



REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – SECOND SESSION - 2014

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REPORT OF THE  
DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND  
NATIONAL SECURITY ON THE MATTER OF THE INQUIRY INTO  
THE TENDER FOR THE PROPOSED NATIONAL SURVEILLANCE,  
COMMUNICATION, COMMAND AND CONTROL SYSTEM FOR  
THE NATIONAL POLICE SERVICE

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CLERK'S CHAMBERS,  
PARLIAMENT BUILDINGS,  
NAIROBI

JULY, 2014

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## 1.0 PREFACE

Mr. Speaker, Sir,

The Departmental Committee on Administration and National Security is constituted under Standing Order 216 and is mandated to, inter-alia, "*investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments.*"

Mr. Speaker,

The following are the Members of the Committee:

Hon. Asman Kamama, MP - **Chairperson**  
Hon. Alois Lentoimaga, MP - **Vice-Chairperson**  
Hon. Joseph Kahangara, MP  
Hon. George Theuri, MP  
Hon. Alice Wahome, MP  
Hon. David Gikaria, MP  
Hon. Mohamed Shidiye, MP  
Hon. Jane Machira, MP  
Hon. Wanjiku Muhia, MP  
Hon. Zakayo K. Cheruiyot, MP  
Hon. James Bett, MP  
Hon. Patrick Ole Ntutu, MP  
Hon. Shaaban Ali Isaack, MP  
Hon. Grace Kiptui, MP  
Hon. Samuel Moroto, MP  
Hon. Bernard Shinali, MP  
Hon. Humphrey Njuguna, MP  
Hon. Francis K. Mwangangi, MP  
Hon. Rashid J. Bedzimba, MP  
Hon. Ibrahim Abdi Saney, MP  
Hon. Joseph O. Ndiege, MP  
Hon. (Major Rtd) John K. Waluke, MP  
Hon. Akujah Protus Ewesit, MP  
Hon. Ahmed Abdikadir Ore, MP  
Hon. Joseph Lekuton, MP  
Hon. Timothy Wetangula Wanyonyi, MP  
Hon. Dalmas Otieno, MP  
Hon. Ababu Namwamba, MP  
Hon. Regina Nthambi, MP

**Mr. Speaker, Sir,**

The matter of the tender for the National Surveillance, Communication, Command and Control System for the National Police Service came to the attention of the Committee through media reports on May 13<sup>th</sup>, 2014, to the effect that Safaricom Ltd had been awarded the tender for the System through direct procurement. The Committee, in exercising its oversight mandate held a sitting with the Ministry of Interior and Coordination of National Government on Thursday 5<sup>th</sup> June, 2014 during which the Committee sought details on the proposed procurement.

The Committee sought to establish whether the threshold for direct procurement as provided for by the Public Procurement and Disposal Act had been attained and whether the project offered value for money to taxpayers. The Committee resolved to have the signing of the contract put on hold until all facts behind the project had been established and the project approved by the Committee and the National Assembly.

**Mr. Speaker,**

The Committee embarked on the exercise of looking into the matter of the tender for the surveillance and communication system by convening the first sitting on 10<sup>th</sup> June, 2014. The Committee held eight (8) sittings in which it closely examined and heard evidence from witnesses. The Minutes of the Committee are hereto annexed and copies of the Hansard Report may be obtained at the National Assembly Library.

The Committee held a meeting with Technical Committee at the Ministry of Interior and Coordination of National Government. The technical committee which evaluated and approved the tender for the surveillance and communication System provided a genesis of the tendering process and the justification for using direct procurement. The technical committee is comprised of senior government officials in the Ministries of Interior and Coordination of National Government and the Ministry Information, Communication and Technology as well as the National Intelligence Service.

The need to get technical information on the safety and suitability of the proposed surveillance system saw the Committee meet officials from the Communication Authority of Kenya (CAK) as well as independent communication experts. It came to the attention of the Committee that the Communications Authority of Kenya had an ongoing court case with Tetra Radio Limited, a company that won a license to provide a

communication system for the police service in 2002. The license was cancelled leading to an on-going court case.

Tetra Radio Limited appeared before the Committee and stated their case, explaining the nature of the court case with CAK and their legal options should the proposed system be set up by Safaricom Limited. The Committee further met the Cabinet Secretary for Information, Communication and Technology to be able to understand the role of the Ministry in advising the government on the suitability of the project.

The meeting with Safaricom provided details on the process of setting up and implementing the surveillance system, the cost of implementing the project and Safaricom Limited's role in the process. The Committee was able to interrogate the Company's capacity to implement the project as well as having a live demonstration of how the system works.

A meeting with the Cabinet Secretary for the National Treasury provided the Committee with an opportunity to understand the payment structure and the availability of funds for the proposed system.

Lastly, the Committee held a meeting with the Ministry of Interior, the Public Procurement Oversight Authority (PPOA) and the Director of Procurement at the National Treasury. The meeting gave the Committee an opportunity to interrogate the various procurement requirements that arose in the course of the meetings with the other stakeholders.

**Mr. Speaker, Sir,**

During the meetings, it emerged that the procuring entity which is the Ministry of Interior and Coordination of National Government arrived at the decision to procure directly from Safaricom due to the protracted nature of previous tenders for Police communication and surveillance systems as well as the need to urgently set up the system to address runaway insecurity in the country.

The network to be used in the proposed system would be built by Safaricom Limited and handed over to the National Police Service for use. This network to be used for the system will be independent of Safaricom's commercial network though it will share passive infrastructure such as Base System Masts with the commercial network.

Tetra Radio Limited won a 2002 tender by the Communications Commission of Kenya (now the Communication Authority of Kenya) but had the license cancelled by the Commission in 2008 due to incapability to meet the terms of the tender agreement. Tetra moved to court and made claims for the exclusive use of the frequency range 370-470 MHz for provision of a communication system for the police upheld by the court. The Communications Commission appealed the decision and the case is currently before the Court of Appeal. Tetra Radio Limited is seeking exclusive use of the frequency range in question which a host of Government agencies have been using for communication purposes for decades.

The Committee established that the proposed project is valued at Kshs. 14.9 billion over five years repayment period. The money will cater for purchase of the equipment, its installation and networking to link it to the central command center. The cost breakdown is Kshs. 12.7 billion for building the System and Kshs. 2.2 billion for maintenance support over 5 years. The project will cover Nairobi and Mombasa in the first phase. To set up the project in the rest of the country, the Government would have to pay an extra Kshs. 21 billion. Part of the payment by the Government to Safaricom would be in the form of Spectrum for Safaricom to roll out the Long Term Evolution 4G network, both for commercial use and for use by the proposed police system.

A review of the tender by the Public Procurement Oversight Authority concluded that the procurement method used was within the law as the procuring entity had met the threshold for direct procurement as provided for by the Public Procurement and Disposal Act.

Mr. Speaker,

The Committee recommends that the House approves the tender award and the signing of the contract to Safaricom Ltd for the provision of a National Surveillance, Communication, Command and Control System for the National Police Service.

The Committee further recommends that the project should be expanded to cover the rest of the country as soon as is practically possible.

**Mr. Speaker Sir,**

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical support which enabled it to conduct this inquiry successfully. The Committee also appreciates the Ministry of Interior and Coordination of National Government for sharing information on the proposed tender for the Surveillance System.

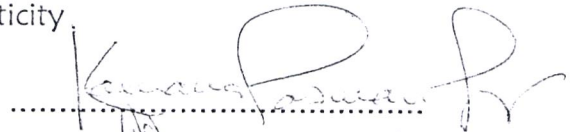
The Committee further appreciates the Ministry of Information, Communication and Technology and the Communication Commission of Kenya for elaborating on the technical details of the proposed surveillance system to establish the suitability of having Safaricom setting up the system.

The Committee acknowledges Safaricom for providing details of how the Surveillance System will be implemented. The Committee also appreciates the National Treasury for providing details on the payment structure for the proposed project as well as the Public Procurement Oversight Authority for responding to the procurement queries raised.

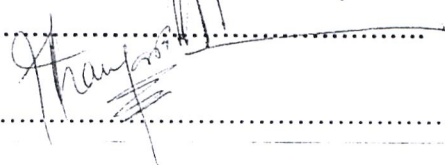
ADOPTION OF THE REPORT OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY ON THE MATTER OF THE INQUIRY INTO THE TENDER FOR THE PROPOSED NATIONAL SURVEILLANCE, COMMUNICATION, COMMAND AND CONTROL SYSTEM FOR THE NATIONAL POLICE SERVICE

We the Members of the Departmental Committee on Administration and National Security have pursuant to Standing Order 199 adopted this report and affix our signatures to affirm and confirm its accuracy, validity and authenticity.

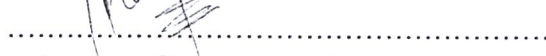
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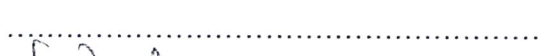
2. Hon. Alois Lentoimaga, MP - Vice-Chairperson



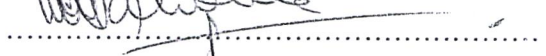
3. Hon. Joseph Kahangara, MP



4. Hon. George Theuri, MP



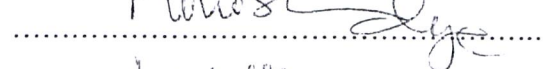
5. Hon. Alice Wahome, MP



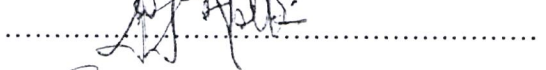
6. Hon. David Gikaria, MP



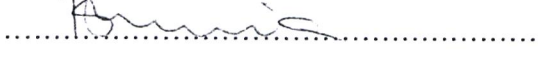
7. Hon. Mohamed Shidiye, MP



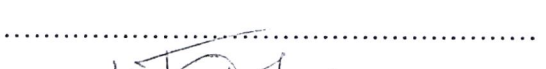
8. Hon. Jane Machira, MP



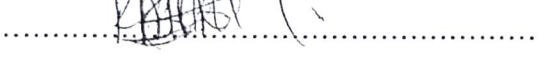
9. Hon. Wanjiku Muhia, MP



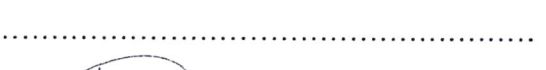
10. Hon. Zakayo K. Cheruiyot, MP



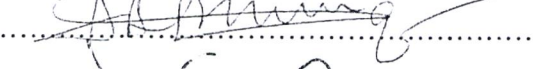
11. Hon. James Bett, MP



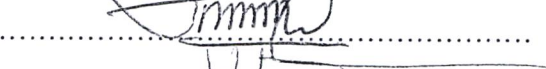
12. Hon. Patrick Ole Ntutu, MP



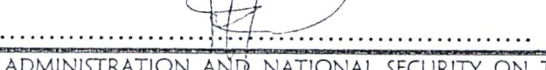
13. Hon. Shaaban Ali Isaack, MP



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15. Hon. Samuel Moroto, MP



- 16. Hon. Bernard Shinali, MP
- 17. Hon. Humphrey Njuguna, MP
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- 26. Hon. Timothy Wetangula Wanyonyi, MP
- 27. Hon. Dalmas Otieno, MP
- 28. Hon. Ababu Namwamba, MP
- 29. Hon. Regina Nthambi, MP

*(Handwritten signatures and scribbles corresponding to the list of members)*

**Mr, Speaker,**

On behalf of the Members of the Departmental Committee on Administration and National Security, I beg to table the report of the Committee On The Matter Of the Inquiry into the Tender for the Proposed National Surveillance, Communication, Command and Control System for the National Police Service.

Signed: .....

*(Handwritten signature of Asman Kamama)*

**Hon. Asman Kamama, MP**  
**Chairperson, Departmental Committee on Administration and National Security**

Date: .....

*15/7/2014*

## 2.0 BACKGROUND AND CONTEXT

### 2.1 Overview: The situation and its dynamics

The primary responsibility of governments the world over is to provide security that ensures citizens go about their activities in a safe and secure environment. This is no different for Kenya as we attempt to realize the objectives of the country's development blueprint that is the Vision 2030. By and large, the government has been able to ensure relative safety in Kenya's 50 years of independence.

Over the last decade, the nature of crime has mutated, presenting new security challenges that require a paradigm shift in the techniques used by security forces to detect and fight crime. Crime is no longer as easily traceable and concretely defined as it once was. In recent times, incidences of criminal activity have been on the rise to the concern of the government. The devastating effects of global terrorism have manifested themselves with increasing regularity in Kenya. The spike in terror attacks since the country sent troops across the border to restore stability in Somalia have killed and maimed Kenyans and foreigners as well as dealing a huge blow to the crucial tourism industry.

The immense coastline and porous borders of Kenya make it a prime location for trafficking in humans, weapons, and drugs. There has been a resultant increase in armed criminal activity including but not limited to robbery with violence, abductions & kidnappings as well as carjacking and car thefts.

With advancements in technology over the last several decades, many developing nations, including Kenya, have begun to see the emergence of technological crime. Computer related crime can play an unfortunate role in society, and in Kenya, pertains mainly to money laundering and fraud. With such an abundance of internet cafés and advanced cellular telephones, these criminal offenses can take place nearly anywhere throughout the country. Further advancements in connectivity over the next several

years will likely have a profound effect on Kenya's economy and society, giving the Government of Kenya the increasingly difficult task of keeping crime rates low.

The difficulty of maintaining low crime rates has been further exacerbated by ineffective communication and response to crime due to the obsolete communication system in use by the security agencies. Cognizant of this, the Government has attempted to revamp the communication system of the police several times over the last 12 years with little success.

The first such attempt to revamp the communication system for the police started in 2002 when Tetra Radio Limited was awarded a license to provide a trunked radio network system for security and emergency services. The tender was floated by the Communication Commission of Kenya (now the Communications Authority of Kenya). The company was expected to pay the bid price of US\$5.2 Million which it was unable to despite re-negotiating the payment terms and structure. In 2007, the Communication Commission cancelled the license awarded to Tetra Radio Limited after which the latter moved to court to challenge the decision. The High Court considered the matter and ruled in favour of Tetra Radio Limited. The Communications Authority appealed the decision and the case is currently before the Court of Appeal awaiting determination.

The second attempt to procure a communication and surveillance system for the police started in 2012 and was to be financed by the Chinese government. As per the terms of the negotiation with the Chinese, the tender was restricted to Chinese firms and attracted six bidders, four of who had been pre-qualified. However, the project was shelved after questions were raised on the inflated cost of the equipment for the security forces.

Two of the bidders, ZTE Corporation and Huawei Technologies, passed the preliminary technical evaluation. However, after what was referred to as a "detailed technical evaluation" conducted on August 28, 2012, only ZTE Kenya qualified to the next stage, which was financial evaluation.

ZTE Kenya won the tender to design, build, supply, install, test and commission the national surveillance, communication and control system for the National Police Service. When it was locked out, Huawei Technologies lodged a request for review with the Public Procurement Appeals and Review Board. However, the request was dismissed on January 14, 2013.

Following this controversy and questions raised on the cost of the project, the Head of Public Service cancelled the tender and directed Internal Security Ministry to re-advertise the tender whose initial award to ZTE Corporation set off a legal battle with counterpart Huawei Technologies. In July 2014, the High Court dismissed an application by ZTE challenging the cancellation of the tendering process that awarded it the contract.

Having tried different types of procurement methods with little success, the Government of Kenya re-opened bidding for a contract to install a state-of-the-art integrated public safety communication and surveillance system in 2014 but limited it to one company with the decision to procure directly. The procurement process that began on March 24<sup>th</sup>, 2014 saw Safaricom Limited awarded a tender to provide a surveillance and communication system for the National Police Service. The proposed system was the subject of the investigation by the Committee to establish whether due process was followed in the procurement process as well as the general safety of this critical security system.

### 3.0 MEETING WITH THE MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT

The Committee met with the Ministry of Interior and Coordination of National Government which is the procuring entity in the tender that was the subject of the Committee's investigation. The Ministry provided details on the nature and scope of the tender, the tender process and the rationale for using direct procurement.

The procurement was necessitated by the need to replace the obsolete communication system currently in use that was installed three decades ago and has myriad problems posing a great challenge to service delivery.

The project comprises four components;

- i) Digital Trucking Radio Network
- ii) Central Command Operation Centre
- iii) Installation of a Video Surveillance System
- iv) Internet connectivity to Police Stations

The tender process commenced on 24th March, 2014 and the National Police Service sought authority from the Special Security Tender Committee to use direct procurement method. The rationale behind this was that previous tenders for such a system had been wrought with court cases and controversy that culminated in the shelving of the projects. In addition, there was also the urgent need to address insecurity in the country. The authority to procure was granted on 25th March, 2014 and the Ministry of Interior and Coordination of National Government then invited a proposal from Safaricom Limited to tender for provision of the service. The contract was awarded on 8th May, 2014.

The Ministry based its decision to use direct procurement method on Section 74 [3] of the Public Procurement and Disposal Act 2005 that allowed a procuring entity to procure directly the following conditions are satisfied:

- a) There was an urgent need for the goods, works or services being procured.
- b) Because of the urgency the other available methods of procurement are impractical; and
- c) The circumstances that gave rise to the urgency were not foreseeable and were not the result of dilatory conduct on the part of the procuring entity.

The Ministry justified their decision to use direct procurement based on the deteriorating security situation in the country that called for an urgent overhaul of the Police Communication System and installation of a Surveillance system to combat crime. Valuation of the proposed system was done by a multi agency technical committee.

### 3.1 MEETING WITH THE TECHNICAL COMMITTEE THAT OVERSEES THE PROJECT

The Committee met with the Technical Committee that oversaw the procurement process and will be involved in the implementation of the proposed system. The committee is comprised of officers from the Ministry of Interior including engineers, procurement officers and communication experts. The Technical Committee provided further information to the submissions by the Ministry of Interior and Coordination of National Government.

The Committee sought clarifications on, among other things, the following issues:-

- i. What informed the team to arrive at the decision to award the tender to Safaricom Limited.
- ii. How safe the system was from infiltration

Safaricom was chosen due to its ability to provide the specification of the system in a timely manner. The company has the financial ability and experience to provide an independent and secure communications network on Long Term Evolution to be used by the police.

Safaricom was also awarded the tender due to its wide network coverage in the country. The company was seen to have a good understanding of the local terrain and infrastructure for quick mobilization. The Technical Committee was of the opinion that Safaricom was in a strong financial position to implement the project.

The system will have end to end encryption where information in the form of voice, video or data will be encrypted before it leaves any gadget. There will also be an 'over the air' encryption between different base stations to ensure the safety of information passed over the network. The cameras will be placed in crime prone areas as well as main highways, roads and alleys.

### 3.2 MEETING WITH THE COMMUNICATION AUTHORITY OF KENYA

As the industry regulator, the Communication Authority of Kenya was in a prime position to provide information to the Committee on the safety of the proposed system and the suitability of Safaricom to deliver the project. The genesis of the case between Tetra Radio Limited and the Authority was also explained to the Committee.

