



Analytical Case study on Flow of Budget Funds and Expenditure during the Election period



Final Report
MAY 2016



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ACRONYMS AND ABBREVIATIONS

ACCU	Anti-Corruption Coalition of Uganda
ACFIM	Alliance for Campaign Financing Monitoring
CP	Conservative Party
DP	Democratic Party
EC	Electoral Commission
FDC	Forum for Democratic Change
FY	Financial Year
GoU	Government of Uganda
KCCA	Kampala Capital City Authority
MDA	Ministries, Departments and Agencies
MoFPED	Ministry of Finance Planning and Economic Development
MoGLSD	Ministry of Gender Labour and Social Development
NEMA	National Environment Management Authority
NGOs	Non-Governmental Organizations
NITA-U	National Information Technology Authority of Uganda
NRM	National Resistance Movement
OAG	Office of the Auditor General
PFMA	Public Finance Management Act
UCC	Uganda Communications Commission
UGX	Uganda Shillings
UNGOF	Uganda Non-Government Organizations Forum
UPC	Uganda People's Congress
UPDF	Uganda People's Defence Forces

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EXECUTIVE SUMMARY

Every country aspires to have a democratic process that is competitive but fair for all actors in determination of how their country is governed. Increasingly, Uganda has been put on the spotlight for failing to deliver free and fair elections especially electoral process is at the foundation of democracy, elections in Uganda as evidenced by judgments by Uganda's Supreme Court at all levels in respect to 2006, 2011 and most recently in 2016. Monitoring Reports from 2011 presidential and Parliamentary elections revealed that the use of money to influence voting behavior seemed to have prominently crept into Uganda's elections. This report is as a result of the study that analyzed flow of funds from the national budget and the extent (and pattern) to which some identified sectors in respect to: use, misuse and abuse of national budget resources for political campaigning; mapping of loopholes that facilitate use, misuse, and abuse of state financial resources during political campaigning; and presentation of concrete recommendations to government MDAs on this issue to remedy it for years to come. The report examined budgetary allocations overtime for the Ministry of Defense, President's Office, State House, Parliament and Ministry of Gender Labor and Social Development to achieve the stated objectives.

That study noted that:

- i. There is a general spike in financial allocation overall in every year preceding the general elections has been identified particularly for 2001, 2006, 2011 and 2016. More recently, the Budget for the FY 2015/16 alone rose from UGX 15,829.8bn to UGX 23,972.3 reflecting a 51.4% increase in the total budget. The recurrent budget grew by 8.9% and development budget grew by 37.2%. Further interrogation of figures has revealed that MDAs of focus which are largely suspected to be gates of election financing have been among the prominent beneficiaries.
- ii. Supplementary budget has been skewed to a few 'strategic' sectors with programs and interventions that evolve around election time including livelihood projects for youth, and women under Ministry of Gender Labour and Social Development as well as hoes for farmers under Agriculture. In addition, there was a high spike in Ministry of Defence spending outstripping all sectors (to the tune of UGX 253 Billion) for allocations to some items defined as 'classified'
- iii. The incumbent NRM spent a record UGX 121 billion after just two months of campaigns between November 2015 and January 2016 and yet they had received only UGX 8 billion from the Electoral Commission.

This report was on flows out of the national budget and was not to provide evidence on the flows funded campaign events. However, it is the analysis of this flow and the link to election period and financing that makes a correlation that links the two. With the likelihood that funds out the budget may have had their way into use in elections, the report calls upon Parliament to align election laws in ways that promote fair competition and fiscal justice including review of section 27 (2) of the Presidential Elections Act. There is need to improve the legal framework so that public servants are paid under national service structure and salary scaling and upon periodic (as opposed to adhoc) reviews. Sweeping reforms such as prohibiting government from undertaking large procurements in less than half years before election period should be considered as it is done in the United Kingdom. These recommendations if implemented can help to close loop holes that exist in the law on public financing as well as promoting a fair competition on the democratic space for all actors.

CHAPTER ONE: BACKGROUND AND METHODOLOGY

1.0 BACKGROUND TO ASSIGNMENT

1.1 About the Anti-Corruption Coalition and ACFIM

The Anti-Corruption Coalition Uganda (ACCU) is an organization based in Kampala Uganda that brings together various actors and individuals in a forum through which they can enhance their capacities in the fight against corruption - as one strong voice and force that can effectively engage government on issues of corruption.

One of the areas that ACCU is concerned about is accountability and transparency as a panacea for good governance and observance of the rule of law. Uganda's Constitution has already put in place a mechanism to the effect that citizens elect leaders from time to time to manage the public services with avenues to hold them to account. In principle electing leaders that reflect the wishes of the population is fundamental to observance of the rule of law and social justice. This is an inspiration of the partner with ACCU – The Alliance for Election Campaign Finance Monitoring (ACFIM). ACFIM is loose coalition of fourteen civil society organizations fostering increased transparency and integrity in financing of political parties and electoral processes in Uganda. This financial year FY 2015/16 being an election year, ACCU and ACFIM are carrying out analysis of fiscal data to assess the extent to which public funds are being used (or misused) in ways that favor financing to activities linked to parliamentary and presidential election campaigns.

ACFIM was formed in 2005 when Transparency International Uganda (TIU) and Anti- Corruption Coalition Uganda (ACCU) jointly spearheaded a ground-breaking coalition of Anti- Corruption Civil Society Organizations (CSOs) that monitored misuse of state resources for campaigns and voter bribery in 2006 presidential and parliamentary elections—the first under multiparty political dispensation after 20 years of movement government. ACFIM is cognizant of the fact that since most of the corruption that occurs in Uganda is embedded in the election campaign financing, there is an urgent need to track how public financial resources used in elections including quantifying its amounts and how it influences election outcomes.

1.2 Background to the study

In fulfillment of the Constitution of the Republic of Uganda and the Electoral Commission Act of Parliament, Uganda shall periodically hold elections at all levels of governance in the fifth financial year from the Promulgation of the 1995 Constitution. Under this Constitution, Uganda held its 5th General elections but the third multi-party election in FY 2015/16. The second successive election was held under multiparty dispensation in 2011, and there were expectations that the country would progressively advance to a more representative democracy, able to meet the needs of its citizens and transition to a “modern and prosperous democracy”, but this remains by and large elusive.

Whereas a competitive electoral process is at the foundation of democracy, elections in Uganda are yet to constitute competition between participating political parties and candidates, and this is largely attributed to commercialization of politics where money is used to influence voter's behavior and subsequently, election outcomes. Monitoring Reports from 2011 presidential and parliamentary elections revealed that the use of money to influence voting behavior was rampant. These reports were corroborated by petitions filed in courts of law after declaration of 2006 general election results, citing massive bribery of voters across a number of constituencies.

Unregulated influence of money on Uganda's election outcomes is a primary concern of ACCU and other ACFIM member organizations mainly because of the challenges it poses to evolution of democracy. Excessive use of money in election campaigns has deprived Ugandans of the power to objectively determine their political leaders but in addition lost money that would otherwise fund programs that are beneficial to the citizenry. This has created a need to find out whether the flow of funds of selected Government MDAs has implications on election financing.

1.3 The Objective of the study

This study was designed to provide evidence of the flow of public funds and the likelihood of use of public funds for election campaigns. The analysis in this report is purposed to show the level of use, misuse and abuse of budget resources, help in mapping loopholes that cause this to happen and recommend to government and non-state actors on options to remedy this vice in years to come. The assignment had three specific objectives which were to:

- i. Conduct an evidence based study on use, misuse and abuse of national budget resources for political campaigning;
- ii. Conduct mapping of loopholes that facilitate use, misuse, and abuse of state financial resources during political campaigning; (a chapter has been included on this aspect)
- iii. Develop concrete recommendations to government MDAs on this issue to remedy it for years to come.

