

**IN THE FOURTH SESSION OF THE SIXTH PARLIAMENT
OF THE FOURTH REPUBLIC OF GHANA**

**REPORT OF THE
PUBLIC ACCOUNTS COMMITTEE**

ON THE

**PERFORMANCE AUDIT REPORT OF THE
AUDITOR-GENERAL**

ON

**PHASE ONE OF THE LAND
ADMINISTRATION PROJECT (LAP-1)**

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1.0 INTRODUCTION

The Performance Audit Report of the Auditor-General on Phase One of the Land Administration Project (LAP-1) was laid in Parliament on Wednesday, 20th November, 2013, in fulfilment of article 187(2) of the 1992 Constitution of the Republic of Ghana.

Pursuant to Order 165(2) of the Standing Orders of the Parliament of Ghana, the Rt. Hon. Speaker referred the Report to the Public Accounts Committee for consideration and report.

2.0 PROCEDURE

2.1 To consider the Report, the Committee met with representatives of the Ministry of Lands and Natural Resources and the underlisted Departments and Agencies:

- i. Lands Commission;
- ii. Office of the Administrator of Stool Lands (OASL); and
- iii. Town and Country Planning Department.

Officials of the Judicial Service and the Department of Land Economy of the Kwame Nkrumah University of Science and Technology (KNUST) were also present at the Committee's sittings to assist in its deliberations.

2.2 The witnesses who appeared before the Committee subscribed to the Oath of a Witness and answered questions relating to the issues raised by the Auditor-General in his Report.

2.3 The Deputy Auditor-General, Mr. Yaw Agyei Sifah, and a Technical Team from the Audit Service were also present at the Committee's sittings to offer clarifications on the queries/issues raised in the Auditor-General's Report.

3.0 **ACKNOWLEDGEMENT**

The Committee is grateful to all officials who were present at the Committee's sitting to assist in its deliberations. The Committee is also grateful to the Deputy Auditor-General and his technical team for their immense assistance to the Committee throughout its deliberations on the Report.

The Committee further extends its appreciation to the German International Cooperation (GIZ) and the United States Agency for International Development (USAID) for supporting the activities of the Committee and the media for broadcasting the proceedings of the Committee.

4.0 **REFERENCE DOCUMENTS**

The Committee made reference to the following documents during its deliberations:

- i. The 1992 Constitution of the Republic of Ghana.
- ii. The Standing Orders of the Parliament of Ghana.
- iii. The Financial Administration Act, 2003(Act 654).
- iv. The Public Procurement Act, 2003 (Act 663).
- v. The Audit Service Act, 2000 (Act 584).
- vi. The Internal Audit Agency Act, 2003 (Act 658).

5.0 **BACKGROUND**

Phase One of the Land Administration Project (LAP-1) was initiated by the Ministry of Lands and Natural Resources in the year 2003. It is part of a long-term (15 to 25 years) Land Administration Reform Programme intended to implement policy actions recommended by the National Land Policy (NLP, 1999) to deal with challenges in the land sector such as inadequate policy and legal framework, fragmented

institutional arrangements and weak institutional capacity on the part of land sector agencies, among others.

As part of the efforts to deal with the challenges, the Government of Ghana and various Development Partners approved an amount of US\$55.05 million for the Ministry of Lands and Natural Resources (MLNR) for the implementation of LAP-1 from year 2003 to year 2008.

The initial objective of LAP-1 was to “develop a sustainable and well-functioning land administration system that is fair, efficient, cost effective, decentralised and that enhances land tenure security” through:

- Harmonisation of the Land Policy and Regulatory Framework for Sustainable Land Administration;
- Institutional reform and development; and
- Improvement in land titling, registration, valuation, land use planning and information systems.

Stakeholders of LAP-1 however realised in the year 2006 that the objective of LAP-1 was over ambitious and could not be attained within the project period. The objective was therefore modified as, “*to undertake land policy and institutional reforms and key land administration pilots for laying the foundation for a sustainable decentralised land administration system that is fair, efficient, cost effective and ensures land tenure security*”. In addition, the project period for LAP-1 was extended from the year 2008 to the year 2011.

6.0 PURPOSE AND SCOPE OF THE AUDIT

The purpose of the audit was to determine the extent to which MLNR had laid the foundation for a sustainable decentralised land administration system in the areas of harmonising land policies,

undertaking institutional reforms and implementing key land administration pilot projects in Ghana.

