

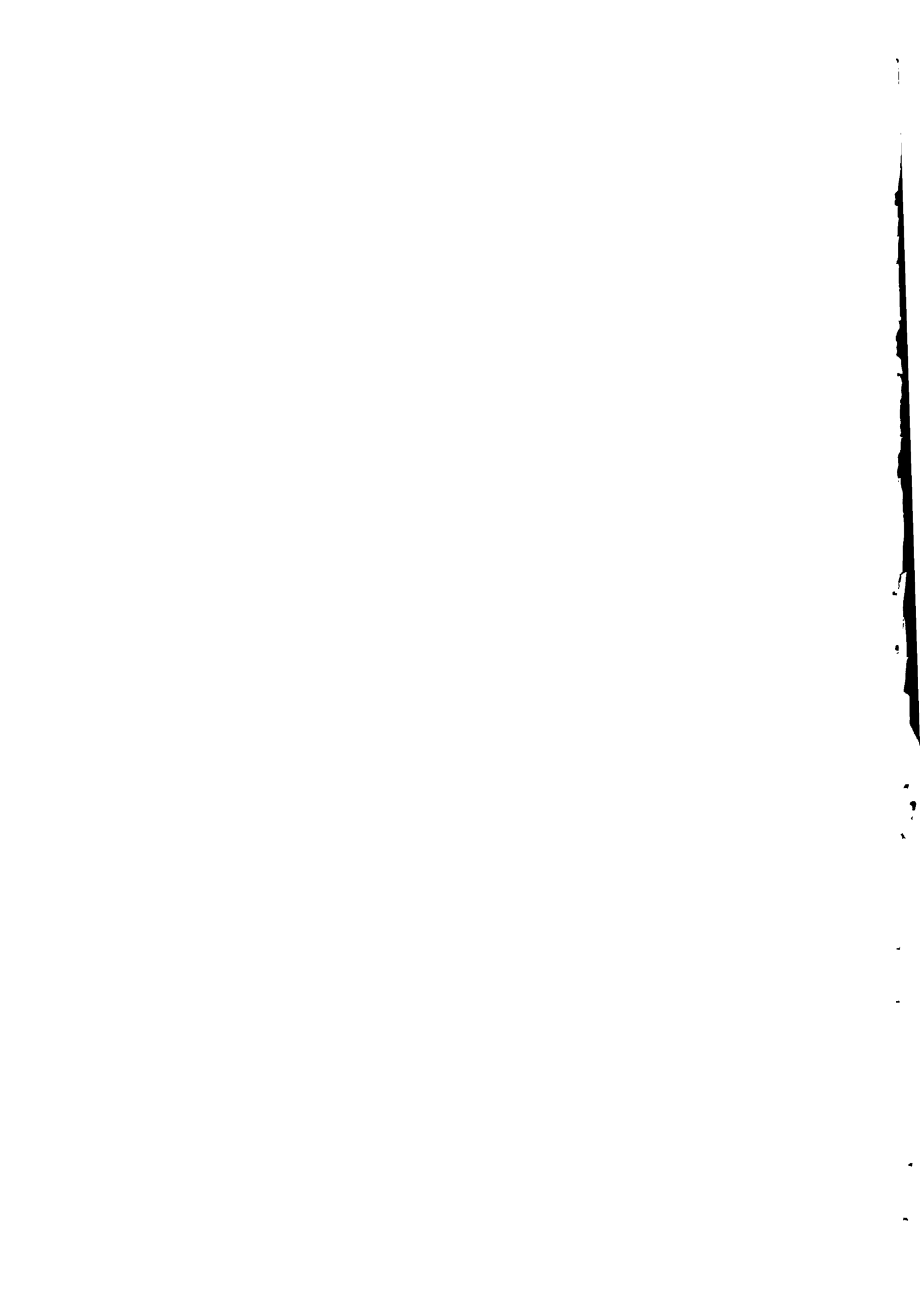


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**SPECIAL AUDIT REPORT
OF THE
CONTROLLER
AND
AUDITOR-GENERAL
ON
FINANCING, PROCUREMENT
AND IMPLEMENTATION
OF SECURITY RELATED
PROJECTS**