1.4 Methodology

This study has been premised on review of the current legal documentation on public finances management; reviews of budget data from the Ministry of Finance Planning and Economic Development and input from qualitative analysis from interviews of key sector personnel. The analysis was purposed to determine most appropriate indicators to answer the study questions. The key task was matching available literature to develop indicators and parameters whose responses aimed to bring out the evidence needed. This report also includes data from 2006 to project a trend from past elections to strengthen the case. Documents that have been reviewed include: Approved budgets for the selected MDAs; Budget performance reports for the MDAs over the past 5 FYs; MDA BFPs and MPS for the FY 2015/16. Recording trends since 2006 was important to make this analysis from past years so that in CSOs are alert to assess fiscal behaviour in years preceding the 2021 elections so that advocacy is mobilized to stem this practice that disproportionately favors the incumbent in election campaigns. The Constitution of the Republic of Uganda (as revised 1995); Political Party and Organizations Act 2005 (and 2010 amendment); Public Finance Management

Act 2015 (Revised again in 2015); Electoral Commission Act; Presidential election Act and the Parliamentary Elections Act among others. The main area of focus was on four (4) Public Sector entities:

- Ministry of Defence
- Ministry of Gender Labour and Social Development
- Parliament of Uganda
- Office of the Prime Minister

In each of these institutions the analysis was made only on flow of funds and not how funds were disbursed and extended since this would require a more detailed and investigative field assessment. Whereas this would have been desirable, it was a task outside the assignment scope.

1.5 Analysis and Reporting

The report has used both tables and graphs to present data analyzed from data information over the last decade to show the trend analysis and project the “red” flags or pointers that make the case of increment in flows during the election period. Content analysis has aided budgetary commentary but the report also used related reporting from other secondary sources including the media. This report will feed into discussions among both state and non-state actors on ensuring that tax payers money is not misused for election campaigns and diverted from investments to ensure service delivery. To supplement secondary literature, interviews were made with technical staff in the budget and accounts offices for, Ministry of Defence, Ministry of Gender Labour and Social Development, Parliament of Uganda and Office of the Prime Minister.

The report is organized in the following five chapters;

- Chapter One presents the Background and Methodology
- Chapter Two is a highlight of the legal framework as it relates to electoral financing
- Chapter Three presents key findings from the analysis of budget flows to selected sectors
- Chapter Four is focused on the loopholes that could have been taken advantage of to channel public resources to election financing
- Chapter Five presents the study recommendations

Key references that informed the study are annexed to the report as well.

CHAPTER TWO: LEGAL FRAMEWORK ON ELECTION FINANCING

2.0 Literature Review

Legal Regime on Public Financing for elections.

Article 67 section 3 of the constitution provides for candidates to be accorded similar treatment in accessing State owned to present their programmes to the people. In addition, the Public Finance Management Act (2015) provides a framework for fiscal and macroeconomic management providing a Charter for Fiscal Responsibility and procedures for Virements, multi-year expenditures, supplementary budgets and excess expenditure, contingency fund and for commitments against the consolidated fund. The framework however was revised hardly six months after its passage with additional reviews to the supplementary allocation arrangements.

Political Parties and Organizations Act (2010)

In 2010, the Political Parties and Organizations Act 2005 (PPOA) was amended to insert Section 14(a) to provide for the use of government funds or other public resources to political parties or organizations represented in Parliament (b) in respect of elections funding shall be on equal basis and (c) level of public financing for Political Parties and or Organisations shall be based on the numerical strength of each party in Parliament. The funds recently released from the EC to political parties at a tune of UGX 10bn in May 2015 are in relation to (c) but left out more than 50 MPs (Independents, UPDF) unaffiliated parties. Opposition parties do not agree with the numerical strength formulary in Parliament as it does not tally with party votes received in the previous election bearing in mind Uganda electoral system is universal adult suffrage.

The debate is on over which form of political party funding; state funding or private funding, would make political party campaigns and elections equitable, accountable and transparent. Some countries such as Kenya, Tanzania, South Africa, Mozambique and Botswana have put in place measures to fund political parties using public funds, based on votes received in a previous election. The advantage here is that only parties with proven voter support, enough to elect at least one representative in Parliament qualify for support from the taxpayers' money who voted them in. The disadvantage is that parties may actually win a seat with a minority of electoral support in electoral systems such as the one employed in Uganda and have less support across the country than a party that fails to win a single seat.

Other legal frameworks guiding election conduct, financing and management are highlighted in the table 1 below;

Table 1: Legal Framework managing elections

Quoted sections of the Law	Descriptive narrative
Sec 14 A of the Political Parties and Organizations Amendment Act (2010)	Sets the principles upon which government would contribute funds towards the activities of other political parties.
Sec 25 (1) of the Parliamentary Elections Act, 2005	Prohibits the use of government and public resources for purposes of campaigning for elections, except as authorized under the Act. Sec 14 A of the Political Parties and Organizations Amendment Act (2010)
Whereas the provision in Sec 22 (2), (a) was repealed by Sec 3 of the Presidential Elections (Amendment) Act 2015, the provisions in Sec 14A of the Political Parties and Organizations (Amendment) Act were not repealed.	This means that whereas government stopped facilitation the candidates, the political parties are still eligible for this facilitation but dependent on the numerical strength of the party in Parliament. This development left independent candidates to fully finance their elections in 2016 without government support.
Sec 22 (4) of the Presidential Elections Act (2000)	Facilitation of the candidates. Sec 14 (5) (a) of the Political Parties and Organizations Act, 2005, however, limits the donations to the extent that the foreign government, body or person has not demonstrated an intention to overthrow the lawfully established government of Uganda. In countries like Burundi, Ethiopia, Madagascar, Mozambique and Kenya, there is a ban on political parties getting donations from foreign interests.
Sec 14 (1) of the Political Parties and Organizations Act, 2005	“The persons or bodies referred to in subsection (2) shall not directly or indirectly make a contribution, donation or loan in cash or kind in excess of the value of twenty thousand currency points within any period of twelve months, to funds held or to be held or for the benefit of a political party or organization.”
In Uganda Sec 12 (1) (b) of the Political Parties and Organizations Act 2005 As regards individual candidates, Sec 19 (6) of the Presidential Elections Act provides that they should maintain records of all assistance obtained during the campaigns.	Requires that every political party or organization shall maintain at its national head office, an accurate and permanent record of a statement of its accounts, showing the sources of its funds and the name of any person who has contributed to the funds including contributions by persons who are not citizens of Uganda, membership dues paid, donations in cash or in kind and all the financial transactions of the political party or organization which are conducted through, by or with the head or national office

Quoted sections of the Law	Descriptive narrative
	of the political party or organization.

Sources: *Compendium of Laws review by the consultant*

Best Practice – UK Government prohibits Large Scale Public Procurements in Election Period

Legislation to curtail excessive spending by electoral candidates and parties in the United Kingdom has been in place since 1883. The UK's system of regulating campaign financing focuses on limiting the expenditure of political parties and individual candidates, rather than limits on donations that can be received by these parties and individuals, combined with a transparent reporting system of donations received and election expenditure incurred.

Unique to the UK are restrictions to government activities in run up to the elections in a period called **Purdah**. **Purdah** is the pre-election period in the United Kingdom, specifically the time between an announced election and the final election results. The time period prevents central and local government from making announcements about any new or controversial government which could be seen to be advantageous to any candidates or parties in the forthcoming election.

"Essential business must be carried on. However, it is customary for... decisions on matters of policy on which a new government might be expected to want the opportunity to take a different view from the present government should be postponed until after the election, provided that such postponement would not be detrimental to the national interest or wasteful of public money."¹

The common practice is premised on the belief that some pre-election promises and contracts may give the ruling party an advantage over its competitors. For countries like Uganda It has been often alleged that public funds are used to finance elections through inflating contracts or otherwise paying for services no rendered and money picked by 'contractor/suppliers' and taken to their powerful God fathers.

¹ <http://www.channelweb.co.uk/crn-uk/news/2378823/channel-gets-nervous-over-pre-election-purdah>

CHAPTER THREE: ANALYSIS OF FLOW OF FUNDS

3.0 FINDINGS

3.1 General spike in financial allocation overall in the year preceding the general elections

The Budget for the FY 2015/16 was unprecedented based on the fact that it rose from UGX 15,829.8bn to UGX 23,972.3 reflecting a 51.4% increase in the total budget. The recurrent budget grew by 8.9% and development budget grew by 37.2%.

