable results by following through from the planning stage through project implementation to identify and minimize impacts, and maximize the environmental and social benefits arising from municipal infrastructure projects.

4.1.2 Gaps in the System as Written

The principles pertaining to environmental systems under OP/BP 9.00 are considered in terms of environmental and social management for urban municipal infrastructure projects that are implemented by municipalities. The regulatory environment in Uganda is reasonably well developed and articulated with respect to environmental parameters. However, there are several gaps in the system, outlined below, which were identified in the ESSA:

Oversight: For projects that are deemed to have low to moderate impacts, there is no independent oversight within the municipality for environmental and social due diligence. If the type of project does not require a full EIA by law, municipalities appear to decide if a project will require a full EIA (to be carried out with oversight by NEMA) though this process as written is not based on clear risk criteria.

Screening and Categorization: While a screening form exists, the procedure is not tailored to adequately screen the types of projects and risk levels to discern those that are ineligible for financing under USMID. Additionally, projects requiring a full EIA are based mostly on the type of project, rather than a systematic risk screening process. There is also a lack of checks and balances in situations where the Municipal Environmental Officer would conduct the screening, approve the categorization, design and implement the ESMP. Theoretically the Technical Planning Committee should approve the screening, but this is not necessarily done in practice.

Grievance handling system: Most municipalities do not have a formal system for handling grievances. Feedback from the consultations and survey data confirmed the wide variation in the approach to handling grievances, and that the municipal councils have had mainly informal involvement, relying on the ability of Local Councils to manage grievances and disputes. The lack of a standardized process in the documenting and resolution of grievances has led to complaints about the system itself, which is perceived not to resolve conflicts in a timely or adequate manner. Underreporting of grievances is also likely, as Elders and Local Councils – the de facto grievance redress mechanisms -- have no system, incentive, or responsibility to report complaints to a higher authority.

Consultation and Disclosure: Only projects requiring a full EIA require public consultation and disclosure of EIA documents. The legal framework for EIAs is adequate, but for projects with limited impacts that are handled at the local level there is no process for consultation or disclosure required by law. The procedures for local governments do include consultation and disclosure, but the ESSA found that this does not necessarily happen in practice and there is no institutional oversight to ensure that it does.

4.1.3 Gaps in the System as Applied in Practice

Uneven implementation of procedures: While a system is in place for environmental and social management, for projects where the municipalities should carry out due diligence, indications are that it is not thoroughly applied. A performance assessment specific to environmental and social management carried out in 2011 by MoLG found that 58% of municipalities screened projects, only half included mitigation measures in bidding documents, and only one third required that MEOs certify projects, thereby leaving insufficient environmental oversight for the majority of projects implemented by municipalities. The MoLG assessment concluded that about 40% of municipalities' projects met environmental standards. Additionally, because there are no requirements for LGs to conduct public

consultations or disclose documents related to environmental and social due diligence, these are not done. Performance in these areas is lacking at the central level as well, despite being required by law.

Social assessment: Social issues, including identifying and mitigating impacts on vulnerable groups in municipalities, are not adequately covered due to a lack of clear guidance and/or staff that specialize in this area.

Monitoring: Regular monitoring of project implementation to ensure that ESMPs are carried out is particularly problematic, as environmental staff in the municipalities often do not have adequate (or any) budget, and required sign-offs to by the MEO to verify completion of ESMPs is rarely done or, in some cases, is done by other project staff.

Resource constraints: The parent ministries (MoLG, MoWE) do have the technical expertise necessary to run the program, but lack both human and financial resources. This leads to a lack of officers on the ground to undertake monitoring and evaluation tasks and an inability for them to travel outside of Kampala. The municipalities face even greater human and financial resource constraints, with a lack of trained officers, officers not having the required skill set to carry out environmental and social assessment, and no budget for assessment, consultation, monitoring and evaluation. For example, 4 of the 14 municipalities do not have a Municipal Environmental Officer (MEO) in place though this position is required by law and is the focal point for handling due diligence.

