

REPORT ON ALLEGED MISMANAGEMENT OF THE CONTRACT FOR CHOGM DECORATIONS – TS.126.2010

1.0 Background

- 1.1 Uganda hosted the Commonwealth Head of Government Meeting (CHOGM) 2007 in Kampala. The opening ceremony was at Serena International Conference Centre, and the retreat was held at Munyonyo Commonwealth Resort from 23rd – 25th November 2007.
- 1.2 On completion of the CHOGM activities, the Auditor General was requested to undertake a financial and value for money audit on all CHOGM expenditures. According to the Auditor General's Special Audit report dated April 2008, the procurement process for Venues decorations for CHOGM 2007 by the service provider had not yet been initiated at the commencement of decorations.
- 1.3 The report also noted that, the consortium of decorators undertook the work without any contract or agreement with the Ministry. They have since presented a bill of Shs. 617,652,120. The report on the findings of the Auditor General was submitted to the Parliamentary Public Accounts Committee (PAC).
- 1.4 PAC studied the report and in their report dated May 2010, PAC attributed the irregularity in the procurement process to Hon. Hope Mwesigye, then State Minister for Local Government and Hon. Amama Mbabazi, Minister of Security and recommended that;

- (i) Hon. Hope Mwesigye, be held liable for flouting PPDA regulations and Constitution of Uganda.
 - (ii) That Hon. Hope Mwesigye should also be held liable for abuse of office and causing financial loss to Government of Uganda of shs. 617,652,120.
 - (iii) That Hon. Amama Mbabazi be held liable for instructing the flouting of procurement rules.
- 1.5 On 30th August 2010 a TS file was opened to have the case investigated.

2.0 Law Applicable

- 2.1 The Constitution of the Republic of Uganda of 1995
- 2.2 The Inspectorate of Government Act 2002
- 2.3 The Leadership Code Act 2002
- 2.4 The PPDA Act, 2003
- 2.5 The PPDA Regulations, 2003

3.0 Objectives

- 3.1 To establish whether the procurement procedures were not followed, and if so who was responsible.
- 3.2 To find out whether there was influence peddling by Hon. Amama Mbabazi and Hon. Hope Mwesigye during the process of procurement of decorators.

- 2.1 To establish whether there was any financial loss, abuse of office or other offences committed. If so by who?

4.0 Scope

This investigation was limited to decoration of CHOGM 2007 venues.

5.0 Evidence and documents retrieved

The following documents were retrieved, critically studied and examined.

- 5.1 Report of the National Task Force of CHOGM 2007 dated March 2008.
- 5.2 Copy of the Special Audit Report on Commonwealth Heads of Government Meeting (CHOGM) Expenditure dated April 2008 was retrieved and examined.
- 5.3 Copy of the Report of the Public Accounts Committee on the Special Audit report of the Auditor General on Commonwealth Heads of Government Meeting 2007 dated 11/05/2010 was retrieved and examined.
- 5.4 Minutes of the Cabinet sub-committee on CHOGM were retrieved and studied.
- 5.5 Loose minutes and Internal Memos between Permanent Secretary, Ministry of Foreign Affairs, Contracts Committee, Chair Contracts Committee, Venue Coordinator, Solicitor General, and Executive Director PPDA were retrieved and studied.
- 5.6 Minutes of the Venue Sub Committee were retrieved and studied.
- 5.7 Communication from Hon. Amama Mbabazi, Minister of Security was retrieved and examined.

5.8 Statements and responses were obtained from the following persons;

- (i) Hon. Amama Mbabazi, Minister in charge of Security,
- (ii) Hon. Hope Mwesigwe, Currently Minister of Agriculture, Animal Industries and Fisheries,
- (iii) Mrs. Hilda Musubira, Executive Director, CHOGM Secretariat
- (iv) Amb. James Mugume, Permanent Secretary, Ministry of Foreign Affairs,
- (v) Amb. Rhoda Kaisho Sinani Chair Person Venue Committee of CHOGM 2007,
- (vi) Mr. Fred Tushabe, Venue Coordinator CHOGM 2007
- (vii) Mr. Charles Muwenu, Director Finishing Touches
- (viii) Mr. Sanjiv Patel, Director Tomil Fire works
- (ix) Ms. Sarah Nakamya, Ministry of Foreign Affairs

5.9 Bank statements and Registration Certificates for Finishing Touches were retrieved and examined.

5.10 Report of work done was obtained from Civil Aviation Authority for examination.

5.11 Ms. Amal Caroline Osende's letter dated 7/12/2007 concerning decorations at Hotel African was retrieved and examined.

6.0 Findings

6.1 Introduction

6.1.1 Cabinet, during its meeting of 16th June 2004 approved the organizational framework for hosting the CHOGM 2007, which included a Cabinet Sub- Committee and the National Task Force. The latter coordinated and implemented all planned activities, while the former provided the political framework through which the latter was supervised and guided.

6.1.2 The Cabinet Sub-Committee began its preparatory meetings on 6th September 2004, under the Chairmanship of H.E. Prof. Gilbert B. Bukenya.

6.1.3 The National Task Force (NTF) was constituted under the Chairmanship of Mr. John Mitala, Head of Public Service, and Secretary to Cabinet. The NTF created several sub-committees working directly under it. The Venues Sub-Committee in the Ministry of Foreign Affairs was charged with the responsibility of preparing CHOGM 2007 venues, which included decoration.