The audit focused on activities carried out by MLNR in the harmonisation of land policies, institutional reforms and implementation of key land administration pilot projects in Ghana from the year 2003 to year 2011. The audit was carried out from August 2011 to April 2013.

7.0 **OBSERVATIONS AND RECOMMENDATIONS**

7.1 Completion and implementation of the Land Bill (LB) and Land Use and Planning Bill (LUPB)

According to the Auditor-General, LAP-1 Baseline Monitoring and Evaluation Report and Project Implementation Manual required MLNR to complete the review of the existing 166 land related policies, laws, customs, regulations and case laws that were obsolete and/or irrelevant, and implement them. The process of review was to involve policy and legislative reviews and drafting of new legislation for approval of Cabinet and Parliament.

The audit revealed that though MLNR reviewed the existing land laws and proposed a Land Bill and a Land Use and Planning Bill, it was unable to complete the drafting of the Bills for the approval of Cabinet and Parliament.

Officials of MLNR informed the Committee that MLNR could not complete the drafting of the Bills for the approval of Cabinet and Parliament because the Ministry had to modify its initial concept of developing a composite Land Bill to take care of both land administration and land use planning. Consequently, the composite Bill had to be split into three (3) separate Bills as follows:

- a. The Land Administration Bill (which was later transformed into the Lands Commission Act 2008 (Act 767));
- b. The Land Bill; and
- c. The Land Use and Planning Bill.

Officials of MLNR further informed the Committee that the processes involved in the drafting of the Land Bill and the Land Use and Planning Bill were not properly outlined at the initial stages. As a result, MLNR had to engage various stakeholders including the Parliamentary Committee on Lands and Forestry and the National House of Chiefs at workshops and meetings for their inputs. Following the consultations, MLNR developed a draft Land Bill which is being refined for onward transmission to Cabinet and Parliament.

With respect to the Land Use and Planning Bill, officials of MLNR informed the Committee that the Draft Bill has been completed and forwarded to the Ministry of Environment, Science, Technology and Innovation for onward submission to Cabinet for approval.

They assured the Committee that the two (2) Bills would be presented to Parliament for passage during the implementation of LAP-2.

The Committee further noted that despite the fact that MLNR could not ensure the passage and implementation of the two (2) Bills, the Ministry spent an amount of US\$816,883 on the activities relating to the drafting of the Bills. This represents a 317 per cent increase of the initial budgeted amount of US\$196,000.

Officials of the Ministry explained that the budgeted figure of US\$196,000 increased to US\$816,883 as a result of elaborate consultations and processes that had to be followed in the course of the drafting of the Bills. Also, the Ministry had to engage the services of a legal expert and international and local consultants for the Project.

The Committee was not pleased with the level of commitment MLNR attached to ensuring that the two (2) Bills were presented to Cabinet for approval and to Parliament for consideration and passage. The Committee therefore recommends that MLNR should:

- collaborate with the Ministry of Environment, Science, Technology and Innovation to ensure that the draft Land Use and Planning Bill is submitted to Cabinet for approval and Parliament for consideration and passage as early as possible.
- as a matter of urgency, come up with clearly defined procedures (with timelines) to complete the drafting of the Land Bill and also put measures in place to ensure that the Bill is presented to Parliament within the shortest possible time.

7.2 Clearance of Backlog of Land Cases in the Courts

The Committee observed that MLNR was to ensure the settlement of a backlog of 35,000 land cases pending before the courts under LAP 1. The Committee however noted that MLNR reduced the number of land cases from 35,000 to 7,120.

Both the Acting Director of the Judicial Service and the Chief Director of MLNR explained that the figure of 35,000 being the backlog of land cases pending before the courts was only an estimate since the Judicial Service did not have records on all land cases. However, following a census conducted by the World Bank, a total of 7,122 land cases of different categories were found to be pending before the High and Circuit Courts of the country.

According to the Acting Director of the Judicial Service, “backlog of land cases” as per the definition by the Judicial Service, means “land cases that have been in the court books for twenty-four (24) calendar

months without action”. Thus, out of the 7,122 land cases identified, 2,887 cases were actually backlogged. At the end of LAP-1, a total of 2,820 of the identified backlog land cases had been cleared.

