

REPUBLIC OF KENYA
SIAYA COUNTY ASSEMBLY
THE HANSARD

Second County Assembly - Second Session

Tuesday, 12th June, 2018

The House met at the County Assembly Chamber at 2.30 p.m.

[The Deputy Speaker (Hon. Odongo) in the Chair]

PRAYER

NOTICE OF MOTION

DECENTRALISING PROCUREMENT TO COUNTY DEPARTMENTS

Hon. Otiato: Mr. Deputy Speaker, I rise to give notice of the following Motion:-

AWARE THAT Section 3(h) (i) and (j) of the Public Procurement and Disposal Act, 2015, provides that Public procurement and asset disposal by State organ and public entities shall be guided by the following values and principles of – (h) maximization of value for money; (i) promotion of local industry, sustainable development and protection of the environment and (j) promotion of local contractors, while Section 33(3) states that the County Treasury may prescribe an institutional framework to provide for the procurement, administration and management of common user items for the County Government.

FURTHER AWARE THAT the Executive through a circular dated 14th February 2018 gave distinct procurement roles to the County Secretary; with the same circular vesting the greatest responsibility of processing procurement bids to the Director Supply Chain Management, contrary to the provisions of various Sections of Part VII of Public Procurement and Asset Disposal Act, 2015 which identify the accounting officer as having the mandate to manage the processing and related functions;

NOTING THAT Section 44(3) of the County Government Act, 2012 clearly delineates duties of a County Secretary and exonerates him from any role in the procurement process; while Section 45 (4) of the same Act places a Chief Officer as the authorized officer of a department, meaning the accounting officer with procurement roles and responsibilities outlined in Section 44(2) of the Public Procurement and Asset Disposal Act, 2015.

FURTHER NOTING THAT each department in the County structure is a procurement entity with distinct procurement and accounting officers;

CONCERNED THAT centralizing the county procurement system and embedding the County Secretary and Director Supply Chain Management as key players in the process is out of consonance with standard government procurement practices which recognizes the head of procurement unit and the accounting officers and main agents;

DEEPLY CONCERNED THAT this has resulted in continuous large pending bills, high amounts of budgeted funds rollovers, and frustrations of both suppliers and contractors, which has caused poor and delayed service delivery to citizens of Siaya County;

This House RESOLVES that the County Executive fully decentralizes procurement to county departments, discharges the County Secretary of any procurement responsibilities and allows Director Supply Chain management to only concentrate on policy related and coordination functions.

STATEMENTS

TENTATIVE BUSINESS FOR THE HOUSE

Hon. Oor: Mr. Deputy Speaker, Sir, I rise to present the tentative business for the House as from Tuesday, 12th June to Thursday, 14th June, 2018 pursuant to Standing Order 41 (2) (b).

It is notified that the House Business Committee, in their last meeting approved the following tentative business to appear in Order Paper for the week commencing from Tuesday, 12th June to Thursday, 14th June, 2018.

Tuesday, 12th June, 2018 – Afternoon Sitting

1. Motion by the Hon. Francis Otiato, MCA Yimbo East Ward on the decentralization of procurement by the County Executive.
2. Statement request by Hon. Ambrose Akuno, MCA, West Asembo Ward on suspension of officers of the Finance Department by the County Government of Siaya.

Wednesday, 13th June, 2018 – Morning Sitting

1. Response to Statement request by the Hon. Maurice Aringo, MCA West Sakwa Ward – To be done by the Chairman, Committee on Roads, Public Work, Transport and Communication.

Wednesday, 13th June, 2018 – Afternoon Sitting

1. Motion on altercation of Assembly Calendar – Leader of Majority Party

Thursday, 14th June, 2018 – Afternoon Sitting

1. Report of the Committee on Implementation on their engagement with the stakeholders (CECMs) – To be done by the Chairman, Committee on Implementation.

Thank you, Mr. Deputy Speaker, Sir!

