



PARLIAMENT OF UGANDA

REPORT OF THE COMMITTEE ON DEFENCE & INTERNAL AFFAIRS ON THE TRIPARTITE AGREEMENT BETWEEN THE UGANDA POLICE FORCE, UGANDA LAND COMMISSION AND TIP TOP INVESTMENTS LTD FOR THE DESIGN, CONSTRUCTION AND EQUIPPING OF A REGIONAL FORENSIC REFERRAL CENTRE, CONSTRUCTION OF HEADQUARTERS AND ACCOMMODATION FOR OFFICERS

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OFFICE OF THE CLERK TO PARLIAMENT

AUGUST, 2019

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ACRONYMS

AFRIPOL	African Police Cooperation Organisation
EAC	East African Community
EAPCCO	East African Police Chiefs Cooperation Organisation
JLOs	Justice, Law and Order Sector
PPDA Act	Public Procurement and Disposal of Public Assets Act, 2003
RFRC	Regional Forensic Referral Centre
UPF	Uganda Police Forces

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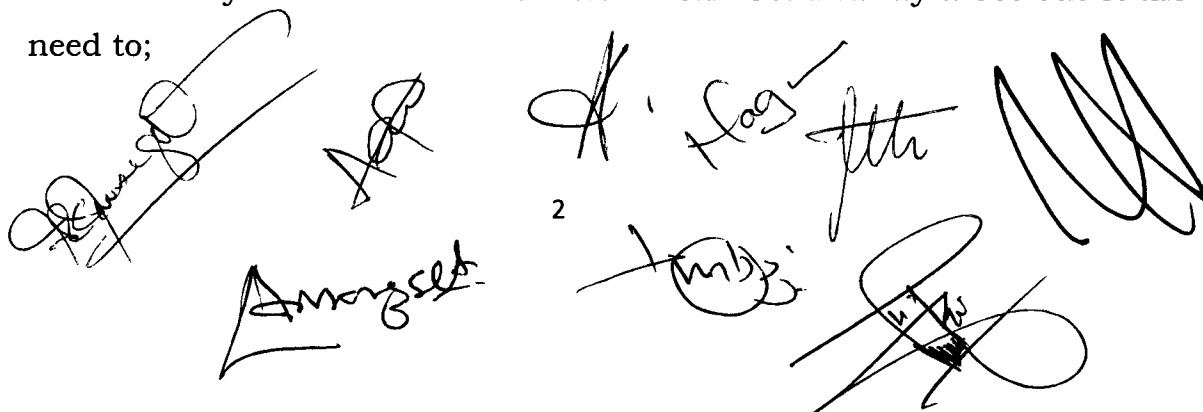
1.0 INTRODUCTION

- The agreement between the Government of Uganda (represented by the Uganda Police Force and Uganda Land Commission) and Tip Top Investment Company for the design, construction and equipping of the Regional Forensic Referral Centre of Excellence for the Eastern Africa region, Construction Of Headquarters and Accommodation for Officers was laid before the House on 18th September, 2018 by the Minister of State for Internal Affairs, Hon. Mario Obiga Kania and referred to the Committee on Defence and Internal Affairs for scrutiny in accordance with Rule 185 of the Rules of Procedure of Parliament.
- The agreement was laid on Table in accordance with Section 34(6) of the Public Finance Management Act, 2015 which states that, “An Accounting Officer shall not pledge or otherwise encumber the land or any other Asset of a Vote without the permission of Parliament.”
- The Committee has considered the agreement, and now wishes to report.

2.0 BACKGROUND

In 2012, the East African Community's (EAC) Council of Ministers resolved to have a Regional Forensic Referral Centre (RFRC) hosted by Uganda. The RFRC was to be a centre of excellence in Forensic service delivery in the EAC as well as to serve as a focal point of forensic service delivery in the EAC Region, East African Police Chiefs Cooperation Organisation (EAPCCO) and the African Police Cooperation Organisation (AFRIPOL).

The necessity for a RFRC in the East African Community arose out of the need to;



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- Strengthen the investigative capacity of law enforcement agencies in the East African region
- Facilitate other law and order sectors in the administration of justice
- Combat the increased sophistication in crime, cognisant of its apparent transnational nature, especially terrorism and cybercrime and investigation of other emerging crimes.

The EAC 4th Sectoral Council on Interstate Security adopted the recommendation from the EAC Chiefs of Police to establish a Regional Forensic Referral Centre (RFRC) of Excellence that would spearhead the harmonisation and provision of:

- Forensic expertise
- Quality control and standardisation of forensic service delivery
- Accreditation of forensic service providers and certification of forensic experts
- Training, research and strengthening of forensic services in the region.

During a meeting held in Kigali, Rwanda on 23rd and 24th August, 2012; the East African Community Chiefs of Police endorsed Uganda to host the RFRC. The recommendation to have Uganda host the RFRC was adopted by the 5th Sectoral Council of Ministers on 27th August, 2012.

The Uganda Police Force was therefore given the responsibility for establishing the RFRC with the strategic intent geared at the EAC and EAPCCO being self-sufficient in the timely and reliable delivery of Forensic services in the following cooperation areas: Chemical Analysis, Forensic Pathology, Forensic Ballistics and tool marks, Forensic Photography and Imaging, Scenes of Crime Management, Polygraph and Acoustic Analysis, Forensic Biology, Fire and Explosives Analysis, Forensic Toxicology, Cyber Forensics, Forensic Anthropology and Odontology, Dactyloscopy, Facial Recognition, Iris

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Recognition, Forensic Art, Questioned Document Analysis, Trace Evidence Analysis, Accident Scene Reconstruction Analysis and any other area that may require Forensic Analysis.

Internally, Uganda Police Force seeks to strengthen her investigative capacity in support of the administration of justice through applications of modern scientific techniques in compliance with international standards.

UPF desires to develop critical infrastructure at Naguru using sixty-acres (60 acres) of its land in the same area. The critical infrastructure development is to include;

- a. Design, Build and Equip a modern Regional Forensic Referral Center of Excellence.
- b. Construct 1,000 apartments units for police accommodation.
- c. Construct UPF Headquarters.

The RFRC project will require the following key interventions:

- (i) Designing and building an ultra-modern structure to house the RFRC
- (ii) Equipping the modern structure with state-of-the art scientific and analytical equipment for use by forensic practitioners in the various scientific application areas
- (iii) Training, tooling and skilling of the pre-requisite human resource, competent to undertake the various forensic examinations.
- (iv) The existing structure housing the Directorate of Forensic Services in Naguru is proposed for remodelling to accommodate the Forensic Academy that will be used as a Regional Forensic Training Academy.

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A developer, M/s Tip Top Investments (U) Ltd, approached UPF with a proposal to undertake these infrastructure developments in addition to developing the acreage (the sixty-acres) into a 'mini-city' that will be leased to him in a phased manner (initially for 5 years convertible to 49 years) as payment for this infrastructure development.

It is upon the background above, that an agreement was signed between the Government of Uganda (represented by Uganda Land Commission and Uganda Police Force) and Tip Top Investments Limited (as a Special Purpose Vehicle incorporated for execution of the project). Master Assets is the guarantor for Tip Top Investments Limited.

