

REPUBLIC OF KENYA

① Hon. Speaker
Recommended for
approval for tabling.
Eg 17/03/20



THE SENATE

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26/3/2020
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11/03/2020

TWELFTH PARLIAMENT – FOURTH SESSION

STANDING COMMITTEE ON FINANCE & BUDGET

REPORT ON THE PETITION BY MR. EDWARD MWANGI REGARDING
UNPAID PENDING BILLS BY NATIONAL YOUTH SERVICE (NYS) TO
CONTRACTORS AND SERVICE PROVIDERS.

CLERKS CHAMBER
PARLIAMENT BUILDINGS
NAIROBI

③ Mr. Chameli
to facilitate tabling
26/3/20

March 2020

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PREFACE

The Committee on Finance and Budget was constituted by the House on Thursday 14th December, 2017 during the First Session of the Twelfth (12th) Parliament. The Committee as currently constituted, comprises the following members:

1. Sen. (Eng) Mohamed M. Mahamud, CBS, MP - Chairperson
2. Sen. (Dr) Isaac Mwaura, CBS, MP - Vice Chairperson
3. Sen. Wetang'ula Moses Masika, EGH, MP - Member
4. Sen. Mutula Kilonzo Junior, MP - Member
5. Sen. Aaron Cheruiyot, MP - Member
6. Sen. (Dr.) Ali Abdullahi Ibrahim, CBS, MP - Member
7. Sen. (Dr) Rose Nyamunga, MP - Member
8. Sen. CPA Farhiya Haji, MP - Member
9. Sen. Boniface Mutinda Kabaka, MP - Member

The Standing Committee on Finance and Budget is established pursuant Section 8 of the Public Finance Management Act, 2012 and standing order 218(3) of the Senate Standing Orders and is mandated to -

- a) Investigate, inquire into and report on all matters relating to coordination, control and monitoring of the county budgets and to examine -
 - i) *the Budget Policy Statement presented to the Senate;*
 - ii) *report on the Budget allocated to Constitutional Commissions and independent offices;*
 - iii) *the Division of Revenue Bill, County Allocation of Revenue Bill, and cash disbursement schedule for county governments;*
 - iv) *Consider all matters related to resolutions and Bills for appropriations, share of national revenue amongst the counties and all matters concerning the National Budget, including public finance and monetary policies and public debt, planning and development policy.*
- b) *Pursuant to Article 228 (6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments*

INTRODUCTION

The right of Kenyan citizens to petition public authorities and Parliament is a right conferred by the Constitution under Article 37 and Article 119 of the Constitution. The right to petition is an essential citizen participatory tool that allows for direct intervention by Parliament on issues relating to the promotion and protection of the rights of citizens.

The Petition to Parliament (Procedure) Act No. 22 of 2012 makes provisions for the procedure for the exercise of the right to petition and also defines the format of petitions to be addressed to the Parliament.

Pursuant to standing orders 226 (1)(a) and 230 (2) (b) of the Senate Standing Orders, the Speaker, on 9th October, 2019, reported a public petition to the Senate on behalf of the Petitioner, a contractor and a service provider, Mr. Edward Mwangi to the Senate. The Petition was on unpaid pending bills by National Youth Service (NYS) to contractors and service providers.

The Petitioner drew the attention of the Senate to the following issues-

- 1) The National Youth Service (NYS) engaged a number of contractors and suppliers who carried their work diligently, especially during the presidential directive on restructuring and rebranding of the NYS.
- 2) From 2013 to June 2018, suppliers and contractors supplied goods and services to NYS, with the majority having not been paid to date.
- 3) At the end of every financial year since 2013, there has been a promise to pay contractors and suppliers, but the promise has not been honoured to date.
- 4) In the financial year ending 30th June, 2019, the President gave a directive to pay all pending bills. However, during the last week of June, 2019, a list of service providers was released by the NYS, but most of the genuine suppliers and contractors were not among the firms to be paid.
- 5) NYS suppliers and contractors have experienced grievous economic distress as a result of loss of hard earned wealth and properties to auctioneers due to loans, death,

medical conditions associated with stress, family break ups and shattered, irreparable livelihoods.

PRAYER

The Petitioner therefore prayed that-

Senate investigates the matter with a view to ascertain genuine pending bills and claims for verifiable works and services rendered and recommend that payments be made without further delay so as to ease the unbearable economic distress to the suppliers and contractors. Pursuant to Standing Order 232(1), the petition stood committed to the Standing Committee of the Senate on Finance and Budget for consideration.

