



COUNCIL OF GOVERNORS

PRESS STATEMENT AFTER THE COUNCIL OF GOVERNORS EXTRAORDINARY MEETING, 15TH SEPTEMBER, 2015, SERENA HOTEL MOMBASA

*Members of the Press,
Citizens of Kenya,*

We address you today after comprehensive deliberations on critical transition issues that need urgent attention from ourselves, national government stakeholders and other key constitutional and statutory agencies.

E-procurement

The E-procurement system was adopted in good faith three months ago by County Governments. However, Counties have continued to face serious implementation challenges to the level of paralysis in procurement.

1. The system has recentralized procurement and contributed to marginalization of locals in tendering. In essence, citizens who do not have access to internet are denied the opportunity to participate in procurement at the county level. Essentially, this is abusing the constitutional principle of equity since the Mama mboga's and local contractors in Counties are locked out of procurement opportunities for lack of infrastructure required.

2. It's an imposition for Counties since national funds like the CDF and national agencies like KeRRA have not been subjected to the e-procurement system.
3. Due to malfunctioning of the system, Counties have been unable to promptly pay pending bills to contractors and suppliers thereby causing anxiety and giving an impression that Counties are unable to settle their bills.
4. Some Counties particularly those in northern Kenya still lack power and fiber optic infrastructure critical for implementation of e-procurement not forgetting literacy levels of most residents.
5. In some instances, the system is only opened for a few hours thereby rendering the use of the same difficult. To illustrate, one County was allowed to access the system for two hours only in two weeks.
6. Some Counties do not have the requisite infrastructure like network coverage to allow for the proper setting up of the system.
7. The directive issued for the e-procurement system is not anchored in law. The Public Procurement and Disposal Act of 2005 is the governing law for procurement and does not envisage electronic tendering.
8. The system is not fully electronic; it is manual only to the point of payment.
9. For the above reasons, the Council has agreed that the e-procurement system must be suspended with immediate effect until the supporting infrastructure is in place.
10. In fact, the Council has already written to the President highlighting the deficiencies of the e-procurement system.

Health Sector:

As you are aware, the health sector has taken prominence in the headlines in recent months, from service delivery, purchase of equipment, human resource management to administration of health facilities. We must emphasize that County Governments have in the past two years made commendable strides in the provision of health services. On the same breadth though, we recognize that as the health sector management and other essential sectors transit to the Counties, several challenges are still being experienced.

Human Resource matters and Funding

1. County Governments are progressively employing qualified health staff in rural health facilities to replace all unskilled and untrained community health personnel previously allowed by the national government to operate.
2. On funding, we are concerned that in each financial year, allocations for county health services have been meager. County Governments are providing approximately 90% of health services across the country, yet they receive less than 45% of the total health funds. National Government has 50 billion yet they manage few hospitals. The sharable revenue must be increased and human resource funds must be ring-fenced.

Unions

1. The Council has agreed that all Counties will sign the Recognition Agreements with duly registered county based unions. County

Governments are distinct, and will henceforth sign Recognition Agreements and Collective Bargaining Agreements individually with legally recognized and registered county unions only.

Promotions, inter-county transfers and capacity-building

1. Counties will undertake merit-based promotions on a case by case basis.
2. We acknowledge that there are Counties that have absorbed ESP nurses. However, for the ones which have not, we urge that they finalize this process but the absorption should take place only after the nurses have passed relevant suitability tests.
3. Counties are also keen to ensure that all approved schemes of service are fully implemented; and that there is harmonization of allowances after the SRC finalize report and recommendations sometimes in September.
4. On inter-county transfers, the inter-governmental mechanism developed to facilitate vertical and across counties transfers must be strengthened.
5. On capacity building of personnel who serve in all sectors, the Council recommends the establishment of an intergovernmental agency to handle all training.

Increment

1. The Salaries and Remuneration Commission (SRC) has been issuing circulars without prior consultations with County Governments who are the employers bearing the cost of any increase in allowances and salaries.

2. SRC must dialogue with Counties on issues pertaining to salaries and allowances and where circulars are issued, Counties must be given ample time to commence implementation of the same.

Health Bill

1. The provisions of this Bill claw back the health function to the National Government. We have engaged with the Parliamentary Committee on Health and the Ministry of Health to harmonize the Bill and ensure that it conforms to the Constitution and that it respects functional integrity and independence between the two levels.
2. A final meeting between the Council and the Parliamentary Committee on Health to consolidate reviews into the Bill will be held this week on 17th & 18th here at Serena. The agreed version of the Bill will be submitted before the National Assembly.

Land Bills

1. The proposed land laws before the National Assembly, notably, the Physical Planning Bill, the Community Land Bill and the Omnibus Lands Bill, are unconstitutional since they have ignored the role of County Governments in land management and administration.
2. For example, the proposed Community Land Bill intends to recentralize the management of community land back to the Cabinet Secretary and also vests the land registration regime of community land to the Cabinet Secretary.

3. The proposed bills seek to take over the functions of the National Land Commission and the County Land Management Boards, thereby creating duplication of roles and confusion in land management.
4. The Council demands that these land Bills be withdrawn, and ongoing consultative forums be allowed to review the Bills and reach an amicable position.

Privatization of assets

1. The Council hereby states that corresponding assets should be managed by the level of government performing the function. Further, the resources attached to these assets must also be surrendered to the appropriate level of government.
2. When the matter of the privatization of sugar factories was brought before the Minister of Agriculture, a meeting was called to discuss the attendant issues. We however demand that any steps being taken towards privatization of Chemelil, Nzoia Sugar, Mumias and other factories be suspended to allow for proper and necessary consultations.

Despite the challenges, the Council reaffirms its commitment to the success of devolution and believes that we are on course.

Signed

H.E. Peter Munya

Chairman, Council of Governors