6.1.4 The Venue Sub Committee comprised of three members with Amb. Rhoda Kaisho Sinani, the Chairperson, Mr. Fred Tushabe, venue Coordinator, and Ms. Sarah Nakamya, a Member. The Sub-Committee was responsible for ensuring that the following venues were decorated.

- (i) Serena Conference Centre – Opening ceremony
- (ii) Golf Course Hotel – First Ladies Lunch
- (iii) Imperial Botanical Hotel – Youth Forum
- (iv) Hotel Africana – Peoples Conference
- (v) Entebbe International Airport - Old and Standard Terminal

6.2 Whether the procurement procedures were followed, and if not who was responsible.

6.2.1 The issue of decorating some venues of CHOGM came up in the Cabinet Sub-Committee held on 25/07/2007 chaired by H.E the

President at State House Nakasero. This idea came up under beautification where the meeting was informed that funds would be required for the decoration of some venues with flags, banners etc. ***(Copy of the minute dated 25/07/2007 is attached as annex(i)).***

6.2.2 This resulted into need to have budget for the venues decorations for CHOGM 2007. On 31/07/2007 Mr. Keith Muhakanizi, on behalf of the Permanent Secretary/Secretary to the Treasury presented CHOGM 2007 budgets – FY 2007/8. In his submission venue decorations was allocated shs. 881,370,696 ***(copy of the budget allocation is attached as annex (ii)).***

6.2.3 Mr. Fred Tushabe, Venues Coordinator informed the Cabinet Sub Committee in the 22nd meeting held on 04/10/2007 at the Ministry of Foreign Affairs Wapakhabulo Auditorium that, a consortium of decorators had been formed and the procurement process for the consortium was under way. ***(Copy of the 04/10/2007 Cabinet Sub Committee minutes is attached as annex (iii)).***

6.2.4 According to Mr. Fred Tushabe, Venue Coordinator, Ministry of Foreign Affairs, consortium of decorators was chosen by the venue sub committee because no single company in the country would efficiently measure up to the task of decorating CHOGM venues in isolation. Hence need to bring together several companies in decoration industry to pool together their expertise to handle the task

6.2.5 After Cabinet Sub-Committee on CHOGM had been informed of the formation of decorators as a consortium to carry out decoration of venues for CHOGM 2007, a meeting was held on 19/10/2007 in the Ministry of Foreign Affairs between decorators and venue sub committee. The meeting was chaired by Ms. Sarah Nakamya, Assistant Coordinator venues sub committee.

6.2.6 According to Ms. Sarah Nakamya, she was directed by Mr. Fred Tushabe, Venues Coordinator to meet and chair this first meeting held in Kidepo Committee Room at the Ministry of Foreign Affairs (MoFA). The meeting was attended by;

- (i) Ms. Sarah Nakamya, Ministry of Foreign Affairs as the Chairperson
- (ii) Ms. Byarugaba Adriko, Director, Hones & Grades
- (iii) Ms. Jaki Byaruhanga, Director Exciting Options
- (iv) Ms. Nakimera Lubega, Exciting Options
- (v) Ms. Mbabaali Victoria, Director, faith's Petals and stems
- (vi) Ms. Mbabaali Juliet, Faith Petals and stems
- (vii) Ms. Marion Etaing Busingye, Director, Fantasia

6.2.7 The Chairperson (Ms. Sarah Nakamya) informed the decorators that the meeting had been convened to deal with the procurement of the consortium of decorators for the CHOGM 2007 venues. The Meeting agreed to form a joint partnership that would be used to sign a contract.

6.2.8 She also informed the decorators that the coordination of the activities of the decorators was a mandate of the venues sub-committee and informed them that, they will be joined by other artists like Gen. Tumwine, the production company (Mr. Peter Kagwa), the decoration consultant (Symbion) among others.

6.2.9 This first meeting of 19/10/2007 with decorators was only attended by Ms. Sarah Nakamya from the venue sub committee of Ministry of Foreign Affairs. Amb. Rhoda Kaisho Sinani the Chairperson, Mr. Fred Tushabe the venue Coordinator were recorded absent with apology. ***(Refer to Annex (iv) for a copy of the minutes of the 19/10/2007 meeting).***

6.2.10 When Ms. Sarah Nakamya was asked to explain who took the decision to procure the consortium, she stated that, she did not know when it was formed. That she however, remembered that the idea of a consortium had been mentioned in various meeting. She did not remember the exact meeting in which it was mentioned. ***(Her record of interview dated 29/04/2011 is attached as annex (v)).***

6.2.11 By 19/01/2007 when the 1st meeting with decorators took place, no concepts and themes of decorations had been made or produced. As a result several meeting were organized to come up with the themes and concepts of how the venues should be decorated.

6.2.12 On 23rd October 2007 another meeting with the decorators was held at the Ministry of Local Government. This meeting was chaired by

Hon. Hope Mwesigye, the then Minister of state for Local Government and attended by members of the Venues Sub Committee.

6.2.13 The purpose of the meeting was to bring the decorators together to be able to collectively conceptualize the ideas they had for decorating each venue. A further meeting was agreed to be held in which decorators would provide relevant documents to enable venues sub committee start on the procurement process of the decorations.

