

JUDICIAL PERFORMANCE IMPROVEMENT PROJECT (JPIP)

2016/17 SECOND QUARTER PROGRESS REPORT

1.0 Introduction

This progress report is for October to December 2016. It highlights the achievements realized by the project during the second quarter of the 2016/17 financial year. The project's objective is to improve the performance of the Judiciary to provide its services in a more effective and accountable manner. It therefore supports the Judiciary strategy on Sustaining Judiciary Transformation.

The project has four components: i) increased access to courts and legal information, ii) improved timeliness of Judiciary services, iii) enhanced performance and quality of decision making and iv) Project Management. Each component has certain outcomes that are to be realized through implementation of various activities contained in the workplan.

2.0 Progress

2.1 Increasing ACCESS to courts and legal information

This component aims at reducing geographical distance to courts, improving links to court users and potential users as well as reduction of knowledge barriers by publication and dissemination of legal information and court decisions. During the period under review the project achieved the following;

- Paid rent for the Kenya Law office space for the first quarter.
- Continued the construction of four new courts Garissa, Nanyuki, Nakuru and siaya. Progress is as detailed below:

Update for Construction of New Courts

	Court	Status	Design /super vision consultant	Construc tion contractor	Contract sum (Kshs'000)	Start Date	Planned end Date	Planned Contr act Period (Wks)	Period elapsed (Wks)	Period remain ing to compl etion (Wks)	Gross Amount Paid (Kshs'000)	% Paid	Expe cted prog ress %	Actua l progr ess (% compl ete)	ESIA Status
1	Nakuru	On-Going	Otieno & Kung'u associates	Diwafa Investments Ltd	347,765.95	19/2/2016	18/8/2017	78	51	27	147,999.78	42.56 %	65%	55%	Under review by the Bank
2	Siaya	On-Going	Otieno & Kung'u associates	Nanchang /GL Williams	342,751.95	22/2/2016	21/8/2017	78	51	27	125,568.85	36.64 %	65%	50%	Under review by the Bank
3	Garissa	On-Going	Skair Associates	Inshallah Limited	351,323.45	6/2/2016	5/8/2017	78	53	25	82,877.00	23.59 %	68%	30%	Under review by the Bank
4	Nanyuki	On-Going	Skair Associates	Pinnie Agency Ltd	318,559.76	24/3/2016	25/7/2017	78	46	32	55,155.44	17.31 %	59%	55%	Under review by the Bank
5	Kajiado	DBS working on bidding docs	Trioscape planning services	-	370,500.00	10/4/2017	9/10/2018	78							Draft report under review by the Bank
6	Wajir	Bids under evaluation	DBS	-	350,000.00	20/3/2017	19/9/2018	78							Draft report under review by the Bank
7	Mombasa	Bids under evaluation	DBS	-	400,000.00	17/3/2017	16/9/2018	78							Draft report under review by the Bank

8	Kakamega	Bids under evaluation	DBS	-	360,000.00	22/3/2017	21/9/2018	78							Assessment underway
9	Ol-Kalau	Bids under evaluation	DBS	-	350,000.00	23/3/2017	22/9/2018	78							Assessment underway
10	Kapsabet	DBS working on bidding docs	Trioscape planning services	-	370,500.00	11/4/2017	10/10/2018	78							Consultant on board however awaiting processing of land ownership documents
	Total				3,561,401.11						411,601.08	12%			

2.2 Improving TIMELINESS of Judiciary services

This component aims at reducing blockages in the registries by streamlining business processes; clarifying reporting lines; and increasing training. It also aims at increasing efficiencies with improved facilities through upgrading courts. In addition it aims at increasing the speed of case resolution by embracing High Court-annexed mediation (in family and commercial cases) and active case management in criminal cases. During the period under review;

- 868 criminal appeals records were prepared out of 1260 pending notices of appeal collected in phase I through a census concluded in November 2016.
- Draft Court of Appeal Case Digest developed.
- 189 civil appeals heard in Nairobi under special sessions/rapid results initiative (RRI) upon which 89 were finalised. This is aimed at clearing backlog of civil appeals.
- COA Court User Committee was held.
- Court of Appeal Registry Manual and policies developed. This is aimed at streamlining Court of Appeal registry systems, processes and structures.
- The ELC held mobile court sessions in which 178 cases were heard and determined.
- The High Court held mobile court sessions at Kakuma, Narok and Meru in which 55 cases were heard and determined.
- 100 mediators were inducted in a workshop organized by Mediation Accreditation Committee and the Judicial Training Institute.
- A mediation E- register was developed. To be used for registering all matters referred to mediation and to track mediation notices to ensure that all mediation matters are finalized within the stipulated period.
- Alternative Disputes Resolution (ADR) was undertaken in the Family and Commercial Divisions of the High Court. In the family division; 53

files were screened and 10 were referred for mediation bringing the total number of mediation matters in Family Division to 95.