Performance incentives: The annual assessment includes minimum conditions for core local government responsibilities, but environmental and social management are not included. Most of the current performance indicators are vague and difficult to assess in a meaningful way, so the assessment as a tool to drive not just technical staff but decision-makers within the municipal governments to demand compliance with laws and to allocate resources to these issues is weak.

Training: While the Ministry of Local Government has prepared a set of technical training and guidance tools for environmental management in local governments, this has been disseminated to MEOs but due to a lack of resources the actual training program has not been implemented. MEO positions, which entail diverse responsibilities beyond ESIA, and which may be affected by high turnover, have often not benefited from training on the procedures that MEOs are required to follow. While consultants will prepare ESMPs and RAPs for the first two years of USMID implementation, MEOs will still be required to conduct an initial screening of project environmental and social impacts as part of the project prioritization done by the municipal Technical Planning Committee, requiring appropriate skills in impact identification. MEOs will also be required to monitor the implementation of projects. Similarly, MEOs and other technical staff may carry out the screening exercise, but due to a lack of awareness and/or an inability to visit projects in the field due to resource constraints, impacts on, for example, physical cultural resources and natural habitats such as forests and wetlands could be overlooked.

4.2 Land Acquisition

Projects currently implemented by municipal local governments should adhere to Uganda's land laws, with projects financed by the World Bank using Resettlement Policy Frameworks (RPFs) and Resettlement Action Plans (RAPs), both of which were assessed through the ESSA for consistency with the core principles of OP/BP 9.00 (described above). The ESSA found significant gaps between the Ugandan system and PforR requirements -the complete findings is outlined in detail in the ESSA, with the main gaps summarized below.

4.2.1 Summary of System for Land Acquisition

Uganda's legal framework relating to land acquisition dates back to the 1960s, and other land laws are insufficiently operationalized. For example, The Constitution of Uganda requires that if a person's property is compulsorily acquired, that person must receive prompt payment "of fair and adequate compensation prior to taking possession" of the property. However there is no clarification in the 1965 Land Acquisition Act on the promptness, fairness and adequacy of the compensation – and the Act has not been updated to address these issues. Past local government development programs have prepared and applied RPFs and RAPs to address land acquisition related concerns in Uganda, though the application of these has been challenging. Additionally, project screening does include land acquisition and resettlement though as described above screening of projects is inconsistent and lacks strong oversight and follow-through into implementation.

The *Land Act, Cap 227* states that land tribunals must be established at district level. It empowers the District Land Tribunals Court (DLT) to determine disputes relating to amount of compensation to be paid for land acquired compulsorily. However, the DLT ceased to operate in 2008, and yet these same institutions are also responsible for the municipalities. The affected person may appeal to a higher ordinary court. Similarly the Land Acquisition Act allows for any person to appeal to the High Court within 60 days of the award being made. The Land Act also provides that traditional authorities, mediators, or other persons can mediate a dispute when requested to do so by the Land Tribunal.

18. Consultations on a draft national land policy were completed when a National Conference was held in May 2010. The policy was submitted to the Cabinet and now awaits approval. Once approved, it will lead to further changes in the legal and policy framework including Uganda's National Constitution, 1995. The National Land Policy recommends among others, a National Resettlement policy that will clarify on procedures for the management of land taking and displacement due to development projects, disasters, etc., and including resettlement and other relevant measures like compensation, and their centers of responsibility. The draft National Land Policy proposes that District Land Tribunals will have original jurisdiction in cases involving registered land, and appellate jurisdiction from Local Council III Courts in cases involving customary tenure and unregistered land.

Municipal Local Governments are responsible for drawing the terms of reference for the preparation of the compensation plans including the valuations of the properties following the rates established by the DLTs within which the municipality is located. Similarly, implementation of Program activities will be undertaken at municipal level with the Town Clerks as the accounting officers. Land acquisition related issues are handled at the municipal level with MoLHUD providing technical guidance and approval of compensation plans submitted to the CGV.