6.2.14 The meeting concluded that Chairperson Venue's sub-committee should help in the smoothening of the procurement process given the time constraint. The decorators also requested to visit the various venues that were to be decorated on 24th and 25th of October, 2007 so as to familiarize themselves with the task. Subsequently, the team of decorators visited the respective sites that were to be decorated. ***(Annex (vi) refers for the detailed minutes).***

6.2.15 On 26/10/2007, another meeting of venues sub-committee and decorators was held at the Ministry of Local Government. This meeting was also chaired by Hon. Hope Mwesigye. In the meeting Hon. Hope Mwesigye informed members that, the First Lady Mrs. Janet Museveni had called for decorators meeting to be held at 3.00pm same day 26/10/2007 at State House Nakasero. The members were therefore advised to harmonize their position before presenting them to the First Lady.

6.2.16 In harmonizing their positions, decorators first agreed to have Ms. Faiths Petals and stems as the company that would be used for this procurement. This position was found not possible because Ms. Faiths Petals and stems lacked proper documents. The Decorators then selected M/s. Finishing Touches to be the company with whom they would sign a Memorandum of Understanding in order to under take the decoration of CHOGM venues. *(Annex (vii) refers for the detailed minutes).*

6.2.17 It was in this meeting that Hon. Hope Mwesigye introduced 2 (two) experts in beautification from Malaysia who were in the country under bilateral technical cooperation to help decorators improve the concepts in order to beautify Kampala during CHOGM.

6.2.18 The decorators presented in the meeting held at State House that afternoon 26/10/2007 their harmonized position and concepts on the decorations of CHOGM venues. The meeting was chaired by the First Lady, Mrs. Janet Museveni and discussed the themes and concepts on how the venues would be decorated. There were no minutes taken to reflect what was discussed in that meeting at State House.

6.2.19 These meetings were held to discuss how venues should be decorated. The responsibility of procuring the venue decorators was the work of Ministry of Foreign Affairs and the Venues Sub Committee as stipulated in the minutes of 23/10/2007 and 26/10/2007. There were no discussions on how much the decorations would cost

and how the procurement would be made. The only discussions were on how the decorations should be done.

6.2.20 After the meeting at State House, the venues Sub committee and decorators agreed on the themes and concepts of venue decorations. Using the themes and concepts agreed at State House, Mr. Fred Tushabe, venues coordinator on 12th November 2007 wrote to the Chairman, Contracts Committee, Ministry of Foreign Affairs requesting that the consortium of decorators under Finishing Touches be procured expeditiously. There were no estimated costs presented to contracts committee. ***(Copy of the letter dated 12/11/2007 is attached as annex (viii)).***

6.2.21 According to the PPDA Act 2003 and guidelines, Mr. Fred Tushabe should have forwarded the request to the Permanent Secretary, Ministry of Foreign Affairs expressing need for procurement of venues decorations. Permanent Secretary should have then passed the request on approval to the Procurement and Disposal Unit (PDU) for processing the procurement.

6.2.22 Further still when Mr. Tushabe wrote to the Chairperson Contracts Committee, it lacked the estimated costs presented by M/s Finishing Touches the lead firm chosen by the decorators. The reason he gave was that, the estimated costs presented were exorbitant and he rejected them. That he advised them to revise the costs, which never materialized. ***(Copy of Mr. Tushabe's statement is attached as annex (ix)).***

6.2.23 It should be noted that Mr. Fred Tushabe, Venues Coordinator, had no mandate to decide on the costs. This should have been the work of the PDU and the Evaluations Committee.

6.2.24 When Mr. Fred Tushabe was interviewed, he explained that his writing to the Chairperson Contracts Committee was because the Venues Sub Committee was charged in the meeting of 23/10/2007 with the responsibility to start the procurement process of decorators of CHOGM 2007 venues.

6.2.25 By writing the Memo to the Chairperson Contracts Committee he thought it was the responsibility of the Contracts Committee to take action in the procurement of venues decorations for CHOGM 2007, but copied to Permanent Secretary MoFA and the Senior Procurement Officer/PDU MoFA.

6.2.26 It was established that the Chairperson Contracts Committee never took any action much as he received the Memo of 12/11/2007. He instead noted on the letter that negotiated requirements and costs needed to be attached and did not communicate back to Mr. Tushabe or Permanent Secretary MoFA for action.

6.2.27 In the mean time on 13/11/2007, Amb. James Mugume, Permanent Secretary, Ministry of Foreign Affairs held meeting with the Executive Director PPDA seeking advise on the emergency procurement method.

6.2.28 The Permanent Secretary, Amb. James Mugume followed up his discussion with a letter to the Executive Director PPDA requesting/seeking deviation/waiver on the procurement method from PPDA without the authority and approval of the Contracts Committee.

6.2.29. In response Mr. Agaba Edgar, Executive Director, PPDA on 20/11/2007 wrote back to the P/S Ministry of Foreign Affairs declining the waiver for reason that the Contracts Committee had not made any decision on the matter. ***(Copy of the response letter dated 20/11/2007 is attached as annex (x)).***

6.2.30 On failure to obtain a waiver, the PS/MoFA on 20/11/2007 wrote to Chairperson Contracts Committee to convene an emergency meeting to consider the procurement of decorations of CHOGM Venues. ***(Copy of the letter dated 20/11/2007 is attached as annex (xi)).***

6.2.31 The Chairman, contracts committee in response on 21st November 2007 wrote to PS/MoFA regarding procurement for decorators of CHOGM venues. He noted that there was no submission from the procurement unit regarding the procurement for decorators of CHOGM venues, and that a waiver from the normal procurement procedure to emergency procurement method had been turned down by the PPDA as such the issue could not be considered. ***(Annex (xii) for details of the response dated 21/11/2007).***

6.2.32 The Chairman Contracts Committee however concluded by recommending that negotiation Committee should produce a report on

the negotiated requirements and costs attached in order to form a basis for an administrative decision.

