



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (THIRD SESSION)

THE SENATE

VOTES AND PROCEEDINGS

MORNING SITTING

THURSDAY, OCTOBER 17, 2024 AT 9.00 AM

1. The Senate assembled at Nine O'clock.
2. The proceedings were opened with a Prayer said by the Speaker.

3. **QUORUM OF THE SENATE**

The Speaker, having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was no Quorum, directed that the Bell be rung for ten minutes, pursuant to Standing Order 40;

And there being a Quorum before the expiry of the ten minutes;

The Speaker invited the Clerk to call the Orders of the day.

4. **HEARING AND DETERMINATION ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HIS EXCELLENCY RIGATHI GACHAGUA, EGH, DEPUTY PRESIDENT OF THE REPUBLIC OF KENYA.**

The Senate resumed consideration of the matter of the proposed removal from office, by impeachment, of His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya-

Presentation of the case by Counsel for the National Assembly

Counsel for the National Assembly continued the presentation of the case of the National Assembly, by leading the following witness in presenting testimonies before the Senate: –

Mr. Abdi A. Mohamud, MBS – Deputy Chief Executive Officer, Ethics and Anti-Corruption Commission (EACC)

The witness took oath and informed the Senate that-

- i) the EACC had received a letter dated 11th May, 2023, from the former Cabinet Secretary, Ministry of Health requesting for an investigation into a tender by the Kenya Medical Supplies Authority (KEMSA), for the procurement of Long-lasting Insecticide Nets (LLINs);
- ii) the Commission commenced investigation into the matter and established that on 31st January, 2023, KEMSA had advertised for the tender of procurement of LLINs nets on the local dailies and other portals as an international open tender with the closing date of 23rd February 2023;
- iii) the Commission, in its investigations, had discovered serious procurement challenges that affected the tender, the major one being a change of tender specifications to suit a company by the name Shobikaa Impex Limited which had a local agent by the name Crystal Kenya Limited that had the sole distributorship of nets that had certain chemicals;
- iv) the investigation found out that there were two types of chemicals used in the nets, one being Synergist Piperonal-Butoxide (PBO) and the other being Pyrethroid long-lasting insecticide. Crystal Kenya Limited had the sole distribution rights for PBO;
- v) the Principal Secretary of the State Department of Public Health and Professional Standards wrote to KEMSA compelling the CEO to change the tender specifications to fit the chemical that was to be provided by MS Shobikaa Impex Limited, whose local agent was Crystal Kenya Limited;
- vi) KEMSA extended the tender closing dated 23rd February 2023 to 10th March 2023 following an intervention by the Principal Secretary, raising issues on the specification of the nets as advertised on the tender;
- vii) MS Crystal Kenya Limited on the 27th September 2023 applied and paid for the renewal of the Pest Control Products Board Certificate (PCPB) on behalf of MS Shobikaa Impex limited;
- viii) MS Shobikaa Impex Limited had wanted a bid bond introduced into the tender documents which had previously been received without the Bid Bond, and which was against procurement guidelines that the Bid Bond is supposed to be delivered together with other tender documents;
- ix) the Bid Bond was delivered to the office of the CEO on 23rd February, 2022 when the tender was about to close, necessitating an extension of the tender closure date to 10th March, 2023 to accommodate MS Shobikaa Impex Limited;
- x) KEMSA Technical Committee Recommended that Shobikaa Impex Limited be awarded the tender, which was being financed by the Global Fund.
- xi) On the 6th of April, 2023, KEMSA submitted the Tender Evaluation Report to Global Fund who upon review recommended the termination of the

tender and transferred the procurement responsibly to Wambo.org, a procuring arm of Global Fund who subsequently awarded the tender to Tianjin Yorkool International Trading Company Limited and A to Z Textile Mills Limited. These two firms had previously been disqualified by the KEMSA Evaluation Committee;

xii) the Commission recommended administrative action against KEMSA and the Ministry of Health Officials involved in the tender, being that the tender was terminated before the contract was signed and there was no loss of public funds but there were clear procurement irregularities; and

xiii) on 11th July 2023, Crystal Kenya Limited, collected the original bid bond on behalf of Shobika Impex from KEMSA.

The witness was cross-examined by Counsel for the Deputy President.

Thereupon, Senators sought clarifications on the testimony, following which the witness was discharged.

The Speaker interrupted the proceedings and adjourned the Senate at fifteen minutes past One O'clock for the convenience of the Senate, pursuant to Standing Order 34(2A) and in line with the Hearing Programme.

5. **SENATE ROSE** – at fifteen minutes past One O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Thursday, October 17, 2024 at 2.30 p.m.*

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