STATEMENT REQUEST BY HON. AKUNO ON SUSPENSION OF FINANCE DEPARTMENT OFFICERS

Hon. Akuno: Mr. Deputy Speaker, pursuant to Standing Order 41(2c), I rise to seek a Statement from the Chairperson of Committee of Finance, Trade, Industry and Cooperatives

on recent suspension of staff from the Executive Department of Finance. In the Statement, the Chairperson should address the following critical issues;

1. Who was suspended? That is, names and cadres of staff.
2. The grounds on which the suspensions were done and how long the suspensions are.
3. Confirm or otherwise, the allegation that the suspensions were done because the staff were found to be corrupt. If so, give an explicit justification on the allegation.
4. Given that the alleged suspensions have been carried out during the last month of the financial year when critical financial and accounting processes are bound to be concluded, what contingency plans have been put in place to address imminent challenges in the County financial operations.
5. Confirm his/her awareness that any officer serving suspension should not transact any business on behalf of the County until that time when the suspension is uplifted.
6. If the suspensions would end up adversely affecting County financial operations, show cause why the County Executive Committee Member for finance should not be subjected to due dismissal processes by the County Assembly.

Hon. Deputy Speaker: This is a very important Statement request and so I give the Chairperson, Finance Committee, two days to present a report to this House. The response should be ready on Thursday, 14th June, 2018.

Hon. Olasi: Point of order, Mr. Deputy Speaker! You have given the Trade and Finance Committee Chairperson two days to table the response, but given the intensity of this Statement, I don't think that will be possible. The CECM has to be called to appear before the Committee and the communication between the Committee and the Trade Department can take one week. So, I think two days will not be enough.

Hon. Deputy Speaker: Hon. Olasi, as you are aware, we are currently working on the budget estimates and the financial year is also almost ending and the matter being addressed in this Statement concerns the whole county. But I think the Chairperson of the Committee is here to talk for himself, not through you.

Hon. Booker: Mr. Deputy Speaker, I think it would have been in order to ask the Chairperson to tell the number of days he will take to deliver the Statement response. I don't think it is right for you to order or to be a dictator.

Hon. Deputy Speaker: Hon. Vice Chairperson, do you have something to say?

Hon. Siguru: I want to thank the Members who have raised concern over the timeframe. Given the issues raised, I don't think two days will be sufficient enough for the Committee to furnish this House with proper answers. As such, I tend to think that we would really ask for the indulgence of the House that the Committee is given seven calendar days to give a comprehensive report on the finding that at least can be able to convince this House.

Hon. Booker: Point of Order, Mr. Deputy Speaker Sir!

Hon. Deputy Speaker: Okay, have not given you chance to talk Hon. Booker and Hon. Siguru....

Hon. Booker: Mr. Deputy Speaker Sir, I am requesting you to give us only one week to suspend this issue on behalf of the chair.

Hon. Deputy Speaker: Why and the chair is in the House?

Hon. Booker: Because he has directed me to do so.

Hon. Deputy Speaker (Hon. Odongo): Okay, Hon. Adala!

Hon. Adala: Thank you, Mr. Deputy Speaker Sir, is it in Order for the Members of Assembly to contradict a ruling that the Speaker has made? I think the standing order is clear that once the Speaker has made a ruling we can only abide by them.

Hon. Deputy Speaker: Thank you, Hon. Adala for protecting your chair but I also think that it is not in order for Hon. Dasani to speak on behalf of the chair when he is in the House and as well as his Deputy.

Yes, Hon. Ochola!

Hon. Ochola: Thank you, Mr. Deputy Speaker Sir, I think it's clear that as you were giving a suggestion you didn't Order but you prefer that we have this report in two days' time and so that contradicts the stand that has been taken by the colleague but, I wish to put my voice as a Member of the Committee that the two days will not be sufficient.

Also to be clear my vice chair stood on this matter and as far as I know the deliberation comes from the chair or vice chair, so the purported standing in by my colleague is irrelevant.

He is a Member of the Committee and as I stand here I am not standing as the chair when my vice as well as chair is here. So let it go clear on record that the Member was not speaking on behalf of the Committee and my vice was speaking on behalf of the chair and the Committee, and from my past experience an enquiry of such magnitude requires at least some two weeks.

This is because in the first week we need to make enquiries and getting available the persons concerned then the second week we do a report then come back to this House. My understanding is that you are consulting that we get a presence of two days then the Committee would suggest that kindly, why don't you give us this number of times?

Hon. Deputy Speaker: Thank you, Hon. Ochola, and as you have said that the vice chair stood up on behalf of the chair so let's go by his words that we give the Committee seven working days and not 2 weeks as you have requested.

Hon. Otiato, Members for Yimbo East!

MOTION

PUBLIC PROCUREMENT AND ASSET DISPOSAL

Hon. Otiato: Thank you, Mr. Deputy Speaker Sir, I know there is a bit of confusion somewhere but I will continue.