4.2.2 Gaps in the System as Written

Land allocation: At the inter-governmental level, the system allows for conflicting land allocation decisions between municipalities, the central government, and district Land Boards. For example, municipalities may allocate land for development or conservation and the district Land Boards may contravene that decision and allocate land for a different purpose. The authority to allocate public land in municipalities is vested with the District Land Boards; the municipalities act only in an advisory capacity as Area Land Committees.

Compensation: While the Constitution sets the standard for any form of compensation and provides for prompt payment of fair and adequate compensation, as mentioned above the definition of "fair and adequate" is not provided in any law and all too frequently compensation is not guaranteed. In terms of

individual transactions, when land users and owners are allowed to negotiate for compensation, this is done with no community participation or oversight. While a number of willing buyer and willing seller transactions do proceed satisfactorily, there is a risk that such individual negotiations can lead to unequal compensation and this places vulnerable groups (such as the poor, or women-, child- or disabled-headed household) in a position where they might be unable to represent themselves fairly.

Valuation: The valuation methodologies used by the CGV may not necessarily reflect international best practices and thus are likely to put the project affected households and people at the risk of not restoring their livelihoods. Valuation for land takes account of local market prices, but also sale prices listed in local land registers – which may not reflect the actual sale price. The valuation for fruit trees is not based on the value of harvests lost. Structures are valued at depreciated cost. All these imply that with such valuation, a project affected household may not be able to restore or even improve their livelihoods. In fact complaints of inadequate and unfair compensation for both crops and structures lost are very common and were cited in the consultations undertaken in the municipalities for purposes of drafting this assessment.

Monitoring: NEMA requires developers to include resettlement and compensation plans as part of ESIA's if these issues are picked up during scoping, and would then be responsible for forwarding these to the correct 'Lead Agency'. NEMA follows up on their implementation through mandatory environmental (and social) audit. NEMA, however, does not have specialist staff or issues of resettlement and land acquisitions.

4.2.3 Gaps in the System as Applied in Practice

Unclear staff roles: The visits to all fourteen municipal local governments and the consultations for the ESSA also indicated that no municipality had staff designated to handle land acquisition, though all municipalities did have Community Development Officers (CDOs) whose roles include community mobilization and empowerment. The lack of a clear legal and institutional framework coupled with budget constraints and a lack of designated staff responsibilities result in practices such as individuals being requested to voluntarily contribute land for projects, and compensation payments when they are made are inconsistently applied. Generally, the municipalities have no experience in handling land acquisition or its attendant measures especially in relation to the project affected parties. According to the Municipal officials there is no officer appointed to handle land acquisition for projects.

Inconsistent procedures for land acquisition: Very often, the Physical Planner and the Municipal Engineer find ways to informally manage such issues, though convincing land owners and users to voluntarily contribute their land without any compensation given the project's benefits. Where the individual or community is resistant, then the local authority may seek to purchase the land. Some municipalities purchase land from individual owners who negotiate on land price basing on the district established rates. In other instances, records of the transactions, details of the seller and other information may be difficult to find. Especially in the case of voluntary land contributions, there is little record keeping or transparency, which can lead to disputes.

Reports by most municipal officials indicate that detailed land acquisition procedures and processes have never been required and therefore find no need to use the resettlement manual that is provided to the municipalities by the Ministry of Local Government (MoLG). In other words the municipal staff did not see the relevancy of the procedures in cases of small sub projects land acquisition.

The co-ordination between CGV, District Land Boards, and municipalities is poor and causes delays in the compensation process. The role of the CGV should be advisory and to provide a technical back-stop where there is no professional valuer employed as district staff. While the Land Act does not require the

CGV to approve district compensation rates, the majority of Land Boards forward the rates to the CGV for approval, which can take some time due to staffing constraints.

Grievance resolution: Regarding grievance procedures and disputes related to land allocation and acquisition, the Land Act creates Land Tribunals, which are intended to help resolve disputes related to land. Land Boards at the District level are not involved in resolving disputes but do assist in registering land. If the public has a dispute over land allocated by the Land Board or extension of leases, for example, they can also bring complaints before the Land Tribunals. If the matter cannot be settled there, it can advance to the High Court of Uganda where the decision would be final. While this system exists per the Land Law, not all districts have functioning Land Boards and the DLTs have been suspended. Also of note is that the Land Board is at the district level, with all of the district's municipalities being represented by one member. Finally, the majority of compensation complaints are referred to the CGV whose capacity to handle them is limited, as noted above.