3.0 TERMS OF REFERENCE

While scrutinising the tripartite agreement, the Committee was guided by the following Terms of Reference:

- (i) To establish the need for the Regional Forensic Referral Centre
- (ii) To establish whether the agreement signed complies with the relevant laws
- (iii) To find out the justification for the proposed Financing mode for the RFRC

4.0 METHODOLOGY

4.1 Meetings

The Committee held meetings with the following:

- His Excellency the President of the Republic of Uganda
- Ministry of Internal Affairs
- Uganda Police Force
- Attorney General

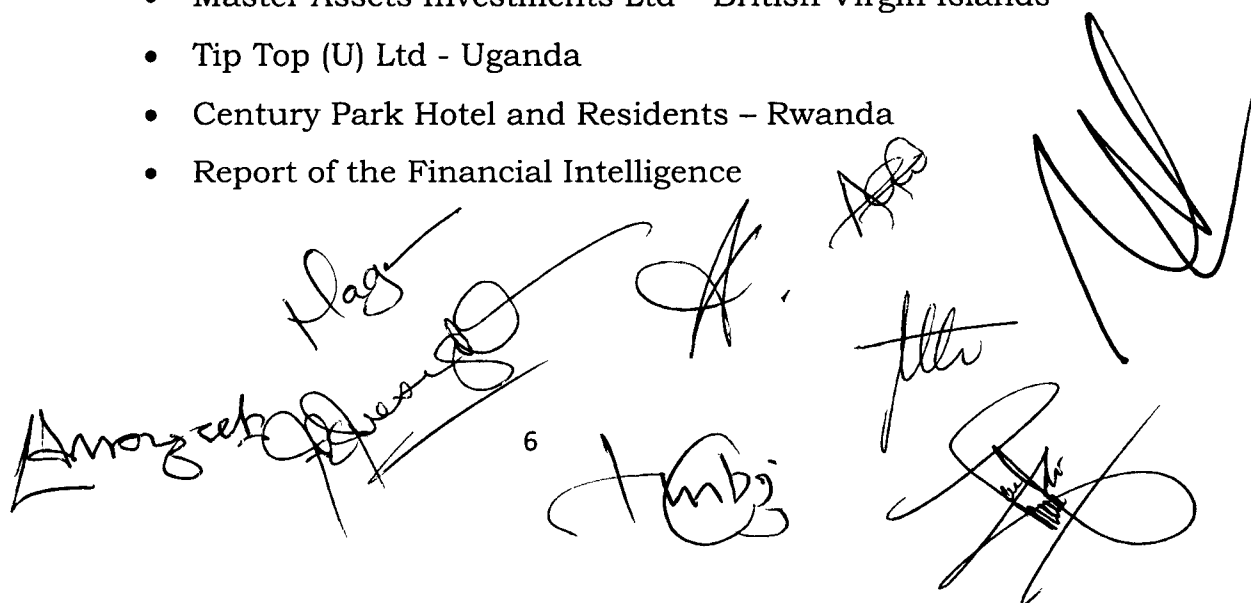
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- Minister of State for Lands
- On-site due diligence through meeting with the prospective developer and associates in China and Hong Kong.

4.2 Document review

The Committee reviewed and made reference to the following documents:

- Agreement between the Government of Uganda Table (represented by the Uganda Police Force and Uganda Land Commission) and M/s Tip Top Investment Company for the Design, Construction and Equipping of the Regional Forensic Referral Centre of Excellence for the Eastern Africa Region
- The Land Act, 1998
- The Public Procurement and Disposal of Public Assets Act, 2003 (PPDA Act)
- The Public Procurement and Disposal of Public Assets Regulations, 2014
- In addition to the draft contract Agreement presented to Parliament, additional documents were requested from the prospective developer and her associates. The documents received related to the following entities;
 - MCC Capital - Hong Kong
 - Tip Top Group - Dubai
 - Master Assets Investments Ltd – British Virgin Islands
 - Tip Top (U) Ltd - Uganda
 - Century Park Hotel and Residents – Rwanda
 - Report of the Financial Intelligence


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5.0 FINDINGS AND OBSERVATIONS

5.1 NEED/ JUSTIFICATION FOR A REGIONAL FORENSIC REFERRAL CENTRE

i. Limitation of the Directorate of Government Analytical Laboratory (DGAL)

DGAL has been the leading provider of independent scientific analytical and forensic services in Uganda with laboratories staffed by trained chemists, material scientists, technicians and laboratory management, with over 80 years of industry knowledge and expertise provided since the 1930s. However, DGAL has capacity, technical and human resource limitations.

The existing infrastructure housing the Directorate of Forensic Services is inadequate to accommodate all the capabilities of a modern forensic service. Additionally, the global standards governing forensic service delivery specifically ISO/IEC 17025:2017 could not be fulfilled due to structural limitations of the existing infrastructure, let alone provide a suitable environment for modern scientific equipment.

An ultra-modern forensic centre equipped with the latest scientific knowledge and resourced with highly-skilled, knowledgeable forensic practitioners is envisioned. The facility will deliver accurate, timely and reliable scientific services thereby eliminating the current investigative bottlenecks in the fight against modern, transnational and cross-border crime.



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ii. Increase in Crime Rate in the Region

Due to the high crime rate within the EAC and EAPCCO, especially crimes related to firearms and increase in cyber crimes, the RFRC will be structured to handle heavy requests for forensic science investigation from the neighbouring countries through capacity provision of modern scientific laboratories and to establish a management platform for effective governance of forensic data.

According to the consolidated statistical result in the profiling of current crime status in the East African region, crime cases committed using firearms were paramount in all the five East African Community countries.

The table below shows a quantitative analysis of fire arms crimes across five EAC countries.

Table 1- Armed Crime Incidences across EAC from 2010 to 2014

Country	Number of armed crime incidences
Uganda	34,512
Burundi	26,041
Kenya	12,877
Tanzania	9,646
Rwanda	421

Source: Uganda Police Force

From the above Table, it is clearly indicated that Uganda is leading in the crime rate rates indicated, followed by Burundi, Kenya, Tanzania and Rwanda being the least. Therefore urgent needs for the Forensic Laboratory in Uganda.

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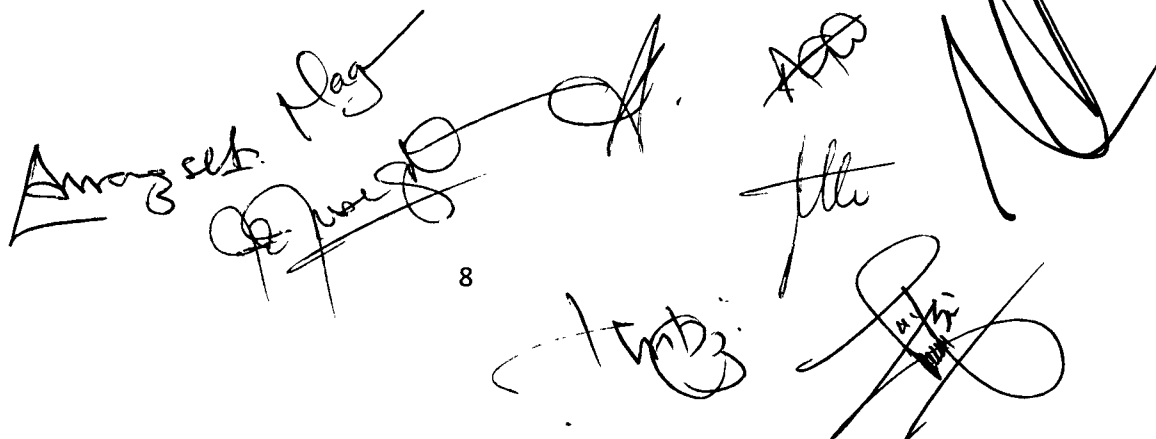
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Table 2 - Records of Crime Court Cases in Uganda in 2016

Court Cases (2016)	Verdict	
60,462	Secured convictions	17,477
	Acquitted	1,184
	Dismissed	9,457
	Pending	32,344

Source: Uganda Police Force

From the table above, for a case to be concluded, there is need for efficient and effective management of criminal investigations and the sustained use of forensic techniques at all levels in the administration of justice.

iii. Need to control Cross-Border Crime

There is need to build regional response to fight transnational and organised crime. EAPCCO and the EAC have to come up with strategies to control cross-border crime, ensure persons and goods within the region are continually being monitored. The advancement in technology, knowledge dispersal and globalisation in all aspects continue to influence crime types and trends.

iv. Terrorism threat

Attacks by terrorists have become a key security threat in the region, calling for increased vigilance to prevent more attacks.

v. Income from International Referrals to the Forensic Centre

Since the Regional Forensic Referral Centre is expected to serve EAC, EAPCCO and AFRIPOL, Uganda will therefore generate revenue from the referrals.