Table 2: Expenditure Outflows for the FY 2015/16

	Budget Estimates FY 2014/15	% of Budget	Budget Estimates FY 2015/16	% of Budget
Recurrent Expenditure	7,948.5	50.2%	8,656.7	36.1%
o/w Wage	2,904.3	18.3%	2,894.1	12.1%
o/w Non-Wage(excl Statutory interest)	3,961.4	25.0%	4,106.4	17.1%
o/w Statutory Interest Payments	1,082.9	6.8%	1,656.2	6.9%
Development Expenditure	7,037.0	44.5%	9,654.7	40.3%
o/w GoU	4,362.7	27.6%	4,057.0	16.9%
o/w External Financing	2,674.3	16.9%	5,597.7	23.4%
Sub-total	14,985.6	94.7%	18,311.4	76.4%
Domestic Arrears	80.0	0.5%	80.0	0.3%
Amortisation	139.2	0.9%	172.0	0.7%
Taxes	56.3	0.4%	-	0.0%
Domestic Debt Repayment	-		4,787.5	20.0%
Total Including Taxes, Amortisation & Arrears, Debt	15,261.0	96.4%	23,350.9	97.4%
Appropriation in Aid (AIA)	568.8	3.6%	621.4	2.6%
Grand Total Including Taxes on Imports, Amortisation & Arrears	15,829.8	100.0%	23,972.3	100.0%

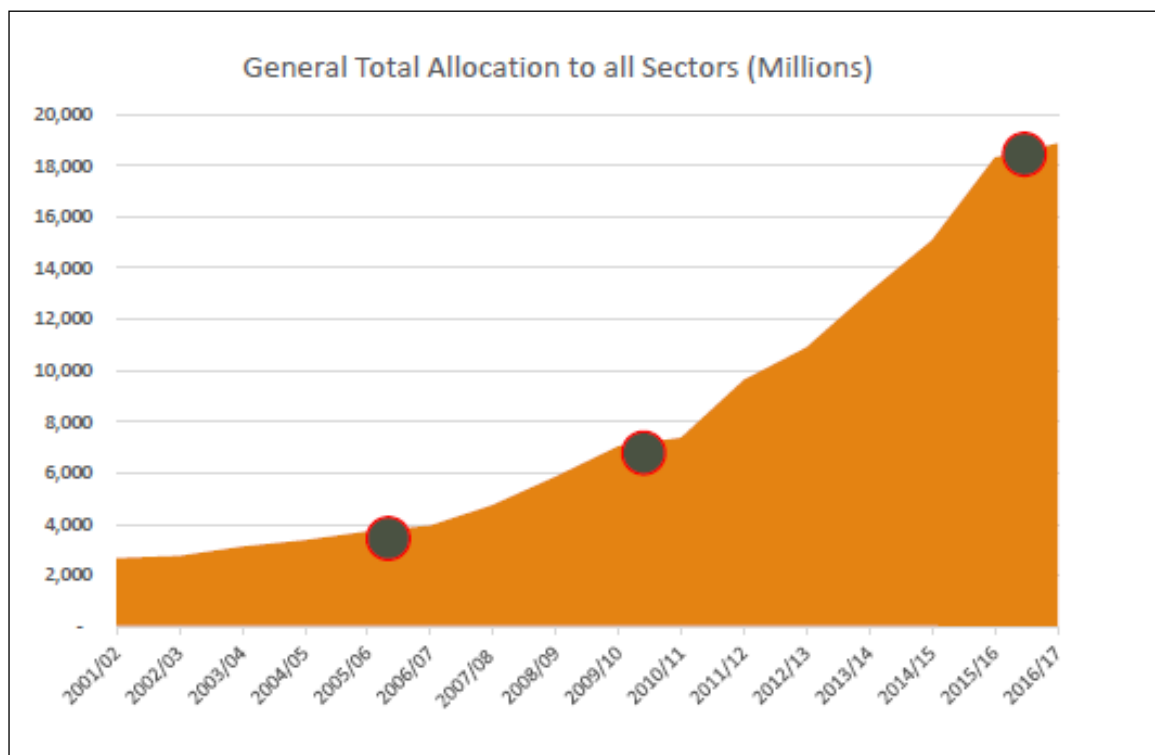
Source: Ministry of Finance Planning & Economic Development

However, construction of the pattern of flow of funds overall seems to project a certain pattern.

In every financial year before an election year, there is a noticeable spike in flow of funds generally to all sectors. As seen in figure 1 below, there were peaks in the allocation at close to UGX 4

trillion in FY 2005/06 the year before the 2006 elections. There was another peak at UGX 6.5 trillion in financing in FY 2009/10 - the year before the 2011 elections. In 2014 all projections had put the national budget envelope at UGX 18.08 trillion only for the Ministry of Finance to announce to Parliament that the value of the national budget was to be UGX 23.9 trillion. That was FY 2014/15 a year before the 2016 general elections.

Figure 1: High rise in flows during the election fiscal year



Source: Consultant's analysis of the Background to Budget reports 2001/02 – 2016/17

3.2 Closer look at divergences in sector Allocation

With information, that there is a general rise in allocation to sectors in a year preceding the general elections, analysis has been made of the difference between approved budget for sectors in FY 2014/15 and how that relates to one in the election year itself (FY2015/16). From the display in Fig. 2 below, it can be seen that in the lighter (brown) shade showing approved budget for FY 2015/16 that the following sectors got a higher allocation:

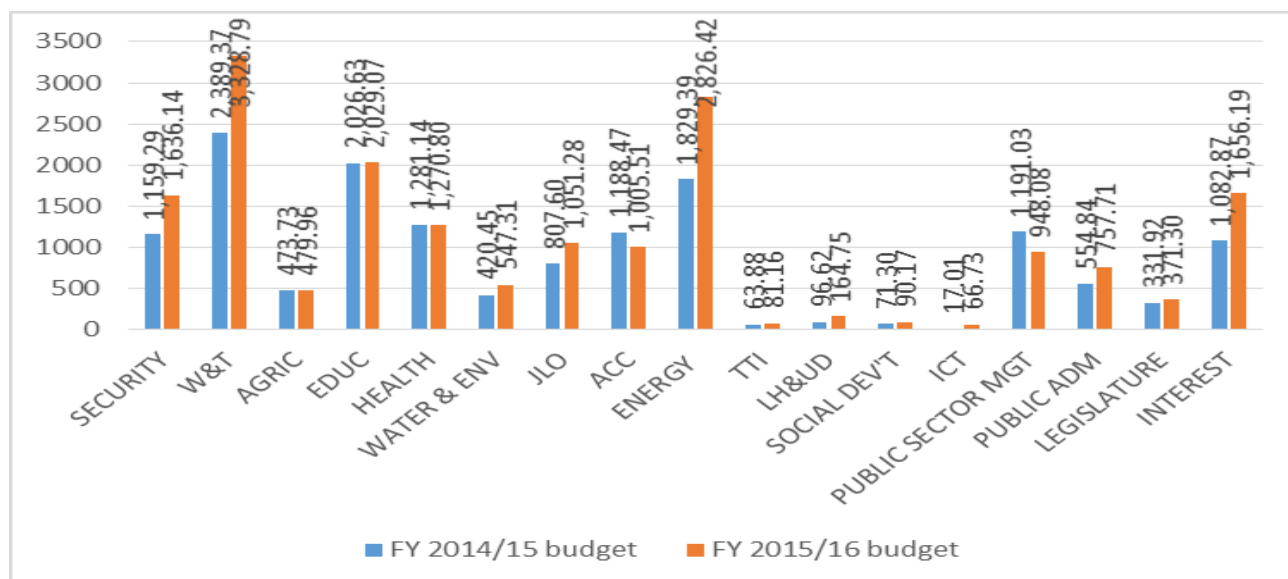
Table 3: Allocation for Selected Sector in the FY 2015/16 (UGX Billions)

Sector	Allocation FY 2014/15	Allocation FY 2015/16	Change in Allocation (billions)
Security	1,159.29	1,636.14	476.86
Public administration	554.84	757.71	202.86
Justice Law and Order	807.6	1,051.28	243.68

Sector	Allocation FY 2014/15	Allocation FY 2015/16	Change in Allocation (billions)
Works and Transport (which received the highest rise in allocation)	2,389.37	3,328.79	939.42
Energy and Mineral Development (which received the second highest rise).	1,829.39	2,826.42	997.03
Legislature	331.92	371.3	39.38