AWARE THAT Section 3(h) (i) and (j) of the Public Procurement and Disposal Act, 2015, provides that Public procurement and asset disposal by State organ and public entities shall be guided by the following values and principles of – (h) maximization of value for money; (i) promotion of local industry, sustainable development and protection of the environment and (j) promotion of local contractors, while Section 33(3) states that the

County Treasury may prescribe an institutional framework to provide for the procurement, administration and management of common user items for the County Government.

FURTHER AWARE THAT the Executive through a circular dated 14th February 2018 gave distinct procurement roles to the County Secretary; with the same circular vesting the greatest responsibility of processing procurement bids to the Director Supply Chain Management, contrary to the provisions of various Sections of Part VII of Public Procurement and Asset Disposal Act, 2015 which identify the accounting officer as having the mandate to manage the processing and related functions;

NOTING THAT Section 44(3) of the County Government Act, 2012 clearly delineates duties of a County Secretary and exonerates him from any role in the procurement process; while Section 45 (4) of the same Act places a Chief Officer as the authorized officer of a department, meaning the accounting officer with procurement roles and responsibilities outlined in Section 44(2) of the Public Procurement and Asset Disposal Act, 2015.

FURTHER NOTING THAT each department in the County structure is a procurement entity with distinct procurement and accounting officers;

CONCERNED THAT centralizing the county procurement system and embedding the County Secretary and Director Supply Chain Management as key players in the process is out of consonance with standard government procurement practices which recognizes the head of procurement unit and the accounting officers and main agents;

DEEPLY CONCERNED THAT this has resulted in continuous large pending bills, high amounts of budgeted funds rollovers, and frustrations of both suppliers and contractors, which has caused poor and delayed service delivery to citizens of Siaya County;

This House RESOLVES that the County Executive fully decentralizes procurement to county departments, discharges the County Secretary of any procurement responsibilities and allows Director Supply Chain management to only concentrate on policy related and coordination functions.

Allow me to just shade a little light on what we are discussing here today. Our Acts are very clear, and before we go to the Procurement Act this has been a cry all over that why are we not doing it right in Siaya? Today we are in 2017 and we are doing the budget today but very high percentage of the procurement for the past FY 2017/2018 has not gone through. You realize that two three weeks ago as we were discussing or as we were looking on starting the projects we were chasing and running up and down for these items to be procured. Actually, I happened to have met one of our procurement going to the departments and you here the departments complaining about the office. You hear somebody saying that the departments are done with this matter but they are stuck at the County Secretary Office, then you ask yourself what is the role of County Secretary in procurement?

The Law that creates County Secretary Office delineates it from doing any functions in procurement. He has four major roles and procurement is not one of them! Therefore, creation of this particular law or particular policy which introduces what is not in the law according to me by itself illegal practice.

Mr. Deputy Speaker, you are aware that we had a new Act immediately after the new Constitution of 2010, the dawn of new Constitution, an article 227 of the Constitution was supposed to be operationalized and that led to the passage of this the Public Procurement

Disposal Act 2015. This Act repealed any other Law that exists in Procurement. In this Law that was created there are some key things that were supposed to be achieved with this particular Act;

1. Other than operationalizing the new Constitutional mandates which is operationalizing the section 227 of the new Constitution, it was to enhance devolution procurement decisions.
2. To harmonize procurement procedures.
3. To simplify operations and compliance by increasing clarity.

You also realize that we sited down there that is part (j) section 3 of this particular Act is very clear that one mandate / objectives of this law is to promote the local contractors. You will realize that this definition of local contractors has given a problem and as this Assembly, I represent a population and we have contractors even in our Wards who will do this job.

If this law was passed to support them and given the opportunity that the contracts be done by the local contractors and am sorry to state that in my Ward from 2013 am not aware of even a single contractor who has done anything not even a single supply of water, and therefore, how is this Act helping us in promoting local contractors in Yimbo East?

You will realize that some of the contractors in fact 90% of them are not local! Today you will realize that we are doing roads but, who are doing this roads? So when we look around you will realize that no MCA here has a contractor working in his Ward that is from that Ward yet there are roads to be done! If the law was to promote the local contractors, then who is this local contractor?

In the same spirit I was requesting that this House get into my shoe and understand that actually in this law it is the Accounting officer who is the Chief Officer who is also the head of that department.