Notwithstanding the efforts made by MLNR and the Judiciary to clear the backlog of land cases, the Committee could not understand why the Judicial Service was unable to provide the Project with the actual number of backlog of land cases but had to depend on a survey by the World Bank to arrive at the exact figure.

The Committee therefore recommends that the MLNR should:

- deepen its collaboration with the Judicial Service to ensure that the remaining backlog of land cases are cleared by the Judicial Service as early as possible.
- ensure that a Desk is set up in the Land Sector Agencies, preferably the Survey Department, to handle references for judgements in land cases in order to keep MLNR abreast with land cases pending before the courts.

The Committee further recommends that the Judicial Service should put measures in place to document all backlog of land cases pending before all the courts in the country.

7.3 Inventory Exercise to Establish a Database on the Status of State Acquired/Occupied Lands

MLNR was required by the Project Implementation Manual of LAP-1 to undertake an inventory of State acquired/occupied lands in the country to enable the State to:

- a. develop a policy on compensation;
- b. determine the total size of State acquired/occupied lands; and
- c. determine outstanding compensations on lands acquired/occupied.

The Committee noted that MLNR reviewed downwards, the target of the inventory exercise which was originally meant to cover the entire country, to fifty (50) Districts. Again, the initial budget for undertaking the exercise across the whole country was US\$195,100. However, MLNR spent an amount of US\$ 2,306,267 (an increase of 1082% of the initial budget) on forty-three (43) out of the reviewed target of fifty (50) Districts.

Officials of the Ministry explained that the initial target was reviewed downwards to fifty (50) Districts because during the implementation, it became obvious that the target of covering the entire country was over ambitious and could not be achieved within the Project period. Again, the inventory exercise which was initially intended to be a desktop exercise was to involve a head count of State acquired/occupied lands. However, during implementation, the strategy was revised to include fieldwork and the involvement of the private sector. This resulted in an increase in the estimated expenditure.

The Committee is of the view that the reduction in the scope of the inventory from fifty (50) Districts to forty-three (43) Districts should have resulted in cost savings, instead of the massive increase in expenditure. Despite the amount spent, MLNR is yet to put in place a policy on compensation for lands acquired by the State.

The Committee therefore recommends that MLNR should:

1. put in place realistic measures to carry out the inventory exercise to determine the total size of State acquired/occupied lands;
2. finalise the analysis of the data it captured during the inventory exercise conducted in the 43 districts;
3. determine outstanding compensation to be paid on such lands;

4. as a matter of urgency, identify and compile the number of state acquired/occupied lands in the country in the remaining seven (7) Districts; and
5. complete the development of the Policy on Compensation.

7.4 Completion and Implementation of Policy Studies

As required by the Project Implementation Manual, MLNR was to undertake policy studies in the underlisted five areas to enhance land administration in the country:

- i. Land Tenure Registration.
- ii. Divestiture of vested Lands.
- iii. Finance and Fee Structure in land administration.
- iv. Gender analysis of land rights and administration.
- v. Performance of customary land authorities.

The Committee observed that MLNR reviewed and reduced the policy studies from five (5) to four (4). The revised policy studies to be carried out were:

- a. Vested and de-vested lands in the Upper East, Upper West and Northern Regions to help in divesting lands in other parts of the country.
- b. Finance and Fee Structure in land administration to clear duplications, identify new areas for fees, possibly increase certain charges and rationalise the issue of self-financing of public Land Sector Agencies (LSAs).
- c. Gender Strategy for Land Rights and Administration.
- d. Assessment of land rights and vulnerability in Customary Land Secretariats (CLSs) (Kete Krachi, Dormaa Ahenkro and Builsa

North) in order to improve security for the vulnerable in land tenure in the south, middle and northern parts of the country.