Source: Ministry of Finance Planning & Economic Development

Figure 2: Changes in Sectoral allocations between FY 2014/15 and 2015/16 (UGX Billions)

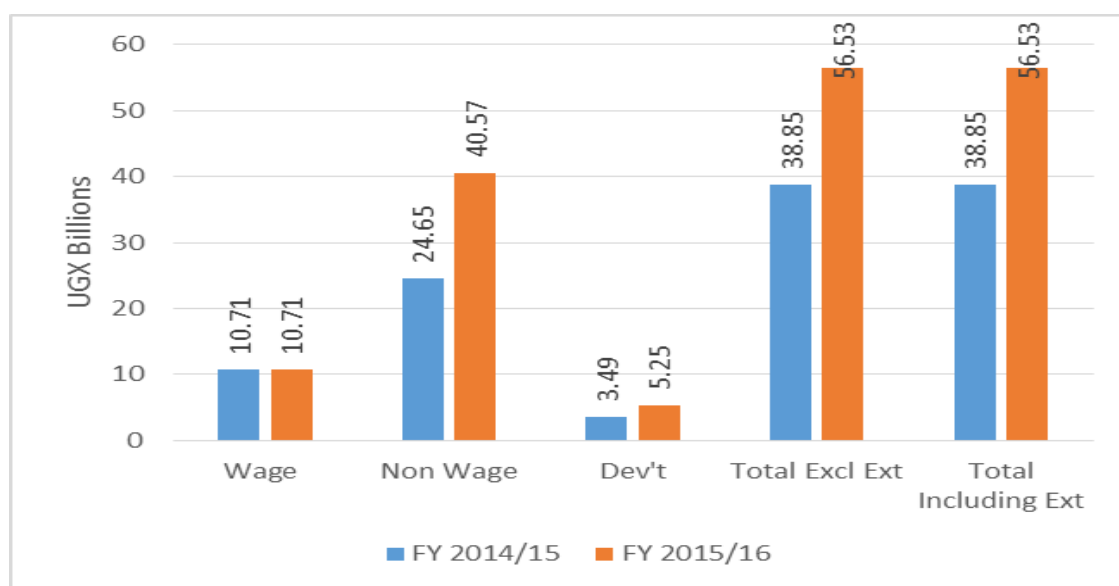


Source: Ministry of Finance Planning & Economic Development

3.2.1 Office of the President financial flow in the FY 2015/16

For the FY 2015/16, it's noticeable in figure 3 that the budget for the non-wage recurrent shot up astronomically from UGX 24.65bn to UGX 40.57bn; a 64.6% increment. It should be noted that funds for Non-wage finance day today activities of the office whose main beneficiary is the incumbent. In absence of new mandate or additional activities as adduced from both Ministerial policy statements and Sector Budget Frame Work, One can safely argue that this noticeable increment was a direct response to the needs and pressures affecting the office of the President who is at the same time a candidate.

Figure 3: Flow of funds in the Office of the President

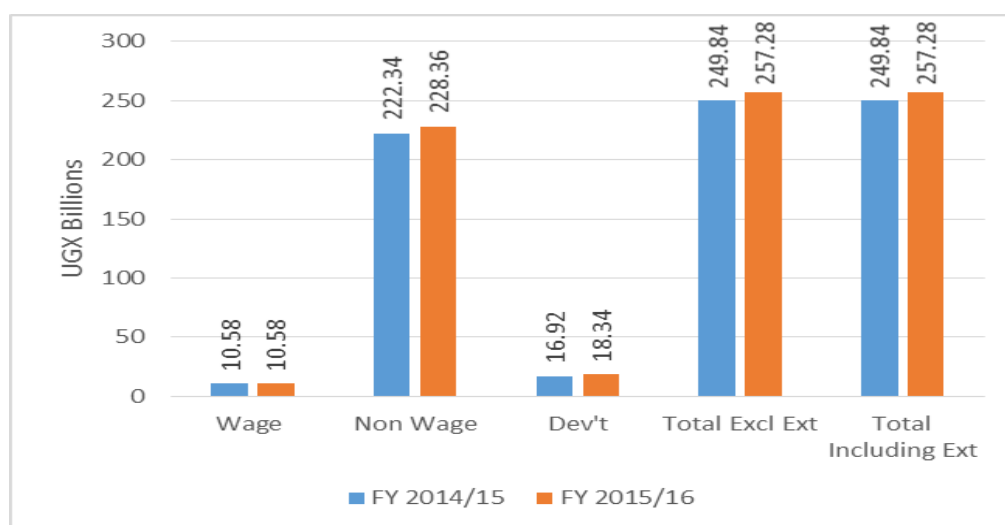


Source: Ministry of Finance Planning & Economic Development

3.2.2 State House financial flow in the FY 2015/16

The total budget for statehouse for 2015/16 rose from UGX 249.84bn in 2014/15 to UGX257.26bn of which UGX 228.36bn was Non-Wage. The budget for wage has been constant at UGX10.58bn over the two years in question but with an overwhelming allocation of non-wage which 88.6% of the total agency's budget. As can be seen from the table below, by the end of the second quarter, State House has used up 82% of their cash warrants – compared to sectors like agriculture who had only 22% spending on their non-wage budget. As will be shown later, a significant proportion of State House spending had been part of the supplementary budget that sectors such as health and agriculture did not receive.

Figure 4: State House Flow of funds in the FY 2015/16 budget

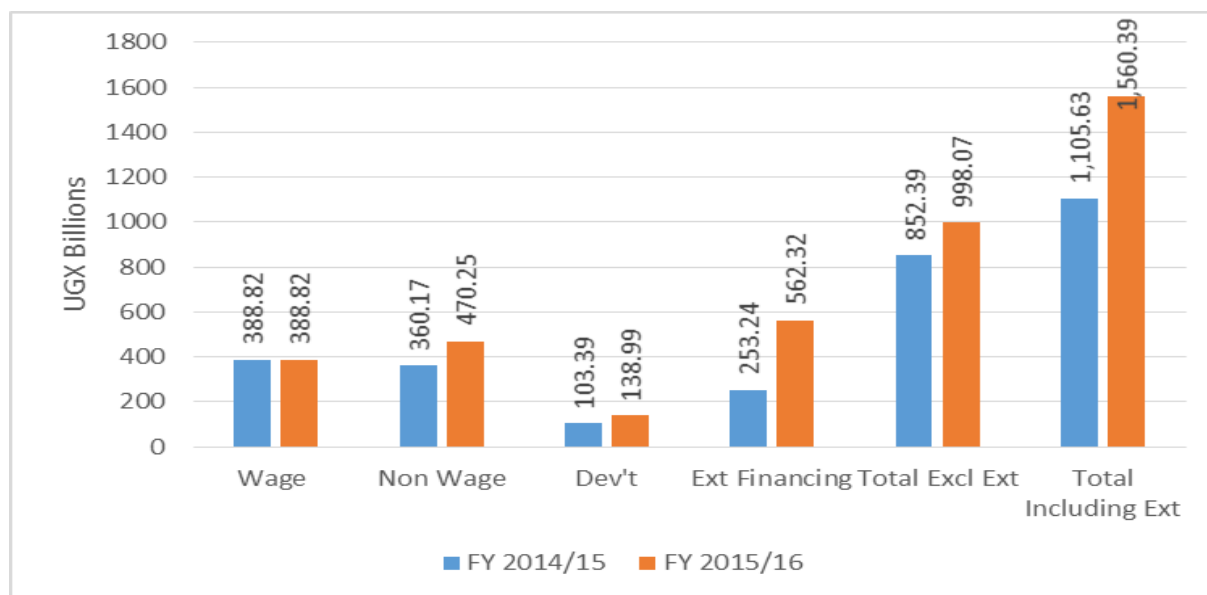


Source: Ministry of Finance Planning & Economic Development

3.2.3 Flow of Funds for Ministry of Defence FY 2015/16

The budget of Ministry of Defence also witnessed an increment in Non-wage and External financing. As evidenced by figure5. It should be noted that most activities this Ministry are classified and cannot easily interrogated to tease out funds that were or could be possibly diverted to fund elections.