DELIBERATION

The Committee at a sitting held on 5th November, 2019 deliberated on the matter and resolved to invite the petitioner for a meeting.

At a sitting held on 14th November, 2019 the Committee held a meeting with the Petitioner, Mr. Edward Mwangi who was accompanied by other contractors and suppliers as below-

- | | |
|------------------------|------------------------------|
| 1. Mr. Peter K.A Towet | - Chairman (SCOWA) |
| 2. Ms. Lucy Githinji | - Patimos General Suppliers |
| 3. Mr. Victor Ngatia | - Cynkey Ltd Supplier |
| 4. Mr. Ronald Orayo | - Metropolitan Agencies Ltd |
| 5. Mr. Jackson Kimani | - Goldfish General Merchants |
| 6. Mr. James M. Ondigi | - Ngara Capital Agencies Ltd |

After deliberation, the meeting resolved that the Petitioner should urgently provide more information to enable the Committee process the Petition and respond to the prayers. The documents required include-

- a) A tabulation of the name of the company, indication on whether a service or goods were provided, amount owed by NYS,
- b) Company documents indicating claims like tender documents, evidence of supplies of goods and services and details of communications with the NYS and other stakeholders on the matter.

CONCLUSION

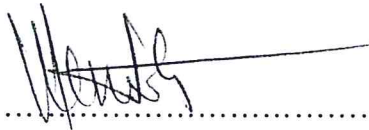
- a) The Committee observed that four (4) months later, the Petitioner has not submitted the information requested by the Committee.
- b) Noting that the documents requested by the Committee are vital in conducting the investigation and facilitating response to the prayers of the Petitioner,
- c) Aware of the provisions of the standing orders 232(2) of the Senate Standing Orders,
- d) The Committee is inhibited from conclusively considering the matter due to the failure of the petitioner to submit the necessary documents.

The Committee hereby presents its status report on the Petition regarding unpaid pending bills by National Youth Service (NYS) to contractors and service providers.

ACKNOWLEDGEMENT

The Committee is also particularly grateful to the Offices of the Speaker and the Clerk of Senate for the support received as it discharged its mandate.

On behalf of the Committee and pursuant to standing order 232 (2) it is now my pleasant and honourable duty to present and lay on the table of the house the report of the Finance and Budget Committee regarding the Petition to the Senate regarding unpaid pending bills by National Youth Service (NYS) to contractors and service providers.



.....
SEN. (ENG) MOHAMED MAALIM MAHAMUD, MP

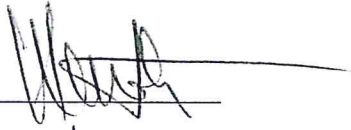
CHAIRMAN, FINANCE AND BUDGET COMMITTEE


DATE: 5/03/..... 2020


Adoption of the Report

Pursuant to standing order 213 (2) of the Senate Standing Orders, the Senate Standing Committee on Finance and Budget Committee adopted the Report on the on the petition regarding unpaid pending bills by National Youth Service (NYS) to contractors and service providers.

The members of the committee hereby affix their signatures to this Report to affirm their support for the Report –

Sen. (Eng) Mohamed M. Mahamud, CBS, MP -Chairperson 

Sen. (Dr) Isaac Mwaura, CBS, MP -Vice Chairperson 

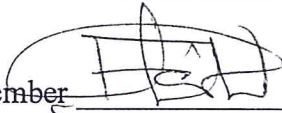
Sen. Wetang'ula Moses Masika, EGH, MP - Member 

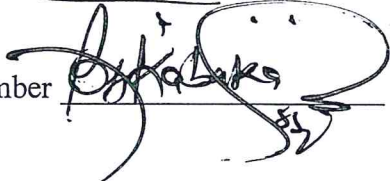
Sen. Mutula Kilonzo Junior, MP - Member _____

Sen. Aaron Cheruiyot, MP - Member _____

Sen. (Dr.) Ali Abdullahi Ibrahim, CBS, MP - Member _____

Sen. (Dr) Rose Nyamunga, MP - Member _____

Sen. CPA Farhiya Haji, MP - Member 

Sen. Boniface Mutinda Kabaka, MP - Member 

MINUTES OF THE 112TH MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON THURSDAY, 14TH NOVEMBER, 2019 AT COUNTY HALL, GROUND FLOOR BOARDROOM, PARLIAMENT BUILDINGS AT 10:00 AM.