The Committee further observed that out of the four policy study areas outlined above, MLNR:

1. completed and implemented the assessment of land rights and vulnerability in CLSs in Kete Krachi, Dormaa Ahenkro and Builsa North;
2. completed the Gender Strategy for Land Rights and Administration but could not implement it because it was completed when the Project was about to end. The Ministry has decided to implement it under LAP-2.
3. failed to complete and implement the study on vested and de-vested lands in the Upper East, Upper West and Northern Regions of the country. Therefore, MLNR contracted the Department of Land Economy of KNUST to carry out the study and produce an Inception Report and a main Report within three months at a cost of GH¢34,828.80. Meanwhile, MLNR paid a mobilisation of GH¢8,874.27 to the contractor without demanding a mobilisation guarantee from the contractor. Additionally, the contractor delayed in submitting the Inception Report because the Ministry did not supervise the contractor to work within the stipulated period and to complete and deliver the main Report.
4. could not carry out the study on Finance and Fee Structure for LSAs owing to delays in restructuring of LSAs which was to form the basis of the study.

Surprisingly, the Committee noted that MLNR spent an amount of US\$1,354,606 instead of an amount of US\$293,200 which was

budgeted for the completion and implementation of the assessment of land rights and vulnerability in CLSs in Kete Krachi, Dormaa Ahenkro and Builsa North and the completion of the Gender Strategy for Land Rights and Administration.

Officials of MLNR accepted the Committee's observations and explained that with respect to the study on "Vested and De-vested Lands", the Ministry did not engage the Department of Land Economy of KNUST as a contractor. Rather, the activity was undertaken as a collaborative research among the Ministry, the Department of Land Economy and the Centre for Land Studies of KNUST. Thus, the researchers were entitled to per diems/daily sustenance allowances and other reimbursable expenditure. Based on the proposal and budget submitted by the Department, the Ministry paid the mobilisation of GH¢8,874.27 to the Department. Therefore, there was no need for the Department to provide a mobilisation guarantee.

The Head of the Department of Land Economy of KNUST admitted that the Department was paid an amount of GH¢8,874.27. He informed the Committee that out of the said amount, the Department conducted the field work and presented an Inception Report and expenditure for the activity totalling GH¢7,640.00 to MLNR. He indicated that the outstanding balance of GH¢1,234.00 is in the University's account.

It was obvious from the Committee's deliberations that MLNR did not attach any commitment to the completion and implementation of the policy studies. The Committee recommends that MLNR should put measures in place to ensure that:

- the strategies in the Gender Studies are implemented under LAP-2;
- the study on vested and de-vested lands is carried out and implemented;

- the study on the Finance and Fee Structure for the restructured LSAs is carried out and implemented under LAP-2;
- the contractor engaged to conduct the studies work within the stipulated period granted them; and
- as a matter of urgency, the outstanding balance of GH¢1,234.00 is recovered from the Department of Land Economy of KNUST.

7.5 Strengthening of Customary Land Administration

Under LAP-1, MLNR was required to strengthen customary land administration to improve demarcation, allocation, documentation and record keeping on land transactions to reduce multiple sales and litigations at the customary level. Thus, the Ministry was expected to:

- a. Establish fifty (50) Customary Land Secretariats (CLS) (this was later reviewed downward to thirty [30]).
- b. Resource the Secretariats with office equipment and train staff.
- c. Create a CLS unit at the national level to coordinate, monitor and supervise the activities of all CLSs and provide them with technical support in the form of advice.

The Committee observed that MLNR established thirty-seven (37) CLSs at the end of LAP-1, although it had reduced the target to thirty (30). MLNR also provided CLSs with office equipment for their operations and had staff of CLS trained in land management and administration, record and book keeping, Alternative Dispute Resolution (ADR) and sustainability of the CLSs during LAP-1. Despite the training of members of staff in ADR, CLSs were not using ADR to resolve land litigations, due to the high rate of attrition of staff of CLSs.

The Committee also observed that MLNR unofficially tasked OASL with the responsibility of coordinating and supervising the activities of CLSs after LAP-1 which, according to the Auditor-General, was not being done.

Officials of MLNR informed the Committee that the CLS component of LAP-1, together with all logistics and resources, was formally handed over to OASL when the contract of the Customary Land Administration Unit at the MLNR expired.

The Administrator of OASL also informed the Committee that hitherto, the Customary Land Administration Unit at the MLNR (which was being handled by consultants) was responsible for coordinating and supervising the activities of CLSs. However, following the expiration of the contract, that responsibility, together with the necessary logistics and resources was handed over to the OASL by MLNR. The Administrator indicated that OASL has continued to receive resources from the MLNR towards the coordination and supervision of CLSs under LAP-2.