6.2.33 On 22nd November 2007, the PS/MoFA wrote to the Procurement and Disposal unit (PDU), highlighting the concerns of the Contracts Committee mentioned above and requested the Senior Procurement Officer (SPO) assist the chairperson, venues sub-committee to produce a submission for consideration either by the sub-committee or for administrative decision. ***(Refer to Annex (xiii) for the copy of the letter dated 22/11/2007).*** It should be noted that, at the date of the above letter, decorations had started and the main CHOGM opening ceremony was to take place the following day 23/11/2007.

6.2.34 There is no evidence on record to show that the Senior Procurement Officer and Venue Sub Committee made effort to prepare a proper document for submission to the contracts committee. However by that time decorations were ongoing and it was one day to the opening ceremony as evidenced in 2nd last paragraph of Permanent Secretary's letter dated 22/11/2007 already attached as annex (xii) above.

6.2.35 As the PS/MoFA was waiting the outcome from Senior Procurement Officer and Venues Sub Committee for administrative decision, Hon. Amama Mbabazi, the Chairperson/CHOGM Monitoring Committee on 22/11/2007 wrote to M/s Hilda Musubira Deputy Head of Public Service/Executive Director, CHOGM 2007 Secretariat expressing the concerns of the inspection team. He noted that International

- Conference Center - Serena where the CHOGM opening ceremony was to take place was not yet appropriately decorated.
- 6.2.36 The Inspection team advised that Ms. Hilda Musubira the Deputy Head of Public Service/Executive Director CHOGM 2007 Secretariat ensures that decoration is done immediately and then explore possibility of retrospective procurement undertaking.
- 6.2.37 It was noted that the recommendation from Hon. Amama Mbabazi's team came up on 22/11/2007 and opening ceremony was to take place the following day 23/11/2007. The letter was copied to Amb. James Mugume, PS MoFA and the Chairperson CHOGM Venues Committee. ***(Copy of the letter dated 22/11/2007 is attached as annex (xiv))***
- 6.2.38 Amb. James Mugume, PS/MoFA realizing that the process was hitting a snag, on 22nd November 2007 wrote to DHS/ED CHOGM 2007 Secretariat informing her of the stalemate the procurement process had hit, given that they were dealing with a retrospective procurement.
- 6.2.39 Amb. James Mugume, PS/MoFA using the copy of the letter requested the Coordinator/Venues and Manager Finishing Touches to visit the various venues to ascertain the level of decoration undertaken as per agreed works with dated pictures for each venue. ***(Copy of the letter is attached as Annex (xv)).***

- 6.2.40 The PS/MoFA, Ministry of Foreign Affairs went ahead on the same day 22/11/2007 using an Internal Memo to Chair/Venue Sub Committee requesting her to immediately put in place a mechanism to ensure that there is value for money in the decoration of CHOGM 2007 venues and produce the final evidence of decoration work done. ***(Copy of the letter is attached as Annex (xvi)).***
- 6.2.41 At the time CHOGM took place on 23 – 25th November 2007, the procurement process for the venue decorators had not yet been finalized as indicated in the above paragraphs.
- 6.2.42 When Amb. James Mugume, Permanent Secretary, MoFA was interviewed, he stated that; *“the venue Sub committee did not strictly follow the PPDA procurement guidelines regarding submission for request for a waiver to allow direct procurement. That the report from the venue negotiating Committee did not include the necessary requirements and associated costs”*.
- 6.2.43 Amb. James Mugume, PS, further stated that; *by mid November 2007, it was apparent that the Venue Sub Committee was having problems in the procurement of decorators for the venues. The strict deadlines that had to be adhered to, the complexity of the procurement, the importance of the procurement to the success of CHOGM 2007 and in ability to conclude negotiations in time, created an emergency which compelled him to urgently consult PPDA, three days to the start of CHOGM activities.”* ***(Copy of his statement dated 9/05/2011 is attached as annex (xvii)).***

- 6.2.44 The Permanent Secretary's explanation was backed by Mr. Tushabe, Venue Coordinators statement that the venue's decorations came up as a last item and no proper costing for decorations could be properly made because the venues to be decorated were still being renovated and refurbished and the decoration concepts kept on changing from time to time since this kind of decoration was a new phenomena from the usual ordinary decorations.
- 6.2.45 Coupled with the above the refurbishment of the hotels/venues went on up to the time when CHOGM activities were about to be opened. Therefore, assessing the needed requirements to meet CHOGM standards was difficult. This resulted into identifying experts by the venues Sub Committee of CHOGM.
- 6.2.46 The experts also took time to form a consortium among themselves. Much as they came up with the concepts of decoration of CHOGM venues there were no costs attached to the concepts. This further made it difficult for the contracts committee to approve the requirements as time had run out for the opening ceremony of CHOGM 2007.
- 6.2.47 In lieu of the above findings the works for venue decorations for CHOGM 2007 were therefore carried out without any known costs, contract or agreement and did not follow the Procurement process stipulated in the PPDA Act and Regulations 2003.

6.3 Whether there was any financial loss or otherwise and who is responsible.

6.3.1 The decoration of the Venues for CHOGM 2007 was undertaken by a Consortium of Decorators without any written contract or agreement with the Ministry of Foreign Affairs as already indicated in the earlier paragraphs of this report.