I know someone will say that the introduction of the County Secretary officer to be counter signing this particular procurement is a way of putting a hand of the Executive into manipulating free and fair procurement process so that in one way or another and as we know the law that creates the position of County Secretary is the same section of law that creates Executive where the Governor falls and you are also aware that the Governor is the appointing authority for the CS and he is the only one who can relive him from his duty. So as a signatory to all the procurement processes it is his duty to report back to the Governor.

Therefore, we can say that in one way or the other if we allow that all procurement processes must be co-signed by the County Secretary then it is like saying we are allowing the hand of the Governor in influencing all the procurement is Siaya which is based on no law.

It is a very long Debate but since it is my Motion, I will allow the House to ventilate over it but according to the Act we are talking about, the Director of the Supply Chain, the Act is very clear on his functions. According to this Act their work is to give written advisory to the accounting officer! Only that! So that when the accounting officer (Chief Officer) is awarding a tender he is doing so having been advised by the Supply Chain office.

In our case it is the opposite where everything plus the letters of awards is written by Director Procurement. This particular function there are sections and that is why you see down there when we were saying that once we resolve this we are going to put to an end this

guideline that was given on which was written by the CECM Finance Mr. Warega on 14th February 2018 giving functions to a County Secretary which does not belong to him by any law

This particular regulation is what is introducing a County Secretary to be appointing the committees yet the law that was passed is so clear that it is the accounting officer to appoint both the evaluation committee, the inspection committee and all these committees that are relevant. So the introduction of this particular County secretary is retrogressive.

We are going back into the law of procurement in 2003 where there was some roles and it was being brought in in form of a manipulation into a regulation which was not the Act

If this particular Act is repealed I urge the House to resolve that this particular Act is out of...

Hon. Kinyanyi: Point of Order!

Hon. Deputy Speaker: Yes, Hon. Kinyanyi!

Hon. Kinyanyi: I quite understand what Hon. Otiato is talking about but you see he might be talking of an issue that has not even been created. As we are talking do we have Director Procurement because all these people have been acting on capacity...

Hon. Ochola: Point of Order!

Hon. Deputy Speaker: Yes, Hon. Kinyanyi

Hon. Ochola: It is my understanding that Hon. Otiato is moving this Motion and I am not sure whether he had concluded before the Hon. Member interjected to lock horns or seek clarifications if you like. I thought that would come when we are debating the Motion

Hon. Deputy Speaker: We are just obliged to let him air out his views then he will answer you

Hon. Kinyanyi: What Hon. Otiato is saying is very right but we might be taking a very long time and all these people are acting in capacity we don't have Director Procurement

Hon. Deputy Speaker: Hon. Kinyanyi, I think you heard what Hon. Ochola said. Hon. Otiato is still moving his Motion so kindly give him time then you will air out your views.

Hon. Otiato: Thank you, Mr. Deputy Speaker, Sir, for your protection, and on the same before I go ahead we are not talking about the occupants of the office I am talking about the regulations that will govern any other person and it is a regulation that has been passed and what we are saying here is that the processes that are being used to do procurement in Siaya is not based on any law

What I am trying to Move here is that we actually examined the processes whoever wants to occupy that office it is not our business as at now but according to this Motion that I am moving we look at, is it right for the County Secretary to be doing anything in the procurement?

According to the regulation which was dated here the instructions that it is giving to the procurement entities is not based on any law. This is what we are saying No to! I am trying to give the actual positions of the law and how the procurement process should be done.

I know that the people we are having here as our procurement officers are not professional as required by the law but that is not a subject for today. I am moving in terms of processes and for us to appreciate that actually we have been doing it the wrong way and the way it has been done is to promote some bureaucracy which is not right

Let me finalize and allow Debate. When we follow this law as it is which is the basis of the new Constitution to decentralize procurement process to promote the local contractors as given by the law it will give us powers at the Assembly to actually call or do a question directly to accounting officer.

In my Ward I have 30 projects which are supposed to be done at the cost of Kshs. 30 million. Where is the percentage of the people awarded from my Ward as contractors? We can do one on one questions and ask them if our people are really getting these jobs.

When we have been asking these questions somebody says I will not mention the name but one of the CO's once told me (you know these things are awarded to some of them) they get orders from some of them by passing this Motion we will be putting direct powers to the accounting officer so that he doesn't tell us that the County Secretary ordered him.