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5.2 BENEFITS OF THE REGIONAL FORENSIC REFERRAL CENTRE (RFRC)

The Committee visited Southern Medical University's school of Forensics which is located in Guangzhou, China and the Committee observed that the Forensic Laboratory highlights the urgent need for the establishment of a Forensic Laboratory of equal or better stature in Uganda as highlighted in the following benefits;

- Revenue generation from Local and International referrals to the forensic centre.
- Aid in speedy investigation of national, regional, trans-border crime and reduce terrorism threat
- Reduce the backlog of cases in the administration of Justice due to delays in investigation.
- Improved, Efficient and Effective management of criminal investigations and the sustained use of forensic techniques at all levels in the administration of justice.
- Employment opportunities for the youth population and application of science in modern policing e.g. reconstruction of accident and crime scenes.

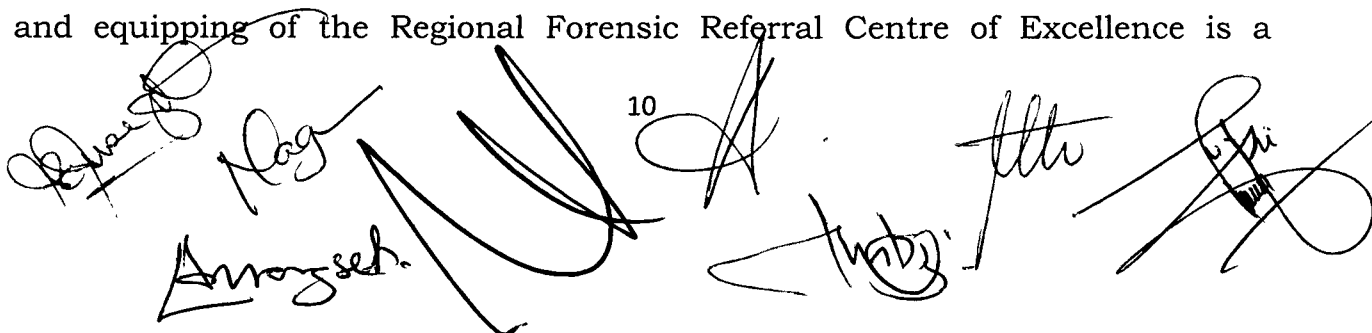
5.3 COMPLIANCE WITH THE LAW

The Committee established whether the following laws apply to the transaction.

- The Land Act, 1998
- The Public Procurement and Disposal of Public Assets Act, 2003
- The Public Private Partnership Act, 2015

The Committee was informed that the agreement for the design, construction and equipping of the Regional Forensic Referral Centre of Excellence is a

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Project Framework Agreement which sets out principles which shall govern implementation of the project. The structure of the transaction envisages that other agreements or contracts will be entered into in accordance with the relevant laws, in order to deliver the project.

The transaction has two components namely:

- a) Disposal of the payment land by way of lease by Uganda Land Commission
- b) Works, equipment, training and consultancy services

5.4 DISPOSAL OF THE PAYMENT LAND BY WAY OF LEASE BY UGANDA LAND COMMISSION

The Public Procurement and Disposal of Public Assets Act, 2003 (PPDA Act) does not apply to the transaction because the payment land is not a public asset since it is held by the Uganda Land Commission.

Section 3 of the PPDA Act, 2003 defines a public asset as, “...any property tangible or intangible, owned by Government or by a Procuring and Disposing Entity, including physical property, shares, property rights and land except land held by Uganda Land Commission...”

Section 3 of the PPDA Act 2003, defines a disposal to mean “.....any divestiture of Public Assets...by any means including ...lease...”

Leases are entered into by way of direct negotiations of the PPDA Act between the prospective **lessee** and **lessor**. That is stipulated in Section 87 of the PPDA Act 2003 and Regulation 9 and 10 of the PPDA Regulations S.1 13 of 2014. The provisions above do not apply to the disposal/lease of the payment land.

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The law which is to be followed therefore is the Land Act of 1998. The procedure followed is that prescribed under Section 53(c) of the Land Act which gives Uganda Land Commission powers to sell, lease or otherwise deal with land, among others.

5.5 WORKS, EQUIPMENT, TRAINING AND CONSULTANCY SERVICES

According to **Clause 15.1** of the agreement, Uganda Police Force shall procure a consultant who shall be responsible for obtaining the necessary approvals and supervision of the works, among others. Uganda Police shall also be responsible for the procurement of the equipment with the company as the financier (Clause 6.2.2)

The framework agreement therefore, envisages compliance with the procurement laws and processes where applicable.

On Page 12 in the third paragraph under Works, the construction works shall be led by the company through contractors procured by the company itself and as such, the PPDA Act would not govern a private investor in soliciting for a contractor.

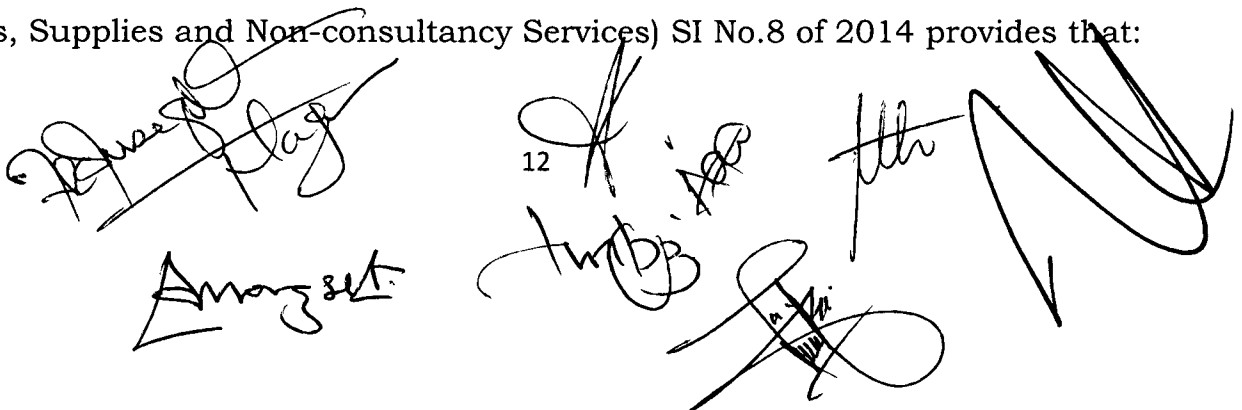
All the above will be financed by the Tip top Investment Company.