- In the Commercial Division; 400 files were screened and 40 were referred to mediation, bringing the total number of matters in mediation to 140.
- Mediation Electronic Diary was developed. The E-diary will assist in scheduling dates for mediation sessions. The diary will also be instrumental in data collection and monitoring.
- Mediation E- register for registering all matters referred to mediation and track mediation notices to ensure that all mediation matters are finalized within the stipulated period was developed.
- ADR technical working group started developing publicity and stakeholder engagement strategy.
- 1,320 staff (51% female) were trained on the High Court Registry Operational Manual (ROM) in courts listed below:

	Male	Female	Total
Murang'a LC	36	34	70
Kabarnet LC	24	15	39
Kisumu LC	73	57	130
Bomet LC	16	19	35
Constitutional and Human Rights Court	31	29	60
Migori LC	38	25	63
Nakuru LC	66	77	143
Embu LC	35	37	72
Narok & Naivasha LC	33	44	77
Eldoret LC	60	69	129
Bungoma LC	46	40	86
Meru LC	53	38	91
High Court Criminal Division NRB	33	45	78
High Court Family Division NRB	45	57	102
ELC NRB	16	29	45
Milimani LC	46	54	100
Total	651	669	1,320

- Training on ROM encompassed the development of an action plan/implementation framework for the listed courts.
- Judges of High Court, ELC and ELRC held a review workshop on registry improvement initiatives and developed a review report.
- The Bi-Annual High Court leaders (Judges and Deputy Registrars) workshop was held and report prepared.
- Situational analysis/needs assessment for the development of the records management policy was conducted on 25 courts in 5 Regions. This entailed data collection, analysis and development of a report.
- Upgrading of 11 courts is underway. The cumulative progress on construction is as indicated below.

	Court	Status	Construct ion contractor	Contract sum	Start Date	Planned end Date	Planned Contract Period (Wks)	Period elapsed (Wks)	Period exceeded (Wks)	Extension period granted (Wks)	Revised completion date	Period remaining to completion (Wks)	Gross Amount Paid	% Paid	Expected progress %	Actual progress (% complete)	ESIA Status
1	Kitui	Completed	Harrikason Building Construction	57,378,275	15/12/2013	14/11/2014	52	49	-3	0	-	0	57,378,275	100%	100%	100%	Disclosed
2	Kangema	Completed	Flooring and Interior	19,591,586	6/7/2013	5/5/2014	52	43	-9	0	-	0	19,591,586	100%	100%	100%	Disclosed
3	Kigumo	On-Going	Marimo Construction Ltd	94,160,933	29/6/2015	28/6/2016	52	85	33	31	31/1/2017	0	92,890,293	98.65%	100%	90%	Under review by the Bank
4	Chuka	On-Going	Philmark System Services Ltd	98,106,543	14/6/2015	13/6/2016	52	87	35	33	31/1/2017	0	52,379,189	53.39%	100%	61%	Under review by the Bank
5	Engineer	On-Going	Yomason Contractors Limited	78,615,579	11/6/2015	10/6/2016	52	87	35	20	21/12/2016	0	59,186,769	75.29%	100%	85%	Under review by the Bank
6	Vihiga	On-Going	Lunao Enterprises Limited	78,476,529	16/9/2015	15/9/2016	52	73	21	18	14/1/2017	0	52,484,323	66.88%	100%	75%	Under review by the Bank
7	Nyando	On-Going	Philmark System Services Ltd	74,827,121	4/9/2015	3/9/2016	52	75	23	17	3/2/2017	0	39,010,267	52.13%	100%	62%	Under review by the Bank
8	Molo	On-Going	Atlas Plumbers Limited	99,910,995	19/6/2015	18/6/2016	52	86	34	36	24/2/2017	14	73,344,407	73.41%	100%	80%	Under review by the Bank