Resource Constraints: Like the system for environmental and social impact assessment, implementing land acquisition and compensation processes face considerable constraints with regard to human and financial resources. At the national level, the Chief Government Valuers Office has two Senior Valuers and a few more junior Valuers who serve all projects in the entire country. They are expected to deal with a subproject from inception up to closure; an impossible task with sub-optimal levels of human resources. All 14 Municipalities under the USMID Program lack staff with skills and knowledge to handle all land acquisition related issues in projects. Information obtained during consultations with municipalities' shows that the physical planner and the engineer have been handling land acquisition for projects. In addition, although the Community Development Officers (CDO) are in place, their job descriptions do not require them to handle land acquisition and its relevant measures, and are required to only mobilize and sensitize communities on project activities and their related social issues.

Municipalities have no budgets for land acquisition and its related resettlement or rehabilitation measures. Central government transfers do not include funds to meet land acquisition needs, and responses from municipalities suggest that this is one of the reasons why land acquisition, resettlement, and compensation are inadequately handled at present. Delayed payment of compensation is commonplace, contravening the key constitutional principles. However, when subprojects are linked to a main project centrally then the relevant ministry seeks the required budget from Ministry of Finance – because USMID projects are decentralized to the municipalities, this would not be the case.

4.3 Indigenous Peoples and Vulnerable Groups and Social Conflict

OP/BP 9.00 requires that due consideration is given to cultural appropriateness of, and equitable access to, program benefits giving special attention to rights and interests of Indigenous Peoples and to the needs or concerns of vulnerable groups. It also seeks to avoid exacerbating conflict, especially in fragile states, post-conflict areas, or areas subject to territorial disputes.

For Indigenous Peoples, the ESSA undertook a screening of the Program area for recognized indigenous groups in Uganda: these are the Ike, located on a limited area on Mount Moroto, and the Batwa, found in South Western Uganda in the forests of Mount Muhavura in the Virunga range and areas bordering the Republic of Congo. The ESSA confirmed that no USMID municipalities are located in these areas and therefore this social aspect is not applicable to the Program.

For marginalized and vulnerable groups, matters relating to groups such as orphans, the disabled and women are a responsibility of the Ministry of Gender, Labour and Social Development (MoGLSD). Further, the same ministry coordinates Health and Safety, including HIV/AIDS, in work places and therefore it is imperative that MoLHUD and MoGLSD talk to each other in resolving land acquisition

related matters especially inclusive compensation, HIV/AIDs in construction related activities and provision of job opportunities and other rehabilitation measures to the project affected persons. Currently no coordination exists between these government agencies.

While there is little risk the program will cause major social conflict, some cases of conflict and grievance may occur during project implementation (such as disputes over land tenure, resettlement, and/or induced impacts). Where grievances and disputes arise in projects, vulnerable groups are frequently unable to access the legal system due to the financial burden and therefore have no access to arbitration should appeals to the Local Council fail.

SECTION 5 MEASURES TO STRENGTHEN SYSTEMS

The Urban Local Government Strengthening Program for Results' (ULGSP) ESSA Analysis presented above identifies clear gaps and opportunities in Uganda's environmental and social management system with respect to effectively addressing the environmental and social risks associated with the Program in order to identify gaps in the system per the Program for Results Core Principles and to propose measures in order to strengthen the system. This section translates these gaps and opportunities into a viable strategy to strengthen environmental and social management capacity and performance at the national and local level.