6.3.2 The reasons for the delay in procurement of the decorations was that the idea of venues decorations came up late in July 2007 as an after thought, the budget for venues decorations were presented by the Permanent Secretary/Secretary to Treasury on 30/07/2007. Another reason advanced by Mr. Fred Tushabe, Venue Coordinator was lack of submission of necessary documents by the consortium of decorators.

6.3.3 As time was running out, there was no sign of having the procurement approved by the Contracts Committee in line with the procurement procedures. The PS/MoFA as already stated in the earlier paragraphs of this report, **instructed the Chair, venue Sub Committee to ensure that venues are decorated and the Coordinator of venues should produce evidence of decoration work done.** Basing on the above the said venues were decorated without any written contract or agreement.

6.3.4 After carrying out the decoration works for CHOGM 2007, M/s Finishing Touches presented a bill of shs. 617, 652,120 for the work

done. The bill presented lacked certification by the responsible managers in charge of those venues. However photographs taken by the venues sub committee to ascertain the level of decorations carried out in the venues were presented. The PS/MoFA on 24th November 2007, forwarded the bill and the Photographs to Contracts Committee for retrospective approval.

6.3.5 The PS/MoFA on the same day wrote a loose minute to Chair/Protocol, Hospitality and Events Sub committee requesting for a report on various sites and venues indicating the services done as specified by the Contracts Committee. The Loose Minute was copied among others to the DHS/ED, Chair, Contracts Committee and Coordinator/venues. *(See annex (xix) for copy of the loose minute dated 28/11/2007 to that effect).*

6.3.6 On 20th December 2007 the Chairperson, venues subcommittee wrote internal memo to the PS/MoFA concerning the final evaluation report on decoration of CHOGM venues by the consortium. The evaluation was carried out by Mr. S. Senoga - Internal Auditor, MoFA, Mr. Fred Lutimba of PDU, MoFA and Amb. Rhoda Kaisho, Chairperson Venue Sub Committee based on;

- (i) The reports of the various venue managers during CHOGM,
- (ii) The report of the consortium on the various reports made by the managers:
- (iii) Photographs taken during the event period.

In the internal memo the chairperson noted that the figures had been revised and agreed to Shs. 459,550,000/=. The internal memo indicated the breakdown as below: *(Refers to annex (xx))*.

Serena Conference Center	180,360,000
Entebbe Airports	110,786,400
Imperial Botanical Beach Hotel	97,567,200
Golf Course Hotel	31,795,500
Hotel Africana	24,715,800
	445,224,400/=

However the attachments on the evaluation report indicated the following figures.

Serena Conference Center	180,360,000
Entebbe Airports	110,786,400
Imperial Botanical Beach Hotel	97,567,200
Golf Course Hotel	39,673,000
Hotel Africana	31,163,400
	459,550,000/=

6.3.7 The investigation team's analysis show that the actual figure based on the valuations should have been Ugx shs. 445,224,400. The difference of shs. 14,325,600 was due to the following;

- (i) The valuation and negotiation agreed to charge 15% for items already purchased and could not be used for decorations at Golf Course Hotel. However the attachments indicated the charge at

30%, this anomaly inflated the figure from 31,795,800/= to 39,673,000/=.

- (ii) For Hotel Africana, since the decorators had not purchased new items for the function, the bill had been revised to 24,725,800/=. However the attachments indicated a charge of 30%, for items purchased but not utilized thereby inflating the figure from 24,715,800/= to 31,163,400/=.

Therefore the right figure as per the valuation and negotiations between decorators and the MoFA staff should have been Shs. 445,224,400/= as indicated in paragraph 6.3.7 above.

6.3.8 A further comparison and analysis was made between the bill provided by M/s Finishing Touches and the reports of the various persons that were in charge of the venues that were decorated. The following tables and the accompanying explanations were compiled.

6.3.9 Entebbe International Airport

ITEM	FINISHING TOUCHES	CIVIL AVIATION
Glass vases 12 @ 150,000/=	1,800,000	1,800,000
Fresh cut flowers to be used (assorted) 55 boxes @ 3,000,000	16,500,000	16,500,000
Oasis	3,001,000	3,001,000
Green plants and leaves for fillers	1,848,000	1,848,000
Bases for arrangements	3,750,000	3,750,000
Glazed and treated commodities	980,000	980,000

8 big dry and fresh cut flower arrangements for refurbished airport	7,300,000	7,300,000
Oasis for the above	1,345,000	1,345,000
52 potted plants @ 9,000 per day X 15days	7,020,000	7,020,000
* 7 animal sculptures 100,000/= per animal per day for 10 days	7,000,000	3,000,000
** Plants around the sculptures	1,000,000	-
*** 2 fountains 150,000/= per fountain per day for 10 days	3,500,000	-
**** cabling fountains	500,000	-
174 paintings @ 50,000/=	8,700,000	8,700,000
Rock formation around the sculptures	1,098,000	1,098,000
Welcome and Thank You banners 496 sqm @ 19,250 per sqm.	9,548,000	9,548,000
***** Lounge buntings 45 sqm of PVC @ 22,000 per sqm	990,000	-
30 tear drops @ 400,000/=	13,080,000	13,080,000
10 personnel accomodation 20,000/= per day for 19 days	3,800,000	3,800,000
Meals 10,000/= per day for 10 X 19 days	1,900,000	1,900,000
Labour for 19 days	3,420,000	3,420,000
Pick up inclusive of fuel 15days @ 300,000/=	4,500,000	4,500,000
	102,580,000	92,590,000
8% concept design	8,206,400	7,407,200
TOTAL	110,786,400	99,997,200

The adjustments were based on the Communication from Civil Aviation Authority regarding the decoration of the Old and New Airport terminals.
(Refer to Annex (xxi) for details).