	Court	Status	Construct ion contractor	Contract sum	Start Date	Planned end Date	Plan ned Contract Period (Wks)	Peri od elapse d (Wks)	Peri od exceed ed (Wks)	Exte nsion period granted (Wks)	Revi sed complet ion date	Peri od remain ing to completion (Wks)	Gross Amount Paid	% Paid	Expe cted progress %	Actua l progress (% complete)	ESIA Status
9	Oyugis	On-Going	Sasah Contractor s Limited	109,731,080	29/6/2015	28/6/2016	52	85	33	23	28/12/2016	5	72,602,944	66.16%	100%	85%	Under review by the Bank
10	Nyamira	On-Going	JN Investment s Ltd	118,305,748	18/6/2015	17/6/2016	52	86	34	26	28/12/2016	4	59,423,436	50.23%	100%	65%	Under review by the Bank
11	Tamu	On-Going	Philmark System Services Ltd	74,902,949	9/6/2015	8/6/2016	52	87	35	29	28/12/2016	6	36,877,824	49.23%	100%	65%	Under review by the Bank
12	Kibera	On-Going	Havi Constructi on	137,649,133	13/4/2016	12/4/2017	52	43	-	Nil	-	21	15,656,923	11.37%	83%	35%	Under review by the Bank
13	Makindu	On-Going	Gracan Constructi on Ltd	96,855,446	8/3/2016	7/3/2017	52	36	-	Nil	-	16	15,241,420	15.74%	69%	50%	Under review by the Bank
14	Makue ni	Bids under evaluatio n	-	350,000,000	6/4/2017	5/9/2018	78										Consult ant yet to be appointed
15	Mukur weini	Bids under evaluatio n	-	100,000,000	5/4/2017	4/4/2018	52										Consult ant yet to be appointed

	Court	Status	Construct ion contractor	Contract sum	Start Date	Planned end Date	Plan ned Contract Period (Wks)	Per iod elapsed (Wks)	Per iod exceeded (Wks)	Exte nsion period granted (Wks)	Revi sed completion date	Perio d remaining to completion (Wks)	Gross Amount Paid	% Paid	Expe cted progress %	Actua l progress (% complete)	ESIA Status
16	Kwale	Construc tion awaiting finalizati on of ESIA/ES MP	Inforserve Networks Ltd	389,998,592	9/3/2017	8/9/2018	78										Inceptio n report submitt ed
17	Voi	Construc tion awaiting finalizati on of ESIA/ES MP	Concordia Buildings Ltd	347,582,674	8/3/2017	7/9/2018	78										Comme nts on the draft report sent to the consulta nt
18	Kapeng uria	Construc tion awaiting finalizati on of ESIA/ES MP	County Builders Ltd	400,963,501	13/3/2017	12/9/2018	78										Inceptio n report submitt ed
19	Marala l	Construc tion awaiting finalizati on of ESIA/ES MP	Debroso Co. Ltd	378,745,372	16/3/2017	15/9/2018	78										Inceptio n report submitt ed

	Court	Status	Construct ion contractor	Contract sum	Start Date	Planned end Date	Plan ned Contract Period (Wks)	Per iod elapsed (Wks)	Per iod exceeded (Wks)	Exte nsion period granted (Wks)	Revi sed completion date	Perio d remaining to completion (Wks)	Gross Amount Paid	% Paid	Expe cted progress %	Actua l progress (% complete)	ESIA Status
20	Isiolo	Construc tion awaiting finalizati on of ESIA/ES MP	Dallo Holdings Ltd	389,702,000	15/3/2017	14/9/2018	78										Inceptio n report submitt ed
21	Kange ma	Winning bidder to submit performa nce bond before signing of contract	-	40,000,000	3/4/2017	2/4/2018	78										Consult ants yet to be appoint ed
Total																	

2.3 Enhancing PERFORMANCE and QUALITY of decision making

This component aims at increasing use of standards and data in management of the Judiciary e.g. DCRT; PMMUs; IPMAS. It also aims at improving consistency and clarity of decision making by training of magistrates and registry staff and providing laws and legal texts for judicial officers. In addition it aims at strengthening integrity in decision making e.g. through corruption mapping and by audio recording and transcription of proceedings in Magistrate Courts. During the period under review the project facilitated achievement of the following;

- Evaluation of the 2015/16 performance was undertaken for all the Implementing Units which had signed their PMMUs except for the Supreme Court and Kericho ELRC. The two were scheduled to be evaluated in the 3rd Quarter. Report writing was on-going. A PMMSC retreat to discuss and adopt the Report was scheduled for February 2017.
- PMMU targets for FY 2016/17 were set for 215 Implementing Units. More Implementing Units were brought under performance management. These include: National Council for Administration of Justice, Judiciary Training Institute, Environment and Land Courts, Library Services, Office of the Judiciary Ombudsperson and more Kadhis' courts.
- As part of entrenching/institutionalizing of Performance Management in the Judiciary, critical information on PMMUs Guidelines was collected during PMMUs evaluation, negotiation and target setting. The information will be used to review the PMMUs Guidelines.
- The process of conducting Impact Evaluation in the Judiciary continued. A number of possible interventions were identified and implementation roadmap drafted. A Video Conference was conducted between the local team and the World Bank. The PMMSC was also briefed on the process.
- IPMAS and ASPRS continued to be developed. The consultant procured and delivered two servers, two operating systems, and one SQL Server.