PRESENT

1. Sen. (Eng) Mohamed M. Mahamud, CBS, MP - Chairperson
2. Sen. Aaron Cheruiyot, MP - Member
3. Sen. Mutula Kilonzo Junior, MP - Member
4. Sen. Moses Wetangula, EGH, MP - Member
5. Sen. CPA Farhiya Haji, MP - Member
6. Sen. (Dr) Ali Abdullahi Ibrahim, CBS, MP - Member
7. Sen. Boniface Mutinda Kabaka, MP - Member

ABSENT WITH APOLOGY

1. Sen. (Dr) Isaac Mwaura, CBS, MP - Vice Chairperson
2. Sen. (Dr) Rose Nyamunga, MP - Member

SECRETARIAT

1. Ms. Emmy Chepkwony - Principal Clerk Assistant
2. Ms. Lucy Radoli - Legal Counsel
3. Ms. Yunis Amran - Fiscal Analyst
4. Mr. Elly Atamba - Research Officer
5. Mr. Stephen Nyakuti - Audio Officer

IN ATTENDANCE

1. Mr. Edward Mwangi - Chairman NYS Service Providers
2. Mr. Peter K.A Towet - Chairman (SCOWA)
3. Ms. Lucy Githinji - Patimos General Suppliers
4. Mr. Victor Ngatia - Cynkey ltd Supplier
5. Mr. Ronald Orayo - Metropolitan Agencies Ltd
6. Mr. Jackson Kimani - Goldfish General Merchants
7. Mr. James M. Ondigi - Ngara Capital Agencies Ltd

MIN. NO. 549/11/2019:

PRELIMINARIES

The Chairperson called the meeting to order at 10.10 am and the prayers were said by Sen. Boniface Mutinda Kabaka.

The agenda of the meeting was adopted with amendments after it was proposed by Sen. Moses Wetangula, EGH, MP and seconded by Sen. Mutula Kilonzo Junior, MP

MIN.NO. 551/11/2019: MEETING WITH THE NYS PETITIONERS

The Committee noted the provisions of the Constitution and the Standing Orders that gives rights to every person to petition Parliament to consider any matter within its authority, including enacting, or repealing any legislation.

The Committee noted that on the House had referred to the Committee a Petition on unpaid Pending Bills by the Suppliers of goods and Services to the National Youth Service (NYS).

Submission by the Petitioners

The Petitioners informed the Committee as follows –

- i. That, the National Youth Service (NYS) engaged a number of contractors and suppliers who carried their work diligently especially during the President Directive on restructuring and rebranding of the National Youth Service.
- ii. That, from 2013 to June 2018, suppliers and contractors supplied goods and services to NYS with the majority having not been paid to date.
- iii. That, at the end of every financial year since 2013, there has been a promise to pay contractors and suppliers but the promise has not been honoured to date.
- iv. That, in the financial year ending 30th June, 2019, the President gave a directive to pay all pending bills but during the last week of June, 2019 a list of service providers was released by the NYS but most of the genuine suppliers and contractors were not among the firms to be paid.
- v. That, NYS suppliers and contractors have experienced grievous economic distress as a result of loss of hard-earned wealth and properties to auctioneers due to loans, death, medical conditions associated with stress, family breakups and shattered irreparable livelihoods.

The Petitioners prayed to the Senate to investigate the matter with a view to ascertain genuine pending bills and claims for verifiable works and services rendered and recommended that payments be made without further delay so as to ease the unbearable economic distress on the suppliers and contractors.

Committee Observations and Way Forward

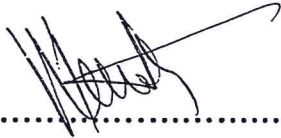
1. The Committee observed that the Petitioners had cited that the matter was not before any court of Law.
2. The Committee directed the Petitioners to provide more information to enable the Committee process the Petition and answer their prayers. The documents required include a tabulation of the name of the company, indication on whether a service or goods were provided, amount owed by NYS, Company documents indicating claims like tender documents, evidence of suppliers of goods and services and details of communications with the NYS and other stakeholders on the matter.

MIN.NO. 552/11/2019: ANY OTHER BUSINESS

The matter of House resolution on the set ceilings on the cost of construction of County non-core infrastructure and the request by counties for exemption be discussed in the meeting with the Department of Public Works at 12.00 pm.

MIN.NO. 553/11/2019: DATE OF NEXT MEETING AND ADJOURNMENT

The Chairperson adjourned the meeting at 11: 45 a.m. Next meeting to be held on Same day at 12.00 p.m.

SIGNATURE.....

(CHAIRPERSON: SEN. (ENG) MOHAMED MAALIM MAHAMUD)

DATE.....