- * Only 3 animal sculptures were delivered as opposed to the 7 that are indicated by M/s Finishing Touches.
- ** No plants were put around the sculptures, contrary to what was quoted.
- *** No fountains were delivered at the airports.
- **** The Cabling for the fountains was not done since they were not delivered.
- ***** The Lounge buntings are yet to be delivered.

6.3.10 Hotel Africana

ITEM	FINISHING TOUCHES	HOTEL AFRICANA
Stage flowers	9,800,000	9,800,000
Running buntings on outside hotel walls 20 X 30 mtrs	7,300,000	7,300,000
8 florist @ 30,000/= X 5	1,200,000	1,200,000
* 4 Welcome signs @ 400,000/=	1,600,000	1,200,000
	19,900,000	19,500,000
8% concept design	1,592,000	1,560,000
TOTAL	21,492,000	21,060,000

The adjustment is based on a letter dated 7th December 2007 from the Coordinator People's Forum – Ms. Amal Caroline Osende concerning the decoration at Hotel Africana during the Commonwealth People's Forum. The letter was addressed to the PS/MoFA. It was noted that;

“.... contrary to the report submitted, the only decoration at Hotel Africana were the flowers that were delivered for the cocktail on the day of Opening Ceremony, 3 welcome signs in the Nile Hall and buntings at the People’s Space.” (Refer to Annex (xxii) for a copy of the abovementioned letter).

- * Only 3 welcome signs were delivered as opposed to the 4 that were quoted.

6.3.11 Investigations failed to obtain venue managers reports on the decoration carried out at the following venues;

- (i) Serena International Conference Centre,
- (ii) Golf Course Hotel
- (iii) Imperial Botanical Beach Entebbe

6.3.12 The Managers of the above Hotels could not also recall what transpired. They claimed that, they only availed the Decorators Conference Halls and were not keen to ascertain what actual decorations were done. Basing on the above the, costs stated for the above mentioned hotels were not verified and proved by this investigations.

6.3.13 Further still, in the absence of standard cost prepared by the Ministry of Foreign Affairs before work was carried out, it was not possible to confirm that the final bills of shs. 459,550,000 which reduced to shs.

445,224,000 reasonably represented the value of the actual decoration works undertaken.

6.4.0 Whether there was influence peddling by Hon. Amama Mbabazi and Hon. Hope Mwesigye during the process of procurement of decorators.

6.4.1 Alleged influence peddling by Hon. Amama Mbabazi, Minister of Security

6.4.1.1 On 22nd November 2007, Hon Amama Mbabazi as Chairperson CHOGM activities inspection team wrote to Ms. Hilda Musubira, the Executive Director CHOGM 2007 Secretariat concerning the decoration of key CHOGM venues. He noted that inspection team had visited the International Conference Centre, Serena where the CHOGM opening ceremony was to take place, and that the place was not yet appropriately decorated. The opening ceremony was to take place on 23rd November, 2011.

6.4.1.2 He stated that he had been informed that the problem was with the procurement process. He therefore strongly recommended that decoration is done immediately and then explore the possibility of retrospective procurement undertaking. ***(Copy of the letter is already attached as annex (xxiii) of this report).***

6.4.1.3 Hon. Amama Mbabazi in his response to this allegation stated that he wrote it as the head of the inspection team. He also stated that;

“In performing our duties we found that the main venue for CHOGM summit on the eve of the meeting on 22/11/2007 when the summit was due to sit on 23/11/2007 the next day at 9am, had not been decorated.”

6.4.1.4 He further stated that they did not instruct. As a team, they recommended that decoration be carried out so as to have the venue ready in time for the summit.

6.4.1.5 Therefore these allegations that Hon. Amama Mbabazi directed the procurement in violation of procurement procedures were not true because Hon. Amama Mbabazi’s letter came on 22/11/2007 a day to the opening ceremony. By the time he wrote that letter some decorations had been done.

6.4.2 Alleged influence peddling by Hon. Hope Mwesigye, then Minister of State for Local Government

6.4.2.1 The Venues Sub-Committee in the Ministry of Foreign Affairs was charged with the responsibility of decoration of CHOGM 2007 venues. This Committee was headed by Ambassador Rhoda Kaisho Sinani as Chairperson.

6.4.2.2 The first venue sub committee meeting was held on 19/10/2007 with decorators and was chaired by Ms. Sarah Nakamya. Ms. Sarah Nakamya was the only member of the sub committee while the rest were decorators. She was directed to chair the meeting by Mr. Fred Tushabe, Venues Coordinator. So when the first meeting was held, decorators had been invited by MoFA. Hon. Hope Mwesigye was not present.

6.4.2.3 As noted in paragraphs 6.2.12 to 6.2.15 above, Hon. Hope Mwesigye, the then Minister of State for Local Government chaired the Venue Sub-committee meetings of 23rd and 26th October 2007. According to her explanations her role in CHOGM was Chairperson of Beautification Committee. That she chaired the meetings as dictated by protocol since she was the most senior person, and was to introduce 2 experts in beautification from Malaysia under a bilateral technical cooperation to help beautify Kampala during CHOGM.