According to Regulation 8(1) and 9(1) of the PPDA (Contracts) Regulations SI No. 14 of 2014,

“A procuring and Disposing Entity shall not enter into a contract until the accounting officer confirms in writing that the required funds have been committed for the proposed contract.”

“An Accounting Officer shall ascertain that the total cost of acquiring a procurement requirement is committed before entering into a contract.”

Similarly, Regulation 4(1) of the PPDA (Rules and Methods for Procurement of Works, Supplies and Non-consultancy Services) SI No.8 of 2014 provides that:

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“A Procuring and Disposing Entity shall not initiate any procurement for which funds are not available..”

According to the above therefore, where funds are not available to finance an acquisition, no procurement processes under the PPDA Act can or should be initiated.

The transaction is not a Public Private Partnership arrangement because according to Section 4 of the Public Private Partnership Act, a PPP is a commercial transaction between a contracting authority (Government entity) and a private party where the private party performs a Government function on behalf of Government and acquire use of Government property, assumes substantial and technical operational risks in the performance of public functions and receives payment or benefits for such performance.

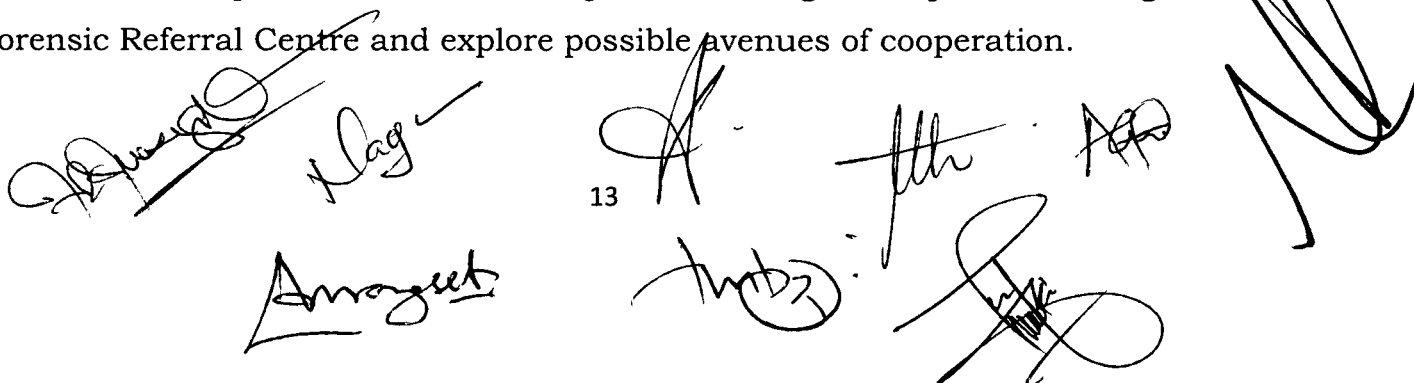
Under the agreement, the company is not required to perform a public function of forensics and investigations. Once the forensic centre is complete, it shall be owned, managed and operated by Government.

Tip Top Investments Limited was engaged through direct negotiations and as part of the investment; the company is also under obligation to develop the land leased to it.

5.6 JUSTIFICATION FOR THE FINANCING MODE

The Committee was informed that in April 2017, M/s Tip Top Investments Limited submitted an unsolicited expression of interest to lease part of UPF land at Naguru for commercial development. In exchange for the lease, they offered to develop Police infrastructure. (Trade-off arrangement)

Uganda Police Force subsequently signed a memorandum of understanding with the developer to further develop the existing concept of the Regional Forensic Referral Centre and explore possible avenues of cooperation.

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UPF wrote to the Uganda Land Commission in September, 2017 seeking for a 'no objection' to lease the Naguru land. This was to be done in exchange for construction of;

- a) Regional Forensic Referral Centre at Ushs 72 billion
- b) Equipping Forensic Referral Centre at Ushs 18 billion
- c) Headquarters at Ushs 36 billion
- d) Accommodation for officers at Ushs 54 billion

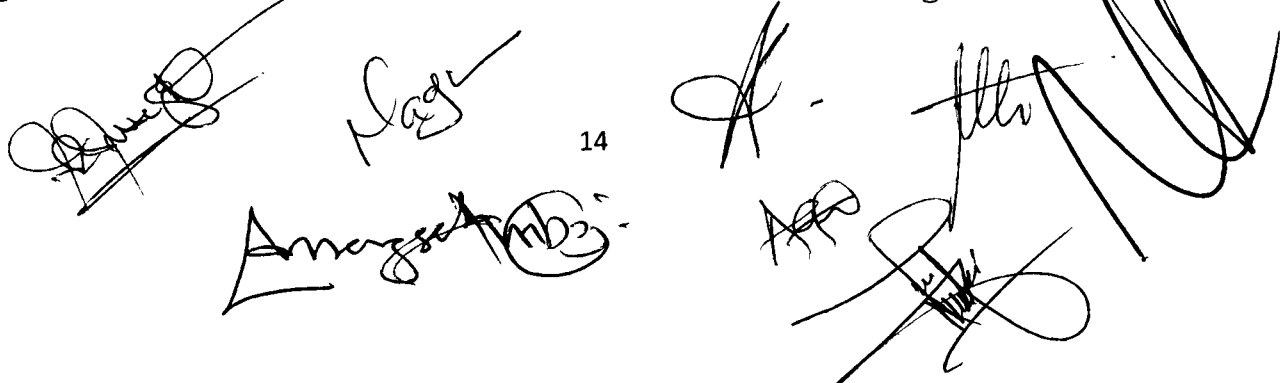
Uganda Land Commission gave consent for the lease transaction on 13th November, 2017.

The Committee was further informed that currently, no lease has been given to the investor. The lease will be processed when implementation of the project is started in accordance with the terms of the agreement. Each acre of land in Naguru was valued at Ushs 3 billion by the Chief Government Valuer (as per 25th November, 2016)

The Committee noted that the RFRC construction, equipping and training is estimated to cost Ushs 108 billion. The actual sum shall be determined following finalisation and revision of Bills of Quantities by M/s Tip Top Investments Limited and the Owner's Consultant and as approved by Uganda Police. The final contract sum shall however, not exceeds the value of the available land.

The Committee also noted that the capital development budget for Uganda Police Force is inadequate to cater for construction of a modern forensic laboratory, UPF headquarters and command centre and accommodation facilities for Police officers.

Rt. Hon. Speaker and Members, the residential and non-residential budget for Uganda Police Force is Ushs 13 billion. This means that Uganda Police Force

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will have to stop all constructions for the next 10 years to be able to undertake these initiatives.