The Authority advised the procuring entity that it was possible to use frequency spectrum to defray part of the payment to Safaricom for delivering the project. Under this arrangement, Safaricom would acquire the spectrum at the prevailing market value of \$75M upon completion of the project. If the value of the spectrum was higher than the defrayed costs, Safaricom would pay the difference. The Authority set restrictions on the percentage of spectrum to be handed over, capping the allocation to Safaricom at 40% of the available spectrum with 60% to be set aside for the other telecommunication companies.

The regulator also advised that the proposed system should be operated independent of Safaricom's commercial network. However, passive infrastructure such as towers and power generators could be shared to reduce costs and environmental pollution.

The Communication Commission of Kenya advertised a bid for a commercial Trunk Radio communication network in 2001. The bid was won by Tetra Radio Kenya limited who were awarded a license to provide this service. The winning firm was required to

pay a bid price of 5.2 million Dollars. However Tetra Radio was unable to pay the required fees.

In 2003 the Authority wrote to the firm indicating an intention to cancel the bid. Tetra Radio requested to pay the fees in installments. The National Treasury acceded to the request on condition that the payments were made in three installments and a 5% surety bond was deposited. Tetra Radio did not honour this condition forcing the Authority to cancel the license awarded in 2008. Tetra Radio moved to court to challenge the cancellation.

The court in its ruling directed the Communication Authority of Kenya to allocate 370-470 MHz range of frequencies to Tetra Radio. Tetra Radio claimed the exclusive use of this frequency range to be able to deliver the service. However, this range of frequencies was used and continues to be used by several Government agencies including the National Police Service. The departments had been using the frequencies for the past 40 years. According to the Director General of the Authority, the court ruling was impossible to implement. The Authority had appealed against the court ruling and obtained stay of execution orders.

### 3.3 MEETING WITH INDEPENDENT COMMUNICATION AND SURVEILLANCE EXPERTS

The Committee sought the advice of independent communication and surveillance experts to assist the Members probe further on the technical aspects of the surveillance system. The experts briefed the Committee on the mode of transmission of information in such communication and surveillance system as well as the safety of the system from potential hacking. In addition to this, the Committee established the necessary criteria to consider when ascertaining the capacity of Safaricom to implement the project.

### 3.4 MEETING WITH TETRA RADIO LIMITED

The Committee established that in 2002, Tetra Radio Company won a tender to construct and maintain a Truncated Public Safety Security Network after it presented itself as having the technical and financial capacity to roll out the service. The company was awarded a license that was gazetted by the then Communication Commission of Kenya. In 2007, Tetra filed a case in the form of a *judicial review* seeking orders to quash a decision by the Communications Commission of Kenya that cancelled the aforesaid license and award of frequencies thereunder.

The Committee was able to establish the following:

1. The Company failed to pay the tender fee of US \$5,200,000 within 2002-2007 after a three way negotiation that also involved the Treasury.
2. Tetra Radio Limited was formed before the tender was advertised with a view to bidding for the security tender in 2002. While the company stated that this is standard practice when rolling out Tetra network across the world, the Committee was not satisfied with the explanation. The company failed to demonstrate to the Committee that it had the financial capacity to pay the tender fee and did not produce any accounts to substantiate the same.
3. The case filed by Tetra Radio Company in 2007 against the Communication Commission of Kenya seeks orders that would force the handover of frequencies ranging from 370-470 MHz to the company. The frequency has been in use by the police over the last 40 years. It is highly unlikely that where the Court upholds the decision to handover the said frequencies, CAK will be in a position to comply with the said orders as this would be akin to stopping communication by various Government agencies.

### 3.5 MEETING WITH MINISTRY INFORMATION, COMMUNICATION & TECHNOLOGY

The Committee met the Cabinet Secretary for Information, Communication and Technology to be able to understand the role of the Ministry in advising the government on the suitability of the project.

The Ministry had been consulted by the Ministry of Interior on the technical specifications that such a project would require. The consultations were done at two levels, at the general government level and the National Security Council level, where the Cabinet Secretary was co-opted as a member in accordance with legal provisions. The Ministry of Information was satisfied that the Ministry of Interior took the correct and accurate decision in using direct procurement method for the tender based on the protracted experience of previous open tenders in the government security sector.

The Ministry of Information was involved in the project through the National Communication Secretariat that offered expert advice on Information, Communication and Technology matters. The Communication Authority of Kenya as the sector regulator was regularly consulted on the project as it involved matters to do with spectrum and services provided by a Telecommunication company. The Ministry was satisfied that all care had been taken to ensure the safety of the system from infiltration and hacking.

### 3.6 MEETING WITH SAFARICOM LIMITED

The meeting with Safaricom Limited provided the Committee an opportunity to establish a number of issues, key among these being:

- i. Whether due process was followed in awarding the tender to the company
- ii. The technological competence of Safaricom to deliver on contractual obligations of the project
- iii. Guarantees on the integrity and safety of the system

The Committee established that Safaricom was invited to tender for provision of the service by the Ministry of Interior due to the ability of the Company to expeditiously implement the system whose installation was a matter of urgency. Safaricom submitted verifiable Bills of Quantities giving quantities, qualities and the price of the system. The Company valued the project at Kshs. 14.9 billion payable over five years to cater for purchase of equipment, its installation and networking to link it to the central command base. Payment for the system begins twelve months from the date of commissioning and the cost breakdown is as follows:

- Ksh. 12.7 billion caters for building the system
- Ksh. 2.2 billion caters for maintenance support over a period of five years

Part of the Ksh 12.7 billion will be paid to Safaricom in the form of spectrum which the company intends to utilize in rolling out a 4G network for commercial use. The first phase of the project will cover Nairobi and Mombasa. The system has the potential to be scaled to the rest of the country which would cost an additional Ksh. 21 billion.

Safaricom provided a demonstration of the different components of the system and how the system works to the satisfaction of the Committee. The service will run on a Long Term Evolution network which will be a dedicated network service operated by the National police Service. Safaricom's role in the project is limited to design and construction of the system that will be handed over to and managed by the National Police Service.

Since Safaricom will not be involved in the day to day management of the system, the question of competence is limited to the company's ability to design and construct the system. To that end, the company is indeed competent to deliver on these terms as they have been providing a GSM network in the country for the last 14 years. Concerns on Safaricom's perceived poor quality of network were allayed with assurances that the

network would be used exclusively by the Police hence avoiding the heavy demand experienced in its commercial network used by over 20 million subscribers.

The communication network for the police communication system will be separate from Safaricom's commercial network. Any communication over this network will only be accessible to the National Police Service personnel who have the option of encrypting such communication to ensure its safety. Core staff to be involved in the project will continually be vetted by the security agencies.

### 3.7 MEETING WITH THE NATIONAL TREASURY

The Committee met the National Treasury to establish the payment structure for the tender and the source of funds for the project. The total cost of the project was Kshs. 14,905,755,432/= exclusive of taxes and rises to Kshs. 18,781,251,844/= inclusive of taxes. The difference of Kshs. 3,875,496,412/= was accounted for by 16% VAT charge and excise duty at 10%.

Part of the cost of the project would be defrayed through allocation of spectrum 2x20MHZ in the 800MHZ band to the service provider at an assumed value of Kshs. 6.75 billion or \$75 million. Therefore the net cost of the project was Kshs. 12.031 billion.

The procuring entity would factor the cost of the project of Kshs. 12.031 billion within its ceilings for the period 2015/16 -2018/19 to be able to pay for the contract. The project would be implemented in a phased manner spanning over four fiscal years at an annual repayment cost of Kshs. 3.007 billion. The project had a grace period of one year before payment was due. The service provider was also willing to extend the repayment period by the National Police Service to seven years.

### 3.8 MEETING WITH THE MINISTRY OF INTERIOR AND THE PUBLIC PROCUREMENT OVERSIGHT AUTHORITY

Various procurement queries came up in the course of the inquiry necessitating a meeting with the procuring entity and the Public Procurement Oversight Authority. The Authority reviewed the procurement records availed and pronounced that the procuring entity observed due process in selection of the company to undertake the project. The Ministry of Interior and Coordination submitted to the Public Procurement Oversight Authority a report on use of direct procurement for the Security and Surveillance tender on 20<sup>th</sup> May, 2014.

The Public Procurement Oversight Authority noted the following on whether due process was followed;

- The request to use direct procurement was made as per Regulation 22 of the Public Procurement and Disposal Regulations.
- The request for approval was sought from the Special Security Tender Committee pursuant to section 29(3) of the Act and approval was granted
- Safaricom Ltd was invited to tender and was issued with tender documents.
- Evaluation was carried out and a report submitted.
- Negotiations were carried out between the procurement entity and Safaricom Ltd.

The tender award was communicated to Safaricom Ltd on 9<sup>th</sup> May, 2014 and Safaricom accepted the offer on 15<sup>th</sup> May, 2014. A written contract is yet to be signed between the procuring entity and the service provider.

The Committee also established that the payment structure provided for three options for payment to Safaricom for provision of the service. The company could be paid full

cost with no spectrum allocation, provide radio services with cost defrayed with commercial spectrum allocation or provide radio communication and surveillance with part of the cost defrayed with spectrum allocation. After negotiations with Safaricom, the procuring entity settled on the third option.

The Procurement Oversight Authority noted that the procuring entity would benefit from the project.

#### 4.0 SUMMARY OF FINDINGS

The Committee, in summary, found out that:

##### 4.1

The tender for the proposed communication and surveillance system for the police had been awarded but had not signed. The signing of the contract was put on hold by the Committee subject to a review of the procurement process and approval by the Committee and the National Assembly, having ensured due process was followed in the procurement process.

##### 4.2

The proposed communication and surveillance system would greatly help our security forces face up to the security challenges that threaten the country by deterring and identifying criminals in addition to improving coordination and response to crime by the police.

##### 4.3

The Committee took cognizance of Article 227 of the Constitution that requires state entities contracting for goods and services to do so in a system that is fair, equitable, transparent, competitive and cost effective. Further, the Committee also considered

Section 74 of the Public Procurement and Disposal Act which allows direct procurement subject to the procurement entity meeting certain conditions.

*74. (1) A procuring entity may use direct procurement as allowed under subsection (2) or (3) as long as the purpose is not to avoid competition.*

*(2) A procuring entity may use direct procurement if the following are satisfied –*

*(a) there is only one person who can supply the goods, works or services being procured; and*

*(b) there is no reasonable alternative or substitute for the goods, works or services*

*(3) A procuring entity may use direct procurement if the following are satisfied –*

*(a) there is an urgent need for the goods, works or services being procured;*

*(b) because of the urgency the other available methods are impractical; and*

*(c) the circumstances that gave rise to the urgency were not foreseeable and were not the result of dilatory conduct on the part of the procuring entity*

The Committee did consider the circumstances that gave rise to this tender in light of Section 74 of Public Procurement and Disposal Act. The Committee noted that the country is currently faced with multiple security challenges never witnessed before that threaten to compromise national security of the country. Examples include the multiple terrorist attacks (Westgate attack), various other sporadic attacks (Mpeketoni attacks), the Al Qaeda, Al Shabaab & MRC threats as well as the porous national border with Somalia.

This has led to the negative travel advisories being issued by some of the country's business partners which have impacted negatively on the tourist sector. This therefore confirms the urgency surrounding the choice of procurement and the fact that the magnitude of insecurity was not possibly foreseeable as per the requirements of 5.74 (3)(a),(b) and (c) of PPDA.

The urgency and the need to sort out the insecurity problems in this country were such that the other methods of procurement save for direct procurement would have been impractical.

The Committee notes that the security of the citizenry of this country should never be compromised or negotiated. The foregoing circumstances justify direct procurement in this tender.

#### 4.4

Given the facts in 4.3 above, the Committee did not find any ulterior motive on the choice of Safaricom to implement this project. The company has the requisite financial capability and the experience in providing a telecommunication network and infrastructure in the country. Given the urgency and the precarious security situation in the country, Safaricom was the most appropriate entity to implement the project. The Committee was also satisfied that due diligence was carried out and that the procurement process was above board with all the necessary stakeholders consulted.

### 5.0 RECOMMENDATIONS

The Committee recommends that:-

#### 5.1

The House approves the tender award and the signing of the contract to Safaricom Ltd for the provision of a National Surveillance, Communication, Command and Control System for the National Police Service.

#### 5.2

The project should be expanded to cover the rest of the country as soon as is practically possible.

**MINUTES**

MINUTES OF THE 50<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY, 5<sup>TH</sup>  
JUNE 2014, IN THE BOARD ROOM , 11<sup>TH</sup> FLOOR, PROTECTION HOUSE,  
PARLIAMENT BUILDINGS, AT 10.00 AM

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PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP - Chairperson
2. The Hon. Alois Lentoimaga, MP - Vice Chairperson
3. The Hon. Joseph Lekuton, MP
4. The Hon. Mohamed Shidiye, MP
5. The Hon. Zakayo Cheruiyot, MP
6. The Hon. James Bett, MP
7. The Hon. Patrick Ole Ntutu, MP
8. The Hon. Grace Kiptui, MP
9. The Hon. George Theuri, MP
10. The Hon. Samuel Moroto, MP
11. The Hon. Regina Nthambi Muia, MP
12. The Hon. Bernard Shinali, MP
13. The Hon. Francis Mwangangi, MP
14. The Hon. Ibrahim Abdi Saney, MP
15. The Hon. Ahmed Abdikadir Ore, MP
16. The Hon. Joseph Kahangara, MP
17. The Hon. Shaaban Ali Isaack, MP
18. The Hon. Joseph Ndiege, MP
19. The Hon. Akuja Protus Ewesit, MP

ABSENT WITH APOLOGY

1. The Hon. Dalmas Otieno, EGH, MP
2. The Hon. Ababu Namwamba, EGH, MP
3. The Hon. Timothy Wetangula, MP
4. The Hon. Wanjiku Muhia, MP
5. The Hon. James Bett, MP
6. The Hon. Alice Wahome, MP
7. The Hon. (Maj. Rtd.) J.K. Waluke, MP
8. The Hon. Jane Machira, MP
9. The Hon. David Gikaria, MP
10. The Hon. Humphrey Njuguna, MP

#### IN ATTENDANCE - NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Nimrod Mate - Principal Researcher
3. Mr. Leonard Machira - First Clerk Assistant
4. Mr. Mohamed Boru - Third Clerk Assistant

#### IN ATTENDANCE – MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT

1. Mr. Joseph Ole Lenku - Cabinet Secretary
2. Mr. Mutea Iringo, EBS - Principal Secretary
3. Mr. David Kimaiyo, CBS - Inspector General of Police

#### ANS/MIN. NO.226/2014 - PRELIMINARIES

The Chairman called the meeting to order at 10.20 am. Prayers were said. He welcomed the Members of the Committee to the meeting. The agenda of the meeting was adopted after being proposed by Hon. Akuja Protus Ewesit, MP and seconded by Hon. Patrick Ole Ntutu, MP. The Chairman informed the meeting that the National Security and Surveillance tender had generated a lot of public interest and the Committee in exercising its oversight role wanted to interrogate the contract to ascertain whether due process was followed and value for money attained.

#### ANS/MIN. NO.227/2014- MEETING WITH THE CABINET SECRETARY MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT OVER THE NATIONAL SECURITY AND SURVEILLANCE TENDER AWARD

During the meeting the Committee established the following:-

- a) The National Police Service has been operating on an obsolete communication system that was installed three decades ago and has myriad problems posing a great challenge to service delivery. As a result, the police service wanted a suitable bidder to provide an independent and secure communication network on Long Term Evolution [LTE-400MHZ] and deployment microwave [7GHZ]/fiber backhaul.
- b) The process of procuring the system was on-going and would be

implemented in three phases starting with Nairobi and Mombasa. Machakos, Kajiado, Kiambu and other area near Nairobi would also be covered in the first phase. Later the project would be extended to Nakuru, Eldoret and areas near the Kenya/Somali border.

- c) The project comprised four components;
- Digital Trucking Radio Network
  - Central Command Operation Center
  - Installation of Video Surveillance System
  - Internet connectivity to Police Stations
- d) The tender process commenced on 24<sup>th</sup> march, 2014. The National Police Service sought authority from the Special Security tender Committee to use direct procurement method. The authority was granted on 25<sup>th</sup> march, 2014. The Ministry of Interior and Coordination of National Government then invited a proposal from Safaricom Limited. The contract was awarded on 8<sup>th</sup> may, 2014.
- e) The Ministry based its decision to use direct procurement method on Section 74 (3) of the public procurement and disposal Act 2005 that allowed a procuring entity to use the method, if the conditions stipulated in the Act were satisfied.
- f) The justification for using direct procurement method was as follows:
- i) The current upsurge of insecurity that include terrorism, robbery with violence and abductions and kidnappings.
  - ii) The spate of crime is adversely affecting tourism and investments in the County.
  - iii) There was urgent need to modernize the current analogue Police Communication System in order to cope with the prevailing security demands.
- g) The procurement process for a similar project commenced in 2006. The Ministry opted to use restricted tendering method in 2010 and 7 firms were

prequalified. However two Chinese firms instituted legal suits before the tender process was finalized.

- h) The decision to approach Safaricom Limited over the project was made by the Special Security tender Committee.
- i) That payment for the project would be made upon project completion and that proper evaluation would be done to determine if specifications had been achieved. The telecommunication spectrum to be offered to Safaricom Limited would be subjected to prevailing market rates.
- j) The National Police Service would operate the Security and Surveillance System independently.
- k) The project would be designed and implemented according to customer specifications.
- l) That the contract had not been signed but had been awarded.
- m) There was urgent need to modernize the Police Communication system, especially in light of rising insecurity.

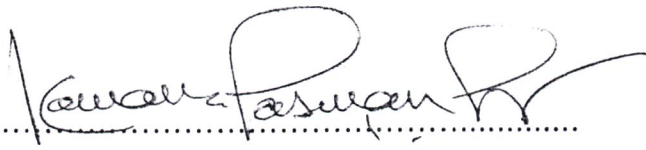
#### Way forward

The Committee unanimously resolved that the Ministry of Interior and Coordination of National Government puts the contract on hold until clearance is given by the Committee and the House.

The Committee also resolved to have other concerned parties be invited to assist the Committee reach an informed decision. The parties included the Principal Secretary for Information, the Attorney General, Communication Commission of Kenya, Technical officers from the State Department of Interior and the Chief Executive Officer Safaricom Limited.

#### ANS/MIN. NO.228/2014- ANY OTHER BUSINESS

There being no other business for discussion, the Chairman adjourned the meeting at thirty minutes past 12 o'clock.

Signed: .....  .....

Hon. Asman Kamama, MP

Chairperson, Departmental Committee on Administration and National Security

Date: ..... 10 | 06 | 2014 .....