He must know that he is the accounting officer, the only person in charge of that procurement process and therefore nobody should be telling us that co-signing with the County Secretary or any other person is meant to cure anything because this person who has been given this opportunity is the only one in fact when there is any question of law it is not the County secretary or the Governor who will be asked to appear before any committee to answer any question; it is the accounting officer through a Chief Officer. Let us them power

I request Hon. Audi to second.

Hon. Audi: I second.

(Question proposed)

Hon. Speaker: Yes Hon. E. Odawa

Hon. Odawa. E: Thank you, Mr. Deputy Speaker, Sir, first and foremost I take this opportunity to appreciate my brother Hon. Otiato for a job well done. When decentralization vis a vis centralization and devolution vis a vis centralization of power according to the procurement process in Siaya County. I would like to note here being the Chairperson of Committee on Roads, Public Works, Transport and communication our findings as a Committee has shown that Siaya County has a highly centralized procurement system whereby the system is directed by the Executive the departments are mere observers.

Right now Kenya is grappling with the problem of corruption at management levels but the grandmother of corruption starts with procurement. Once the procurement processes is skewed...and that is the genesis of corruption in Siaya County. You will realize that both procurement and payment have been centralized. The procurement procedures are being fronted with a lot of impunity and CECMs are being given directives on whom to award which contract.

Siaya has 670 prequalified contractors and our Executive by their "wisdom" so decided that out of 670 contractors only 6 are capable of handling road contracts in Siaya County. How they came up about this, no one knows and it also makes me realize that the chief executive in Siaya County is actually the chief procurement officer.

There is no meaningful procurement process and procurement is just a ceremony, no meaningful evaluation is done because some of these so called super contractors didn't even have wheelbarrows at the onset at the time when they were getting these contracts. They have been getting major contracts running to billions.

When I present my Roads Committee Report you will get to be shocked; they have contractors who get 97% of contracts in this County yet the remaining contractors are left scrambling for the 13%, this is not fair and if you want to create employment create capacity.

We cannot continue this way; Siaya County is very well known for single sourcing and that's where you get the issue of one contractor per Sub County; that's basically single sourcing and I think these flaws the procurement procedures. I will consult Hon. Otiato for further advice because he seems very much acquainted to procurement in Kenya. I believe it's not fair because in Siaya County you realize every Sub County has one contractor who is the sole contractor for all the roads in that Sub County.

Any contract which is above Kshs. 3Million or Kshs. 4Million needs to go for open tender and must be advertised; this has not been happening in Siaya County and time has come when we need to call on the anticorruption authority to come and stamp their authority in Siaya, we want to see heads rolling this time round. I think in the first Assembly it's like the Executive took them for granted and there is a way that they were doing things which was not right.

It's time for the Executive to realize that things have changed; they are aware we have an able House who is going to oversight them effectively and at this juncture I want to call upon the Implementation Committee to get up and work. We want to see action; it defeats the purpose of us coming to give very good Motions, good contributions, nothing happens; the implementation Committee doesn't give us Reports on what's happening or what's being done then it defeats the purpose for our discussion and enumerations in this House.

I concur with Hon. Otiato that the Chief Executive officer is the accounting authority and in those various departments they have extra ties for technical evaluation and other evaluation processes to evaluate contracts and award contracts the right way. In Kenya Rural Authority they have 500 prequalified contractors and they are working effectively so what justification does the Executive have by telling us that they only have 6 contractors some of who don't have wheelbarrows yet they expect to go to qualified contractors to become their sub-contractor leasing equipment from qualified contractors and I have examples.

The same super contractors don't have capacity, technical or even financial ability that why they keep on leasing equipment from them. It's a problem that must be sorted out this time and I want to request the Implementation Committee to really weigh in on this. We want the accounting officer to be fully be in charge of his department; we don't want a situation

whereby whenever a contract arises the officer in-charge is called by the Executive and is given instructions on how to award contracts.

The same thing happened to water department whereby contractors who have been doing shoddy jobs have been awarded contracts and paid huge amounts of money; we realized in the Report by Water Committee. Some contractors have even been paid for drilling a borehole of 143metres deep yet the actual depth that they need was only 35metres; this is unacceptable. If we really want to do our job well and to get this Executive on its toes we must make sure that this Motion is passed as drafted by Hon. Otiato. I fully support Hon. Otiato; what a job well done.