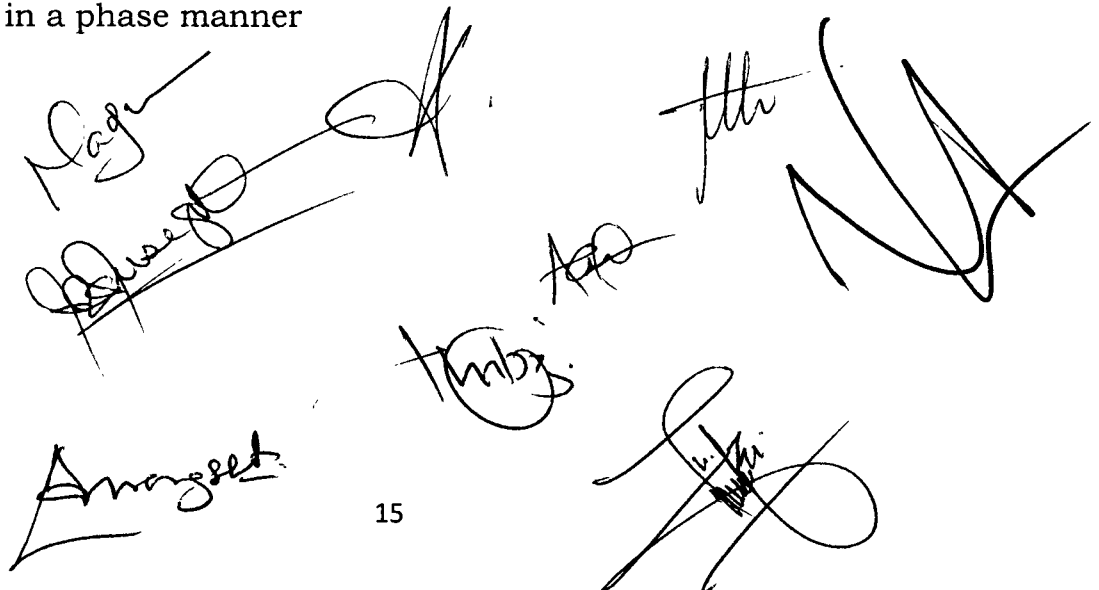
A Public Private Partnership arrangement comes with a heavy burden to the Government as it requires unitary payments.

Following the guidance from His Excellency the President on the development of Uganda Police Force infrastructure using UPF's prime land, this mode of financing was preferred since it was budget-neutral. The Regional Forensic Referral Centre and accommodation for Police officers are supposed to be prioritised.

The Committee observed that the project and the value of the said land, the Forensic Centre, equipping it, construction of accommodation facilities and the Police headquarters will be covered by the area of land available for swapping (60 acres). For the Regional Forensic Referral Centre, sequential leasing in parcels of 5 acres for every money invested will be undertaken.

The Committee observed that in the contract agreement that a sixty-acre piece of land shall be used as a mode of payment for the project

The Committee further observed that in 1996 part of the Police land at Naguru was leased to UNAFRI for 99 years to accommodate their staff, however UNAFRI also went ahead and subleased to YUASA (a car bond) and Future Group Ltd for the period of 99 years and government should therefore consider giving the land in a phase manner

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5.7 TIPTOP INVESTMENT COMPANY LIMITED

The Committee established that Tip Top Investments (U) Ltd is owned by Tip Top Dubai which in turn is owned by MCC Capital Limited with shareholding

The Committee observed that MCC Capital Limited is registered under Reg No. 2262302 from the Hong Kong Registration Bureau Company as evidenced

Whereas Master Assets Investments Limited is the guarantor for Tip Top Investments (U) Ltd as detailed in the contract agreement, the Committee established that MCC Capital Limited is the entity that is in position to invest in this project with funds contributed by the shareholders.

MCC Capital Limited has five shareholders as listed below;

NAME	PASSPORT NO.	SHARES	%ge
Cheung Yiu Tung	KJ0348054	900	60%
Chen Min	G29569351	200	13%
Yun Shen Chu	G47197763	200	13%
Lam Chung Chak	K04011569	100	7%
Zhou Daozhi	E31753953	100	7%

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Committee Recommends that;

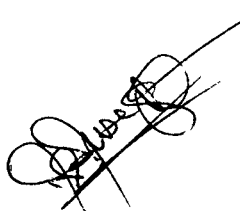

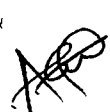
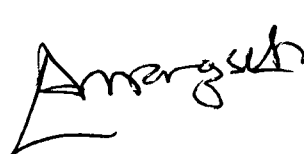
i). the Minister of Internal Affairs forms a Project Management Team through the relevant entity (UPF) tasked to review the contract agreement and ensure that the scope of Regional Forensic Referral Center (including equipment) is itemised, costed in order to establish the complete total cost of the Project that includes; Designing, Building and Equipping a modern Forensic facility, Construction of 1,000 units of staff accommodation and Construction of UPF headquarters.

ii) the Project Management Team oversees the implementation of the Project to its satisfactory completion.


iii). the implementation of the Project, the design, construction and equipping of the Regional Forensic Referral Center of Excellence takes precedence to ensure its timely realisation due to the risk of losing the opportunity to host such a unique capability in EAC and Sub-Saharan Africa.

iv). MCC Capital Limited issues an 'on-demand bank guarantee' as opposed to an 'on-demand performance bond by a reputable insurance company since the Committee could not obtain the Audited Financial Statements for the past 3 years.

v). Government be given a go ahead to lease in a phased manner according to construction works accomplished the land in Naguru as payment to Tip Top Investments (U) Ltd






vi). The initial advance payment of 10 acres should be given to Tip Top Investments Limited based on a probationary 5-year lease and only converted to 49 years after a commensurate amount of work done.

6.0 CONCLUSION

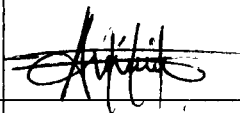
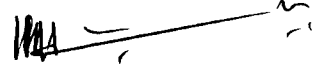
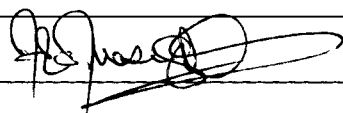
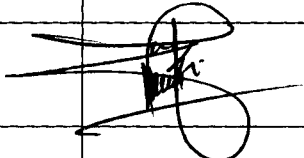


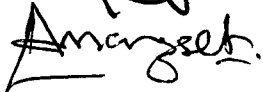
Rt. Hon. Speaker and Hon. Members, it is our considered view that the recommendations contained in this report be adopted and please allow me appreciate the Contribution of Members of the Committee on Defence and Internal Affairs and the technical staff in the production of this report,

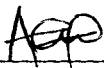
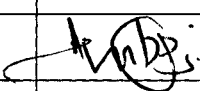
I request that this report be considered by this House and recommendations therein adopted.

I beg to Move.

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**SIGNATURE FOR MEMBERS OF THE COMMITTEE ON DEFENCE AND
INTERNAL AFFAIRS ON REPORT OF THE COMMITTEE ON THE TRIPARTITE
AGREEMENT BETWEEN THE UGANDA POLICE FORCE, UGANDA LAND
COMMISSION AND TIP TOP INVESTMENTS FOR THE DESIGN,
CONSTRUCTION AND EQUIPPING OF A REGIONAL FORENSIC REFERRAL
CENTRE OF EXCELLENCE FOR THE EASTERN AFRICA REGION**

NO	NAME	DESIGNATION	PARTY	SIGNATURE
1	Hon. Amule Doreen Ruth	Chairperson	NRM	
2	Hon. Nagwomu Moses	Vice C/P	NRM	
3.	Hon. Mwesigye Fred	Member	NRM	
4.	Hon. Oseku Richard Oribo	Member	NRM	
5.	Hon. Mugabe Kahonda Dononzio	Member	NRM	
6.	Hon. Muheirwe Daniel	Member	NRM	
7	Hon. Lowila CD Oketayot	Member	NRM	
8.	Hon. ^{Dr.} Muiyanja Mbabaali	Member	NRM	
9.	Hon. Lamwaka Margaret	Member	NRM	
10.	Hon. Babirye Judith	Member	NRM	
11.	Hon. Ssekikubo Theodore	Member	NRM	
12.	Hon. Kabafunzaki Herbert	Member	NRM	
13.	Hon. Lokii Peter Abraham	Member	NRM	