MINUTES OF THE 51<sup>ST</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY, 10<sup>TH</sup> JUNE 2014, IN THE COMMITTEE ROOM, 2<sup>ND</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 10.00 AM.

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PRESENT

1. The Hon. Alois Lentoimaga, MP -Vice Chairperson
2. The Hon. Joseph Lekuton, MP
3. The Hon. Mohamed Shidiye, MP
4. The Hon. Zakayo Cheruiyot, MP
5. The Hon. Alice Wahome, MP
6. The Hon. Jane Machira, MP
7. The Hon. Patrick Ole Ntutu, MP
8. The Hon. Grace Kiptui, MP
9. The Hon. George Theuri, MP
10. The Hon. Samuel Moroto, MP
11. The Hon. Regina Nthambi Muia, MP
12. The Hon. Bernard Shinali, MP
13. The Hon. Humphrey Njuguna, MP
14. The Hon. (Maj. Rtd.) John K. Waluke, MP
15. The Hon. Ibrahim Abdi Saney MP
16. The Hon. Shaaban Ali Isaack, MP
17. The Hon. Joseph Ndiege, MP
18. The Hon. Akuja Protus Ewesit, MP
19. The Hon. Timothy Wetangula, MP

ABSENT WITH APOLOGY

1. The Hon. Asman Kamama, MGH, OGW, MP – Chairperson
2. The Hon. Dalmas Otieno, EGH, MP
3. The Hon. Ababu Namwamba, EGH, MP
4. The Hon. Joseph Kahangara, MP
5. The Hon. Ahmed Abdikadir Ore, MP
6. The Hon. Wanjiku Muhia, MP
7. The Hon. Rashid J. Bedzimba, MP
8. The Hon. James Bett, MP
9. The Hon. Francis K. Mwangangi, MP
10. The Hon. David Gikaria, MP

## IN ATTENDANCE - NATIONAL ASSEMBLY

The Hon. Nicholas Gumbo, MP

## IN ATTENDANCE - NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Leonard Machira - First Clerk Assistant
3. Mr. Mohamed Boru - Third Clerk Assistant
4. Mr. Sidney Okumu - Legal counsel
7. Mr. Said Osman - Researcher

## IN ATTENDANCE- MINISTRY OF INTERIOR

### AND COORDINATION OF NATIONAL GOVERNMENT

- |                        |   |                                       |
|------------------------|---|---------------------------------------|
| Mr. Mutea Iringo,EBS   | - | Principal Secretary                   |
| Mr. Jonam N Kinama     | - | Deputy Secretary                      |
| Mr. Benard A Masiga    | - | Senior Chief Finance Officer          |
| Mr. Samuel Mwilu       | - | Kenya Police Service- Communication   |
| Mr. Peter J. Osoro     | - | Engineer                              |
| Mr. Christopher Chumba | - | Engineer                              |
| Mr. Francis Gachina    | - | Kenya Police Service- Communication   |
| Mr. Mutahi Theuri      | - | Engineer                              |
| Mr. Simon Nderitu      | - | Administration Police Service         |
| Mrs. Mercy Waigwa      | - | Supply Chain Management Officer       |
| Mr. Richard Yator      | - | Chief Supply Chain Management Officer |

## ANS/MIN.NO 229/2014 - PRELIMINARIES

The Chairman called the meeting to order at 10.00 am. Prayers were said. The agenda of the meeting was adopted after being proposed by Hon. Regina Nthambi Muia, MP and seconded by Hon. Joseph Lekuton, MP.

## ANS/MIN.NO.230/2014- MEETING WITH THE PRINCIPAL SECRETARY MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT AND MINISTERIAL TECHNICAL TEAM OVER THE NATIONAL COMMUNICATION NETWORK AND SURVEILLANCE SYSTEM TENDER

The Committee established the following:

- a) The National Police Service was using an obsolete communication system

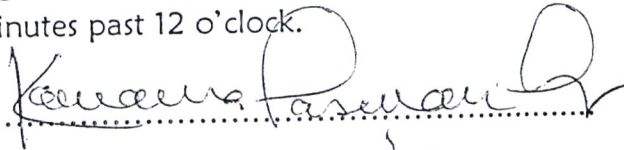
that operated on a conventional Radio network. The new system would have modern features that included;

- i) A Central Command and Control centre
  - ii) Wider area coverage capacity
  - iii) An automatic traffic re-routing mechanism
  - iv) GPS tracking system
  - v) Video conferencing capacity
  - vi) Video live streaming
- b) The network would be designed to ensure continued service at all times through the use of a Microwave Trunk cover up system. The network would also be operated independently by the National Police Service to guarantee protection from unauthorized access and infiltration by third parties. It would also have a voice encryption capacity.
- c) The National Police Service expected to reap numerous benefits from the project. These included:
- A secure communication system to facilitate effective and efficient resource utilization.
  - Guarantee against misuse of resources, such as police vehicles, through a trucking system.
  - Enhanced crime deterrence through video surveillance in Nairobi and Mombasa.
  - An effective police command structure.
- d) The system would be beneficial to remote parts of the County through the enhancement of Information relay, effective deployment of officers and efficient rescue missions.
- e) Safaricom Limited had a better network coverage compared to other local companies and the necessary financial and infrastructural capacity to rollout the project.
- f) That the project price was Ksh 18.7 Billion with Ksh 6.7 billion to be defrayed through allocation of a frequency spectrum to Safaricom Limited.
- g) That the National Police Service intended to train its officers before, during

and after project implementation to enhance their capacity to effectively manage the system.

ANS/MIN. NO.231/2014 ANY OTHER BUSINESS

There being no other business for discussion, the Chairman adjourned the meeting at thirty minutes past 12 o'clock.

Signed: .....  .....

Hon. Asman Kamama, MP

Chairperson, Departmental Committee on Administration and National Security

Date: ..... 12/06/2014 .....

MINUTES OF THE 52<sup>ND</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY, 12<sup>TH</sup>  
JUNE 2014, IN THE COMMITTEE, 2<sup>ND</sup> FLOOR, CONTINENTAL HOUSE,  
PARLIAMENT BUILDINGS, AT 10.00 AM.

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PRESENT

1. The Hon. Mohamed Shidiye, MP -Acting Chairperson
2. The Hon. Dalmas Otieno, EGH, MP
3. The Hon. Zakayo Cheruiyot, MP
4. The Hon. James Bett, MP
5. The Hon. Patrick Ole Ntutu, MP
6. The Hon. Grace Kiptui, MP
7. The Hon. George Theuri, MP
8. The Hon. Humphrey Njuguna, MP
9. The Hon. Jane Machira, MP
10. The Hon. Akuja Protus Ewesit, MP
11. The Hon. Alice Wahome, MP
12. The Hon. Samuel Moroto, MP
13. The Hon. Regina Nthambi Muia, MP
14. The Hon. Bernard Shinali, MP
15. The Hon. Francis Mwangangi, MP
16. The Hon. Rashid Bedzimba, MP
17. The Hon. Ibrahim Abdi Saney, MP
18. The Hon. Ahmed Abdikadir Ore, MP
19. The Hon. Timothy Wetangula, MP
20. The Hon Shabaan Ali Isaac, MP
21. The Hon (Maj.Rtd John K. Waluke.MP

ABSENT WITH APOLOGY

1. Hon. Asman Kamama, MGH, OGW, MP – Chairperson
2. Hon. Alois M. Lentoimaga, MP – Vice Chairperson
3. Hon. Ababu Namwamba, EGH, MP
4. Hon. Joseph Kahangara, MP
5. Hon. Wanjiku Muhia, MP
6. Hon. Joseph Lekuton, MP
7. Hon. Joseph O. Ndiege, MP
8. Hon. David Gikaria, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

The Hon, Nicholas Gumbo, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Nimrod Mate - Principal Researcher
3. Mr. Leonard Machira - First Clerk Assistant
4. Mr. Mohamed Boru - Third Clerk Assistant
5. Mr. Said Osman - Researcher

IN ATTENDANCE- COMMUNICATION AUTHORITY OF KENYA

1. Mr. Francis W.Wangusi, MBS - Director General
2. Mr. Henry Mungasia - Director of Administration
3. Mr. Peter Ngige Njoroge - Manager Frequency Spectrum Management
4. Mr. Musa Etiko Omungu - Manager Frequency Spectrum Management

ANS/MIN. NO.232/2014 - PRELIMINARIES

The Chairman called the meeting to order at 10.00 am. Prayers were said. He welcomed the Members of the Committee and the guests to the meeting. The agenda of the meeting was adopted after being proposed by Hon Patrick Ole Ntutu MP and seconded by Hon. Protus Akuja MP.

ANS/MIN. NO.233/2014 – MEETING WITH THE DIRECTOR GENERAL  
COMMUNICATION AUTHORITY OF KENYA NATIONAL COMMUNICATION  
NETWORK AND SURVEILLANCE SYSTEM TENDER

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The Committee established the following:

- a) That the National Communication and Surveillance System project came to the attention of the Communication Authority of Kenya in early 2014 when the Government, through the State Department of Interior, sought the Authority's advice on the use of frequency spectrum to defray project costs and other technical aspects of the system.
- b) The Government was advised to auction the spectrum at prevailing market

value upon completion of the project. Under the arrangement, if the value of the spectrum was higher than the defrayed costs Safaricom Limited would pay the difference, but would only enjoy the first mover's advantage incase the value was lower than the defrayed costs. The authority also set conditions on the sharing of the LTE frequencies with other industry players.

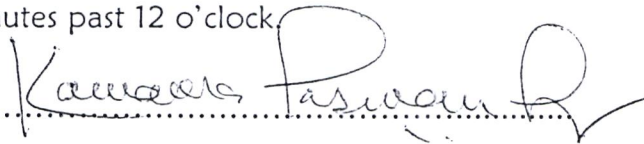
- c) The Government was also advised that the procured system should be operated independently of Safaricom Limited commercial network. However passive infrastructure such as towers and power generators would be shared to reduce costs.
- d) That the Communication Authority of Kenya advertised a bid for a commercial Trunk Radio communication network in 2001. The bid was won by Tetra Radio limited. The winning firm was required to pay a fee of 5.2 million Dollars. However Tetra Radio Limited was unable to pay the required fees. In 2003 the Authority wrote to the firm indicating the intention to cancel the bid. Tetra Radio Limited requested to pay the fees in installments. The National Treasury consented to the request on condition that the payments were made in three installments and a 5% surety bond was deposited. Tetra Radio Limited did not honour the deal. The Communication Authority cancelled the bid in 2008. Tetra Radio Limited moved to court to challenge the cancellation and demanded compensation. The court in its ruling directed the Communication Authority of Kenya to allocate 370MHz -470MHz frequency range to Tetra Radio Limited. However these frequencies were used by several Government agencies including the National Police Service. The Government departments had been using the frequencies for the past 40 years. According to the Director General the court ruling was impossible to implement. The Authority had appealed against the court ruling and obtained stay of execution orders.
- e) That all rules in the Tetra Radio contract were complied with and that it was Tetra Radio Limited that was unable to fulfil its contractual obligations. The cancellation of the contract was made at the bid stage and that no license had been issued.

- f) The Tetra Radio and the Safaricom contracts were totally different. One was procured by the Communication Authority of Kenya and the other by the state department for Interior. The technologies involved were also different with the Tetra Radio contract being a commercial Trunk Radio network technology while Safaricom contract was for a private Long Term Evolution [LTE] technology.
- g) That the National Security System would be secure as it was to be operated on a delinked network, whose active infrastructure was independently operated from the Safaricom Limited`s commercial network.
- h) Mechanisms would be instituted to ensure that Safaricom Limited did not dominate the market on account of acquisition of communication frequencies to roll out a long Term Evolution network. That the law provided for any industry player with more than 50% of market share to be declared a dominant player and special rules would apply. The Long Term Evolution network roll out would also be implemented according to international best practices and that Safaricom Limited would be made to share a certain percentage of the spectrum with other players. The roll out of the LTE would contribute to the achievement of Vision 2030 by ensuring broad band penetration and affordability.

ANS/MIN. N0.234/2014 ANY OTHER BUSINESS

There being no other business for discussion, the Chairman adjourned the meeting at thirty minutes past 12 o'clock.

Signed: .....



Hon. Asman Kamama, MP

Chairperson, Departmental Committee on Administration and National Security

Date: .....

16/06/2014

MINUTES OF THE 53<sup>RD</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY, 16<sup>TH</sup> JUNE, 2014, IN THE COMMITTEE ROOM, 2<sup>ND</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 2.30 PM.

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PRESENT

1. The Hon. Mohamed Shidiye, MP -Acting Chairperson
2. The Hon. Zakayo Cheruiyot
3. The Hon. Grace Kiptui, MP
4. The Hon. George Theuri, MP
5. The Hon. Samuel Moroto, MP
6. The Hon. Regina Ntahmbi Muia, MP
7. The Hon. Bernard Shinali, MP
8. The Hon. Humphrey Njuguna, MP
9. The Hon. Wanjiku Muhia, MP
10. The Hon. Joseph O. Ndiege, MP
11. The Hon. Ibrahim Abdi Saney, MP
12. The Hon. Timothy Wetangula, MP

ABSENT WITH APOLOGY

1. The Hon. Asman Kamama, MGH, OGW, MP – (Chairperson)
2. The Hon. Alois M. Lentoimaga, MP – (Vice Chairperson)
3. The Hon. Dalmas Otieno, EGH, MP
4. The Hon. Ababu Namwamba, EGH, MP
5. The Hon. Joseph Kahangara, MP
6. The Hon. Joseph Lekuton, MP
7. The Hon. James Bett, MP
8. The Hon. Francis K. Mwangangi, MP
9. The Hon. Ahmed Abdikadir Ore, MP
10. The Hon. Alice Wahome, MP
11. The Hon. (Maj. Rtd.) J.K. Waluke, MP
12. The Hon. Rashid J. Bedzimba, MP
13. The Hon. Patrick Ole Ntutu, MP
14. The Hon. Akuja Protus Ewesit, MP
15. The Hon. Jane Machira, MP
16. The Hon. David Gikaria, MP
17. The Hon. Shaaban Ali Isaack, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

The Hon. Nicholas Gumbo, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Leonard Machira - First Clerk Assistant
3. Mr. Mohamed Boru - Third Clerk Assistant
4. Mr. Sidney Okumu - Legal counsel
5. Mr. Said Osman - Researcher

IN ATTENDANCE - EXPERTS ON SECURITY AND SURVEILLANCE (STARK CONSULTING)

1. Mr. Lucas Ndolo - Consultant
2. Mr. Edwin Kinyanjui - Consultant

IN ATTENDANCE - SUNY KENYA

1. Ms. Elsie Opiyo
2. Mr. Polycarp Matara

ANS/MIN.NO.235/2014 – PRELIMINARIES

The Chairman called the meeting to order at 2.30 pm. A prayer was said. He welcomed the Members of the Committee to the meeting. The agenda of the meeting was adopted after being proposed by Hon. Regina Nthambi Muia, MP and seconded by Hon. Joseph O. Ndiege, MP.

ANS/MIN.NO.236/2014- MEETING WITH EXPERTS ON SECURITY AND SURVEILLANCE MATTERS (STARK CONSULTING) OVER THE NATIONAL COMMUNICATION NETWORK AND SURVEILLANCE SYSTEM TENDER

The Committee noted the following:

- a) That the project was a radio trunking communication and surveillance solution with the following key features;
  - Digital trunking radio network-TD-LTE technology-based using police wireless broadband

- Computer aided dispatch system
  - Surveillance System
  - Automated Vehicle Locating System with smart camera for Automated Number Plate Recognition [ANPR]
  - Geographical Information Systems
  - A Video Conferencing solution
  - Unified Communication System integrating Telephone and Mobile Radio
- b) The key strengths of an implementing partner were as follows;
- Proven capability in managing National Communication Networks. The firm must have significantly invested in telecommunications infrastructure to be able structure cost effective solutions.
  - Latest technology that was scalable and must be used with an upgrade path strategy for interfacing legacy systems as deemed necessary.
  - The partner must indicate all costs with this solution including; cost for providing coverage, maintain and supporting the system for the next 5 years, supply of essential spare parts. Hidden costs must be indentified and quantified.
- c) The best technology recommended for this project should be based on Long Term Evolution [LTE]. The goal of LTE was to increase the capacity and speed of wireless data using new DSP [digital signal processing] techniques.
- d) Elaborate security features were needed to roll out such a project. These include;
- Incorporate several Layers of Security from Physical access to infrastructure and system access.
  - Identity and user authentication.
  - Secure information transmission.
  - Secure information storage.
  - Multiple encryption mechanisms at the various stages of data handling.
  - Audit trail.
  - Regular security audits of the system and its management.
- e) Projects of this nature must leverage on existing infrastructure that has been

developed for a digital era. The Government has already invested heavily in major infrastructure projects as the National Fibre networks TEAMS and KENET. The passive infrastructure for this project could be leased as long as the security requirements were met.

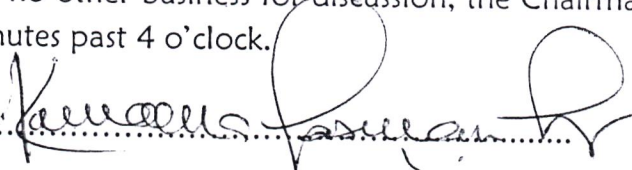
- f) The ownership of the system was crucial in terms of operation and overall responsibility of the system. The best way to manage the system would be to set up an independent body with representation from each of the security stake holders. This would be important to ensure that the co-operation of the security agencies and buy-in into the project.
- g) The system would provide very tangible benefits to the country. The key benefits were;
- Deterrence of crime: the public knowledge that such a system existed would serve as deterrence to crime.
  - Prevention: information coming from the system would be use to prevent crime, terrorism also help to manage natural disasters and calamities.
  - Investigation: The ability to retroactively retrieve information and then use this as a basis for providing evidence for prosecution of wrongdoers
  - Perception of safety: The public would feel much more secure with the knowledge of this system in place.
  - Disaster Management: The ability of the country to respond to disasters would be enhanced by the command and control aspect of the project.
- h) Some of the downsides of the system included;
- Cost: The system was significantly expensive and therefore great thought must be put into the procurement processes to ensure that value was delivered. Nonetheless the expected benefits outweighed the cost.
  - Privacy: The system would be perceived to infringe on the privacy and rights of Kenyans. This was a necessary evil in this age of terrorism.
  - Legal Framework: The legal framework and chain of evidence required to be able to use information from the system was not in place. A parallel effort to provide this was needed to be put in place.