The Committee recommends that MLNR should:

- establish the remaining 13 of the targeted 50 CLSs;
- establish a CLS unit at the National level and put in place measures to ensure its continuous operation.
- put measures in place to address the high attrition rate of members of staff who have been trained in ADR;
- establish more CLSs in other parts of the country so that the improvements in customary land administration achieved in the 37 CLSs will be replicated.

7.6 Design and implementation of the uniform computerised Land Information System (LIS) for Land Sector Agencies (LSAs)

Per the Project Implementation Manual, MLNR was required to design and implement a uniform computerised LIS to record basic land information for easy accessibility by LSAs and to train members of staff of LSAs to operate the LIS.

The design and implementation of the uniform computerised LIS was to eliminate the duplications and inaccuracies in the manual/hard copy of LISs that existed before LAP-1 as each of the LSAs collated land information separately. It was also to reduce multiple registration of lands which often resulted from the separate collation of land information by the various LSAs, among others.

The Committee noted that MLNR did not complete the design and implementation of the uniform computerised LIS for LSAs but was able to train thirteen (13) officers from LSAs to operate the LIS.

Officials of MLNR explained that the Ministry could not complete the design and implementation of the uniform computerised LIS for LSAs because of some challenges encountered in the preparation of a comprehensive Terms of Reference that would guide the development of the LIS. As a result, the scope of the assignment to be undertaken was not comprehensive and detailed. This resulted in a series of misunderstanding about the scope of work to be undertaken by the contractor, leading to a number of extensions of the project completion date. Subsequently, the Ministry changed the strategy for the design and the implementation of LIS in LAP-2.

Officials of MLNR assured the Committee that the lessons learnt from the earlier exercise have informed the development of the current Ghana Enterprise Land Information System (GELIS) by the Ministry.

The Committee recommends that MLNR should ensure that GELIS is implemented under LAP-2.

7.7 Demarcation and Registration of Pilot Customary Boundaries

The MLNR was required to carry out a pilot demarcation and registration of fifty (50) customary boundaries under LAP-1. The

exercise was intended to resolve boundary disputes and establish the root titles of customary lands in the pilot areas so that the lands could be accessed for development by interested parties.

The Committee observed that MLNR reviewed the target from fifty (50) to ten (10) Customary Boundary Demarcations (CBDs). Again, MLNR did not complete the settlement of disputes and survey of the ten (10) CBDs that it had targeted. This is due to the failure of MLNR to conduct feasibility studies in the pilot areas to establish the readiness of the various traditional authorities to assist in resolving the boundary disputes. Furthermore, MLNR did not register any of the ten (10) pilot boundaries because it did not complete the settlement of land disputes and survey of the boundaries which were necessary for the commencement of the registration exercise. Despite the above, MLNR spent an amount of US\$1,876,522 instead of an amount of US\$1,760,900 budgeted for the exercise.

Officials of MLNR informed the Committee that the Ministry was unable to complete the demarcation and registration of the targeted customaries boundaries because the Ministry encountered problems with respect to boundary disputes. They indicated that most of the disputes are in court and until such cases are resolved, it would be difficult for the Ministry to get the parties on board to enable the Ministry proceed with work on the demarcation and registration exercise. Again, the Ministry spent above the initial budget because during the implementation of the activity, various issues emerged which were not initially budgeted for.

The Committee recommends that the MLNR should put measures in place to:

- carry out a feasibility study and establish the readiness of beneficiary traditional authorities to collaborate in resolving boundary disputes;

- collaborate with the Judicial Service to resolve the various boundary disputes and demarcate the boundaries under LAP-2; and
- ensure that all the pilot boundaries are registered under LAP-2.

7.8 Registration of Properties under the Pilot Systematic Land Titling (SLT)

The MLNR was required to carry out Systematic Land Titling (SLT) in selected pilot areas in Accra and Kumasi to register 50,000 parcels of land (initially 300,000 parcels of land). The SLT was supposed to cover both legitimately acquired State lands, some of which have been sold or transferred to individuals, organisations and firms, and customary lands owned by private individuals and firms.

The Committee noted that MLNR was able to undertake the exercise on only 10,860 out of the targeted 50,000 parcels of land. Out of the 10,860 parcels of land surveyed, 5,760 have been cleared for registration but are yet to be registered with the Land Title Registry, as at the end of the year 2012. The remaining 5,100 parcels are still awaiting clearance for registration due to the unavailability of a complete set of data on them.