Figure 5: Flow of Funds in the Ministry of Defence for the FY 2015/16

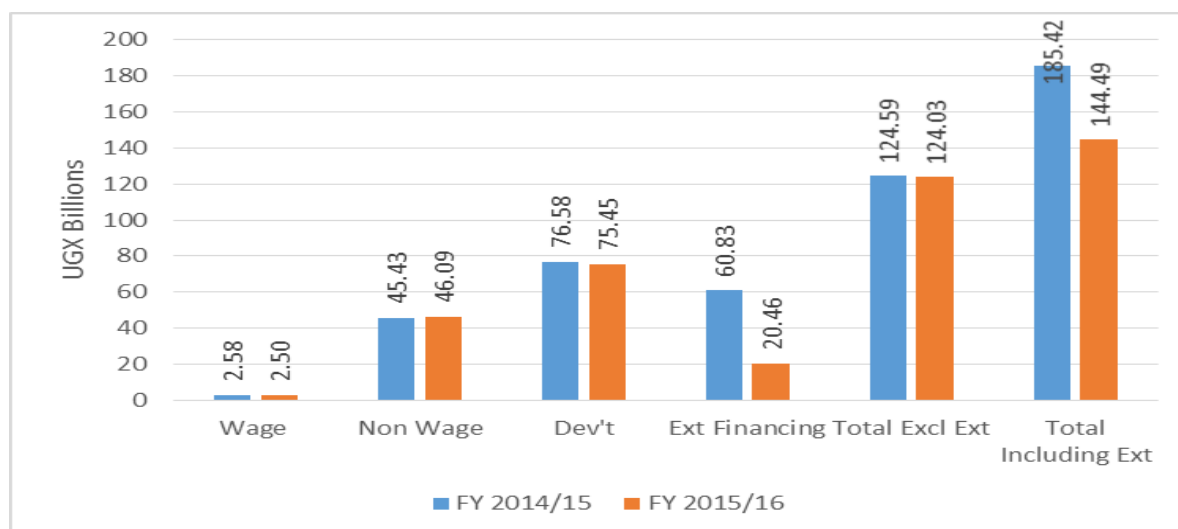


Source: Ministry of Finance Planning & Economic Development

3.2.4 Flow of Funds in the Office of the Prime Minister FY 2015/16

The budget for the OPM in the FY 2015/16 did not significantly change as regards the GoU resources. The witnessed change in resources was due to reduction in external funding from UGX 60.83bn to UGX 20.46bn.

Figure 6: Flow of funds for OPM FY 2015/16

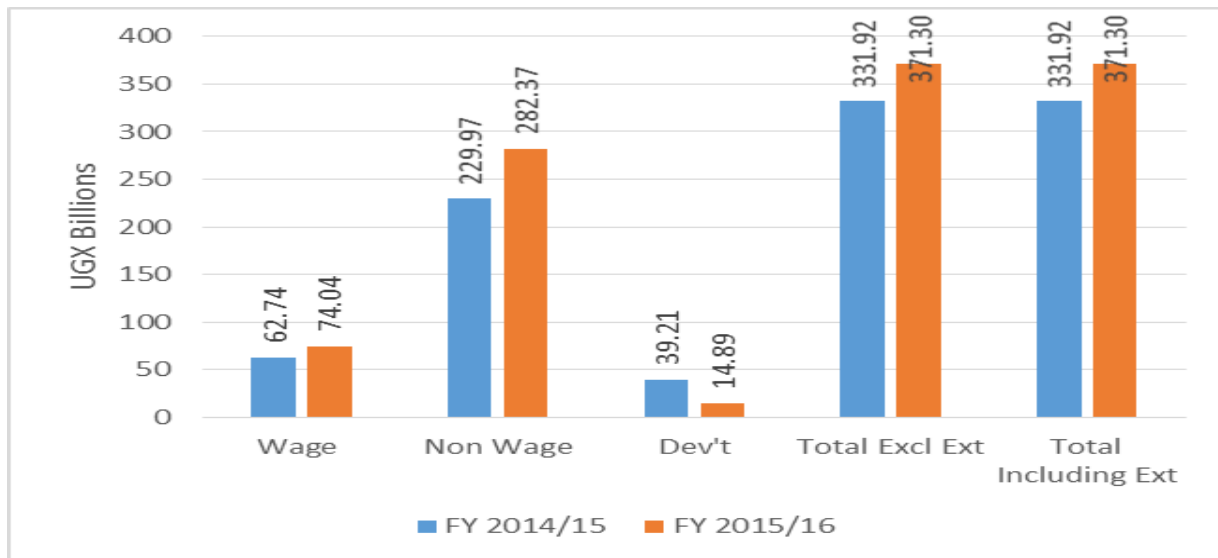


Source: Source: Ministry of Finance Planning & Economic Development

3.2.5 Flow of funds in Parliament FY 2015/16

In the FY 2015/16 the budget for the Parliament grew on account of increases in both the wage and non-wage budgets from UGX 62.74bn to UGX 74.04bn and from UGX 229.97bn to UGX 282.37bn in the FYs 2014/15 and 2015/16 respectively. This is responsible for the flow of allowances and other benefits to Members of Parliament most of whom are standing for re-election .

Figure 7: Flow of Funds in Parliament FY 2015/16



Source: Source: Ministry of Finance Planning & Economic Development

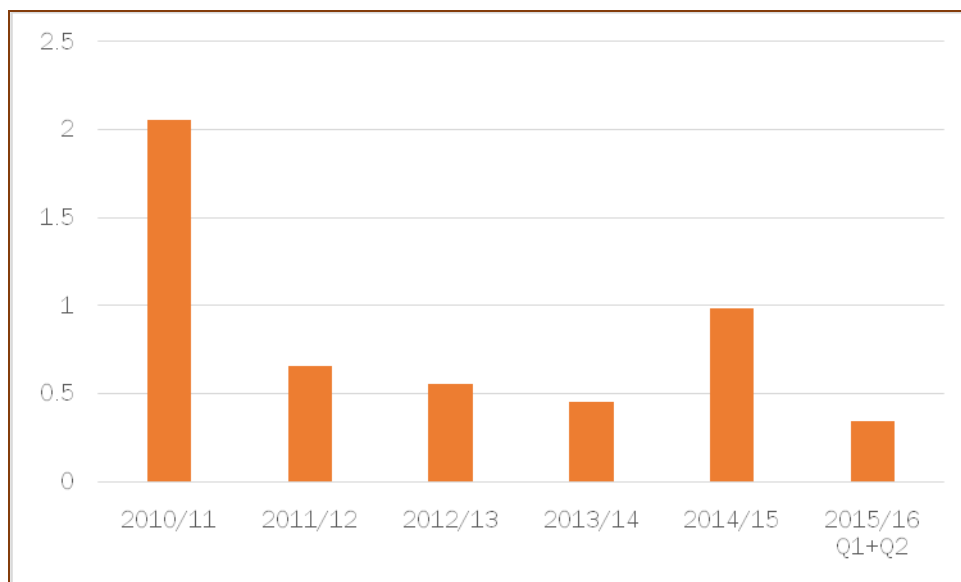
3.3 Analysis of Supplementary Budget Financing for the FY 2015/16

According to Section 25 (1) and (2) of the new Public Finance Management Act ‘where in respect of any financial year, it is found that the amount appropriated by an Appropriation Act is insufficient, a supplementary estimate showing the amount required shall be laid before Parliament, by a minister through a Supplementary Appropriation Bill’. For the purposes of Article 152 (2b) of the Constitution of Republic of Uganda (1995 Revised), the total sum of money that may be expended by Government for any purpose, in excess of the amount appropriated for a purpose shall not exceed the total amount of money appropriated to the contingency fund. However, the crux of the matter is that the same Article 156 of the Constitution of Uganda allows supplementary spending up to 3% without parliamentary approval but to report in four months with accountability of funds spent.

Overall assessment of Supplementary Budget Financing

In, accordance with Article 156 of the Constitution of the Republic of Uganda, Government is required to lay before parliament proposals for supplementary allocations to sectors the total of which shall not exceed 3% of the national budget. Analysis of supplementary funding for all sectors peaked at UGX 2.01Trillion for FY2010/11 the highest in Uganda’s history and while this reduced (partly with pressure from budget support development partners) it again rose sharply in FY 2014/15 to UGX 983 billion.