- i) The Government Security Agencies already had other proprietary system and technologies in use. Most of these systems would need to be integrated into the new system. This integration of legacy systems was crucial to avoid the various agencies rolling their own infrastructure at high cost therefore making the project more expensive than envisaged and create unnecessary redundancies.
- j) It would be crucial to develop intelligence sharing protocols within the various security agencies.
- k) On the issue of infringement of privacy, the Committee established that this would be a necessary evil given the prevailing level of insecurity.
- l) The Security and Surveillance system required considerable infrastructural investment. Safaricom Limited had the necessary infrastructural capacity and could sub-contract the security component of the project to another company. It was further pointed out that all the companies that had made bids for similar projects in Kenya such as ZTE and Huawei were telecommunication companies with no experience in security matters.
- m) That the system was compatible and scalable to technological changes. However there was no absolute guarantee as changes in technology tended to be overestimated or underestimated.
- n) The system would not be affected by the quality of the Safaricom Limited's commercial service as it was a separate and dedicated service.

ANS/MIN. NO.237/2014 – ANY OTHER BUSINESS

There being no other business for discussion, the Chairman adjourned the meeting at thirty minutes past 4 o'clock.

Signed: .....



Hon. Asman Kamama, MP

Chairperson, Departmental Committee on Administration and National Security

Date: .....

17/06/2014

MINUTES OF THE 54<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY, 16<sup>TH</sup> JUNE 2014, IN THE COMMITTEE ROOM, 2<sup>ND</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 4.30 PM.

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PRESENT

1. The Hon. Mohamed Shidiye, MP -Acting Chairperson
2. The Hon. Zakayo Cheruiyot
3. The Hon. Grace Kiptui, MP
4. The Hon. George Theuri, MP
5. The Hon. Samuel Moroto, MP
6. The Hon. Regina Nthambi Muia, MP
7. The Hon. Bernard Shinali, MP
8. The Hon. Humphrey Njuguna, MP
9. The Hon. Wanjiku Muhia, MP
10. The Hon. Joseph O. Ndiege, MP
11. The Hon. Ibrahim Abdi Saney, MP
12. The Hon. Timothy Wetangula, MP

ABSENT WITH APOLOGY

1. The Hon. Asman Kamama, MGH, OGW, MP – (Chairperson)
2. The Hon. Alois M. Lentoimaga, MP – (Vice Chairperson)
3. The Hon. Dalmas Otieno, EGH, MP
4. The Hon. Ababu Namwamba, EGH, MP
5. The Hon. Joseph Kahangara, MP
6. The Hon. Joseph Lekuton, MP
7. The Hon. James Bett, MP
8. The Hon. Francis K. Mwangangi, MP
9. The Hon. Ahmed Abdikadir Ore, MP
10. The Hon. Alice Wahome, MP
11. The Hon. (Maj. Rtd.) J.K. Waluke, MP
12. The Hon. Rashid J. Bedzimba, MP
13. The Hon. Patrick Ole Ntutu, MP
14. The Hon. Akuja Protus Ewesit, MP
15. The Hon. Jane Machira, MP
16. The Hon. David Gikaria, MP
17. The Hon. Shaaban Ali Isaack, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

1. The Hon. Nicholas Gumbo, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Leonard Machira - First Clerk Assistant
3. Mr. Mohamed Boru - Third Clerk Assistant
4. Mr. Sidney Okumu - Legal counsel
5. Mr. Said Osman - Researcher

IN ATTENDANCE-TETRA RADIO LIMITED

1. Ms. Jacqueline Mwai - Chief Executive Officer
2. Mr. Stephen Mwenesi - Advocate

ANS/MIN.NO.237/2014 – PRELIMINARIES.

The Chairman called the meeting to order at 2.30 pm. A prayer was said. He welcomed the Members of the Committee to the meeting. The agenda of the meeting was adopted after being proposed by Hon. Grace Kiptui, MP and seconded by Hon. Bernard Shinali, MP.

ANS/MIN. NO.238/2014 MEETING WITH THE CHIEF EXECUTIVE OFFICER  
TETRA RADIO LIMITED OVER THE NATIONAL COMMUNICATION NETWORK  
AND SURVEILLANCE SYSTEM TENDER.

During the meeting with Tetra Radio limited, the Committee established the following:

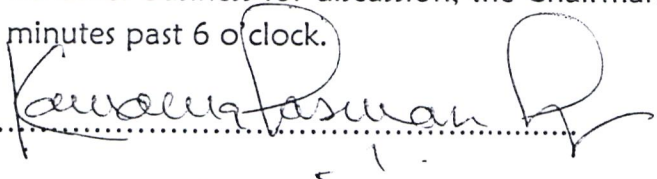
- a) That the Tetra system was an emergency and safety communication system established to assist agencies respond to emergence and crisis situations effectively. It usually operates as an independent and private system that allowed agencies to operate directly and according to emergence priorities.
- b) That in 2001 the Communication Authority of Kenya expressed an intention to establish an integrated Trunk Radio communication network in Kenya. The Authority advertised a bid for the same, which Tetra Radio Limited applied for and won. The firm was then allocated frequencies to launch the project. She further informed the Committee that the company held workshops with safety agencies, project demonstration and mapped the rollout. The following expenses were incurred by the firm in the process;

- Pre bid costs- KES 45 million
  - Mapping of project rollout- KES 25million
  - Demonstrations and work shops-KES 6million
- c) That Tetra Radio wrote to the Communication Authority of Kenya indicating their readiness to proceed with the project the Authority responded that the frequencies range 370MHz - 480MHz were not available. The firm had by then entered into co-user negotiations with the Police Service to guarantee project sustainability. The negotiations were however not successful. The Communication Authority of Kenya later wrote to the firm indicating cancellation of frequency allocation. The firm moved to court to challenge the cancellation. The court determined that the cancellation was null and void and instructed that the frequencies range 370MHz -480MHz belonged to Tetra Radio Limited. The Communication Authority of Kenya appealed against the ruling and obtained stay of execution orders.
- d) That the firm did not have the financial capacity to roll out the project.
- e) The firm had negotiated to pay for the licence allocation in instalments while negotiating with the police service for co-user agreement.
- f) On the issue of whether the firm had received a frequency allocation cancellation letter. The Committee was informed that the court had determined that the purported cancellation was null and void.
- g) That the company had two share holders; Kasy Banks, an American citizen with 70% shares and Jacqueline Mwai, a Kenyan and the CEO with 30% shares. The company was registered in 2001, when the tender opportunity arose.
- h) That if the Security and Surveillance tender was awarded the company would move to court to sue institute contempt of court proceedings.

ANS/MIN. NO.239/2014 –ANY OTHER BUSINESS

There being no other business for discussion, the Chairman adjourned the meeting at forty five minutes past 6 o'clock.

Signed: .....

A handwritten signature in black ink, appearing to read 'Kamal Asman', written over a dotted line. The signature is stylized and includes a large loop at the end.

Hon. Asman Kamama, MP

Chairperson, Departmental Committee on Administration and National Security

Date: .....

17/06/2014

MINUTES OF THE 55<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY, 17<sup>TH</sup> JUNE  
2014, IN THE COMMITTEE ROOM, 2<sup>ND</sup> FLOOR, CONTINENTAL HOUSE,  
PARLIAMENT BUILDINGS, AT 4.30 PM

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PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP – Chairperson
2. The Hon. Mohamed Shidiye, MP
3. The Hon. Zakayo Cheruiyot, MP
4. The Hon. James Bett, MP
5. The Hon. Grace Kiptui, MP
6. The Hon. George Theuri, MP
7. The Hon. Samuel Moroto, MP
8. The Hon. Regina Nthambi Muia, MP
9. The Hon. Bernard Shinali, MP
10. The Hon. Humphrey Njuguna, MP
11. The Hon. Alice Wahome, MP
12. The Hon. Shaaban Ali Isaack, MP
13. The Hon. (Maj. Rtd.) J.K. Waluke, MP
14. The Hon. Akuja Protus Ewesit, MP
15. The Hon. David Gikaria, MP
16. The Hon. Hon. Wanjiku Muhia, MP
17. The Hon. Rashid Bedzimba, MP
18. The Hon. Ibrahim Abdi Saney, MP
19. The Hon. Timothy Wetangula, MP

ABSENT WITH APOLOGY

1. The Hon. Alois M. Lentoimaga, MP – Vice Chairperson
2. The Hon. Dalmas Otieno, EGH, MP
3. The Hon. Ababu Namwamba, EGH, MP
4. The Hon. Joseph Kahangara, MP
5. The Hon. Ahmed Abdikadir Ore, MP
6. The Hon. Joseph Lekuton, MP
7. The Hon. Samuel Moroto, MP
8. The Hon. Joseph O. Ndiege, MP
9. The Hon. Patrick Ole Ntutu, MP
10. The Hon. Jane Machira, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

The Hon. Nicholas Gumbo, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Leonard Machira - First Clerk Assistant
3. Mr. Mohamed Boru - Third Clerk Assistant
4. Mr. Sidney Okumu - Legal counsel
5. Mr. Said Osman - Researcher

IN ATTENDANCE MINISTRY OF INFORMATION COMMUNICATION AND TECHNOLOGY

1. Dr. Fred Matiangi - Cabinet Secretary
2. Mr. Joseph Tiampati - Principal Secretary
3. Mr. Henry Mungasia - Director of Administration
4. Mr. Joseph Kihanya - National Communication Secretariat
5. Mr. Musa Ethiko Omungu - Manager Frequency Spectrum management
6. Mr. John Omo - Director Legal Services
7. Mr. Stanley Kibe - Director Frequency Spectrum Management

ANS/MIN.NO.240/2014 - PRELIMINARIES

The Chairman called the meeting to order at 11.00 am. Prayers were said. The agenda of the meeting was adopted after being proposed by Hon. Humphrey Njuguna MP, and seconded by Hon. Ibrahim Abdi Saney MP.

ANS/MIN.NO.241/2014 – MEETING WITH THE CABINET SECRETARY  
MINISTRY OF INFORMATION COMMUNICATION AND TECHNOLOGY OVER  
THE NATIONAL SECURITY AND SURVEILLANCE TENDER

During the meeting the Committee established the following:-

- a) The Ministry was consulted on the matter by the State Department for Interior. The consultations were done at two levels, at the general Government level and the National Security Council level, where the Cabinet Secretary was a co-opted member. He was also satisfied that the

State Department for Interior took the correct and accurate decision in using direct procurement method for the tender based on the past frustrating experiences with open tenders in the Government security sector. This had witnessed protracted court cases and long delays in the implementation of required projects.

- b) The Ministry had been involved in the project through the National Communication Secretariat that offered expert advice on ICT matters and the Communication Authority of Kenya, as the sector regulator.
- c) The Cabinet Secretary advised that the government urgently needed to implement the project in order to improve the National Police Service's capacity to curb rising and emerging crime such as cyber crime that required robust leveraging of technology.
- d) The Ministry of Information and Communication intended to enhance the capacity of the police to manage the system by facilitating their training through various agencies within the ministry, partners such as IBM and the Catholic University ICT research centre.
- e) Value for money on the project would be determined through a process cost technology analysis.
- f) That the Attorney General was represented by legal officers posted to the ministries by his office and would have an opportunity to analyse the contract before it was formally signed.
- g) That the Communication Authority of Kenya did not gazette any allocation of frequency spectrum to Tetra Radio. They only gazetted the intention to allocate the frequencies to allow for public comments on the matter. An applicant must pay for the licence to be issued and Tetra Radio was unable to pay.
- h) That if the Court order was enforced Tetra Radio would control the entire frequency spectrum currently used by Government agencies including the National Police Service and the Military. The court had issued the spectrum

frequencies range 370 MHz – 480 MHz to the firm without any pleading for the same.

- i) That most countries in Europe and Israel used a similar system. The System would be closed and exclusive or shared by multiple agencies.

ANS/MIN. NO.243/2014- ANY OTHER BUSINESS

There being no other business for discussion, the Chairman adjourned the meeting at thirty five minutes past 6 o'clock.

Signed: .....



Hon. Asman Kamama, MP

Chairperson, Departmental Committee on Administration and National Security

Date: .....

18/06/2014

MINUTES OF THE 56<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
ADMINISTRATION AND NATIONAL SECURITY HELD ON WEDNESDAY, 18<sup>TH</sup>  
JUNE 2014, IN THE COMMITTEE ROOM, 2<sup>ND</sup> FLOOR, CONTINENTAL HOUSE,  
PARLIAMENT BUILDINGS, AT 11.30 AM

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PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP – Chairperson
2. The Hon. Joseph Kahangara, MP
3. The Hon. Mohamed Shidiye, MP
4. The Hon. Zakayo Cheruiyot, MP
5. The Hon. Alice Wahome, MP
6. The Hon. James Bett, MP
7. The Hon. Humphrey Njuguna, MP
8. The Hon. Patrick Ole Ntutu, MP
9. The Hon. Grace Kiptui, MP
10. The Hon. Joseph O. Ndiege, MP
11. The Hon. George Theuri, MP
12. The Hon. (Maj. Rtd.) J.K. Waluke, MP
13. The Hon. Regina Nthambi Muia, MP
14. The Hon. Bernard Shinali, M
15. The Hon. Akuja Protus Ewesit, MP
16. The Hon. David Gikaria, MP
17. The Hon. Rashid Bedzimba, MP
18. The Hon. Ibrahim Abdi Saney, MP
19. The Hon. Wanjiku Muhia, MP
20. The Hon. Timothy Wetangula, MP

ABSENT WITH APOLOGY

1. The Hon. Alois M. Lentoimaga, MP - Vice Chairperson
2. The Hon. Dalmas Otieno, EGH, MP
3. The Hon. Ababu Namwamba, EGH, MP
4. The Hon. Joseph Lekuton, MP
5. The Hon. Francis K. Mwangangi, MP
6. The Hon. Jane Machira, MP
7. The Hon. Shaaban Ali Isaack, MP
8. The Hon. James Bett, MP
9. The Hon. Ahmed Abdikadir Ore, MP

## IN ATTENDANCE - NATIONAL ASSEMBLY MEMBERS

1. The Hon. Nicholas Gumbo, MP

## IN ATTENDANCE - NATIONAL ASSEMBLY

1. Mr Daniel Mutunga - Principal Clerk Assistant
2. Mr. Leonard Machira - First Clerk Assistant
3. Mr. Mohamed Boru - Third Clerk Assistant
4. Mr. Sidney Okumu - Legal Counsel

## IN ATTENDANCE -SAFARICOM LIMITED

1. Mr. Bob Collymore - Chief Executive Officer
2. Mr. Justine Njonjo - Head of Legal and Secretarial Services
3. Mr. Stephen Kiptinness - Partner Kiptinness& Odhiambo Associates
4. Mr. Mohammed Nyaoga - Advocate
5. Mr. Omar Amin - Advocate
6. Mr. Nzioka Waita - Director Corporate affairs
7. Mrs. Sylvia Mulinge - General Manager Enterprise Business
8. Mr. Kennedy Mukiri - Engineer Technology
9. Mr. David Adhiambo - Senior Manager Technology.

## ANS/MIN. NO. 2442014 - PRELIMINARIES

The Chairman called the meeting to order at 11.30 am. Prayers were said. . The Agenda of the meeting was adopted after being proposed by Hon. Humphrey Njuguna, MP and seconded by Hon. Joseph Ndiege, MP.

## ANS/MIN. NO.245/2014 MEETING WITH SAFARICOM LIMITED OVER THE NATIONAL COMMUNICATION NETWORK AND SURVEILLANCE SYSTEM TENDER

The Committee established the following during the meeting with Safaricom Limited:

- a) The project was valued to cost Kshs. 14.9 Billion and would be implemented at no cost to the government for the first twelve months after the commissioning. Payments were to be made in installments over 5 years. The cost breakdown was provided as indicated here below:
  - Building the system - Kshs. 12.8 Billion
  - Maintenance support over a 5 year period – Kshs. 2.2 Billion

- b) The scope of the project would be the construction and support of a robust communication network, managed centrally by the National Police Service.
- c) The project would utilize the following equipments;
- Operational Centres - 2 in Nairobi and 1 in Mombasa
  - 1,800 High Definition cameras (1500 in Nairobi, 300 in Mombasa);
  - 5 Video conferencing facilities (4 in Nairobi, 1 in Mombasa);
  - Internet services to 195 police stations;
  - 7000 Devices (6000 hand held, 1000 fixed desktop devices);
  - 130 fixed desktop phones;
  - 80 Base stations (60 in Nairobi, 20 in Mombasa);
  - 600 vehicle mounted systems.
- d) The system would run on an LTE network, which would be a dedicated service operated by the National Police Service. The management of the project would be solely a prerogative of the security agencies with Safaricom Ltd providing support services.
- e) Safaricom Ltd had the ability to mobilize resources and materials and it was an integrated communication company with 14 years of experience running 2G and 3G networks.
- f) The National Police Service communication network would be separate and distinct from the Safaricom's commercial network. Neither Safaricom nor its agents would have access to the system.
- g) That the project would cost an additional KES 21.5 Billion to roll out to the remaining 45 counties. The government was scheduled to commence payment for the project after one year at an interest of 11.5%. The company would also charge annual fees of KES.444 Million for use of its passive infrastructure.
- h) That the system was to be rolled out on frequency range 380 MHz-480 MHz that was currently used by government agencies and claimed by Tetra Radio Limited.
- i) Setting up the system for use would take 4 months. The company would then train National Police officers on how to operate the system.

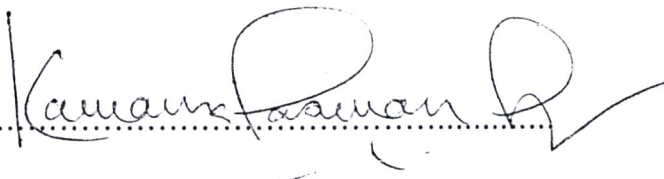
- j) That open book accounting approach would be used. The company would refund the Government any amount of money overcharged. The Government would also be allowed to inspect the project's financial records.
- k) Huawei, a Chinese company had been sub-contracted to supply technical equipments. The firm was identified on account of its ability to deliver within 4 months, a timeline that could not be met by the other equipment suppliers.
- l) That the surveillance system would enhance security in the country. Safaricom Ltd was the only local company with the financial ability to implement the project. The company was ready to undertake the project at cost price as part of its social corporate responsibility obligation. It hoped to benefit from improved security and a favourable investment climate in future.
- m) That the project's primary connectivity would be through optic fibre and not microwave as indicated by the Ministerial Technical Committee.

The Committee was then taken through a live demonstration of how the system works.

ANS/MIN. NO.246/2014- ANY OTHER BUSINESS

There being no other business for discussion, the Chairman adjourned the meeting at 1:30 pm.

Signed: .....



Hon. Asman Kamama, MP

Chairperson, Departmental Committee on Administration and National Security

Date: .....