Hon. V. Odawa: Thank you, Mr. Deputy Speaker, Sir; I must commend Hon. Otaito for drafting this Motion. I would like to help my namesake Hon. Odawa, I think he wanted the name of the contractor which is Gor Miraji. This Motion by Hon. Otiato; this issue of promotion of local contractors is so advanced. We represent these people and when the jobs are given to them money trickles down locals. The locals will feel the effect of devolution because devolution wasn't meant for a few people. If this one is implemented the people of Siaya will now see the fruits of devolution.

Hon. Juma: Thank you, Mr. Deputy Speaker, Sir; let me also add my voice to today's Motion. I want to thank Hon. Otiato for bringing up this Motion. One thing that we should really know as Members of this House is that we are the biggest stakeholders of this department called procurement and therefore we need to support it because if it's devolved to the lowest levels it will give us humble time as representatives and those that we represent in this House time to account and know the value for money.

I as a representative of women in this Assembly I know that there are some tenders below Kshs. 1million that are supposed to be going for the women groups, youth groups and persons living with disability but do they normally do this tenders? No, not unless you have a relative or deep pockets for you to get this tenders. That's why I support strongly that if we really devolved the procurement to Ward level it will give women time to work and empower the women that we really represent in this House.

At times we say that we lag behind as a County in terms of revenue but just last week the Water Committee Tabled their Report and we realized that some contracts were fully paid and large amount of moneys were used yet the work they were to do hasn't been finished so when we devolve such departments we will be able to account for every little shilling or cents used in each and every project that is done in our Wards and above all it will reduce corruption that we see each and every time you request for any contract you are asked for money.

I support this Motion and I urge each and every Member here who really has good will to Siaya and the people they represent to support this Motion because after all if we really give it a try even us as politicians it will take us somewhere and also give us political mileage

because our people will have something good that they do with their lives and above all we will uplift their living standards. Otherwise, I stand to support.

Hon. Opanga: Thank you, Mr. Deputy Speaker, Sir; allow me to take this opportunity to thank you the new majority whip of the House. Secondly; allow me---

Hon. Deputy Speaker: Hon. Opanga we have not yet confirmed the majority whip in that position.

Hon. Opanga: Hon. Deputy Speaker; as you can see the position has been taken; all the same I take this opportunity to support the Motion by Hon. Otiato. This is a good Motion and I believe just as my fellow Hon. Members have said. It will empower our people those in business sector, in any organization you cannot only get a few individuals who are benefitting in something that should be done across the board, therefore this Motion will be able to give the department powers to be able to do their procurement and also empower youth and women. Siaya as a County, some weeks back, we were among the counties that were ranked best in terms of revenue collection.

I don't know which method was used but all the same we able to receive part of CRA allocation that will enable Siaya do their development. I wish this Motion if it will be passed with the mood of the House it will be able to give more youths, women and also those in other businesses to be able to access Government businesses. In a County of more than 400000/500000 people you cannot only entrust the few individuals to enrich themselves. I therefore support.

Hon. Deputy Speaker: Yes, Hon. Ambrose!

Hon. Akuno: Thank you, Hon. Deputy Speaker. I want to thank Hon. Otiato for bringing such a Motion. My worry is, taking meat from a dog is not easy. In case this Motion is passed and it is not implemented, what will we do? This is a serious thing but the implementation is a problem but I support the Motion.

Hon. Deputy Speaker: Hon. Fred!

Hon. Omoro: Thank you, Hon. Deputy Speaker. I first want to commend Hon. Otiato for bringing forth such a Motion. Decentralization of procurement processes in County departments will enhance better service delivery for our County Siaya. This would make sure that the contracts are given to various groups even to the local people in our local areas.

The main theme of devolution was to decentralize services to the last man on the ground. Gone are the days when all the functions were centralized at the National Government and this is why in terms of service delivery the procurement process must therefore be decentralized so that our local contractors on the ground can also enjoy the fruits of devolution.

If we centralize procurement, then our youths, women and people living with disability may not get a chance in the competitive process because centralized process is about those who have financial muscles.

Decentralization of procurement process will ease the process of giving too much work to the contractors. The few contractors have been given too much than they can chew and so they end up doing shoddy jobs. You find that when too much work is given to a contractor and they secure loans through our financial institutions, the same contractor will be

nursing huge loans, before the County pays them back for them to offset the bank loans and at the same you find that they are the same contractors who will be in the subsequent years who will be given the same contracts and yet they are still in logger heads with the banks.

I would want to support this Motion because if the procurement process is decentralized, a common mwanainchi on the ground will have a voice in the contracts being done. If you find someone from the same Ward doing a contract in the same Ward the residence will be better placed to scrutinize this contractor because he is a son of the soil, he comes within the locality. Therefore, the contractor will not be able to do a shoddy job because he knows the residence will question him.