Figure 8: Trends in Supplementary Budget



Source: Analysis of data from Budget Office, Parliament of Uganda

It is important to add that Development Partners and Civil Society Organizations roundly condemned government for passage of the supplementary budget – mainly budget support development partners (Evaluation of Budget Support to Uganda Report DfID 2015). Great British,

Ireland and Norway threatened to withdraw aid to Uganda and government relented as seen in the bars after 2010/11. However, this the financial year before yet another election, there is a spike noted in the supplementary budget allocation as well. In the election year 2015/16 gone only two quarters, already UGX 346 billion has been approved as supplementary budget – almost equality the whole value for 2013/14. The questions is therefore if there is coincidental spending or withdraw of funds from consolidated fund to support public investments linked to mobilization of political support

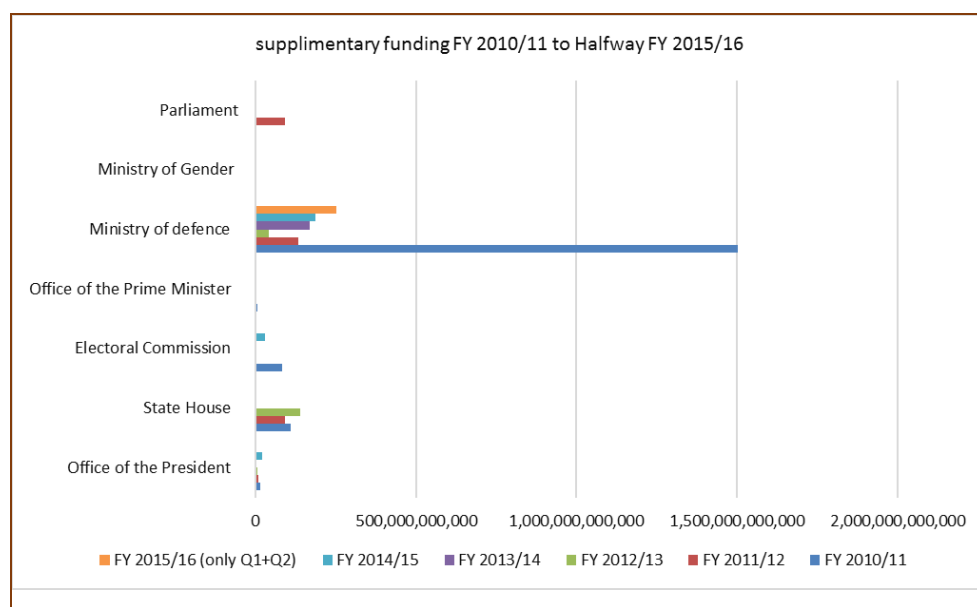
When asked for a comment, the Ministry of Finance Budget office noted that supplementary budget has been on check since 2011/12 and the volumes noted in 2014 were mainly for five special emergencies as elaborated below and not for campaigns as reported in the media:

- i. Shs.138bn went to the National ID card Project.
- ii. To Ministry of Defence to facilitate the national army's mission in neighboring South Sudan.
- iii. Shs.60bn went to Uganda police to help in recruiting 35,000 officers to man the 2016 elections
- iv. Support to the operationalization of key livelihood projects for youth and women under Gender and Social Development
- v. Support to the Electoral Commission in conducting biometric data and other preparations for the 2016 elections

3.3.1 Supplementary budget analysis for Ministry of Defence

Analysis of which sectors have received supplementary financing and looking at MDAs under study, reveals that Ministry of Defence received an astronomically high volume of supplementary funding just half way through the financial year at a tune of UGX 253 Billion shillings. It is also important to note that the Ministry of Defence has since 2010 been the single largest recipient of supplementary financing followed by State House among all MDAs as shown below

Figure 9: Supplementary financing to sectors in election year FY2015/16



Source: Budget Data Ministry of Finance Planning and Economic Development

While most spending under Ministry of Defence is defined as ‘classified’ there is substantial discontent within the Public Accounts Committee of Parliament and in the general public that such colossal sums to supplement its budget only 3 months into a financial year in an election calendar may have been diverted to support government and the ruling party in the presidential elections. Opposition politicians have decried high spending on defence – below is a reporting to Uganda based magazine THE INDEPENDENT by the Opposition Shadow minister for Finance

This is an election budget,”. “First of all, they increased the budget from Shs 14 trillion to Shs 18 trillion and later to Shs 24 trillion much later after the certificate of compliance had been issued. Why do we need Shs 1.5 trillion for UPDF (Uganda People’s Defence Forces), are we in the middle of a war?” **Godfrey Ekanya, the Shadow Finance Minister in Parliament**

Further analysis is made on supplementary financing for other sectors under the study below.

Table 4: Supplementary financing to key sectors (UGX)

Vote and Function	FY 2010/11 (billion)	FY 2011/12 (billion)	FY 2012/13 (billion)	FY 2013/14 (Billion)	FY 2014/15 (billion)	FY 2015/16 (only Q1+Q2) (billion)
(001) Office of the President	16.4	8.03	6.0	4.5	21.4	4.6
(002) State House	108.9	93.3	140.2	0	2,253	0
(102) Electoral Commission	83	0.441	0	0	30	0
(003) Office of the Prime Minister	5	0	0	0	4	1.3
(104) Ministry of defence	1,501	132.5	43	170	185.5	253
(018) Ministry of Gender	0	0	2	0	3.1	0
(104) Parliament		92.6	1.9	0		0

Source: Budget Data Ministry of Finance Planning and Economic Development

3.3.2 Ministry of Gender Labour and Social Development

Towards the middle the FY 2014/15, Ministry of Gender Labour and Social Development (the social development sector) received UGX 3 billion supplementary financing to support mainly the roll out of three key projects:

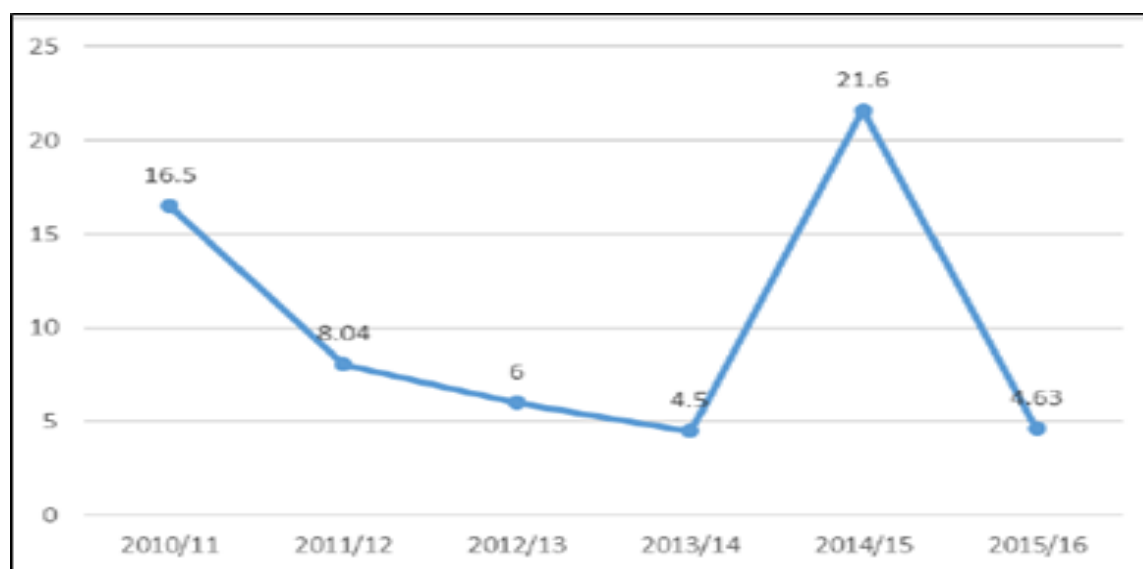
- i. The Youth Livelihood Programme (YLP) - which is financed initially from Government own resources (with a possibility of development partners' support in the future) targeting rural and urban poor youth with demonstrable capability to start and manage income generating enterprises. The initial budget estimate for the Rolling Programme is Uganda Shillings 265 billion in the next 5 years. At the end of its first year, it had disbursed UGX 15.4 billion shillings to the youth, sent out 120 motorcycles and 1,360 bicycles to district youth leaders for chairpersons and sub-county youth chairpersons respectively
- ii. The Uganda Women Entrepreneurship Programme (UWEP)– an initiative which began in the Financial Year 2015/16 designed to address the challenges women face in undertaking economically viable income generating projects including the limited access to affordable credit, limited technical knowledge and skills for business development, limited access to markets as well as information regarding business opportunities.
- iii. Social assistance Grants for Empowerment (SAGE) which rolled out after pilot in 15 districts to 20 districts in 2015/16 FY with 5 districts to be added on to the programme every year up to 2020.