01 / 07 / 2014

MINUTES OF THE 57<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY, 1<sup>ST</sup> JULY  
2014, IN THE COMMITTEE ROOM, 2<sup>ND</sup> FLOOR, CONTINENTAL HOUSE,  
PARLIAMENT BUILDINGS, AT 10.00 AM

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PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP - Chairperson
2. The Hon. Alois Lentoimaga, MP -Vice Chairman
3. The Hon. Dalmas Otieno, EGH, MP
4. The Hon. Joseph Lekuton,
5. The Hon. James Bett, MP
6. The Hon. Patrick Ole Ntutu, MP
7. The Hon. Grace Kiptui, MP
8. The Hon. Samuel Moroto, MP
9. The Hon. Shaaban Ali Isaack, MP
10. The Hon. Joseph Kahangara, MP
11. The Hon. Bernard Shinali, MP
12. The Hon. Joseph Ndiege, MP
13. The Hon. Humphrey Njuguna, MP
14. The Hon. Akuja Protus Ewesit, MP
15. The Hon. (Maj. Rtd.) J.K. Waluke, MP
16. The Hon. Wanjiku Muhia, MP
17. The Hon. David Gikaria, MP
18. The Hon. Jane Machira, MP
19. The Hon. George Theuri, MP
20. The Hon. Francis Mwangangi, MP
21. The Hon. Rashid Bedzimba, MP
22. The Hon. Ahmed Abdikadir Ore, MP
23. The Hon. Timothy Wetangula, MP

ABSENT WITH APOLOGY

1. The Hon. Ababu Namwamba, EGH, MP
2. The Hon. Mohamed Shidiye, MP
3. The Hon. Grace Kiptui, MP
4. The Hon. Ibrahim Abdi Saney, MP
5. The Hon. Alice Wahome, MP
6. The Hon. Regina Nthambi Muia, MP

## IN ATTENDANCE - NATIONAL ASSEMBLY

1. Mr. Leonard Machira - First Clerk Assistant
2. Mr. Mohamed Boru - Third Clerk Assistant
3. Mr. Sidney Okumu - Legal Counsel

## IN ATTENDANCE-NATIONAL TREASURY

1. Mr. Henry Rotich - Cabinet Secretary
2. Dr. Kamau Thugge - Principal Secretary

## ANS/MIN.NO. 247/2014 - PRELIMINARIES

The Chairman called the meeting to order at 10.00 am. Prayers were said. The agenda of the meeting was adopted after being proposed by Hon. Wanjiku Muhia, MP and seconded by Hon. James Bett, MP.

## ANS/MIN. NO.248/2014- MEETING WITH THE CABINET SECRETARY-NATIONAL TREASURY OVER THE NATIONAL COMMUNICATION NETWORK AND SURVEILLANCE SYSTEM TENDER

During the meeting the Committee established that;

### 1. Overall cost of the project:-

The total cost of the project was Ksh.14, 905,755,432/= exclusive of taxes, but inclusive of taxes it was Ksh.18,781,251,844/=.The difference of Ksh.3, 875,496,412/= was accounted for by VAT 16% and excise duty 10%.Part of the cost would be defrayed through allocation of 2x20MHZ in the 800MHZ band to the service provider at an assumed value of Ksh.6, 750,000,000/=. Therefore the net cost of the project was Ksh.12.031Billion.

### 2. Source of funds to pay the contractors:-

The procuring entity would factor the cost of the project of Ksh.12.031 within its ceilings for the period 2015/16 -2018/19 to be able to pay for the contract. The project was being implemented in a phased manner spanning over four fiscal years at an annual repayment cost of Ksh.3.007 billion. The project had a grace period of one year. The service provider was also willing to extend the annual repayments by the National Police Service to seven years.

### 3. Guarantees and assurances to safeguard public funds in case the project failed to take off:-

The procuring entity would bear the responsibility of conducting due diligence in the procurement process to safeguard public funds. The National Treasury trusted that the contracting entity would confirm to the following;

- The tender security to be provided by the service provider would be from a reputable bank or insurance company approved by the Public Procurement Oversight Authority.
- That the service provider would provide an original bank credit reference letter as proof of financial capacity.
- That audit and certified financial statements of the service provider for the past 5 years would be provided for verification.
- That the financial evaluation of the service provider would be commensurate with the scope of the services and fees charged.
- That the service provider would guarantee to the procuring availability of spares for the system.
- That the service provider would guarantee the procuring entity that the service level credit would be 99.999% since this was a security system.

### 3. The mode of payment:-

The mode of payment would be by annual budgetary allocation through the procuring entity's budget for the period 2015/16 - 2018/19.

The Committee was further informed as follows;

- That value for money was a key consideration in the police modernization programme. He added that the National Treasury initiated the leasing of police vehicles to guarantee value for money.
- The Public Procurement Oversight Authority would have an opportunity to analyse and review the contract. The Authority would then advise the Cabinet Secretary-National Treasury on issues that required his intervention.
- That the law did not provide for exemption from payment of Value Added Tax and Excise duty for projects of this nature.
- That direct procurement method was provided for in law upon justification by the procuring entity. Ministerial procurement Committees usually made the decisions to use direct procurement. The decisions were then reviewed by the Public Procurement Oversight Authority to ascertain whether the contracts achieved value for money and followed due process
- There was no clarification on whether there were any hidden costs in the project. It was also noted that the Government would pay a cost of ksh444, 000,000/= per annum for usage of Safaricom Limited passive

infrastructure.

- That no mechanisms had been put in place to synchronise the system with the central registration bureau to aid identification of suspects.
- No clear explanation on how the system could facilitate the work of other security agencies such as the National Intelligence Services and the Immigration department was provided.

The Chairperson thanked the Cabinet Secretary for making a comprehensive presentation. He added that the project should cascade to all Counties. Budgeting should not be done for only two Counties but for the entire Country. The Chairperson also recommended that the system be synchronized with a central citizenry biometrics database to facilitate efficiency in crime monitoring.

The Committee resolved to invite the Director General Public Procurement Oversight Authority, the Director of Procurement National Treasury and the Ministry of Interior Technical Procurement Committee to shed more light on pending issues on whether the contract met the threshold for use of direct procurement and value for money.

#### ANS/MIN. NO.249/2014 - ANY OTHER BUSINESS

##### (i) Meeting with the Chairman NACADA

The Committee unanimously resolved to postpone the meeting scheduled with the Chairman NACADA. This was intended to accord the session adequate time. The session was rescheduled to 8<sup>th</sup>, July 2014 at 10:00am. The Chairman NACADA consented to the rescheduling. He however lamented incidences of immorality involving children witnessed in Machakos and Bungoma during Jam sessions the previous weekend. He urged law enforcement agencies to institute a ban on the jam sessions.

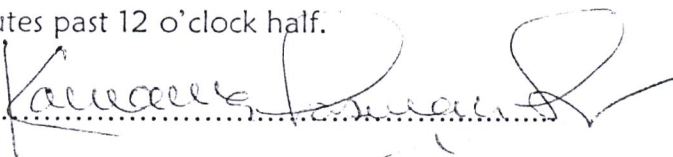
(ii) The secretariat was tasked to confirm from the Director Committee Services whether funds were available to facilitate a Sub –Committee fact finding visit to Mpeketoni in Lamu County and Mombasa County to assess the security situation there. The following tentative list of Members was approved to make the visit;

1. The Hon. Alois Lentoimaga MP, (Vice Chairman)
2. The Hon. James Bett MP
3. The Hon. Bernard Shinali MP
4. The Hon. Rashid Bedzimba MP
5. The Hon. Alice Wahome MP

6. The Hon. Joseph Ndiege MP
7. The Hon. Grace Kiptui MP
8. The Hon. Ahmed Abdikadir Ore, MP
9. The Hon. Joseph Kahangara, MP

MIN. NO.250/2014 ADJOURNMENT

There being no other business for discussion, the Chairman adjourned the meeting at thirty minutes past 12 o'clock half.

Signed: .....  .....

Hon. Asman Kamama, MP

Chairperson, Departmental Committee on Administration and National Security

Date: ..... 15/07/2014 .....

MINUTES OF THE 59<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY, 10<sup>TH</sup>  
JULY 2014, IN THE COMMITTEE ROOM, 5<sup>TH</sup> FLOOR, CONTINENTAL HOUSE,  
PARLIAMENT BUILDINGS, AT 10.00 AM

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PRESENT

1. Hon. Asman Kamama, MGH, OGW, MP – Chairperson
2. Hon. Alois M. Lentoimaga, MP - Vice Chairperson
3. The Hon. Dalmas Otieno, EGH, MP
4. The Hon. Ababu Namwamba, EGH, MP
5. The Hon. Joseph Kahangara, MP
6. The Hon. Patrick Ole Ntutu, MP
7. The Hon. Jane Machira, MP
8. The Hon. Shaaban Ali Isaack, MP
9. The Hon. Benard Shinali, MP
10. The Hon. James Bett, MP
11. The Hon. Patrick Ole Ntutu, MP
12. The Hon. Grace Kiptui, MP
13. The Hon. George Theuri, MP
14. The Hon. Samuel Moroto, MP
15. The Hon. Alice Wahome, MP
16. The Hon. (Maj. Rtd.) J.K. Waluke, MP
17. The Hon. Regina Nthambi Muia, MP
18. The Hon. Humphrey Njuguna, MP
19. The Hon. Wanjiku Muhia, MP
20. The Hon. Rashid Bedzimba, MP
21. The Hon. Timothy Wetangula, MP
22. The Hon. Joseph O. Ndiege, MP

ABSENT WITH APOLOGY

1. The Hon. Joseph Lekuton, MP
2. The Hon. Mohamed Shidiye, MP
3. The Hon. Ahmed Abdikadir Ore, MP
4. The Hon. Zakayo Cheruiyot, MP
5. The Hon. Rashid Bedzimba, MP
6. The Hon. Akuja Protus Ewesit, MP
7. The Hon. David Gikaria, MP

### IN ATTENDANCE - NATIONAL ASSEMBLY

1. Mr. Leonard Machira - First Clerk Assistant
2. Mr. Mohamed Boru - Third Clerk Assistant
3. Mr. Sidney Okumu - Legal Counsel

### IN ATTENDANCE- MINISTRY OF INTERIOR

1. Mr. Mutea Iringo, EBS - Principal Secretary
2. Mr. Francis Gachina - Kenya Police Service- Communication
3. Mr. Richard Yator - Chief Supply Chain Management Office

### IN ATTENDANCE- PUBLIC PROCUREMENT OVERSIGHT AUTHORITY

- Ms. Jane Njoroge - General Manager, Technical Services

### ANS/MIN. NO 256/2014 - PRELIMINARIES

The Chairman called the meeting to order at 11.00 am. Prayers were said. He welcomed the Members of the Committee to the meeting. The agenda of the meeting was adopted after being proposed by Hon. George Theuri, MP and seconded by Hon. Regina Nthambi Muia, MP.

### ANS/MIN. NO. 257/2014 - MEETING WITH THE PRINCIPAL SECRETARY MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT AND THE GENERAL MANAGER TECHNICAL SERVICES- PUBLIC PROCUREMENT OVERSIGHT AUTHORITY OVER THE NATIONAL COMMUNICATION NETWORK AND SURVEILLANCE SYSTEM TENDER

During the meeting the Committee was able to establish the following:-

- i) That the upsurge of incidents of terrorism had necessitated the urgent procurement of the Security and Surveillance system.
- ii) The Ministry had tried to competitively advertise a similar tender in 2012 but numerous litigations by unresponsive firms made the process untenable.
- iii) There were no hidden costs in the project and that the total project cost was Kshs.18,781,251,844/=

- iv) That the Ministry of Interior and Coordination submitted to the Public Procurement Oversight Authority a report on use of direct procurement for the Security and Surveillance tender on 20<sup>th</sup> May 2014.
- v) The request to use direct procurement was made as per Regulation 22 of the Public procurement and Disposal Regulations.
- vi) The request for approval was sought from the Special Security Tender Committee pursuant to section 29(3) of the Act. The approval was granted
- vii) Safaricom Ltd was invited to tender and was issued with tender documents.
- viii) Evaluation was carried out and a report submitted.
- ix) Negotiations were carried out between the procurement entity and Safaricom Ltd.
- x) The breakdown of the project cost was as indicated here below:
  - Cost of the Project - Kshs.14,905,755,432,00
  - Taxes (VAT 16% and Excise 10%) - Kshs 3,875,496,412
  - Total Cost - Kshs. 18,781,251,844
  - Less Cost of spectrum by CCK -Kshs.6,750,000.000.00
  - Net Cost payable to Safaricom Ltd – Kshs.12,031,251,844.00
- xi) The tender award was communicated to Safaricom Ltd on 9<sup>th</sup> May, 2014 and Safaricom Ltd accepted the offer on 15<sup>th</sup> May, 2014.
- xii) A written contract was yet to be signed between the Procuring Entity and Safaricom Ltd.
- xiii) The Public Procurement Authority concurred that the Procuring Entity observed due process in selection of the company to undertake the project.
- xiv) It was the consider opinion of the Public Procurement Oversight Authority that the method lied within the circumstances envisaged under section 3 of the Act and there Satisfied Section 74(30) of the Act.
- xv) The procuring entity engaged with diverse skills from Various Government agencies such as ICT Authority, National Intelligence Service, Public Works and Communication Authority of Kenya in the processing of tender.
- xvi) The procuring entity invoked provision of section 75 of the Act and negotiated with Safaricom Limited. Among the issued agreed upon which favoured the Procuring Entity were:
  - The Procuring Entity was allowed a grace period of one (!) year after installation and commissioning of the project.

- Payment would be spread over a period of four (4) years with an option of extending payment period to seven (7) years.
- Safaricom Limited would operate the network as and independent as opposed to using a commercial network as had been proposed by Safaricom Limited.

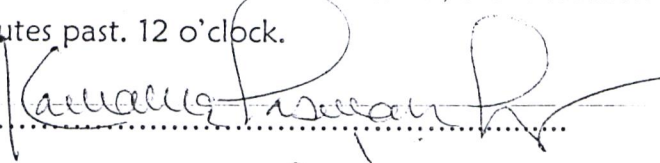
#### Committee resolution on way forward

Having met all the relevant stakeholders, the Committee resolved to hold a retreat, between 13<sup>th</sup> and 15<sup>th</sup> July 2014, at Boma Hotel –Nairobi to compile a report on the matter.

ANS/MIN. NO.258/2014

There being no other business for discussion, the Chairman adjourned the meeting at thirty minutes past. 12 o'clock.

Signed: .....



Hon. Asman Kamama, MP

Chairperson, Departmental Committee on Administration and National Security

Date: .....

15/07/2014

# ANNEX 1

# THE NATIONAL TREASURY



## BUDGETARY SUPPLY DEPARTMENT M E M O

File No. ES. 204/13/01

Date: 26<sup>th</sup> June, 2014

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RE: BRIEF ON THE CONSULTATIVE MEETING BETWEEN THE PARLIAMENTARY COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY AND THE NATIONAL TREASURY FOR THE PROCUREMENT OF COMMUNICATION NETWORK AND SURVEILLANCE SYSTEM FOR THE NPS HELD ON 1<sup>ST</sup> JULY, 2014 AT THE 2<sup>ND</sup> FLOOR COMMITTEE BOARD ROOM AT THE CONTINENTAL HOUSE, STARTING AT 10.00 A.M.

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The National Treasury has noted that the Departmental Committee on Administration and National Security is seeking for clarification of the following issues:

### Question/Issue:-

(i) The overall cost of the project:-

The total cost of the project is KSh.14,905,755,432/= exclusive of taxes, but inclusive of taxes it is KSh.18,781,251,844/=. The difference of KSh.3,875,496,412/= is accounted for by VAT 16% and excise duty 10%. Part of this cost will be defrayed through allocation of the 2x20MHz in the 800 MHz band to the service provider at an assumed valued of KSh.6,750,000,000/=. Therefore, the net cost of the project is KSh.12.031Billion.

(ii) Where the National Treasury will get the funds to pay the Contractors:-

The procuring entity will factor the cost of the project of KSh.12.031Billion within its ceilings for the period 2015/16 – 2018/19 to be able to service the contract. The project is being implemented in phased out manner spanning over four fiscal years at an annual repayment cost of KSh.3.007billion. The project has a



grace period of one (1) year after installation and commissioning of the system. Therefore no payment is required in the next FY 2014/15. The service provider is also willing to extend the proposed contractual engagement to seven (7) years to lower the annual repayments by the National Police Service (NPS) from KSh.3.007billion to KSh.1.7billion per annum.

(iii) Whether there were any guarantees/assurances to safeguard public funds in case the project failed to take off:-

We hope the contract document will have inbuilt clauses to safeguard public funds being lost. The procuring entity bears the responsibility of conducting due diligence in the procurement process to safeguard public funds. Therefore, we trust that the contracting entity will confirm the following before awarding the contract:-

- i) That tender security to be provided by the service provider will be from a reputable bank or insurance company approved by PPOA;
- ii) That the service provider will provide original bank credit reference letter as proofs of financial capability;
- iii) That audited and certified financial statements of the service provider for the last 5 years will be provided for verification;
- iv) That the financial evaluation of the service provider will be commensurate with the scope of the services and fees charges;
- v) That the service provider will guarantee availability of the spares for the system;
- vi) That the service provider will guarantee the procuring entity that the service level credit will be 99.999% since this is a security system, etc.

NB. The procuring entity has not started contract preparation but we trust that guarantees will be discussed at the appropriate time of the process.

(iv) What the modes of payment were:-

The mode of payments will be annual budgetary allocations through the procuring entity's budget for the period 2015/16 – 2018/19.



# ANNEX 2



**PUBLIC PROCUREMENT OVERSIGHT AUTHORITY**  
*Transforming Procurement*

Telephone: +254(020) 3244000, 2213106, 2213107  
Fax: +254(020) 2213105, 3244377, 3244277  
E-mail: info@ppoa.go.ke  
Website: www.ppoa.go.ke  
When replying please quote:

National Bank Building, 10<sup>th</sup> Floor  
Harambee Avenue  
P.O. Box 58535-00200  
NAIROBI  
KENYA

**A BRIEF ON DIRECT PROCUREMENT METHOD FOR PROCUREMENT OF NATIONAL SECURE COMMUNICATION NETWORK AND SURVEILLANCE SYSTEM PRESENTED TO THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY ON 10<sup>TH</sup> JULY, 2014**

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**BACKGROUND INFORMATION**

Letter Ref: NA/DC.A/ANS/2014 (109) of July, 2014 refers.