By decentralizing procurement, you will find that our groups will get empowerment in terms of job opportunities and there will be money circulation, lifestyles of our people will be enhanced. Centralization of contracts to some few contractors has led to a scenario where you find that the contractor will come on the ground and become bullies. They threaten us that they must do the contract without the BQs and this shy off the locals; I therefore stand to support this Motion.

Hon. Olasi: Mr. Deputy Speaker, while supporting the Motion, the prayer for Hon. Otiato is to be very straight. Hon. Otiato is requesting that the House should resolve that the County Executive to decentralize procurement. He is not talking about who does what in which department.

We exactly know that the accounting officer in each and every department is the Chief Officer. In Siaya, you find that in every department we have the Chief Officer, Accountant and Procurement Officer, from the Health to Tourism, Health to Water etc. Hon. Otiato is asking, why is the CS (County Secretary) coming in?

It is true some people somewhere in this County want to manipulate the population of this County for their own gain. Here comes a scenario where you will find one person besides being called a super contractor, he is the same person in water, education, tourism and this brings a lot of confusion for nothing.

Why do we have all these staff under these departments and yet we still have the CS as the controller of everything? As Eng. Odawa put it, we have people called 'super', what is so super to them that other people cannot do? Was devolution meant for few people who are in good books or devolution came to help the people of Siaya? I beg to rest my case.

Hon. Deputy Speaker: Hon. Olasi, do you support?

Hon. Olasi: I started by supporting the Motion.

Hon. Deputy Speaker: Yes, Hon. Audi!

Hon. Audi: Thank you, Hon. Deputy Speaker. I support the Motion and I commend Hon. Otiato for coming up with this important Motion which of course will give light to what the legislatures should be doing in this County Government.

Centralized procurement has also compromised supervision which has led to poor workmanship. It has also led to upfront payment of which we have evidence. Which system did they use to get the so called 'super contractors'? Why did they pre-qualify the 677? Thank you.

Hon. Deputy Speaker: Hon. Aringo!

Hon. Aringo: Thank you Mr. Deputy Speaker. I stand to support the Motion. When we were going round campaigning, we promised our people, more so the youths and the women that we were going to give them contracts below Kshs. 1Million. This cannot be realized because the procurement process is---to an extent that we are not getting value for our money.

I want to say that I am a father and I can judge from looking at a child, I can estimate his age. In Siaya, you find farmers are given chicks which are a week old and in records you find that they are two months old. I know how to distinguish goats, you find that farmers are given goats which are ---or purely indigenous. My question is, these people we call super contractors, why is it that they box no. is Ng'iya, Siaya and the last word is Nairobi? My question is, don't we have post office box in Ukwala, Ugunja, Sega, Yala etc.?

This is an indication that these people are coming from one place and that is the truth. So, unless action is taken immediately, I want to say that we are not going to get value for our money and the blame is going to rest on we people, the representatives of those people down there. I strongly support the Motion. Thank you, very much.

Hon. Deputy Speaker: Yes, Hon. Edwin!

Hon. Odhiambo: Mr. Deputy Speaker, I want to congratulate my learned friend from Yimbo East, Hon. Otiato for the good Motion he has brought in the House. I think basically what the Hon. Member was referring to is centralization and decentralization of the procurement process.

I want to say as he has stated back that the Public Procurement and Disposal Act 2015 shall be guided by some values majorly the promotion of local contractors because these are our constituents. When you go to Section 44(3) of the County Government Act 2012, it clearly states the duties of the CS and Section 45(4) of the same Act highlights the duties of the Chief Officer.

I want to tell my fellow colleagues that as much as we want to decentralize which is very much important we should as well check on our duties. What makes the difference with Mr. Anyona is where the office is located. You get Chief Officer Water, his office is located in the west and the office of the County Secretary is located in the East, these people if swapped will still serve us but the duties Mr. Anyona is doing right now will be taken back to the Chief Officers who are the Accounting Officers.

I know they will behave the same, so as much as we are discussing this, I want us also to think on how we are going to handle the Chief Officers this side because they will also have their interests. Let us check on what we are going to do about the Chief Officers after this thing has been decentralized in departments.

People are really stressing about the local contractors. We may not succeed but we need to uplift the young contractors so that after the super contractors are dead, they can also take over. Thank you and I support.