5.1 Mechanisms to Strengthen Systems

While the environmental and social risks of the activities under USMID are low - to moderate-impact, the PforR modality offers an opportunity to strengthen both the gaps in procedures identified above in order to identify and mitigate impacts, but also to strengthen the overall system in three areas: (i) strengthening the foundation for environmental and social management, (ii) ensuring implementation of good environmental and social management, and (iii) providing oversight of environmental and social management. To address gaps identified by ESSA, USMID will support specific measures for strengthening the performance of Uganda's environmental and social management system. These measures are implemented through several mechanisms that are built into the Program:

Program Operational Manual: The **Program Operational Manual**, which will be used by municipal local governments in assessing and managing environmental and social impacts and land acquisition. This follows the existing procedures currently outlined by the Ministry of Local Government (MoLG) for environmental management, but also builds on this guidance to include updating procedures for environmental and social screening, requiring stronger oversight of the process, and including a Program Land Acquisition Framework is consistent with the core principles of OP/BP 9.00 and Ugandan land laws.

Performance Incentives and Oversight: The **Annual Performance Assessment**, which includes Minimum Conditions municipalities must fulfill to be eligible for the performance grant, and performance indicators to monitor implementation. Disbursements to the MCs are then tied to performance in the annual assessment through the DLIs. The full set of indicators can be found in the Performance Assessment Tool in Annex 11 of the USMID Program Appraisal Document. The USMID Performance Assessment raises the profile of environmental, social, and land acquisition issues through including minimum conditions for core staff and ensuring that a functional system is in place and operational.

Capacity Building: Measures for environmental and social management are integrated in the Program through the **Municipal Capacity Building Grant (MCBG)** that allows local governments to access formal training according to the priorities in annual capacity building plans. MoLHUD will provide guidance to Municipalities for the formulation and execution of their capacity building plans, as well as a

limited amount of supply driven capacity building support to municipal LGs. One of the key areas that are eligible for capacity building support in the municipalities is to improve municipal LG's capacity in environmental and social management, supervision of projects – the types of activities include tooling, formal and informal training, mentoring, and on-the-job training. Planning and completion of capacity building activities are also a Minimum Condition and Disbursement Linked Indicator.

In addition to these mechanisms, some actions are further strengthened by inclusion in the overall Program Action Plan which is agreed with the GOU, and/or legally covenanted in the Program Financing Agreement, which are indicated in the tables below.

5.2 ESSA Action Plan

The tables below form the ESSA Action Plan, which recommends measures that are embedded in the overall Program design through the mechanisms described above. Actions are grouped into three areas:

1. Actions to strengthen the **foundation** of an environmental and social management system
2. Actions to strengthen **implementation** of that system
3. Actions to strengthen **capacity and oversight** of the system

Area 1: Strengthen foundation

No.	Measures	Mechanism	Responsible	Timeframe
1.1	Procedures for environmental and social management for LGs updated to address gaps identified through ESSA and included in Program Operational Manual (POM).	POM	MoLHUD	Prior to Program effectiveness
1.2	Land acquisition and resettlement included in impact screening undertaken for all projects.	POM	MoLHUD	Prior to Program effectiveness
1.3	Land Acquisition Framework (LAF) developed that provides clear procedures for preparation of valuation, involuntary resettlement, and compensation plans, included in Program Operational Manual.	POM	MoLHUD	Prior to Program effectiveness
1.4	Update of MoLG handbook for Local Governments will include Land Acquisition Framework	POM	MoLHUD/ MoLG	Prior to Program effectiveness
1.5	All Municipal LG's required to have position of Environmental Management Officer and Community Development Officer substantively filled	APA (Minimum Condition)	Municipal LGs	Prior to Program effectiveness
1.6	Town Clerk in each municipality will designate a Focal Point for land acquisition and coordinating Land Acquisition Framework	APA (Minimum Condition)	Municipal LGs	Before Program Year 2
1.7	MoLHUD will recruit an environmental and social specialist for Program Support Team, to be funded under the Program.	Condition of effectiveness	MoLHUD	Prior to Program effectiveness
1.8	Screening updated to include guidance to identify high-risk activities, which are ineligible for Program support	POM; Legal Covenant	MoLHUD	Prior to Program effectiveness
1.9	All Municipal LGs establish a Complaints Handling Mechanism that will include procedures for environmental, social, and land acquisition, resettlement, and compensation issues	POM/APA (Minimum Condition)	Municipal LGs	Before Program Year 2
1.10	Program Operational Manual illustrates required consultation and disclosure of key documents for environmental and social due diligence, and screening form must indicate date and place of disclosure of the environmental and social documents.	POM	Municipal LGs	Throughout Program
1.11	All municipal LGs required to establish Municipal Development Forums, which promote stakeholder participation, transparency, and accountability.	APA (Performance Indicator)	Municipal LGs	Before Program Year 2
1.12	Set up monitoring system for LGs, that tracks, for example, land acquisition, risk, consultations, etc.	POM	MoLHUD	Before effectiveness