The Committee further noted that MLNR budgeted an amount of US\$2,332,600 for the registration of the initial targeted 300,000 parcels of land. However, the Ministry spent US\$1,717,761 in undertaking the exercise on 10,860 parcels of land.

Officials of MLNR informed the Committee that the Ministry identified some areas in Accra, such as Cantonments, Labone, Dansoman, among others, as pilot areas for the systematic titling. The Ministry set up satellite offices at the doorsteps of the property owners, procured information vans to sensitise property owners in the various locations

selected for the exercise and conducted stakeholder engagements in the communities.

Although the parcels of land were surveyed, a number of challenges were encountered by the Ministry in the collection of additional information which impeded the final registration of such parcels of land. For instance, in the State land areas selected for the exercise, MLNR noted that most of the properties had been rented to tenants who did not have sufficient information to facilitate registration. For the indigenous areas, the perception was that the State was using the exercise as a pretext to take over their parcels of land. Thus, they were reluctant to provide the needed information. Further, as a result of the multiple nature of land holdings in some of these areas, there were conflicts regarding which property should be registered.

To curb the challenges in the registration of lands, officials of MNLR informed the Committee that the Lands Commission is establishing Customer Service and Access Units (CSAUs) under LAP-2 in seven (7) pilot areas. This will reduce client/staff contact and frustrations, improve transparency through improved access to information on fees, processes, requirements, among others, and to ensure that the turnaround time for land registration and title issuance is reduced to about three months. The seven (7) pilot areas are:

- i. Bolgatanga Regional Office.
- ii. Tamale Regional Office.
- iii. Savelugu District Office.
- iv. Koforidua Regional Office.
- v. Sekondi Regional Office.
- vi. Accra Regional Office with satellite CSAUs in Amasaman, Tema and Weija).
- vii. Winneba District Office.

The Committee recommends that MLNR should:

- put measures in place to gather the necessary data as early as possible from owners of the remaining 5,100 parcels of land for approval and registration.
- ensure that either the State or the owners of the approved 5,760 parcels of land pay for the cost of the registration.

The Committee further commends MLNR for its efforts in ensuring that the cumbersome nature of registration of properties is eliminated and recommends that sanctions should be imposed on property owners who fail to register their properties within a specified timeframe to be determined by the Lands Commission.

8.0 **CONCLUSION**

LAP-1 was initiated by MLNR as part of a long term (15 to 25 years) Land Administration Reform Programme. The Committee noted that during the implementation of LAP-1, MLNR reviewed the existing land laws and proposed a Land Bill and a Land Use and Planning Bill but was not able to complete the drafting of the two (2) Bills for passage by Parliament. MLNR was also not able to fully undertake institutional reforms and implement key land administration projects.

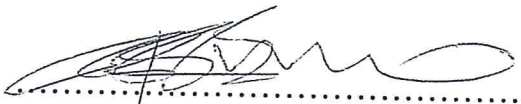
Of grave concern to the Committee was the situation where MLNR reduced most of the initial targets set under LAP-1 but increased the budget allocations for the implementation of the reviewed targets. Unfortunately, despite the increased budgetary allocations, MLNR could not complete the revised targets.

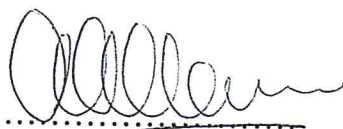
It was obvious during the Committee's deliberations that MLNR was unable to meet targets set because it failed to carry out in-depth feasibility studies to identify and analyse activities that were necessary to enable MLNR meet the various set targets.

The Committee therefore urges MLNR to ensure that targets that were not met under LAP-1 are met during the implementation of LAP-2. MLNR should also deepen its collaboration with the Judicial Service during the course of the implementation of LAP-2.

Finally, the Committee recommends to the House to adopt its Report on the Performance Audit Report of the Auditor-General on Phase One of the Land Administration Project (LAP-1).

Respectfully submitted.


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HON. KWAKU AGYEMAN-MANU
(CHAIRMAN, PUBLIC ACCOUNTS
COMMITTEE)


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ABIGAIL ABA ANSO
(CLERK TO THE COMMITTEE)