The Ministry of Interior and Coordination of National Government submitted to the Public Procurement Oversight Authority (the Authority) a report on direct procurement on the above subject vide letter Ref: MICNG/PROJ/5(22) of 20<sup>th</sup> May, 2014. The report was submitted to the Authority in accordance with Regulation 62(3) of the Public Procurement and Disposal Regulations, 2006 (the Regulations). A summary of the report is as follows:

1. The Ministry of Interior and Coordination of National Government is in the process of procuring leased infrastructure services of National Secure Communication Network and Surveillance System for National Police Service in phases starting with Nairobi and its environs and Mombasa from Safaricom Ltd through direct procurement method.
2. The National Police Service intended to leverage on Information and Communication Technologies to improve on security countrywide. Therefore, the Police wanted to invite a bidder to provide communications network and surveillance system.
3. The National Police Service requested for authority for use of direct procurement method from the Special Security Tender Committee. This was granted by the Committee in its 7<sup>th</sup> (7/2013-2014) meeting held on

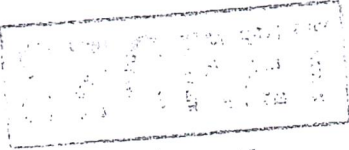
25<sup>th</sup> March, 2014 at Harambee House. The approval for use of the method was premised on Section 74(3) of the Public Procurement and Disposal Act, 2005 (the Act). The justification for the choice of the procurement method was that *"...the country is currently experiencing upsurge of security challenges among them serious crimes such as;*

- (i) *Terrorism,*
- (ii) *Robbery with violence,*
- (iii) *Abductions and kidnappings,*
- (iv) *Carjacking and car thefts*

*The spate of the aforementioned criminal activities in the country is beginning to adversely affect the economy especially tourism and investments throughout the country".*

### **Tendering Process**

4. By a letter Ref: MICNG/PROC/10/1/4 VOL.III (53) of 25<sup>th</sup> March, 2014, the Procuring Entity invited sealed bid from Safaricom Ltd for the subject procurement. The invitation to tender required Safaricom Ltd to collect a complete set of tender documents from the Procuring Entity upon payment of a non-refundable fee of Kshs. 1, 000.00 for the tender documents. The technical proposal was opened on 10<sup>th</sup> April, 2014 at 10.00 a.m. as specified in the invitation to tender.
5. The tender was evaluated by a Tender Processing Committee (TPC) which was appointed by the Accounting Officer vide letter Ref: MICNG/PROC 28/1 (A) VOL.IV (57) of 8<sup>th</sup> April, 2014. The TPC comprised of twelve (12) members drawn from the Procuring Entity and other Government institutions such as ICT Authority, National Intelligence Service (NIS), Public Works, and Communication Commission of Kenya. According to the evaluation report, evaluation was carried out in three (3) stages namely:
  - (i) **Preliminary** to determine the responsiveness of the tender to the mandatory requirements;

- 
- (ii) **Technical** to determine the responsiveness of the tender to the technical requirements; and
  - (iii) **Financial** evaluation.

The bidder passed the preliminary and technical evaluation and therefore qualified for financial evaluation.

6. The financial proposal was opened on 11<sup>th</sup> April, 2014 at Harambee House in the presence of the bidder's representatives.
7. During financial evaluation, the TPC noted that Safaricom Ltd had offered three (3) options as follows:

**(a) Option 1**

Full cost with no spectrum allocation to Safaricom for commercial use by CCK.

**Option 2-Nairobi**

Free radio services but costs defrayed with commercial spectrum allocation to Safaricom Ltd in 800MHz and 1800MHz bands by CCK.

**Option 3- Nairobi and Mombasa**

Free radio communication & surveillance services but costs defrayed with commercial spectrum allocation to Safaricom in 800MHz and 1800MHz by CCK.

8. The Procuring Entity negotiated with Safaricom Ltd on option 3 and a negotiation report was prepared which was presented to the Special Security Tender Committee on 8<sup>th</sup> May, 2014.
9. Upon analysis of the financial proposal submitted by Safaricom Ltd, it was noted that the total cost of the project is fourteen billion, nine hundred and five million, seven hundred and fifty five thousands, four hundred and thirty two shillings (Kshs. 14, 905,

755, 432.00) exclusive of taxes (16% VAT and 10% excise duty). This translates to eighteen billion, seven hundred and eighty one million, two hundred and fifty one thousands, eight hundred and forty four shillings (Kshs. 18, 781, 251, 844.00) inclusive of taxes.

10. The tender was awarded by the Special Security Tender Committee to Safaricom Ltd at its meeting No.9/2013-2014 held on 8<sup>th</sup> May, 2014 at eighteen billion, seven hundred and eighty one million, two hundred and fifty one thousands, eight hundred and forty four shillings (Kshs. 18, 781, 251, 844.00) inclusive of taxes (VAT 16% and 10% excise duty). However, a portion of the cost was to be defrayed through allocation of 2x20MHz and 800 MHz band at a value of six billion seven hundred and fifty million shillings (Kshs. 6, 750, 000, 000.00). Therefore what is payable to Safaricom Ltd is twelve billion, thirty one million, two hundred and fifty one thousands, eight hundred and forty four shillings (12, 031, 251, 844.00).


11. Notification of award was done vide letter Ref: MICNG/PROC/10 SSTC9 (1) dated 9<sup>th</sup> May, 2014. According to the notification letter the award was made at twelve billion, thirty one million, two hundred and fifty one thousands, eight hundred and forty four shillings (Kshs. 12, 031, 251, 844.00). Safaricom Ltd accepted the offer vide a letter dated 15<sup>th</sup> May, 2014 as required by the award notification letter.

Regarding the three issues raised in your letter cited above, we would like to comment as follows:

**1) Whether due process was followed in the selection of the company to undertake the project**

We note that:

- (i) The request was made by the National Police Service, the User, for the subject procurement through direct



procurement ~~method as per~~ Regulation 22 of the Regulations.

- (ii) The request for approval to use direct procurement method was sought from the Special Security Tender Committee pursuant to Section 29(3) of the Act. The approval was granted by the Committee.
- (iii) Safaricom Ltd was invited to quote and were issued with tender documents specifying the requirements of the tender.
- (iv) The technical proposal was opened on 10<sup>th</sup> April, 2014 and was evaluated by a Tender Processing Committee appointed by the Accounting Officer vide letter Ref: MICNG/PROC 28/1 (A) VOL.IV (57) of 8<sup>th</sup> April, 2014 pursuant to Regulation 5 of the Public Procurement and Disposal (Amendment) Regulations, 2013. According to the records submitted to us by the Procuring Entity, evaluation was carried out and a report prepared.
- (v) Negotiations were carried out between the Procuring Entity and Safaricom Ltd in line with Section 75 of the Act and a report dated 5<sup>th</sup> May, 2014 was prepared. According to the report, the total cost of the project is eighteen billion, seven hundred and eighty one million, two hundred and fifty one thousands, eight hundred and forty four shillings (Kshs. 18, 781, 251, 844.00). inclusive of taxes (16 % VAT and 10% excise duty). A portion of this cost was to be defrayed through allocation of 2x20MHz in the 1800MHz band to Safaricom Ltd at a value of Kshs. 6, 750, 000, 000.00. Therefore what is payable to Safaricom Ltd is twelve billion, thirty one million, two hundred and fifty one thousands, eight hundred and forty four shillings (12, 031, 251, 844.00).

(vi) The recommendation of the TPC was presented to the Special Security Tender Committee in its meeting held on 8<sup>th</sup> May, 2014. The tender committee concurred with the TPC and awarded the tender to Safaricom Ltd at eighteen billion, seven hundred and eighty one million, two hundred and fifty one thousands, eight hundred and forty four shillings (Kshs. 18, 781, 251, 844.00). A breakdown of this cost is as indicated below:

• Cost of the Project	-	Kshs. 14, 905, 755, 432.00
• Taxes (Vat 16% and Excise duty 10%)	-	Kshs. 3, 875, 496, 412
• Total Cost	-	Kshs. 18, 781, 251, 844
• Less value of spectrum by CCK	-	Kshs. 6, 750, 000, 000.00
• Net cost payable to Safaricom Ltd	-	<u>Kshs. 12, 031, 251, 844.00</u>


(vii) The award of the tender was communicated to Safaricom Ltd vide letter Ref: MICN/PROC/10SSTC 9(1) dated 9<sup>th</sup> May, 2014 in accordance with Section 67 of the Act. Safaricom Ltd accepted the offer vide their letter dated 15<sup>th</sup> May, 2014.

(viii) A written contract is yet to be signed between the Procuring Entity and Safaricom Ltd

In view of the above, and based on the copies of procurement records availed to us, we opine that the Procuring Entity observed due process in selection of the company to undertake the project.

**2) Whether the threshold for direct procurement was attained in subject tender**

Pursuant to Section 74(3) of the Act, a procuring entity may use direct procurement method where-

- 
- (a) *there is urgent need for goods, works or services being procured;*
  - (b) *because of the urgency the other available methods of procurement are impractical; and*
  - (c) *the circumstances that gave rise to the urgency were not foreseeable and were not as the result of dilatory conduct on the part of the procuring entity”.*

Urgent need is defined under Section 3 of the Act as “*the need for goods, works or services in circumstances where there is eminent or actual threat to public health, welfare, safety, or of damage to property, such that engaging in tendering proceedings or other procurement methods would not be practicable*”.

The justification for the choice of the procurement method was that “*...the country is currently experiencing upsurge of security challenges among them serious crimes such as;*

- (i) *Terrorism*
- (ii) *Robbery with violence,*
- (iii) *Abductions and kidnappings,*
- (iv) *Carjacking and car thefts*

*The spate of the aforementioned criminal activities in the country is beginning to adversely affect the economy especially tourism and investment throughout the country”.*

It is our considered opinion that justification given by the Procuring Entity for choice of the method lies within the circumstances envisaged under Section 3 of the Act cited above and therefore satisfies Section 74(3) of the Act. It is noted that the circumstance that prompted the Procuring Entity to use direct procurement method were urgent and not foreseeable.

**3) Whether the subject tender provides value for money**

We note that the Procuring Entity:

- (a) Engaged Technical Officers with diverse skills from various Government agencies such as ICT Authority, National Intelligence Service (NIS), Public Works and Communication Commission of Kenya in the processing of the tender (preparation of the tender documents, evaluation of tender and negotiation).
  
- (b) Invoked the provision of Section 75 of the Act and negotiated with Safaricom Ltd. Among the issues agreed upon which favored the Procuring Entity were:
  - (i) The Procuring Entity was allowed a grace period of one (1) year after installation and commissioning of the system.
  
  - (ii) Payment would be spread over a period of four (4) years. There is also an option of extending payment period to seven (7) years.
  
  - (iii) Safaricom Ltd would operate the network as an independent network as opposed to using commercial network as had been proposed by Safaricom Ltd in their bid.

In view of the foregoing, we trust the Procuring Entity will benefit from the subject procurement.

# ANNEX 3

# **BRIEF ON THE PROPOSED NATIONAL SURVEILLANCE COMMUNICATION, COMMAND AND CONTROL SYSTEM IN THE NATIONAL POLICE SERVICE**

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## **1. BACKGROUND**

Since the year 2006, the Police have been desirous to upgrade their communications network from analogue to digital system with a command and control centre that is computerized and aided by Closed Circuit Cameras (CCTV). The system is captured as a Vision 2030 flagship project whose aim is to provide the Police with a secure communication Network for improved security.

The project was to be implemented during the first Medium Term Plan 2008-2012, but funding remained a major challenge.

In June 2010, the then Commissioner of Police forwarded a request for the procurement of a modern command and control communication system to the then Ministry of Provincial Administration and Internal Security and a proposal for funding in the financial year 2010/2011 to the Ministry of Finance. However, the funds were not allocated in the annual budget to enable commencement of the procurement process.

However, Treasury vide letter No. EA/FA214/778/03/F dated 17<sup>th</sup> October, 2011 confirmed that it had requested the Government of the Peoples' Republic of China, for financial assistance towards the implementation of this project. The Government of the Peoples' Republic of China accepted to support the project subject to this

Ministry designating and signing a commercial contract with a Chinese Firm.

**(i) PROCUREMENT PROCESS TO CHINESE FIRMS**

On 3rd February 2012, the Ministry advertised for Expression of Interest (EoI) in the Print Media for interested Chinese firms. Six (6) firms expressed their interest.

The Ministry undertook the evaluation and out of the four (4) firms that had been Pre-qualified, only two (2) were evaluated on technical and financial capabilities. However, the process was terminated in October, 2013 due to inadequate finance.

**(ii) LEGAL CHALLENGES**

That during the Procurement process, the unsuccessful bidders and other interested parties filed cases at the Public Procurement Review Board and at Courts causing delay in execution of the Project. It is worth noting that most of these cases have been dismissed both by the Public Procurement Review Board and the Courts.

**2. CURRENT TENDER AWARDED TO SAFARICOM LTD**

**(i)** The National Police Service vide its letter ref. NO.SEC/OUT/VOL.1 dated 24<sup>th</sup> March, 2014 requested for authority to use direct procurement method.

The request was granted by the Special Security Tender Committee in its meeting No.7/2013-2014 (under Min. No. 6) held on 25<sup>th</sup> March, 2014.

**(ii) REASONS FOR DIRECT PROCUREMENT**

Section 74 (3) of the public procurement and disposal Act 2005 states that a procuring entity may use direct procurement if the following are satisfied:

- (a) there is an urgent need for the goods, works or services being procured
- (b) because of the urgency the other available methods of procurement are impractical; and
- (c) the circumstances that gave rise to the urgency were not foreseeable and were not the result of dilatory conduct on the part of the procuring entity.

**(iii) JUSTIFICATION FOR USING THE DIRECT PROCUREMENT METHOD**

- (a) The country is currently experiencing an upsurge of security challenges among them serious crimes such as;
  - Terrorism
  - Robbery with violence
  - Abduction and Kidnappings
  - Carjacking and car thefts
  - Ineffective response to disasters

- (b) The state of the above criminal activities in the country is beginning to adversely affect the economy especially tourism and investments throughout the country.
- (c) The current analogue Police Communication System is unable to cope with the prevailing security demands. There is therefore urgent need to modernize the Police Communication System as any other delay will jeopardize the National Security.
- (d) The Special Security Tender Committee Meeting in its Meeting No. 7/(2013-2014) Minute No. 6 granted the approval for Direct Procurement to Ms. Safaricom Limited. This is pursuant to Section 10(c) of the Public Procurement and Disposal Regulations 2006.

### **3. TENDER PROCESSING**

#### **(i) Invitation to Tender**

The Ministry of Interior and Coordination of National Government vide its letter Ref. MICNG/PROC/10/1/4 VOL.III (53) dated 25<sup>th</sup> March 2014 invited a bid proposal from Ms. Safaricom Limited for the provision of National Secure Communication Network and Surveillance System for National Police in phases starting with Nairobi, its environs and Mombasa.

## **(ii) Tender Opening**

The tender closed/opened on Thursday, 10<sup>th</sup> April 2014 with the opening of technical proposal. Minutes of the tender opening were recorded pursuant to Section 60(1)-(9) of the Public Procurement and Disposal Act 2005.

## **(iii) Tender Evaluation**

The tender processing committee was appointed by the accounting officer vide his letter MICNG/PROJ/5/ (3) dated 9<sup>th</sup> April, 2014. The evaluation started immediately after the tender opening on Thursday, 10<sup>th</sup> April 2014. In its conclusion the technical evaluation recommended that Ms. Safaricom Limited was technically responsive and should proceed for financial evaluation.

## **(iv) Financial Proposal**

The tender document indicated that the financial proposal would only be opened if the bidder met all the technical requirement. The financial proposal was opened on 14<sup>th</sup> April 2014 after the conclusion of technical evaluation. Ms. Safaricom in its proposal offered three (3) options;

**Option 1-** Full cost with no spectrum allocation to Safaricom for commercial use by CCK.

**Option 2 Nairobi** -Free radio services but costs defrayed with commercial spectrum allocation to Safaricom Ltd in 800MHz and 1800MHz bands by CCK.

**Option 3 Nairobi and Mombasa** – Free radio communication and surveillance services but costs defrayed and commercial

spectrum allocation to Safaricom in 800MHz and 1800MHz by CCK.

The evaluation committee recommended for option 3. Pursuant to Section 75(a) of the Public Procurement and Disposal Act 2005, Ms. Safaricom Limited was invited for negotiation and further clarification.

**(v) Negotiation**

The Ministry invited Ms. Safaricom Limited and a negotiation meeting was held on 5<sup>th</sup> May 2014. The following were the parameters of discussion;

- Spectrum allocation
- Network and network management
- Cost of the project
- Internet connectivity to Police stations
- Surveillance system

During the negotiation, Ms. Safaricom was requested to provide a detailed cost breakdown of each items costed. They obliged and the same was analyzed by the technical and financial experts and concurred that the costing was within market range.

**(vi) Ministerial Tender Committee Award**

The tender was awarded by the special Security Tender Committee to Ms. Safaricom Limited at its meeting No. 9/2013-2014 held on 8<sup>th</sup> May 2014 at KShs.18,781,251,844.00 inclusive of taxes (VAT 16% and 10% excise duty). However, a portion of the cost was to be defrayed through allocation of 2x20MHz and 800MHz band at a

value of KShs.6,750,000,000.00. Therefore what is payable to Ms. Safaricom Limited is KShs.12,301,251.00.

**(vii) Notification of Award**

The Ministry of Interior and Coordination of National Government vide its letter Ref. MICNG/PROC/10 SSTC 9/(1) dated 9<sup>th</sup> May 2014 notified Ms. Safaricom the award of tender. This is in accordance to Section 67 of the Public Procurement and Disposal Act 2005.

**(viii) Acceptance Letter by Ms. Safaricom Ltd.**

Ms. Safaricom Limited in their letter dated 15<sup>th</sup> May 2014 confirmed acceptance of the tender award.

**In view of the above detailed tender process shown above, the Ministry confirms that it complied with all requirements of the Public Procurement and Disposal Act.**

**4. DUE DILLIGENCE**

Ms. Safaricom has been identified for the following reasons:

- Is a market leader in telecommunication industry in the region
- Has the widest coverage penetration in the county
- A public listed company, Government of Kenya (GoK) owning 35%, Public 25% and Vodafone 40%.
- Financial capability to facilitate roll-out with shortest time possible

- A firm that understands local terrain and infrastructure for quicker mobilization.

In order to ensure that everything was done above board, the Ministry requested other Ministries and Departments to provide technical experts during the tendering process.

The officers who managed the work process were from the following areas:

1. Ministry of Communication and Information
2. ICT Authority
3. Communication Authority of Kenya (CAK)
4. Ministry of Lands, Housing and Urban Development (Electrical Department)
5. National Intelligence Service
6. Communication officers from National Police Service

This team prepared technical specifications upon which Ms. Safaricom Limited responded. They further interrogated the bid response from Ms. Safaricom Limited.

The bid was evaluated on the following areas: -

- (i) Certificate of Incorporation.
- (ii) Bank Credit Reference (not more than 3 months old).

- (iii) Audited and certified financial statements for the last five years.
- (iv) Company Profile.
- (v) Statement of Declaration for the required level of service.
- (vi) Manufacturer product catalogue and brochures with detailed specifications.
- (vii) Power of Attorney for joint venture and partnership (where applicable).
- (viii) Tax Compliance Certificate.