Area 2: Implementation and Oversight

No.	Measures	Mechanism	Responsible	Timeframe
2.1	Municipal Technical Planning Committee considers environmental and social impacts in prioritizing development projects	POM	MoLHUD Municipal LGs	Throughout Program
2.2	All infrastructure projects required to have completed Environmental and Social Screening Form and receive NEMA endorsement	POM/APA (Minimum Condition)	Municipal LGs	Throughout Program
2.3	Environmental and Social Management Plans are made publicly available at the Municipal Council office and on-site by contractors	APA (Performance Indicator)	Municipal LGs	Throughout Program
2.4	Technical staff, including Municipal Environmental Officer, carry out documented monitoring and supervision of works at least once per quarter.	APA (Performance Indicator)	Municipal LGs	Throughout Program
2.5	From the Focal Point Officer, verify that Land Acquisition Framework applied and implemented for all projects where the Environmental and Social Screening Form indicates land acquisition will be necessary, including payment of any compensation prior to initiating works.	POM/APA (Performance Indicator)	Municipal LGs	Throughout Program
2.6	Reporting from municipal LGs to MoLHUD will include tracking grievances related to environmental and social management and land acquisition/valuation.	POM	MoLHUD/ Municipal LGs	Throughout Program
2.7	All mitigation measures for environmental, land (where necessary) and social issues for previous FY have been effectively executed.	APA (Performance Indicator)	Municipal LGs	Throughout Program
2.8	All projects requiring land acquisition have followed Land Acquisition Framework and prepared Compensation Plans, including payment of compensation prior to initiation of works.	APA (Minimum Condition)	Municipal LGs	Throughout Program
2.9	Reporting on environmental and social criteria included in Impact Monitoring Reports prepared by the municipal engineer or physical planner	POM	Municipal LGs	Throughout Program
2.10	Assess that mitigation measures are being followed when projects are implemented.	APA (Performance Indicator)	Municipal LGs	Throughout Program

Area 3: Capacity and Oversight

No.	Measures	Mechanism	Responsible	Timeframe
3.1	Environmental and social management included as a key eligible area for capacity building support in Capacity Building Grants for Local Governments	Capacity Building Plan	MoLHUD/ MoLG	Throughout Program
3.2	Program Capacity Building Grant includes resettlement as one of the seven thematic areas for institutional improvement, both at the municipal and national level.	Capacity Building Plan	MoLHUD	Throughout Program
3.3	Training program will build capacity of core environmental and social staff, but also provide sensitization on environmental and social issues for other technical staff in the municipal LG and Council leaders.	Capacity Building Plan	MoLHUD, MoLG	Throughout Program
3.4	Training program already includes session on budgeting for environmental mitigation measures. This will be expanded to include budgeting for land/asset/livelihood compensation.	POM	MoLHUD	After Year 1
3.5	Updated LG training program will include LAF. Training will include screening for land acquisition, impacts on assets and livelihoods as well as considerations for vulnerable groups.	POM	MoLHUD	Within first year
3.6	MoLG training program for environmental management in LGs will be reviewed and updated, including for Land Acquisition Framework	POM	MoLHUD/ MoLG	One year after effectiveness
3.7	Training program on environmental and social management for LGs will include greater instruction on consultation, transparency and handling grievances.	POM	MoLHUD/ MoLG	One year after effectiveness