The consultant presented the demo to the client during the World Bank mission in December 2016.

- The Consultant developed and presented revised program of activities to the PMD. The activity is expected to be finalized by end of April 2017.
- Corruption mapping and the development of the Governance and Anti-Corruption Strategy (GAC) was underway.
- JTI coordinated the training/capacity building of 1,528 judiciary employees and court users as detailed below:

	Course /workshop	Male	Female	Total
1	Induction for the Newly Recruited Court Assistants (Clerical Officer)	452	429	881
2	Professionalism, Values & Communication in Daily Work	170	185	355
3	AJS informal knowledge & capacity building workshop for elders from Isiolo, Kangema and Othaya and AJS Taskforce	86	26	112
4	ICT Essentials	88	49	137
5	Magistrates Continuous Judicial Education (CJE)	27	16	43
	TOTALS	823	705	1528

- Rent for the JTI office space for the second quarter was paid.

2.4 Project management

The **2016/17 JPIP workplan** was revised and no objection given. The total workplan budget is Kshs. 5.8 million. Overall coordination and monitoring of project implementation has been going on as planned.

Summary of Budget by Components								
	Component	(Kshs'000)				TOTAL	US\$ (000)	% of Total
		2015/16	2016/17	2017/18	2018/19			
1	Increase Access to Courts and Legal Information	277,800	2,125,182	2,129,843	183,900	4,716,725	47,167	42%
2	Improve Timeliness of Judiciary Services	625,009	2,100,684	1,662,500	258,492	4,646,686	46,467	42%
3	Enhance Performance and Quality of Decision Making	105,284	879,684	333,184	110,448	1,428,600	14,286	13%
4	Project Management	29,600	120,500	123,500	44,150	317,750	3,178	3%
	Total	1,037,693	5,226,050	4,249,027	596,990	11,109,761	111,098	

3.0 Expenditure

Actual expenditure during the period under review was **Kshs. 599.3 million**. This added to Kshs. 237 Million expended in the first quarter brings the total expenditure to **Kshs. 836.36 million** as at the end of the second quarter.

3.1 Expenditure by components

	Component	Actual Expenditure (Ksh'000)					2016/17 budget	Prorate d Q2	% utilised of prorate d
		Q1	Oct	Nov	Dec	Total Q2			
1	Increased Access to Courts and Legal Information	104,609.25	112,165.35	68,406.79	59,302.53	239,874.66	2,125,182.00	531,295.50	45%
2	Improved Timeliness of	109,859.10	102,744.52	27,504.75	173,287.65	303,536.91	2,100,684.00	525,171.00	58%

	Service								
3	Enhanced Performance and Quality	12,281.45	25,967.96	6,192.11	5,568.65	37,728.72	879,684.00	219,921.00	17%
4	Project Management	10,588.51	6,964.44	3,662.84	7,568.06	18,195.33	120,500.00	30,125.00	60%
	Total	237,338.34	247,842	105,766	245,727	599,336	5,226,050	1,306,513	46%

3.2 Expenditure by Implementing Units

	Implementing Unit	2016/17 Budget (Kshs'000)	Prorated Budget Q2	Actual exp. Q1	Actual exp. Q2	Total as at Q2	% Exp. against annual budget	% Exp. against prorated budget
1	OCJ/NCAJ	94,700	23,675	3,920	2,654	6,574	6.94%	11%
2	OCR	191,000	47,750	3,774	0	3,774	1.98%	0%
3	DBS	3,115,466	778,867	171,323	334,486	505,809	16.24%	43%
4	JTI	288,684	72,171	10,503	24,426	34,929	12.10%	34%
6	KL	304,600	76,150	4,063	4,506	8,569	2.81%	6%
7	HR	48,000	12,000	772	11,882	12,654	26.36%	99%
8	DICT/DoF/Acs	285,500	71,375	1,038	1,153	2,191	0.77%	2%
9	RSC	6,000	1,500	0	0	0	0.00%	0%
10	RCA	28,000	7,000	4,719	23,465	28,184	100.66%	335%
11	RHC	214,100	53,525	24,507	95,584	120,091	56.09%	179%
12	RMC	262,000	65,500	0	55,658	55,658	21.24%	85%
13	PMD	205,000	51,250	4,567	29,415	33,982	16.58%	57%
14	DPAC	27,500	6,875	0	0	0	0.00%	0%
15	OJO	15,000	3,750	0	0	0	0.00%	0%
16	AOG	20,000	5,000	277	0	277	1.38%	0%
18	PMU	120,500	30,125	7,875	15,822	23,697	19.67%	53%
18	Total	5,226,050	1,306,513	237,338	599,051	836,389	16.00%	46%