Respondents to this report felt that there is a protracted timing of the roll-out of these programs and contestation of the roll out criteria – the selection of who benefits and the proximity in time of timing towards the general elections in 2016. It is surprising that the ministry would seek 3bn in 2014/15 to supplement a 265bn project just one year after its inception.

3.3.3 State House and Office of the Presidency

Analysis of flows of budget funds to statehouse and presidency besides shows that since 2010 the value of supplementary funding was at UGX 16.5 billion and while this reduced considerably since then rose drastically the year preceding the general elections in FY 2014/15 UGX 21.6 billion. In the current FY 2015/16 with only four months into the fiscal year up to December 31, 2015, Office of the President alone had received UGX 4.3 billion in supplementary budgetary allocation.

Figure 10: Supplementary Funding for Statehouse and Presidency (Billions)



Source: Consultant's Analysis of budget data (2015)

State House officials who chose anonymity but who spoke to this study mentioned that state house and the presidency are difficult to budget for due to high profile events that get organized when the Budget has already been approved. The President host high profile delegations from all over the world and you cannot predict how extensive the resources required would become State-House in FY 2013/14 obtained a record an extra UGX 139bn for 'emergency' expenditure, bringing its total budget for that year to UGX 204.4bn.

3.3.4 Office of the Prime Minister

In the FY 2014/15 the office of the Prime Minister received UGX 4 billion as supplementary financing and by the second quarter of the FY 2015/16, the institution had requested and obtained UGX 1.3 billion. The review of the Government Annual Performance Review report did not disclose the purpose to which the supplementary budget was spent as report on this expenditure has not yet been made to Parliament.

3.4 Other expenditures from the national treasury linked to political activities during FY 2015/16

3.4.1 Parliament

In what is viewed as a method to supplement incomes of MPs ahead of the 2016 presidential and parliamentary elections, Government extended UGX 100m to each Member of Parliament at the end of July 2014. Inasmuch as all MPs received the funds, it benefitted the ruling NRM party much more due to its majority membership in the house. Pressed to explain the payout, the Parliamentary Commission noted that the payout was fuel arrears and was paid directly to MP accounts by the Ministry of Finance. The computation was that in 2011 MPs received UGX 2,500 as a flat payout for a liter of fuel (irrespective of if the purchase was of diesel or petrol) and that the pump price had since risen to UGX 3,750.

However, the computation done by the analysis of this study deduced that for a flat travel distance of 60km in and outside Kampala on average, and the difference between the current rate and what it was in 2011, each MP would get an approximately UGX 46million compensation over 4 years and not UGX 100m **(8.57 (added liters) x 3750 (per liter) x365 (days) x4 (years)**. According to the Ministry of Energy figures the average rate for petrol was at 2,500 in August of 2011 and by July 2015 its 4 years and 1 month that had elapsed and not 5 years in the pay-out notice by the Parliamentary Commission.

In addition to this, Members of Parliament got their way in having their Parliamentary Commission to approve a 40% pay rise which was granted starting with the FY 2015/16 in a move widely believed was to strengthen the financial muscle of most incumbent MPs ahead of the primaries season that began in October 2015. The table below shows a track of payouts to Members of Parliament on the election year or years preceding elections.

Table 5: Payouts to Members of Parliament

Year	Reason for Payment
2005	UGX 50m to amend the Constitution and remove Presidential Term Limits
2011	UGX 20m to monitor NAADS Projects in their Constituencies
2013	UGX 5m each to consult their constituencies on the controversial Marriage and Divorce Bill
2014	UGX 27.7 billion increase in gratuity for MPs annually
2015	100m each as compensation arising out price fluctuation for fuels

Source: Parliament Watch Platform 2016

For 2015 payout to MPs in respect to compensation arising out of fuel price changes was the most contentious bearing in mind that these changes affected not only MPs but other entitled public officers. This no better way to call this other than election financing handouts to MPs which of course gave then an enhanced financial muscle in both Primary and General elections.

3.4.2 Electoral Commission

In July 2015 shortly after the passage of the Budget, Government unexpectedly released UGX 10 billion to the Electoral Commission (EC) for distribution to political parties represented in Parliament and the funds have already been deposited on political parties' bank accounts. In 2010, the Political Parties and Organizations Act 2005 (PPOA) was amended to insert Section 14(a) to provide for the use of government funds or other public resources to political parties or organisations represented in Parliament (b) in respect of elections funding shall be on equal basis and (c) normal day to day activities shall be based on the numerical strength of each party in

Parliament. The funds recently released to the EC are in relation to (c) but leaves out more than 50 MPs (Independents, UPDF) unaffiliated parties.

It is an established fact that democratic politics cannot function without substantial financial resources to fulfill satisfactorily their legitimate roles and success often depends on access to adequate funds. The reasons for public funding of political parties are generally to create a level playing field for political competition and to reduce potential sources of corrupt influences. However, there is an inconclusive debate over which form of political party funding; State funding or private funding would make political party campaigns and elections equitable, accountable and transparent.

3.5 Half year budget performance 2015/16

Another level of analysis conducted has been an assessment of warrants and cash limits against the non-wage approved budget across MDAs (but focusing on Defence, State house, Presidency, OPM, Social Development and Parliament). Looking from the table below, even with supplementary financing (and hence the revised budget) it is the MDAs that received the highest amount of supplementary financing from the national budget that have the highest percentage of payments to warrants. The State House and Ministry of Defence had by the end of the quarter received 94.6% and 80% respectively compared to 13% or 37% by the Electoral Commission or OPM for that comparison.

Table 3: Analysis of flows from the National Budget for Q1+Q2 of the FY 2015/16

VOTE AND FUNCTION	Total Revised Budget (Mn)	Total Cash Limits (Q1+Q2) (Mn)	Total Warrants (Q1+Q2) (Mns)	Total Payments (Q+Q2) (Mn)	% Warrant to Cash limit	% Payments to Warrants
001 Office of The President	117,132	66,545	64,545	47,042	96.99	72.88
002 State House	257,811	204,644	173,422	164,000	84.74	94.57
003 Office of The Prime Minister	127,032	79,148	79,148	29,821	100.00	37.68
004 Ministry of Defence	1,003,174	572,753	572,753	458,762	100.00	80.10
018 Ministry of Gender, L & S.D	79,599	25,079	25,079	18,913	100.00	75.42
102 Electoral Commission	295,580	193,055	193,055	25,520	100.00	13.22
104 Parliamentary Commission	371,30	196,368	196,351	143,115	99.99	72.89

Source: Ministry of Finance Planning and Economic development

CHAPTER FOUR: LOOPHOLES EXPLOITED TO MISUSE PUBLIC RESOURCES FOR CAMPAIGN FINANCING

4.0 Loopholes in the Legal Framework

Article 156 of the constitution allows supplementary spending up to 3% of the total budget of the respective financial year without parliamentary approval. However, under the recipient entity must report in four months after the expenditure has been made. This presents a loophole that the Public Finance Management Act 2015 sought to close but subjecting it to the contingency fund and with stringent principles.

There had been optimism that the new PFM Act would stem this problem only to have a review to this act that circumvents the oversight of parliament and use the central bank and treasury to draw money for supplementary budget without prior approval. One of the allegations is that such spending can be diverted away from core priorities to finance election campaigns. While the new Public Finance Management Act stipulates that when a general election is to be held, the government must publish a pre-election and a post-election economic and fiscal update detailing all election-related spending, critics say the effect of this requirement might not be of any consequence especially when the incumbent wins the elections.

While PFM Act of 2015 had purposed to constrain request for supplementary budget financing, a hasty reversal of the same Act hardly six months after its passage cased an amendment that now makes it easier for government to access supplementary funding without approval or sanction of Parliament. This has created a lot of discontent that government is seeking to bypass fiscal oversight and obtaining the funding directly from the central bank only to account to Parliament four months after appropriation and spending.