## 5. DETAILED PROJECT COST

- Cost of the Project -----	Kshs.14,905,755,432/=
- Taxes (VAT 16% and excise duty 10%)-----	Kshs.3,875,496,412/=
- <b>Total Cost -----</b>	<b><u>Kshs.18,781,251,844/=</u></b>
- Less Assumed Value of spectrum-----	Kshs.6,750,000,000/=
- <b>Net cost of the project -----</b>	<b><u>Kshs.12,031,251,844/=</u></b>

**Thank you.**

**PRINCIPAL SECRETARY,  
MINISTRY OF INTERIOR AND COORDINATION  
OF NATIONAL GOVERNMENT.**

# ANNEX 4

**STATEMENT BY SAFARICOM LIMITED TO THE DEPARTMENTAL COMMITTEE ON  
ADMINISTRATION AND NATIONAL SECURITY RELATING TO THE IMPLEMENTATION OF THE  
NATIONAL POLICE INTEGRATED PUBLIC SAFETY COMMUNICATION AND SURVEILLANCE  
SYSTEM PROGRAMME**

- HONOURABLE CHAIRMAN
- HONOURABLE MEMBERS OF THE COMMITTEE

Arising from the recent invitation to meet the Honourable Committee, Safaricom Limited wishes to formally confirm the following details;

**1. Due Process**

**a) Urgency and Practicality**

Safaricom was invited to tender for the provision of the service by the Government of Kenya, through the Ministry of Interior & Coordination of National Government. It is our understanding that the Government chose to invite Safaricom to tender for the Project due to the urgency of the security situation at hand and that it is probably the most practical solution for the expeditious implementation of the system.

**b) Value for money**

Safaricom has submitted verifiable Bills of Quantities giving quantities, qualities and price.

The Project is valued at KES 14.9 billion over 5 years. The money will cater for the purchase of equipment, its installation and networking to link it to the central command base.

Safaricom is implementing this Project at no cost to Government for the first twelve months from the date of commissioning. The Government will commence payments thereafter for a period of 5 years, in instalments.

The Safaricom logo, featuring the word "Safaricom" in a stylized font with a swoosh above the letters "i" and "o".

**Cost breakdown:**

- o Building the system-KES 12.7 B
- o Maintenance support over 5 year period will be a total of KES2.2 B

**c) Scope of the Project**

The Public Safety Security Project is a Government-owned initiative using the latest technology to enhance the security in the country. Safaricom's understanding is that the Government aims to improve communication between various State agencies that oversee and provide security to Kenya. The scope of the Project will be the construction and support of a robust communications network, managed centrally by the National Police Service. Once successfully commissioned, the security agencies will effectively and efficiently perform the dispatch and mobilization of officers on a daily basis, and more particularly, during emergency situations.

The first phase will focus on Nairobi and Mombasa cities. It can later be scaled to reach other parts of the country according to Government plans.

The Project will utilize the following equipment:

- a. Operations Centres (2 in Nairobi, 1 in Mombasa);
- b. 1,800 High Definition cameras (1500 in Nairobi, 300 in Mombasa);
- c. 5 video conference facilities (4 in Nairobi, 1 in Mombasa);
- d. Internet services to 195 police stations;
- e. 7,000 devices (6000 hand held, 1000 fixed desktop devices);
- f. 130 fixed desktop phones;
- g. 80 Base stations (60 in Nairobi, 20 in Mombasa);
- h. 600 vehicle-mounted systems.

The service will run on an eLTE network, which will be a dedicated service operated by the National Police Service.

The Project is owned by the Government of Kenya and the system will be designed and built for the Government, within its required specifications.

As a contractor, we will provide our service under very strict conditions of contract and service level agreements (SLA). Our scope includes the design and construction of the LTE network. Once the network is up and running, the management of the system will be handed over to the National Police Service and will remain solely a prerogative of our security agencies.

Safaricom will ensure a stable network to facilitate the smooth operation of the network by providing network support services in line with the International Telecommunications Union guidelines.

From our extensive review of the scope, the specifications are similar to those in use in large cities, such as New York, London.

## **2) Technological Competence**

We take pride in the fact that we have the ability to deploy and mobilize resources and materials almost instantaneously; we have become an integrated communications company that meets the needs to this nation. To demonstrate this, in our 14 years of existence we have deployed and continue to support over 3000 base stations around Kenya which run on 2G and 3G networks. We have also deployed the LTE network in approximately 10 areas in Kenya. We are confident that we have the capability and competence to deliver on our contractual obligations.

## **3) System integrity**

The National Police Service communications network will be separate and distinct from the Safaricom commercial network. Neither Safaricom nor any of its agents as a matter of fact, will have access to this communication.

We have committed to deploy a far more superior technology in keeping with modern technological trends and standards used by police services globally. Information security will be the hallmark of this system.

It will not be possible to break through the system information security firewalls and related systems. This is because, besides integrating the world's best multi-layered security elements, the management of the communication and any arising information will be handled solely by trained members of the police force. We understand that the Government and the National Police Service have put together a robust training



Safaricom

program for members of the police force on all aspects of the communications program.

Also, as credit to the Government, there is no way a state would compromise its sovereignty by allowing another government to have unchecked access into its communications systems-irrespective of a commercial relationship.

Core staff to be involved in the Project will also be continually vetted by the security agencies.

Finally, I wish to assure the Kenyan people through the National Assembly, that the deployment of this system, will provide our internal security forces with a more sophisticated platform which will equip them with the technological knowhow to outpace the morphing faces of modern day criminals.

Given the recent spate of attacks including the recent Mpeketoni attacks, you will all agree that Kenyans including corporate citizens such as Safaricom need to collectively play our part in fostering national security excellence for sustained social, economic and even political development.

**Thank you and God Bless Kenya!**

Mr. Robert Collymore  
CEO, Safaricom Limited



Safaricom

# ANNEX 5

8/66  
**S. MUSALIA MWENESI**

Advocates

#6, FIRST FLOOR  
APA INSURANCE ARCADE  
ARGWINGS KODHEK ROAD  
Dropping Zone: Sheria Sacco, No. 2,  
2nd Floor  
Milimani Law Courts

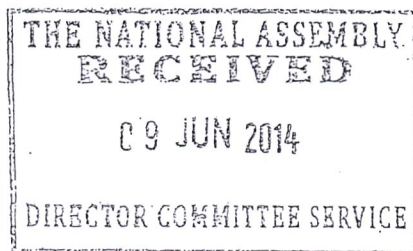
HURLINGHAM  
P. O. BOX 29880-00202, K.N.H.  
NAIROBI, KENYA  
Tel: 2726489/2726496 Fax: 2722390  
Cell: 0724887154  
E-mail: mwenesim@kenyaweb.com

Our Ref: SMM/TRL/0961/LIT

Your Ref:

06 June 2014

The Chairman  
The Administration & National  
Security Committee  
Parliament of Kenya  
The National Assembly  
NAIROBI



Dear Sir

**RE: IN THE MATTER OF TETRA RADIO LIMITED and THE PROPOSED  
SAFARICOM/OFFICE OF THE PRESIDENT DEAL TO ROLL OUT A  
POLICE COMMUNICATION NETWORK**

We act for *Tetra Radio Limited*, a Kenyan registered company and the beneficiary of a High Court of Kenya judgment against the *Communications Commission of Kenya (CCK)* directing the said *Commission* to immediately issue to our client the awarded Commercial Trunked Radio Operator Licence and further that our client shall have the exclusive use of the frequency spectrum 370 – 470 MHZ (both inclusive) and also the exclusive use of the broadband spectrum-2.3 – 2.5 GHZ.

By an order issued by the Honourable Mr. Justice Dulu on the 11<sup>th</sup> April, 2008 the Communications Commission of Kenya was forbidden from "utilising, appropriating, allocating, activating, allowing to be used or in any manner prejudicing the exclusive use by the Applicant of the frequency range between 370Mhz to 470Mhz both inclusive." (copy of the order attached).

This order was never appealed against nor was it ever reviewed or otherwise set aside. It remains a valid court order which must be respected and obeyed.

The matter then proceeded to a full hearing and final judgment entered in favour of our client (see attached copy of the final orders of the High Court). CCK appealed this decision and a status quo has been recorded by consent at the Court of Appeal. That status quo order means that the order of Justice Dulu of 11<sup>th</sup> April, 2008 continues in force.

Stephen M. Mwenesi LL. B., CL.D.

Associates: Onindo . L. Cheryl BSL, LL.B., ACI Arb.  
Millicent J. O. Ogutu LLB., Dip KSL

In flagrant contempt of the orders of the High Court the Office of the President pretended to issue a tender appearing on the 03<sup>rd</sup> February, 2012 purporting to invite third parties to tender for the provision of an identical telecommunication service which the High Court had already determined can only lawfully and validly be provided by our client by reason of a competitively sourced international procurement process which was won by our client at a licence fee of US\$5.2 million. We protested this move and threatened contempt proceedings against the Office of the President (see copy of our demand letter dated the 22<sup>nd</sup> February, 2012).

In subsequent proceedings involving two competing Chinese companies that purported to respond to the tender above, we appeared in Court and cited the existence of the court orders in favour of our client and the Chinese companies opted to withdraw their suits and claims.

We now notice that fresh schemes have been hatched to circumvent the clear orders of the High Court and to illegally take away our client's rights and benefits under a legitimate and valid CCK tender which was won by our client. The purported secret arrangement between the Office of the President and Safaricom to provide the exact service which our client won in an open tender amounts to a clear and serious contempt of court and is a violation of Kenyan law and a violation of our client's constitutional rights.

We have been instructed to move to Court immediately to stop this illegal arrangement and to protect our client's rights and the dignity of the Court.

It is unfortunate that the Office of the President continues to hatch schemes which offend clear provisions of law and orders of the High Court instead of looking to address the current security threats within the context of lawful actions. This office is fostering impunity which consequently hurts the public good.

The Chief Justice and our Courts have recently been emphasising that it is imperative that Court orders are obeyed by all and that any party aggrieved by a Court order must approach the Court that issued the "contentious" order for a review or setting aside of the order. But to proceed along the path chosen by the Office of the President erodes the rule of law and invites chaos in the general administration of the Country. This is unacceptable.

We emphasise that our client has by right, supported by valid court orders, the exclusive use of the frequency spectrum range from 370 MHZ to 470 MHZ and no person can operate or infringe upon this exclusive frequency band without the consent of our client.

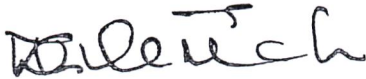
We reiterate that to proceed to seek a partnership with Safaricom to provide a service which our client's have won in an open tender offends clear judicial proclamations and amounts to a clear violation of lawful orders of Court and is, further, a manifest expression of scornful impunity and scandalous violation of the Constitution and the rule of law generally.

The public interest continues to be prejudiced as our client has made demand for lost profits which currently exceed Kshs. 8 Billion which the taxpayer will eventually have to satisfy through CCK (now CAK) for acts of persons who are clearly interested in furthering interests which are at complete variance with the public good.

It is hoped that your committee will insist on lawful orders of the Court being followed and further assert that any proposal for a rollout of a Police communication system must follow the law.

We hope that Committee will halt this illegal scheme and save us the need to activate Court action, which will further frustrate the provision of the communication system the Kenya Police so desperately, needs.

Yours faithfully



MR. MUSALIAMWENESI  
ADVOCATES

CC: The Cabinet Secretary  
Ministry of Interior & Coordination  
of National Government  
Harambee House  
NAIROBI

CC: The Hon. The Attorney General  
State Law Office  
NAIROBI

REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
MISCELLANEOUS CIVIL APPLICATION NO. 141 OF 2008

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW AND  
FOR ORDERS OF CERTIORARI AND PROHIBITION

IN THE MATTER OF: THE KENYA COMMUNICATIONS ACT(ACT NO. 2 OF  
1998)

IN THE MATTER OF: THE LAW REFORM ACT (CHAPTER 26 OF THE  
LAWS OF KENYA)

IN THE MATTER OF: THE DECISION OF THE COMMUNICATION  
COMMISSION OF KENYA PURPORTING TO CANCEL  
A LICENCE AWARDED TO TETRA RADIO LIMITED

BETWEEN

TETRA RADIO LIMITED.....APPLICANT

AND

THE COMMUNICATIONS COMMISSION OF KENYA.....RESPONDENT

IN CHAMBERS ON THE 11<sup>TH</sup> DAY OF APRIL 2008  
BEFORE THE HONOURABLE MR JUSTICE DULU

ORDER

UPON READING the application presented to this Court on the 1<sup>st</sup> day of April 2008 by Counsel for the Applicant under order L111 Rule 1(1), (2), (3) and (4) of the Civil Procedure Rules, Section 8 of the Law Reform Act, Section 3A of the Civil Procedure Act and all other enabling powers and provisions of Law AND UPON READING the statement dated 31<sup>st</sup> March 2008 and the Verifying Affidavit of JACQUILINE WAKONYU MWAI sworn on 31<sup>st</sup> March 2008 together with the annexures thereto AND UPON HEARING Counsel for the Applicant exparte.

IT IS ORDERED

- (1) THAT the application be and is hereby certified as urgent.
- (2) THAT leave be and is hereby granted to the Applicant to apply for Judicial Review and specifically for orders of CERTIORARI to remove into the High Court and quash the decision of the Communications Commission of Kenya dated the 18<sup>th</sup> October, 2007 purporting to cancel a Commercial

Trunked Radio Operator Licence issued to the Applicant without giving any Formal written notice as required under the Kenya Communications Act or communicating to the Applicant the formal decision of the said Communications Commission of Kenya or at all.


- (3) THAT leave be and is hereby granted to the Applicant to apply for Judicial Review and specifically for orders of **PROHIBITION** directed at the Communications Commission of Kenya prohibiting it from carrying out and proceeding with the decision dated the 18<sup>th</sup> October, 2007 purporting to cancel the Commercial Trunked Radio Licence to the Applicant.
- (4) THAT leave be and is hereby granted to the Applicant to apply for Judicial Review and specifically for orders of **PROHIBITION** directed at the Communications Commission of Kenya prohibiting it from utilising, appropriating, allocating, activating, allowing to be used or in any other manner prejudicing the exclusive use by the Applicant of the frequency range between 370MHz to 470 MHz (both inclusive).
- (5) THAT the main motion be filed within 21 days from today.
- (6) THAT the leave so granted to apply for the orders of Certiorari and Prohibition do operate as a stay of the decision of the Communication Commission of Kenya dated the 18<sup>th</sup> October, 2007 purporting to cancel the Commercial Trunked Radio Operator Licence issued to the Applicant and also as a stay against the Communication Commission of Kenya prohibiting the Communication Commission of Kenya from utilising, appropriating, allocating, activating, allowing to be used or in any manner prejudicing the exclusive use by the Applicant of the frequency range between 370 MHz to 470MHz both inclusive provided that the main motion is filed and served within 21 days from the date hereof and in default the stay orders will automatically lapse.
- (7) THAT the costs be in the cause.

GIVEN under my hand and the seal of the Court this 11<sup>th</sup> day of April 2008.

ISSUED at Nairobi this 14<sup>th</sup> day of April 2008.



**DEPUTY REGISTRAR**  
**HIGH COURT OF KENYA AT NAIROBI**

I CERTIFY THIS IS TRUE COPY OF THE ORIGINAL.
DATE: 14-4-08

DEPUTY REGISTRAR HIGH COURT OF KENYA NAIROBI

# ANNEX 6

REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
MISCELLANEOUS CIVIL APPLICATION NO. 141 OF 2008

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW AND FOR  
ORDERS OF CERTIORARI AND PROHIBITION  
IN THE MATTER OF : THE KENYA COMMUNICATION ACT (ACT NO. 2 OF  
1998)  
IN THE MATTER OF: THE LAW REFORM ACT (CHAPTER 26 OF THE LAWS  
OF KENYA)  
IN THE MATTER OF: THE DECISION OF THE COMMUNICATION  
COMMISSION OF KENYA PURPORTING TO CANCEL A  
LICENCE AWARDED TO TETRA TADIO LIMITED

BETWEEN

TETRA RADIO LIMITED ----- APPLICANT

AND

THE COMMUNICATIONS COMMISSION OF KENYA----- RESPONDENT

ORDER

(IN COURT ON 24<sup>TH</sup> JUNE 2011 BEFORE THE HONOURABLE LADY JUSTICE JEANNE GACHECHE)

APPLICATION FOR ORDERS:

1. THAT an order of Certiorari to remove into the High Court and quash the decision of the Communication Commission of Kenya dated 18<sup>th</sup> October 2007 purporting to cancel a Commercial Trunked Radio Operator Licence issued to the Applicant without giving any formal written notice as required under the Kenya Communications Commission of Kenya or at all.
2. THAT an order of Prohibition directed at the Communications Commission of Kenya prohibiting it from carrying out and proceeding with the decision dated 18<sup>th</sup> October 2007 purporting to cancel the Commercial Trunked Radio Licence to the Applicant.
3. THAT an order of Prohibition directed at the Communications Commission of Kenya prohibiting it from utilizing, appropriating, allocating, activating, allowing to be used or in any other manner prejudicing the exclusive use by the Applicant of the frequency range between 370 MHz to 470 MHz (both inclusive).
4. THAT costs be in the cause.

UPON READING the application by way of Notice of Motion dated 28<sup>th</sup> April 2008 presented to this court on 28<sup>th</sup> April 2008 by Counsel for the Applicant under Order LIII Rule 3(1), of the Civil Procedure Rules, Section 8 of the Law Reform Act, Section 3A of the Civil Procedure Act and all other enabling provisions of law and UPON READING the Statement and the Verifying Affidavit of JACQUILINE WAKONYU MWAI sworn on 31<sup>st</sup> March 2008 together with the annexures therein, and the Replying Affidavit of JOHN OMO for the Respondent sworn on 21<sup>st</sup> April 2009 AND UPON HEARING the Counsel for the Applicant and the Counsel for the Respondent.

IT IS HEREBY ORDERED:-

1. THAT an order of Certiorari be and is hereby granted to remove and quash the decision of the Communication Commission of Kenya dated the 18<sup>th</sup> October 2007 purporting to cancel a Commercial Trunked Radio Operator Licence Issued to the Company.
2. THAT an order of Prohibition be and is hereby granted prohibiting the Respondent from carrying out and proceeding with the decision dated the 18<sup>th</sup> October 2007 by virtue of which purported to cancel the Commercial Trunked Radio Licence that it had issued to the Company.
3. THAT an order of Prohibition be and is hereby granted directed at the Respondent prohibiting it from utilizing, appropriating, allocating, activating, allowing to be used or in any other manner prejudicing the excessive use by the Applicant of the frequency range 370 MHz to 470 MHz (both inclusive).
4. THAT Tetra do make payment of fee of in three equal installments of US\$ 1.733 Million each, the first such installment to be paid on or before 31<sup>st</sup> December 2011 and thereafter on or before the 31<sup>st</sup> of December of each succeeding year.
5. THAT subject to Tetra paying the first installment, CCK shall then release the contracted and reserved bandwidth in the range of 370MHz to 470 MHz (both inclusive) to the exclusive and sole use by Tetra together with the additional broadband spectrum bandwidth in the 2.3-2.5 GHZ necessary for the proper and effective operationalization of the Project.
6. THAT Tetra shall have the costs of this cause.