The table above shows the proportion of actual expenditure in the quarter against prorated budget as well as against the annual budget. As noted in

the table above, expenditure for the quarter was 46% of the prorated budget and 16% of annual budget.

3.3 Funds expended and committed as at December 2016

	Actual 2012/13 (Kshs M)	Actual 2013/14 (Kshs M)	Actual 2014/15 (Kshs M)	Actual 2015/16 (Kshs M)	Actual as at 31st Dec 2016 (Kshs M)	Total Actual (Kshs M)	Committed	Total Actual and committed	Total project sum	Proportion paid & committed against total Budget (%)
Totals	51.935	337.96	599.03	985.77	836.67	2,811.37	3,990.5	6,801.9	12,000	56.68%
	Actual expenditure of total project budget					23%				
	Actual + committed expenditure of total project budget							57%		

The total project funds expended and committed as at 31st December 2016 was Kshs 6.8 billion. This is about 57% of the total project sum. The actual amount paid out was Kshs 2.8 billion (about 23% of total project sum).

4.0 Causes of slow implementation/Challenges

It should be noted that some of the challenges noted were also experienced in the first quarter.

1. Low capacity within some implementing units causing delays in Implementing Units submitting requests for funding (See annex 1 for summary of implementation) and lack of familiarity with JPIP procedures contribute to delayed approvals.
2. Incomplete staffing of Directorate of Building Services. Clerk of works, structural, electrical and mechanical engineers are yet to be recruited.
3. Delays in enhancing the capacity of Accounts staff following exit of Integrated Fiduciary Agent. This has resulted into inadequate capacity within the Finance section of the PMU to match the increased number of the initiated activities and thereby disbursements.
4. Delays in exchequer release by the Treasury leading to a number of activities not taking off on time and also delayed payment of contractors.
5. Increased IFMIS downtime causing delays in payments

6. Delays in conducting ESIA and thereby the development of ESMP reports. This has affected timely commencement of construction of five (5) courts.

5.0 Conclusion

There was notable improvement in the implementation of activities during the second quarter. The total number of the activities that had either been initiated, underway or completed were 86% up from 68% in the first quarter. Disbursement too had more than doubled. The remarkable improvement was as a result of the increased feedback and follow up with the implementing units. Despite the improvement there were a number of challenges that ought to be addressed. These, as noted, include inadequate capacity in certain areas of implementation as well as financial bottlenecks.

Annex 1

Workplan summary statistics

Workplan Summary Stats - December 2017										
	Implementing unit	Proc not initiated	Proc not initiated	Proc initiated	Proc initiated	Activity underway	Activity underway	Activity completed	Activity completed	Total
		%	no	%	no.	%	no.	%	no.	
1	OCR	0%	0	0%	0	100%	2	0%	0	2
2	DBS	5%	2	35%	15	60%	26	0%	0	43
3	KL	10%	2	76%	16	14%	3	0%	0	21
4	OCJ/OD CJ	0%	0	50%	2	50%	2	0%	0	4
5	JTI	17%	1	17%	1	67%	4	0%	0	6
6	OJO	50%	1	50%	1	0%	0	0%	0	2
7	DICT	40%	4	30%	3	30%	3	0%	0	10
8	HR	33%	1	0%	0	67%	2	0%	0	3
9	RSC	0%	0	50%	1	50%	1	0%	0	2
10	RCA	20%	1	0%	0	80%	4	0%	0	5

11	RHC	21%	3	43%	6	29%	4	7%	1	14
12	RMC	29%	2	43%	3	29%	2	0%	0	7
13	PMD	19%	3	31%	5	44%	7	6%	1	16
14	DPAC	0%	0	80%	4	0%	0	20%	1	5
15	OAG	100%	1	0%	0	0%	0	0%	0	1
16	PMU	6%	1	13%	2	81%	13	0%	0	16
	Total	14%	22	38%	59	46%	73	2%	3	157