14.	Hon. Wamala Nambooze F	Member	NRM	
15.	Hon. Munyagwa Mubarak	Member	FDC	
16.	Hon. Gilbert Olanya	Member	FDC	
17.	Hon. Fungaroo Hassan Kaps	Member	FDC	
18.	Hon. Muwanga M. Kivumbi	Member	DP	
19.	Hon. Kato Lubwama	Member	DP	
20.	Hon. Zaake Francis	Member	INDEP.	
21.	Hon. Beatrice Atim Anywar	Member	IND .	
22.	Hon. Aciro Lucy Otim	Member	INDEP.	
23.	Hon. Kulayigye Felix	Member	UPDF	
24.	Hon. Mbeiza Margaret	Member	NRM	



PARLIAMENT OF UGANDA

**MINORITY REPORT ON THE COMMITTEE ON DEFENCE AND INTERNAL
AFFAIRS ON THE TRIPARTITE AGREEMENT BETWEEN THE UGANDA
POLICE FORCE, UGANDA LAND COMMISSION AND TIP TOP
INVESTMENT LTD FOR THE DESIGN, CONSTRUCTION AND EQUIPPING
THE REGIONAL FORENSIC REFERRAL CENTRE OF EXCELLENCE**

BY

KIVUMBI MUWANGA (MP)

COMMITTEE MEMBER

AND

SHADOW MINISTER INTERNAL AFFAIRS

SEPTEMBER 2019

A handwritten signature in black ink, appearing to read "Kivumbi Muwanga".

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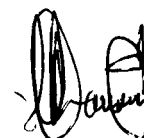
1.0 BACKGROUND

On the 24th day of April 2018, the Government of Uganda (Uganda Police Force, Uganda Land Commission) and Tip Top Investments Limited signed a tripartite agreement in respect of design, construction and equipping the Regional Forensic Referral Centre of Excellence (RFRCE). Following scrutiny of the agreement, the Committee generated a report in January 2019 for which I dissented from their observations, findings and recommendations. I wrote the minority report and submitted in accordance to the Rules of Parliament

However after receiving the minority report, the Committee re-engaged the stakeholders and generated another report in August 2019. Based on the report, I still dissent with the majority of the Committee on their findings, observation and recommendations.

1.1 Areas of dissent

- a. The committee did not address itself on the legal capacities of the parties involved to enter the agreement that binds Uganda as a country.
- b. The Committee erred when it failed to scrutinise the adequacy of Performance support guarantee
- c. The committee erred in law and facts when it failed discover the unscrupulous attempt by Tip Top Investments Limited to obtain Land by circumventing the laid down procedures.
- d. The Committee errored in fact when it came to the conclusion that the tripartite agreement in respect of design, construction and equipping the Regional Forensic Referral Centre of Excellence (RFRCE) includes the construction of Police Headquarters and accommodation of officers which was a basis of no objections from Uganda Land Commission which is not the case.



- e. The Committee did not address itself on the legality in proposed modes of financing this project.

2.0 MINORITY OBSERVATIONS AND RECOMMENDATIONS

The minority agree with the recommendations made by the East African Community Chiefs of Police to establish a Regional Forensic Referral Centre of Excellence in Uganda for purposes of forensic expertise, quality control and standardization of forensic service providers and certification of forensic experts and training research and strengthening of forensic services in the region.

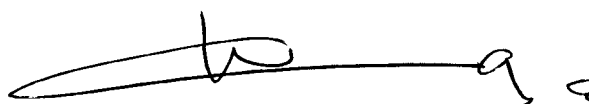
The Minority disagrees with the committee on the legal capacities of parties involved, failure to follow applicable laws, and the scope of the agreement vis-à-vis the mode of payments as elaborated below.

2.1 lack of legal capacity of parties to enter in the tripartite agreement

The parties to this agreement do not have legal capacity to enter the tripartite agreement in the laws of Uganda.

The tripartite agreement was entered into by Uganda Police Force (UPF), Uganda Land Commission (ULC) and Tip Top investments LTD with the Performance Support guarantee executed by Master Assets Investment limited in favour of Uganda Police Force, Uganda Land Commission and .

In accordance to the Constitution of Uganda; there is no any other person or entity of government that has legal capacity to enter any agreement or contract to which the Government is a party without the legal advice from the Attorney General. The interactions held by the committee between UPF and ULC does not indicate whatsoever that the Attorney General was ever involved in this transaction.



Article 119(4)(b) of the Constitution of the Republic of Uganda instructs the Attorney General to draw and peruse agreements, contracts, treaties, conventions and documents by whatever name called to which the Government is a party or in respect of which the Government has an interest.

The close look of the Agreement does not indicate that it was perused by the Attorney General or his officers or being responsible for drawing it. It was entered by the parties without legal capacity to enter such agreement. Uganda Police Force has no capacity to enter any agreement of commercial nature that binds the country without the Attorney General as a party. Therefore this agreement is *illegal abinitio* hence null and void.

Recommendation

This agreement being illegal abinitio, it is null and void and cannot therefore be sanctioned by Parliament.

2.2 Void Performance support guarantee

The Performance Support Guarantee purported to have been executed on 24th April 2018 by Masters Assets Investment Ltd to Uganda Police Force (UPF) and Uganda Land Commission (ULC) was laid on table by the Minister of Internal Affairs Hon. Obiga Kania on 18th September 2018 was never signed by the director of the Guarantor. There is one Signature of Mr. Wong Cho Yiu Thomson the Director of a company not mentioned and who signs as a witness, without the Guarantor signing.

Secondly the performance Support Guarantee never gave the address of the Masters Assets Investment Ltd a company purported to be incorporated in the British Virgin Island. The Committee was never availed with the certificate of incorporation by the Guarantor, no Articles and Memorandum of Association



was ever availed to the Committee. There was no proof of the legal personality of this guarantor.

The Committee did not pay attention to what will happen if this transaction is sanctioned, Tip Top fails to perform the contract and the performance support guarantee turned out to be fake. Failure to sign the Performance Support guarantee by the executor goes to the roots of the agreement. This is an indication that this transaction is not secured at all.

Recommendation;


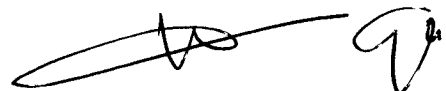
This tripartite agreement without a valid performance support guarantee cannot stand and should be rejected by Parliament.

2.3 Unscrupulous Attempt by Tip Top Investments Limited to obtain Land by circumventing the laid down procedures

Uganda Police Force does not own any piece of land in its own name. The land in Naguru is registered under proprietorship of Uganda Land Commission. Uganda Police Force is encumbered in the land title as the user of the said land. The appropriate body to enter lease with Tip Top Investments Ltd is the Uganda Land Commission in accordance to section 53(c) of Land Act Cap 227 and Section 101 of Registration of Titles Act Cap 230.

Section 101 of Registration of titles Act cap 230 states that

The proprietor of any freehold or mailo land under the operation of this Act may, subject to any law or agreement for the time being in force, lease that land for any term exceeding three years by signing a lease of it in the form in the Eighth Schedule to this Act; but no lease subject to a mortgage shall be valid or binding against the mortgagee



unless he or she has **consented in writing** to the lease prior to it being registered.