Hon. Atieno: I want to congratulate my able Chairman. I think the important question here is, why decentralization? We make checks and balance so easy because if you want to check something you just go to the department of the executive.

You don't have to go and look for the Chief Officer to explain to you what is going on. The important thing here is accountability! This is what we are crying for because in

most cases, money is spent but you don't know how but it will be so easy if procurement is decentralized because checks and balances will be so easy. I support the Motion.

Hon. Deputy Speaker: Hon. Akoth!

Hon. Akoth: Hon. Deputy Speaker, I support the Motion by Hon. Police.

Hon. Deputy Speaker: Hon. Akoth, do we have Hon. Police in this House?

Hon. Akoth: He is there, Hon. Otiato. I support the Motion brought by Hon. Otiato. Thank you, for bringing the Motion. The contractors that are brought from outside are imported contractors, they don't have shame. They do shoddy work and they are friends and relatives of these big people.

Just like what Hon. Olasi has said, they are the same people that you see in education and the same time on roads. Contractors within our County should be considered not imported contractors who are relatives to these big people. This work should be given to the youths and women like us, so I support the Motion.

Hon. Deputy Speaker: Hon. Susan, then the mover to reply.

Hon. Okwiry: Thank you, Mr. Deputy Speaker. I take this opportunity to thank Hon. Otiato for bringing this Motion. I support the Motion because if you look at decentralization and devolution, they are more of the same. We are here because of devolution therefore I support. Thank you.

Hon. Deputy Speaker: Before the Mover replies, kindly allow Hon. Majority to make his contributions.

Hon. Oor: Thank you, Hon. Deputy Speaker. I support the mover of this Motion. We have very many contractors in Siaya but you will find only few are being considered. We also want contractors to be considered from all Sub Counties and they will create more job opportunities to the youths.

If procurement is decentralized, then our people will benefit from devolution. If women and youths and given tenders like construction of small roads. We need this issue to be supported fully, otherwise I support the Motion. Thank you.

Hon. Deputy Speaker: I now call upon the Mover to reply.

Hon. Otiato: Thank you, Mr. Deputy Speaker and I thank the Hon. House for your sentiments. As you know, the problem we have in Siaya is not that we are poor. When this matter is decentralized those particular Chief Officers will be answerable. We don't want a Chief Officer to be telling us something different.

I would be so comfortable when the jobs have been given to my people on the ground. I will not come to anybody to complain about the poor workmanship because we have been saying the son of so and so you was the contractor given this road people are now complaining about it. Go and repair it. It was not done in the best way because they are people whom we could be able to reach. That will actually relieve us as the MCAs.

Today if a road is done shoddily and the public sees it is a Kshs. 3 million contract the first thing they will say is "MCAs *wamekula na contractor*". We want the local contractors to prove to the people. I will go to a funeral and say I didn't "eat" any shilling here the son of so and so was given this contract and let him answer you why he didn't do it well.

I want to thank the Hon. House. I heard about the concerns on the other office holders as we are talking. I didn't want to bring any matter on it. As we talk about the office

occupants we are reverting back into the law and this particular Motion when we resolve to disown this law in fact if there is any regulation or any policy that is proposed and is in conflict with any law it ought to have been discussed in this Assembly

This particular arrangement that was done is conflicting with which is governing the whole country and somebody will document it and in the meantime this will make us the first but we have talked about how procurement is supposed to be done like Hon. Olasi has just said every department we have a procurement officer, accounting officer why are they having their salaries.

Somebody will be asking are those really procurement officers because the law says that procurement functions shall only be done by procurement professionals and they must be certified. We have got teachers serving as procurement officers in Siaya we are not going to discuss that for today

I know that as we are doing the audit some people are going to court to block some of the audit but I am aware that even in Siaya we have got people who are heading procurement who have questionable characters and was discharged from the judiciary to come now and be stealing in Siaya we will revisit. These matters are given time.

For today it was my request that you allow us to pass the first Motion, check on the processes and the other ones for office occupancy and the rest we will discuss but we hope that when this happens we will get the best for Siaya.

(Question put and agreed to)

MOTION

ADJOURNMENT

Hon. Deputy Speaker: There being no any other Business will you be upstanding for adjournment.

(Members rose on their feet)

There being no any other Business this House adjourns until Wednesday, 13th June, 2018 at 9.30 a.m. in the Chamber.

The House rose at 3.55 p. m.