6.4.2.4 She further stated that the meeting was also in preparation for yet another meeting that had been called by the First Lady, Hon. Mrs. Janet Museveni that afternoon of 26/10/2007 at State House to harmonize the decoration themes. That the First Lady had all along worked closely with the Beautification Committee to ensure that Kampala was kept clean and beautiful during CHOGM. ***(Copy of her response dated 30/03/2011 is attached as annex (xxiv)).***

6.4.2.5 According to Mrs. Hilda Musubira, Deputy Head of Public Service/Executive Director of CHOGM 2007, the decoration of

Venues remained an activity of the Ministry of Foreign Affairs. The incident when the two sub committees held a joint meeting; the process did not translate the assignment into being undertaken jointly by the two Ministries. It should be clarified that there was no prohibition of Sub committees work together in order to produce the desired results.

6.4.2.6 Mrs. Musubira further stated that the act of the venues (Decorations) and Beatification coming together to share information was not unique since both of them shared the main task of making a place/venue beautiful. The meeting could have served the purpose of information sharing, but the responsibility for decorating the Venues remained with the Ministry of Foreign Affairs. ***(Copy of her response dated 07/03/2011 is attached as annex (xxv)).***

6.4.2.7 These meetings chaired by Hon. Hope Mwesigye and First Lady, Mrs. Janet Museveni with the decorators and venues Sub Committee were on concepts and themes of how the venues should be decorated. The procurement of the decorators and the decoration process was the role and duty of the Ministry of Foreign Affairs and the Venues Sub Committee. These were emphasized in the meetings of 23/10/2007 and 26/10/2007 chaired By Hon. Hope Mwesigye.

6.4.2.8 On the allegation that she sourced the decorators of CHOGM Venues, Hon. Hope Mwesigye stated that, she did not source any decorators. That the Decorators were sourced by the Ministry of Foreign Affairs. Hon. Hope Mwesigye quoted the meeting of the Venues Sub

Committee of 19/10/2007 with the decorators at Kidepo Committee room of the Ministry of foreign Affairs, chaired by one Ms. Sarah Nakamya of Ministry of Foreign Affairs to justify her explanation.

6.4.2.9 Hon. Hope Mwesigye also supported her explanation using the Internal Memo dated 12/11/2007 from the venues coordinator to Chairman Contracts Committee, Ministry of Foreign affairs requesting for procurement of the Consortium of decorators to decorate the CHOGM 2007 venues. In the Memo the Venues Coordinator indicated that the venues sub committee had identified decorating companies that would form a consortium of decorators to under take the task of decorating the CHOGM Venues.

6.4.2.10 It was also established from the minutes of the 22nd Cabinet Sub Committee meeting on CHOGM 2007 held at the Ministry of Foreign Affairs on 4/10/2007 that the soliciting of decorators and formation of consortium of decorators to carry out venue decorations had already been done and procurement process was in progress. The formation of a consortium was therefore done before Hon. Hope Mwesigye chaired the meeting of venues sub committee and decorators on 23/10/2007.

6.4.2.11 Further more, the statement of venue coordinator Mr. Fred Tushabe exonerates Hon. Hope Mwesigye on issue of selection of decorators. In his statement Mr. Tushabe stated that; *“the Sub Committee introduced the prospective decorators to the sites and venues to enable them internalize the themes and concepts of each venue. This was done before the meeting of 23/10/2007 at the Ministry of Local*

government.” (Copy of his statement is already attached as annex (ix) of this report).

6.4.2.12 On the allegation that she negotiated and awarded decorators contract or the decoration was done under her instructions, investigations established that on 20/11/2007 Amb. James Mugume, PS/FA wrote to the Chairperson Venues Sub Committee (Amb. Rhoda Kaisho) to urgently finalise the negotiations for Finishing Touches which would form basis for decision making.

6.4.2.13 The negotiations were carried out by the venue committee and as indicated no contract has been signed but PS/FA has taken an administrative decision after consultation with the Solicitor General to pay the decorators.

6.4.2.14 The investigation team made effort to interview Mr. Charles Mawenu, Director, Finishing Touches the lead company for the consortium on who invited them and how they came to the Venue Sub- Committee, they declined to respond stating that the matter was in court. *(See annex (xxvi) for his responses dated 13/04/2011 and 14/04/2011)*

6.4.2.15 From the above details, the engagement of Decorators was done by Permanent Secretary, Ministry of Foreign Affairs in his letter to Amb. Rhoda Kaisho, the Chair, Venue Sub-Committee already stated in **paragraph 6.2.37** of this report.

6.4.2.16 The negotiations and soliciting was undertaken by the Venue Sub Committee as reflected by Mr. Fred Tushabe, venue coordinator's report to the Cabinet Sub Committee on 4/10/2007 and his letter to Chairperson Contracts Committee dated 12/11/2007. These communications were before Hon. Hope Mwesigye chaired the meetings of 23/10/2007 and 26/10/2011. Therefore the allegations against Hon. Hope Mwesigye were proved to be false.

7.0 OBSERVATIONS

7.1 Whether the procurement procedures were followed, and if not who was responsible.

7.1.1 As stated in the findings of this report, the procurement process of venues decorations did not follow the procedures stipulated in the PPDA Act and Regulations of 2003. The major reason for this was because the idea of venue decorations came up at the last moment when CHOGM 2007 budgets had been approved.

7.1.2 The Cabinet Sub Committee of CHOGM 2007 came up with venue decorations in the meeting of 25/07/2007 on realizing the need for having venues decorated. Following the meeting a budget provision for venues decorations among other CHOGM requirements was made on 31/7/2007.