This means that there must be express agreement between Tip Top Ltd and Uganda Land Commission for purposes of leasing the said land and the appropriate procedures followed. An agreement for design, build and Finance the Regional Forensic Referral center of Excellence cannot be a basis for creation of the lease agreement between Tip Top Ltd and Uganda Land Commission.

The effect of paragraph 4 of thereof the tripartite agreement is intended to circumvent the laid down legal procedures of creating a lease.

It states that

4.1 The effectiveness of this Agreement shall occur upon satisfaction of all the conditions set out in this Clause. The effective date shall be date on which the UPF notifies the Company that the conditions to effectiveness have been satisfied by the respective party or otherwise waived by UPF.

4.1.1 UPF obtaining and providing a written undertaking from the ULC giving recognition to this Agreement and undertaking to give the company (forty-nine) year lease to the parcels of the payment land in accordance with the terms of this agreement;

4.1.2 the UPF obtaining and providing a written undertaking from the ULC that it shall parcel out the payment land in separate parcels of approximately 5 (five) acres each and hold the certificate of titles in



readiness for transfer to the company to meet the payments to the company.

Based on the above Paragraph, the agreement compels the ULC to lease its land to Tip Top Investments Ltd. It is deduced that ULC was coerced to give out its land to Tip Top Investments Ltd parceled in small acreages and transferred to Tip Top investment Ltd before obtaining written undertaking to the Company.

In the event this scrupulous arrangement is permitted, the Company after the land has been transferred to them can transact in the said land in any way they want. As a country we need to be so cautious and suspicious of the intentions of this agreement giving away this prime land in the city basing on agreements that are tainted with ill motives will be a huge loss to the country.

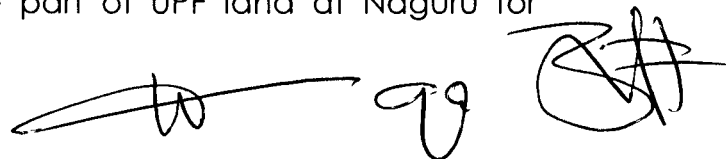
Recommendation;

I therefore implore Parliament to differ any decision of authorizing Government to circumvent the laid down legal procedures of leasing its land to investors.

2.4 The tripartite agreement excludes construction of Police Headquarters and accommodation of officers

The Committee erred in fact when it came to the conclusion that the tripartite agreement in respect of design, construction and equipping the Regional Forensic Referral Centre of Excellence (RFRCE) covers the construction of Police Headquarters, accommodation of officers which was a basis of no objections from Uganda Land Commission

The committee reports that in April 2017, Ms Tip Top Investments Ltd offered unsolicited expression of interests to lease part of UPF land at Naguru for



commercial development in exchange of development of Police infrastructure. The committee further reports that the land is to be traded-off in exchange for construction of the following

- a) Regional Forensic Referral Centre at Ushs 72 billion
- b) Equipping Forensic Referral Centre at Ushs 18 billion
- c) Headquarters at Ushs 36 billion
- d) Accommodation for offices at Ushs 54 billion

The Agreement entered between the Uganda Police Force, the Uganda Land Commission and Tip Top Investments Ltd is restricted to construction of the ultra-modern Forensic Referral Centre and equipment only.

Under Paragraph 5 of the Contract, it states that

'Parties agreed that the project will involve the company undertaking the designing, building, financing and equipping an ultra-Modern Regional Forensic Referral center with the state of the art technology as well as training UPF human resource in the equipment in accordance with joint plans developed by UPF, the company and the equipment as detailed in the scope of the works'.

The said agreement does not have any provision to construct either the accommodation of the staff or the headquarters. The Company's obligation is only limited to carry out the detailed design of the project in accordance with the technical design concepts and perform in accordance with the performance bond. The contract entered into indicates that the Company shall provide design services, labour, materials, and the Equipment required to undertake, complete, start up and test the facility.

The agreement describes what the facility shall comprise of. The Regional Forensic Referral Centre facility is comprised of two major structures with a total build up area of 14, 000 square meters namely



- (i) Designing and building of the main structure of 4 wings (A, B, C and D) each with four levels as well as a basement level on wings C and D.
- (ii) The adjacent ballistic range will have one level.

The costing of this facility was put by the Ministry at:

- a) Construction of the Regional Forensic Referral Centre at Ushs 72bn
- b) Equipping Forensic Referral Centre at Ushs 18 bn

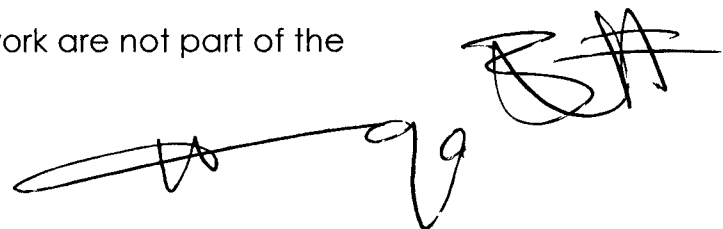
The value of the work is only Ush 90 billion as per the Ministry's submission. The construction of the headquarters and accommodation for staff are not part of the contract. Suffice to note that even the figures quoted by the Ministry and even in the majority report are not anywhere in the Agreement and do not form part of the sum that the guarantor is purported to have guaranteed.

The report on page 14 states:

"UPF wrote to the Uganda Land Commission in September 2017 seeking for 'no objection' to lease the Naguru land. This was to be done in exchange for construction of:

- a) Regional Forensic Referral centre at Ushs 72billion*
- b) Equipping Forensic Referral centre at Ushs 18billion*
- c) Headquarters at Ushs 36 billion*
- d) Accommodation for officers at Ushs 54 billion".*

These figures are not reflected anywhere in the agreement. Besides the items listed above were the basis for the Uganda Land Commission to grant a 'no objection' yet these figures and scope of work are not part of the agreement/contract.



The breakdown of the project cost quoted in the contract Paragraph 9.1.1 under the payments indicate the following

"9.1 payments

9.1.1 in consideration of the execution of the project with all its scope by the company and the remedying of all defects in the works, UPF shall pay the company a total Contract sum not exceeding USD 48,654,277.4(United States Dollars Forty-Eight Million Six Hundred Fifty-Four Thousand and Seventy-Seven and cents fourteen) broken down as follows

9.1.1.1 The total project costs for the design and build services for the Facility as established by the Bills of Quantities totaling to USD26,173,380,00 (united States Dollars Twenty Six Million One Hundred seventy Three Thousand Three Hundred Eighty);

9.1.1.2 Specialized fit out of the buildings totaling to USD 5,600,000.00 (United States Dollars Five Million Six Hundred Thousand);

9.1.1.3 The cost of the equipment and installations including furniture totaling to USD16, 880,896.33(United States Dollars Sixteen Million Eight Hundred thousand Ninety Six and cents Thirty Three)

9.1.1.4 Costs of provision of operational training, tooling and skilling of UPF human resource in the use of the Facility and Equipment is included in Clause 9.1.1.3

9.1.1.5 The Contract sum of USD 48.654, 277.14 is an estimate. The actual sum shall be determined following the finalization and revision of the Bills of Quantities by M/s Tip Top Investment limited and the owner's Consult and as approved by UPF. The Contract Sum shall however not USD 48,654,277.14 exceeds. In the event of failure by the company and UPF to agree to the final

costs of the BOQ, the owner's consultant estimate shall prevail and be adopted as the final and binding BOQ cost under the Agreement

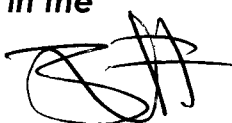
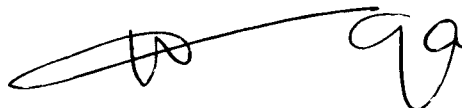
The Government valuer estimated the total value of 60 acres land that the company is interested in to be worth Ushs 180 billion. It is being traded-off to the value of works worthy only Ushs 90 billion.