One respond to this survey wondered where the ruling NRM could have found the resources to finance an election campaign at a tune of UGX 121billion in just two months as depicted in the assertion below:

NRM has membership that can contribute to finance its elections. But a party that has fundraised for Party headquarters (the Movement House) for 30 years and could only raise 11.2 billion for that project, is it not puzzling that they have 121bn to spend in two months? (Respondent Name withheld)

Other recent media reports report that the ruling party NRM is has extended UGX 20m per to every constituent flagbearer of its party to rally to organize and mobilize for the NRM Presidential Candidate. Related to this, there is wide agreement especially among the civil society that state resources could have been channeled to support the NRM in organizing primaries, delegate's conference and supporting candidates at all levels.

4.1 Other media reports on electoral spending that complemented this study

There has been debate among CSOs and the private sector over the impact the current level of financing for elections will have on the macroeconomic framework. There is reporting that the 2011

elections were the most expensive in history and the 2016 elections will only get worse. In November last year, Bank of Uganda Governor Tumusiime Mutebile gave Ugandans a slight idea of what to expect when he stated that he was “misled” by the government into financing the 2011 elections, which essentially thrust the country into an economic abyss. Participants at the African Science Academies asked the governor to explain why the economy suffered unprecedented inflation levels in 2011 just after the general elections. In response, he stated that the money was passed on to the government through treasury bills. A month later, he told the Uganda Bankers Association annual dinner that he would not print any money to finance public expenditure. Indications in the current budget suggest that trillions worth of treasury bills are likely to be issued by the government to fund the massive budget, which comes with its own disadvantages (Source: *The Independent quoted in part*)

Table 6: Political Parties financial allocation from Electoral Commission in 2015/16 for elections

Political party	No. seats	Budget Allocation	% share
Forum for Democratic change	37	1,145,510,836	11%
National Resistance Movement	259	8,018,575,851	80%
JEEMA	1	30,959,752	0%
Conservative Party	1	30,959,752	0%
Uganda People’s Congress	10	309,597,285	3%
Democratic Party	15	464,396,285	5%
Total		10,000,000,000	100%

Source: Electoral Commission

A report released in January 2016 ACFIM showed that so far the 2016 general elections is the most expensive in Uganda’s history even two months before the polling day. Politicians at various levels have spent millions per month in the election and others estimate the cost per Member of Parliament to reach billions of shillings in some municipalities. The National Resistance Movement (NRM) is reported to have spent UGX 121 billion by end of December 2015 a month and half to the election. In the months of November and December alone all political parties reported to have spent UGX 49.6billion and UGX 88.1billion shillings respectively. The table below shows this breakdown.

Table 7: Spending in two months of the campaign by political parties

Political affiliation	November 2015	December 2015	Total
NRM	44,400,000,000	76,600,000,000	121,000,000,000
Independents	2,300,000,000	8,500,000,000	10,800,000,000
FDC	1,200,000,000	1,600,000,000	2,800,000,000
Go Forward	800,000,000	700,000,000	1,500,000,000
Democratic Party	400,000,000	200,000,000	600,000,000
UPC	200,000,000	200,000,000	400,000,000
Others	100,000,000	200,000,000	300,000,000
Total	49, 600,000,000	88,100,000,000	137,600,000,000

Source: ACFIM 2016

In the nutshell, political campaign finance has grown by 1,376% over what was provided by the electoral commission. Meaning that private financing and possibly public resources are part of the money being spent on this process. The next chapter looks at budget flows to trace the likelihood of this phenomenon.

4.2 Analysis of actual spending during elections

A report released in January 2016 by a Ugandan Civil Society Alliance for Election Campaign Monitoring has shown that so far the 2016 general elections is the most expensive in Uganda's history even two months before the polling day. Politicians at various levels have spent millions per month in the election and others estimate the cost per Member of Parliament to reach billions of shillings in some municipalities. The National Resistance Movement (NRM) is reported to have spent UGX 121 billion by end of December 2015 a month and half to the election. In the months of November and December alone all political parties reported to have spent UGX 49.6billion and UGX 88.1billion shillings respectively. The table below shows this breakdown.

Table 8: Election spending in November and December 2015

Political affiliation	November 2015 (billions)	December 2015 (billions)	Total (billions)
NRM	44.4	76.6	121
Independents	2.3	8.5	10.8
FDC	1.2	1.6	2.8
Go Forward	0.8	0.7	1.5
Democratic Party	0.4	0.2	0.6
UPC	0.2	0.2	0.4
Others	0.1	0.2	0.3
Total	49.6	88.1	137.6

Source: ACFIM 2016

CHAPTER FIVE: STUDY RECOMMENDATIONS

5.1 Recommendations

5.1.1 CSOs should push for further reforms in Public Finance Management

The current PFA has thwarted budget prudence and has ensured abuse of public resources in a manner that undermined oversight by parliament and other state authorities. The event that Government can seek and obtain supplementary funding while by-passing the approval of parliament is not in consonance with Article 156 of the Constitution. CSOs and the entire public should rally to call for amendment of the PFA to restore appropriation of supplementary funding to be approved by Parliament with a 2/3 majority vote.

5.1.2 Parliament should align election laws to promote fair competition and fiscal justice

The electoral commission act requires amendments that increase fairness. The act should include caps on election financing, thresholds on contributions to a candidate by individual, groups of individuals, companies, organizations, unions and even governments. Candidates also must disclose their contributors and source of contributions as part of public accountability. A law or regulation on election financing and reporting is needed if the EC Act is sustained. The current accountability mechanism for resources used for campaigns lacks the rigor enforce reforms.

5.2.3 Parliament should enforce the conditions for supplementary Budget approval and use

The Constitution allows for only 3% of national budget of the running financial year to the cap on the sum of all supplementary budget requests. This threshold was put in place to check government fiscal prudence, keep Uganda debt sustainability ratio in check and spur prudent fiscal planning. This should be adhered to and Parliament must task sectors to submit supplementary budget request ONLY in the last two quarters of the financial year and not before. This may require an amendment in both the budget act and the PFA. Development budget takes a whole fiscal year to prepare and under the NDP dispensation all sectors have medium term development strategies and plans. It is expected therefore that duty bearers should have known a cost implication of implementing government programs. Supplementing development budgets is irregular and should not be sustained under the current regulations. This will require an amendment to the PFA.

5.2.4 Review Section 27 (2) of the Presidential Elections Act

This report calls on Parliament to make amendments to Section 27 (2) of the Presidential Elections Act and ensure that it is not evoked when public officials use public resources for electioneering.

The Section states that:

Section 27 (2) of the Presidential Elections Act.... *A candidate who holds the office of President, may continue to use Government facilities during the campaign, but shall only use those Government facilities which are ordinarily attached to and utilized by the holder of that office.*

We recommend therefore that a politician who aspires for elective office must not use public resources in the first place. For the sensitive office like the office of the President, the incumbent who seeks to use the services of head of state should be billed by the Public service to be financed by the candidate's party and or from donations.

5.2.5 There is need to improve the legal framework so that public servants are paid under national service structure and salary scaling and upon periodic as opposed to adhoc reviews

Many respondents feel the Parliament of Uganda has used its powers as appropriator of public resources to push for the increment of their own salaries. There are also severe variances in salaries for various agencies, NEMA, UCC, KCCA, and NITA-U etc. with scales that do not match the public service pay schedule and scales. These discrepancies cause disadvantages to Ugandans outside public service to enter politics. Political figures occupying these MDAs use their resources to entrench themselves 'in the system' and make it harder for competent personalities to fairly compete during elections for political office

5.2.6 Prohibit Government from undertaking large procurements in less than half years before election period

Many respondents felt that money is siphoned out of government by way of inflated or bogus contracts. This can only be remedied by having a law in place to regulate procurements of goods and services in pre election period. Such a law would profit government from undertaking contracts involving colossal sums of money.

5.2 Conclusions

The research has been able to point out spikes in allocation of resources to the sectors of focus in the election period. We come up with recommendations if implemented will go a long way to deal suspicions in the direction that public funds are misused by MDA during election period.

ANNEX 1: REFERENCES

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