MINUTES OF THE 134TH MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON THURSDAY, 5TH MARCH, 2020 IN COUNTY HALL, GROUND FLOOR BOARDROOM, PARLIAMENT BUILDINGS AT 11:00 AM.

PRESENT

1. Sen. (Eng) Mohamed M. Mahamud, CBS, MP - Chairperson
2. Sen. (Dr) Isaac Mwaura, CBS, MP - Vice Chairperson
3. Sen. Moses Wetangula, EGH, MP - Member
4. Sen. CPA Farhiya Haji, MP - Member
5. Sen. Boniface Mutinda Kabaka, MP - Member

ABSENT WITH APOLOGY

1. Sen. Mutula Kilonzo Junior, MP - Member
2. Sen. (Dr) Ali Abdullahi Ibrahim, CBS, MP - Member
3. Sen. (Dr) Rose Nyamunga, MP - Member
4. Sen. Aaron Cheruiyot, MP - Member

SECRETARIAT

1. Mr. Christopher Gitonga - Clerk Assistant
2. Ms. Lucy Makara - Deputy Director, PBO
3. Ms. Lucy Radoli - Legal Counsel
4. Ms. Yunis Amran - Fiscal Analyst
5. Mr. Ian Otieno - Audio Officer

MIN. NO. 649/03/2020:

PRELIMINARIES

The Chairperson called the meeting to order at 11.17 am and there followed a word of prayer.

MIN.NO. 650/03/2020:

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Boniface Mutinda Kabaka, MP and seconded by Sen. CPA Farhiya Haji, MP.

MIN.NO. 651/03/2020: CONSIDERATION AND ADOPTION OF STATUS REPORT ON THE PETITION BY MR. EDWARD MWANGI REGARDING UNPAID PENDING BILLS BY NATIONAL YOUTH SERVICE (NYS) TO CONTRACTORS AND SERVICE PROVIDERS

The Committee considered the report and observed as follows-

- a) That the provisions of the standing orders 232(2) of the Senate Standing Orders requires the Committee to report back to the House not later than 60 days after the Petition is referred to the Committee;

- b) that four (4) months had lapsed since meeting with the Petitioner and requiring that the Petitioner submits to the Committee, all the necessary documents for purposes of facilitating conclusive inquiry;
- c) That the Committee had not received vital documentation from the petitioner to enable it conduct investigations and respond to the prayers; and
- d) That due to the failure of the Petitioner to submit the necessary documents, the Committee was inhibited from conclusively considering and making its determination on the matter

The Committee resolved-

- a) To table its report on the matter to the House in consonant with standing orders 232(2) of the Senate Standing Orders;
- b) The report to be tabled in (a) above should be the conclusive and exit report of the Committee on the Petition.

The Committee unanimously adopted the report with amendments after it was proposed by Sen. Boniface Mutinda Kabaka, MP and seconded by Sen. Moses Wetangula, EGH, MP.

MIN.NO. 652/03/2020: ADOPTION OF THE REPORT ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 63 OF 2019).

The Committee unanimously adopted the report on the Public Finance Management (Amendment) Bill (National Assembly Bills No. 63 of 2019) after it was proposed by Sen. (Dr) Isaac Mwaura, CBS, MP and seconded by Sen. Moses Wetangula, EGH, MP.

MIN.NO. 653/03/2020: CONSIDERATION OF THE REPORT ON THE PETITION ON NONPAYMENT BY THE GOVERNMENT OF KITUI COUNTY EXECUTIVE OF PENDING BILLS INCURRED DURING FINANCIAL YEAR 2015/2016.

The Committee considered the letter Ref.No. EACC.6/15/15(31) dated 9th October, 2019 from Ethics and Anti-Corruption Commission (EACC) on the matter. It was observed that though the Petition was relating to 29 contractors, EACC was investigating fifty-eight (58) Contracts.

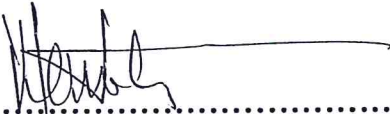
The Committee established that EACC had forwarded the inquiry file to the Office of Director of Public Prosecution (ODPP) and were awaiting advice on the matter.

The Committee resolved-

- a) EACC to provide updates of the independent review of the fifty-eight (58) contracts under investigation;
- b) That Committee Secretariat to undertake a comparison of whether all contracts undertaken by the Petitioners were subject of the EACC investigation.

MIN.NO. 654/03/2020: ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business the Chair adjourned the meeting at 12.15 pm.

SIGNATURE.....
(CHAIRPERSON: SEN. (ENG) MOHAMED MAALIM MAHAMUD)

DATE.....11/03/2020.....