In relation to the extract above, where did the committee get the figures quoted in the report from? The Agreement/contract is . Any other purported explanations outside the provisions of this agreement are just intended to mislead Parliament.

The attempt to persuade the House with erroneous information not backed by any evidence is embarrassing. It is sufficient ground for Parliament to reject this transaction.

Recommendations

- 1. The financing mode of the project has been s associated with irregularities. I recommend that it should be rejected by this August House.**
- 2. A better alternative method of funding be applied and as a country we save our prime land from scrupulous land dealers in the Ministry. Due to the importance and urgency to have the Regional Forensic Referral Centre hosted in Uganda a budget of Ugsh 90bn be provided for next financial year and the process of procurement be adhered to.**
- 3. That Naguru Police barracks land be developed by the Ministry to host headquarters and staff accommodation and where there is need for a Public Private Partnership to be initiated, the procedures enshrined in the Public Private Partnership Act be followed**



2.5 Illegal Procurement method preferred

The Committee did not address itself on the illegal mode of procuring and financing this project.

The committee erred in law and in fact when it came to the conclusion that the Public Procurement and Disposal of Public Assets Act 2003 does not apply to this transaction.

The minority opinion is that the Public Procurement and Disposal Assets Act 2003, is so central in governing this transaction and was violated.

The agreement signed for the design, construction and equipping of the Regional Forensic Referral Centre of Excellence had two components

- a) Procurement of the Ultra-Morden Regional Forensic equipment, works, training and the consultancy
- b) the Disposal of the land by Uganda Land Commission

a) Procurement of Equipment

It is our considered opinion that acquiring Ultra-modern forensic equipment itself necessitates a stand-alone procurement. This comes within the armpits of the Public Procurement and Disposal Assets Act 2003 where section 2 states *2(1) this Act shall apply to all public procurement and disposal activities in particular shall apply to*

a) All public finances

i.

ii.

iii. Of procuring and disposing entity

b)

c) Procurement or disposal of works, services, supplies or any combination however classified by

i. Entities of Government within and outside Uganda.

Page 23 and 24 of the Agreement Paragraph 9.1.1 gives the details of expected work which includes design and building services for the facility, equipment and installations including furniture, operational training, tooling and skilling of UPF human resources in the use of the facility. These services contracted brings this contract in the operations of the PPDA Act 2003 section 2(1) (c) hence a need to apply section 79 of the PPDA Act.

Section 3 of the PPDA Act as amended defines procuring and Disposing Entity to mean '*Ministry or Government Department*'

Therefore the Uganda Police Force being Government Department under the Ministry of Internal Affairs is bound by the operations of PPDA Act.

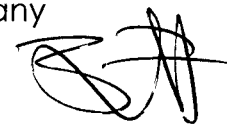
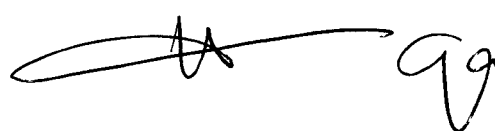
Before the execution of this Agreement to give an award to Tip Top Investment Ltd a contract that will procure the Ultra-modern forensic equipment, build the infrastructure, and train Uganda police officer, Section 79 of the said Act should have been applied. The Section states thus;

79(1) a Procuring and Disposing Entity in respect of

a) Each procurement activity shall use any of the methods in section 80 to 86 and their conditions for use specified in the fourth schedule.

This contract already assignees the obligations to the Tip Top Investment Ltd to purchase the equipment, design and build the infrastructure and train UPF officers thus already procuring their services and equipment by circumventing the PPDA 2003.

This agreement is a raw deal where the contractor designs the project, builds the infrastructure buys equipment and trains the officers. The company



determines the Bill of Quantities and variations thus causing conflict of interests. This contract violates sections 44 to 49 of the PPDA Act.

Recommendation

The Ministry of Internal Affairs should follow the Public Procurement and Disposal of Public Assets while procuring, designing , building the facility, equipment and installations including furniture, operational training, tooling and skilling of UPF human resources in the use of the facility.

2.6 Impact of previous similar transactions

The majority report was silent on the implications of previous similar transactions that were deliberated upon in the Committee. The following transactions were deliberated upon:

a) Illegal transactions in part of Naguru Police barracks land

Originally the land at Naguru police headquarters amounted to 138.262 acres excluding the Road Network. Part of this land of 26.1152 acres was allocated to UNAFRI for the lease of 49 years. Surprisingly the UNAFRI went ahead to sublease 8.077 acres to car dealers for 99 years that is to YUASA and Future Groups Co. Ltd near Jinja Road Nakawa.

b) Trade-off land at Kyitante grounds by Chieftaincy of Military intelligence

The country was hoodwinked by the Ministry of Lands, Defense and Security in 2006 when it gave out the land at Kitante grounds of 6.5 acres that formerly hosted doctor's hostel for interns at Mulago Hospital. The land was taken over by the Chief Military Intelligence and later was sold to Sudhir Ruparelia as a trade-off to construct Chief Military Intelligence Headquarters at Mbuya Military land. A The Government valuer had put the value of land at Kitante at



Ush1.5 billion an acre thus in 6.5 acres the expected property worthy would have been more than Ush10 billion. Unfortunately the building constructed in Mbuya is only worth Ush 3 billion. Land was taken and the people of Uganda did not get value for it.

c) Fraudulent deals in Shimon land and Naguru-Nakawa staff quarters land

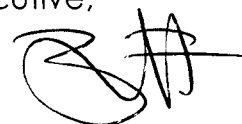
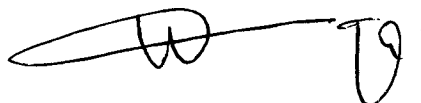
The country still remembers what happened to Shimoni Demonstration School. The land that housed it was taken over by mafias in 2005 under disguise to building CHOGM hotel. In 2006, the school was demolished, to give way for the construction of a five- star hotel. To date there is no hotel instead a small building constructed is being advertised for rent to those who want to have offices. The land ended in the hands of individuals.

d) Naguru Estates

On October 14, 2013 President Museveni laid the foundation stone for the construction of the Naguru-Nakawa Satellite City project. This is the land that is adjacent to Naguru Police barracks that is being earmarked for grabbing. The project was dubbed "New Kampala", and was expected to transform the 160-acre land, formerly a home to the Naguru-Nakawa residents at low-cost housing units redeveloped to 1,747 flats, bungalows, commercial buildings, a five star hotel, a referral hospital, schools, houses of worship and recreational facilities. The facts on ground speak for themselves. It is not amazing that now the appetite to grab institutional land is now focused on Naguru Police barracks.

CONCLUSION:

Government officials should endeavor to follow the law wherever they have been entrusted with these public offices. The Government is losing a lot of money and properties due to dubious deals engineered by public officers. It is high time that Parliament plays its cardinal role of oversight over executive,



protect the state's property meant to benefit both the current and future generation. I call upon the whole House to reject the majority report and adopt this minority report for prosperity of our country.

ZAAKE FRANCIS MITHANA MUNICIPALITY 99
OLANGA Gumbi KILAR SONG [Signature]