7.1.3 Much as the budget provision was made, the Venue Sub Committee members did not have expertise on how the venues could be decorated

and where to source the expertise given the short period and the standard of decoration required. This resulted into formulation of concepts on how the venues should be decorated.

7.1.4 These concepts kept on being changed and modified. Further more the venues to be decorated were still under construction and refurbishment went on up to almost the time of CHOGM opening ceremony.

7.1.5 Another problem with this procurement as earlier stated was lack of costing to help in the procurement process. The process to have the required costing never materialized in time because it had taken the decorator's time to form a consortium, agree on the materials and concepts for the decorations. This also goes back to the limited time when the idea of venue decorations was agreed upon by the Cabinet Sub Committee of CHOGM 2007.

7.1.6 It was until 21/11/2007, two days to CHOGM opening ceremony when the request for emergency procurement by Permanent Secretary MoFA was turned down by the Chairperson Contracts Committee on grounds that necessary requirement and associated costs were required. This was observed to be too late and it compelled the Accounting Officer Amb. James Mugume to take an administrative measure to have the venues decorated without any written agreement or contract as stipulated in the PPDA Act and Regulations 2003.

7.1.7 It was further observed that Amb. James Mugume made an effort and did put a mechanism to ensure that there was value for money by

ensuring that venue coordinators take note of all decorations done and provide evidence including taking photographs. All his efforts were observed to have been carried out in good faith given that decorations had to be done in order to save the face of the country.

7.2 Whether there was any financial loss; if so who is responsible?

7.2.1 When the decorators under the umbrella of consortium headed by M/s Finishing Touches submitted the bill of shs. 617,652,120 for payment, Chairperson Contracts Committee advised that final evaluation be carried out in order to ascertain works done.

7.2.2 The Chairperson, venues subcommittee came up with a final evaluation report of confirmed actual costs on decoration of CHOGM venues by the consortium. Basing on the evaluation the figure of shs. 617,562,120 were revised to shs. 459,550,000/=-, which investigation finally analysed should have been shs. 445,224,400. As earlier stated in this report the difference was due to wrong percentage applied than what had been agreed in the valuation and negotiations.

7.2.3 Further still, a comparison and analysis made by the investigation team on the bill provided by M/s Finishing Touches and the reports of some of the various persons that were in charge of the venues, indicated variation in the figures presented. For the other venues namely; Golf Course Hotel, Serena International Conference Centre and Imperial Botanical Beach Hotel, no report were on record to compare actual works done with what was claimed to have been done.

7.2.4 Ministry of foreign Affairs also had no estimated costs against which work done could be measured or verified. The Ministry of Foreign Affairs relied on the bills submitted by M/s Finishing Touches Ltd which it finally revised basing on the reports compiled by the venue managers.

7.2.5 In the absence of a proper bench mark by the Ministry of Foreign Affairs against which work done could be compared, lack of report from the other venue's decorated, it is not possible to confirm that the revised bills of shs 459,550,000/=, which finally reduced to shs. 445,224,400/= reasonably represented the value of the actual work undertaken. However, the issue of the payment is under litigation through civil suit no. 144 of 2010, in the High Court.

8.0 CONCLUSIONS

From the findings and observations of this report, it is here by concluded that;

8.1 ***As reported in the Auditor General's report of April 2008, the decoration of CHOGM venues was done without following due procurement process in breach of the PPDA Act, Regulations and guidelines as stated in paragraph 6.2.38 and 6.2.39 of this report. The works were undertaken without an agreement and contract and to date (20/07/2011) no payment has been made. The matter of non payment has been taken to court for redress.***

- 8.2 *Amb. James Mugume, Permanent Secretary MoFA acted in good faith to have the venues decorated given the fact that decoration of venues for CHOGM 2007 came as a last minute requirement among CHOGM 2007 activities without any proper concepts and expertise on how the decorations were to be done .Clarification of concepts was done in the processes and time had run out, so the parameters for procurement were not very clear up to the time of CHOGM Further still time had run out for the ministry to follow the procurement process.*
- 8.3 *It was not possible to establish whether there was value for money for the charges of shs. 459,550,000/= finally approved by the Ministry of Foreign Affairs as stated in the Auditor Generals report of April 2008 as works done in some of the venues were not certified/verified and there were also no cost estimates made by the Ministry as a parameter against which work done could be compared to suggest any financial loss caused.*
- 8.4 *It is further concluded that payment has not yet been made and there is no apparent prejudice to government and no prejudice to the decorators has also been disclosed. More still no favour to a particular decorator has been established to suggest collusion.*
- 8.5 *The investigation did not establish any influence peddling on the part of Hon. Amama Mbabazi as stated in the PAC May 2010 report. This was clearly reflected in our findings of paragraph 6.4.1.*

8.6 *Our findings and observations in paragraph 6.4.2 and 7.3.1 respectively also show that Hon. Hope Mwesigye was not involved in the identification, solicitation, negotiations and award of contracts for CHOGM 2007 venue decorations as stated in the PAC May 2010 report..*

8.7 *Therefore no case has been established for prosecution or disciplinary action against any of the people involved in the procurement of venue decorations for CHOGM 2007.*

9.0 RECOMMENDATIONS

9.1 *The issue of payment due to the decorators should be left to be determined by the High Court through the on going suit no. 144 of 2010.*

9.2 *The file at the Inspectorate of Government be closed.*

**INSPECTORATE OF GOVERNMENT
JULY 2011**