GIVEN under my hand and seal of the Court at Nairobi this 24<sup>th</sup> day of June 2011.

ISSUED at Nairobi this ..... 2<sup>nd</sup> ..... Day of ..... May ..... 2012

I CERTIFY THIS IS TRUE  
COPY OF THE ORIGINAL.  
DATED: 2/5/12  
.....  
DEPUTY REGISTRAR  
HIGH COURT OF KENYA  
NAIROBI

DEPUTY REGISTRAR  
HIGH COURT OF KENYA, AT NAIROBI

# ANNEX 7

# S. MUSALIA MWENESI

Advocates

#6, FIRST FLOOR  
APA INSURANCE ARCADE  
ARGWINGS KODHEK ROAD

HURLINGHAM  
P. O. BOX 29880-00202, K.N.H.  
NAIROBI, KENYA

Dropping Zone: Sheria Sacco, No. 2,  
2nd Floor  
Milimani Law Courts

Tel: 2726489/2726496 Fax: 2722390  
Cell: 0724887154  
E-mail: mwenesim@kenyaweb.com

Our Ref: SMM/TRL/0961/LIT

Your Ref:



22 February 2012

The Permanent Secretary  
Office of the President  
Ministry of State for Provincial Administration  
and Internal Security  
Harambee House  
Harambee Avenue  
P.O. Box 30510 - 00100  
NAIROBI

"By recorded hand delivery and by certified and registered post"

Dear Sir

RE: HC. MISC. CIVIL APPLICATION NO: 141 OF 2008  
REPUBLIC VS. THE COMMUNICATIONS COMMISSION OF KENYA  
EX PARTE: TETRA RADIO LIMITED

We act for *Tetra Radio Limited*, the Applicant in the above suit and the beneficiary of a High Court of Kenya judgment against the *Communications Commission of Kenya* directing the said *Commission* to immediately issue to our client the awarded Commercial Trunked Radio Operator Licence and further that our client shall have the exclusive use of the frequency spectrum 370 – 470 MHZ (both inclusive) and also the exclusive use of the broadband spectrum 2.3 – 2.5 GHZ (a copy of the Judgment is enclosed herewith for your ease of reference).

In flagrant contempt of the orders of the High Court you have proceeded to pretend to issue a tender appearing at page 36 of the *Daily Nation* of the 03<sup>rd</sup> February, 2012 purporting to invite third parties to tender for the provision of an identical telecommunication service which the High Court has already determined can only lawfully and validly be provided by our client by reason of a competitively sourced international procurement process which was won by our client at a licence fee of US\$5.2 million.

22 February 2012

In the circumstances, therefore, you have no right whatsoever to offer or pretend to issue a tender in respect of a service that you are compelled by law to source from our client. Furthermore, your office has particular and special knowledge of the exclusivity enjoyed by our client in the provision of the tendered service. Your office and our client have previously engaged in extensive negotiations and exchanged detailed communication on this subject. Our client has, at its own cost, sponsored Kenya Police officers to various jurisdictions (the United Kingdom Metropolitan Police and the South African Police Force) to examine our client's proposed service bouquet. The Kenya Police officers on these missions have filed comprehensive reports on the suitability of our client's service with recommendations that a contract be entered into with our client for the provision of the tendered service. The Attorney General's office has given your office legal opinions on our client's legal competence to offer the tendered services to the Kenya Police.

As the Judgment of the High Court demonstrates these *bona fide* and transparent negotiations with the Kenya Police were frustrated by persons in government who chose instead to invent the now infamous "Anglo-Leasing" schemes to provide competing services to various government agencies with the sole intention of frustrating our client's licenced services.

We have advised our client that the advertised tender amounts to a grave and serious contempt of court. There is a valid judgment of the High Court of Kenya which reserves to our client exclusive right to the publicly tendered and procured *Trunked Radio Network Licence* and which judgment preserves for our client's exclusive use the frequency spectrum 370 MHZ to 470 MHZ.

To proceed to solicit tenders for the provision of services which offend clear judicial proclamations amount to a clear violation of lawful orders of Court and is a manifest expression of scornful impunity and scandalous violation of the Constitution and the rule of law generally.

**TAKE NOTICE** that unless you immediately cancel the offending tender and issue a public notification in that regard within **FIVE (5) DAYS** of the date of this letter our client will commence contempt proceedings against the Permanent Secretary in the Office of the President and any officer who would have been complicit in the perpetration of this serious and notified contempt of court.

Note to address all future communication through our office.

Yours faithfully



**S. MUSALIA MWENESI**  
**ADVOCATES**

Encl.

# ANNEX 8

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 77(Acts No. 3)*



**REPUBLIC OF KENYA**

**KENYA GAZETTE SUPPLEMENT**

**ACTS, 2005**

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**NAIROBI, 26<sup>th</sup> October, 2005**

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**CONTENT**

Act-	PAGE
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PRINTED AND PUBLISHED BY GOVERNMENT PRINTER, NAIROBI

**THE PUBLIC PROCUREMENT AND DISPOSAL ACT**  
**No. 3 of 2005**

goods, works or services as may be prescribed in the regulations.

*B – Direct procurement*

When direct procurement may be used.

74.(1) A procuring entity may use direct procurement as allowed under subsection (2) or (3) as long as the purpose is not to avoid competition.

(2) A procuring entity may use direct procurement if the following are satisfied —

- (a) there is only one person who can supply the goods, works or services being procured; and
- (b) there is no reasonable alternative or substitute for the goods, works or services.

(3) A procuring entity may use direct procurement if the following are satisfied —

- (a) there is an urgent need for the goods, works or services being procured;
- (b) because of the urgency the other available methods of procurement are impractical; and
- (c) the circumstances that gave rise to the urgency were not foreseeable and were not the result of dilatory conduct on the part of the procuring entity.

Procedure.

75. The following shall apply with respect to direct procurement —

- (a) the procuring entity may negotiate with a person for the supply of the goods, works or services being procured;

- (b) the procuring entity shall not use direct procurement in a discriminatory manner; and
- (c) the resulting contract must be in writing and signed by both parties.

*C – Request for proposals*

When request for proposals may be used.

76.(1) A procuring entity may use a request for proposals for a procurement if —

- (a) the procurement is of services or a combination of goods and services; and
- (b) the services to be procured are advisory or otherwise of a predominately intellectual nature.

(2) Subject to any prescribed restrictions, a procuring entity may use a request for proposals for a procurement if the procuring entity would be allowed to use another alternative procurement procedure for that procurement under section 73, 74, 88 or 90.

Procedure.

77. Sections 78 to 86 set out the procedure for a procurement using a request for proposals.

Notice inviting expressions of interest.

78.(1) The procuring entity shall prepare a notice inviting interested persons to submit expressions of interest.

(2) The notice inviting expressions of interest shall set out the following —

- (a) the name and address of the procuring entity;
- (b) a brief description of the services being procured and, if applicable, the goods being procured;

# ANNEX 9

# **MEETING WITH THE COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY ON THE TENDER AWARD TO SAFARICOM LIMITED**

---

## **INTRODUCTION**

The Ministry of Interior and Coordination of National Government is in the process of procuring leased infrastructure services for provision of National Secure Communication Network and Surveillance System for National Police Service – in phases starting with Nairobi, its environs and Mombasa from M/s Safaricom Limited through Direct Procurement.

The National Police Service has been operating on obsolete communication system that was installed three decades ago and has myriad problems posing a great challenge in service delivery. Out of this necessity, there was an urgent need to leverage on modern Communication Technologies to improve on security countrywide. This became of critical importance due to increased rate of crime.

As a result, the Police Service wanted a suitable bidder to provide an independent and secure communications network on Long Term Evolution (LTE-400MHz) and deployment of microwave (7GHz)/ fiber backhaul; The system will effectively and economically support shared usage of the network by the various Police formations, Units, Camps, Divisions, Police Stations, Posts and Patrol Bases yet maintaining privacy and mutual security.

## **SCOPE OF WORK**

- i. Digital Trunking Radio Network
- ii. Central Command Operation Center
- iii. Installation of Video Surveillance System
- iv. Internet connectivity to Police Stations

## **TENDER PROCESS**

The National Police Service vide its letter ref. NO.SEC/OUT/VOL.1 dated 24<sup>th</sup> March, 2014 requested for authority to use direct procurement method.

The request was granted by the Special Security Tender Committee in its meeting No.7/2013-2014 (under Min. No. 6) held on 25<sup>th</sup> March, 2014.

The Ministry of Interior and Coordination of National Government invited a proposal from M/s Safaricom Limited and the same was evaluated, recommended and awarded by the Special Security Tender Committee in its meeting No.9/2013-2014 (under Min. No. 1) held on 8<sup>th</sup> May, 2014.

## **REASONS FOR DIRECT PROCUREMENT**

Section 74 (3) of the public procurement and disposal Act 2005 states that a procuring entity may use direct procurement if the following are satisfied:

- (a) there is an urgent need for the goods, works or services being procured
- (b) because of the urgency the other available methods of procurement are impractical; and
- (c) the circumstances that gave rise to the urgency were not foreseeable and were not the result of dilatory conduct on the part of the procuring entity.

**JUSTIFICATION FOR USING THE DIRECT PROCUREMENT METHOD**

- (i) The country is currently experiencing an upsurge of security challenges among them serious crimes such as;
  - Terrorism
  - Robbery with violence
  - Abduction and Kidnappings
  - Carjacking and car thefts
  - Ineffective response to disasters
- (ii) The spate of the above criminal activities in the country is beginning to adversely affect the economy especially tourism and investments throughout the country.
- (iii) The current analogue Police Communication System is unable to cope with the prevailing security demands. There is therefore urgent need to modernize the Police Communication

System as any other delay will jeopardize the National Security.

(iv) M/s Safaricom has been identified for the following reasons:

- Is a market leader in telecommunication industry in the region
- Has the widest coverage penetration in the county
- A public listed company, Government of Kenya (G o K) owning 35%, Public 25% and Vodafone 40%.
- Financial capability to facilitate roll-out with shortest time possible
- A firm that understands local terrain and infrastructure for quicker mobilization.

### **CONCLUSION**

It is worth noting that the Defence and National security organs are allowed by the Public Procurement and Disposal Act 2005, Part XI, Section 133(2), to manage their procurement and disposal on the basis of a dual list, covering items subject to open and restricted procurement and disposal methods respectively. The restricted lists are subjected to classified audit by the Controller and Auditor General.

**MINISTRY OF INTERIOR & COORDINATION  
OF NATIONAL GOVERNMENT**

**5<sup>th</sup> June, 2014**

# ANNEX 10

**1. What does the National Secure Communications Network and Surveillance System entail? What are the key components of this project?**

The police project is a radio trunking communication and surveillance solution with the following key features

- Digital trunking radio network - TD-LTE technology-based using police wireless broadband
- Computer aided dispatch system
- Surveillance System
- Automated Vehicle Locating System
- Geographical Information Systems
- Surveillance system with smart camera for Automated Number Plate Recognition (ANPR)
- A Video Conferencing solution
- Unified Communication System integrating Telephone and Mobile Radio

**2. What are the key strengths required for a technology partner and their solution to be able to roll out this project?**

The key strengths of a partner and their solution are:

a) Must have proven capability in rolling out and managing National Communication Networks. The communications infrastructure is the core part of this project without which none of the other parts can work. It is also the most expensive part of the network and therefore the chosen technology partner must be significantly invested in telecommunications infrastructure to be able to structure cost effective solutions. Such infrastructure should include

- BTS sites
- Backhaul fibre networks
- Metro fibre networks
- Skilled Resource base with experience in providing ICT solutions. A partner whose resource base has a large percentage of Kenyans will be preferred.
- A good record providing similar ICT services for Kenya Government Institutions. The partner should already be handling sensitive government agencies, and be familiar with the security requirements when dealing with such institutions.

b) Latest technology that is scalable must be used with an upgrade path strategy for integrating legacy systems as deemed necessary. Evolution path for future

technologies must also be shown. The partner must demonstrate how all 47 counties will be covered by the solution.

c) Partner must indicate all costs associated with this solution including:

- Cost of providing coverage
- Cost of maintaining and supporting the system for next 5 years
- Cost of supplying essential spare parts for the next five years
- Cost of identifying, vetting, training and retention of personnel. The partner should provide for these costs as part of the project.
- Hidden costs should be identified and quantified (e.g. additional large capital investment in the short term to cater for needs that should have been anticipated)

**3. What is the best technology recommended for this project and why? Is the proposed technology Future-Proof or will the technology become obsolete before the expiry of the expected life cycle of the project?**

The Best technology for this project should be based on Long Term Evolution (LTE)

LTE is a standard for wireless data communications technology and an evolution of the GSM/UMTS standards. The goal of LTE was to increase the capacity and speed of wireless data networks using new DSP (digital signal processing) techniques and modulations that were developed around the turn of the millennium. A further goal was the redesign and simplification of the network architecture to an IP-based system with significantly reduced transfer latency compared to the 3G architecture.

The LTE is future proof technology supporting Voice and Video. The wireless interface is incompatible with 2G and 3G networks, so that it must be operated on a separate wireless spectrum.

Other technology options based on Global Open Trunking Architecture (GOTA) such as CDMA 2000 are being phased out. CDMA 2000 for example does not support video and is limited to 3.5Mbps per sector which means that as the data flow requirements increase new investments in infrastructure will be required.

**4. What kind of security is required to meet the demanding requirements of this project and to ensure that the system is not hacked, and the Integrity of data is maintained?**

Elaborate security features are needed to roll out such a project. These include:

- Incorporate several Layers of Security right from Physical access to Infrastructure facilities and system access.
- Identity and user authentication: All users must be known and verified.
- Restricted access, authorities and rights
- Guaranteed confidentiality of users identity: Use protocols of the existing security agencies
- Secure information transmission
- Secure information storage
- Multiple encryption mechanisms at the various stages of data handling.
- Audit trail: Complete audit trail of all users of the system and any system changes.
- Regular security audits of the system and its management including security testing, security analysis, operational security metrics, trust metrics and penetration testing.

**5. Is it necessary for the Government to fully own the Infrastructure? What is the best financial model for such a project?**

Projects of this nature must leverage on existing infrastructure that has been developed for a digital era. The Kenya Government has already invested heavily in major infrastructure projects such as National Fibre networks, TEAMS and KENET. Where possible, leveraging on existing infrastructure will provide best value for money and reap the benefits of strategic initiatives.

It is not necessary for the Government to own all aspects of the infrastructure for such a project. As long as the security requirements are met (as described in question 4 above), Infrastructure can be leased thus providing a cost effective solution.

The key point regarding the possibility of compromise of the system is not with the ownership of the infrastructure, but with the ownership and operation of the core systems. Provided the core systems have been properly secured using technology with military grade encryption, and the personnel operating the system have been properly vetted and appointed, the infrastructure can be leased from an appropriate provider.

**6. Who will have operational ownership of the system? Is there need to form a new Government Agency to run the operations?**

The ownership of the system is crucial in terms of operation and overall responsibility of the system. Since there will be several Government Security Organs who will use the system, the best way to manage the operation will be to set up an independent

body with representation from each of the security stakeholders. This will be important to ensure that the co-operation of the security agencies and buy-in into the project.

### **7. Who is responsible for generating the user requirement and specifications for the capabilities of the systems for this project?**

The user requirement must be prepared by the security agencies who will be the users. The proposed solution arises only after the user requirement and specifications have been prepared, and these are then given to the partner to provide a solution against the specifications. The system proposed therefore will meet all the requirements of the stakeholders.

### **8. What are the requirements for managing and operating this National Communications and Surveillance System?**

The key requirement for this project is that the right personnel are identified to run the system. The identification process must entail the following:

- Vetting of personnel: All personnel must have signed into the national Secrets Act, have police certificates of good conduct and be upstanding citizens.
- Training of personnel: The partner must provide skills requirements for different levels of personnel required for the project. Suitable personnel already within the security establishment must be identified or recruited, and then trained.
- Retention of personnel: Once personnel have been selected, methods of ensuring that such personnel are retained. They must remain suitably motivated and given the expense required to train them, the possibility of bonding them should also be explored.
- Succession Planning: A clear succession plan for critical technical and management positions.

There are other management requirements for the success of this system such as the proper collation, analysis and dissemination of information.

### **9. What are some of the areas of expertise in Human Resource which will be required to be identified and trained?**

Some of the key areas of expertise that will be required are:

- Crime Prevention advisers
- Specialised CCTV investigators
- Crime Analysts
- Intelligence Officers and Profilers
- CCTV Librarians

#### 10. What are the expected benefits of the system?

The system will provide very tangible benefits to the country at large. The key benefits are:

- **Deterrent to crime:** the public knowledge that such a system exists with countrywide surveillance will serve as a deterrent to crime.
- **Prevention:** Information coming from the system will be able to prevent crime, terrorism and also help to manage natural disasters and calamities.
- **Investigation:** The ability to retroactively retrieve information and then use this as a basis for providing evidence for persecution of wrongdoers.
- **Perception of Safety:** The public will feel much more secure with the knowledge of this system in place.
- **Disaster Management:** The ability of the country to respond to disasters will be greatly enhanced by the command and control aspect of the project

#### 11. What are the downsides of the system?

- **Cost:** The system is significantly expensive and therefore great thought must be put into the procurement process to ensure that value is delivered. Nonetheless the expected benefits outweigh the cost element.
- **Privacy:** The system will be perceived to infringe on the privacy and rights of Kenyans. This is a necessary evil in this age of terrorism.
- **Legal Framework:** the legal framework and chain of evidence required to be able to use information from the system is currently not in place. A parallel effort to provide this needs to be done.

#### 12. What other success factors are there?

- **Integration of Private CCTV Systems:** All publicly used CCTV systems installed by Private organisations, NGO's and Corporations should have the capability of being integrated into the National surveillance system. This will enhance the overall capability of the surveillance network. Legal legislation will need to be drawn up to support this.
- **Integration of Privately existing databases:** An example of this is the intelligence agencies having the capability to log into the database at JKIA, (currently supplied and managed by KAPS, a private company) and searching through the record of all vehicles that have entered and left the airport.

### **13. What proposed linkages should the system have with other Security agencies and Government bodies?**

The Government Security Agencies already have other proprietary systems and technologies in use. Most of these systems will need to be integrated into the new system. This integration of legacy systems is crucial to avoid the various agencies rolling out their own infrastructure at a high cost therefore making the project more expensive than envisaged and ballooning the final project with unnecessary redundancies.

For example the security agencies will need to access the KRA database to be able to access information of motor vehicle and land purchase by suspected terrorists who are laundering money.

It will be crucial to develop intelligence sharing protocols within the various security agencies.