APRIL 2006



KENYA NATIONAL AUDIT OFFICE

SPECIAL AUDIT REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON FINANCING, PROCUREMENT AND IMPLEMENTATION OF SECURITY RELATED PROJECTS

1.0 During 2004/2005 and part of 2005/2006 the Kenya National Audit Office conducted audits of eighteen (18) Security Related Projects funded through Foreign Supplier/Credit arrangements. This Report summarises the outcome of the audits and mainly highlights issues relating to the financing, procurement and implementation of the projects. The nature of the subject matter however, is such that it precludes publication of detailed audit reports on the individual supplier/credit contracts. The eighteen (18) projects covered in the report include the Immigration Security and Document Control System Project which had been the subject of an earlier Special Audit Report submitted to Parliament in May 2004.

1.1 The Summary Report is arranged as follows:-

- Introductory
- Audit Objectives
- Audit Scope and Coverage
- Limitation of Scope
- Audit Findings
- Recommendations
- Detailed Reports

1.2 INTRODUCTORY

The audit covered the following eighteen (18) Projects which are listed in chronological sequence based on the dates on which their respective Credit Agreements were signed:-

No.	Project	Date of Agreement	Foreign Currency Credit/Value	Ministry
1.	Kenya Prisons Security and Telecommunication Project I	1997	Euros24,600,000	Office of the Vice-President and Ministry of Home Affairs
2.	Kenya Police Airwing Support Project	08.06.98	US\$36,000,000	Office of the President
3.	Export Lease Purchase – various Security Vehicles	16.08.01	US\$90,001,152	Office of the President
4.	Forensic Science Laboratory – CID	16.08.01	US\$54,560,000	Office of the President
5.	Kenya Prisons Security & Telecommunication Project II	19.01.02	Euros29,700,000	Office of the Vice-President and Ministry of Home Affairs

	Project	Date of Agreement	Foreign Currency Credit/Value	Ministry
6.	Kenya Police :Supply of Security Equipment Addendum 2	09.04.02	US\$30,000,000	Office of the President
7.	National Early Warning and Security System	07.06.02	US\$35,000,000	Ministry of Transport
8.	Kenya Police :Supply of Security Equipment Addendum 3	14.06.02	US\$31,846,500	Office of the President
9.	Bandwidth Spectrum & Network Operations and Control Project	11.07.02	US\$28,106,400	Postal Corporation of Kenya
10.	Broad Band Network	11.07.02	US\$11,787,000	Postal Corporation of Kenya
11.	Kenya Police Airwing Support Project II	12.07.02	US\$12,800,000	Office of the President
12.	Project Nexus	19.11.02	Euros36,903,750	Department of Defence
13.	Oceanographic Survey Vessel	15.07.03	Euros51,997,000	Department of Defence
14.	Telecommunication Network for Administration Police	29.05.03	Euros49,650,000	Office of the President
15.	Kenya Police Law and Order	19.11.03	Euros59,688,250	Office of the President
16.	Immigration Security & Document Control System	4.12.03	Euros31,890,000	Office of the Vice-President and Ministry of Home Affairs
17.	Modernization of Police Equipment & Accessories	17.12.03	Euros40,000,000	Office of the President
18.	Flagstaff NCTC	20.01.04	US\$41,800,000	National Security Intelligence Service

As indicated later in this report, some of the credits in respect of these eighteen (18) projects were at the time of the audit, already fully repaid and the related projects indicated as already completed. Others however, were incomplete and at various stages of implementation.

2.0 AUDIT OBJECTIVES

The audit was carried with a view to:-

- (i) Ascertaining the method used in identifying the suppliers.
- (ii) Establishing how the contract/tender prices/sums were determined and agreed upon with the suppliers and whether such prices/sums were fair and competitive.
- (iii) Establishing how the credit finance firms were identified and how the terms of the credits including interest rates were arrived at and whether such rates were fair and competitive.
- (iv) Confirming the amount of the credit.
- (v) Establishing the disbursed amounts of credit in form of receipts of goods and services and thus determining the undisbursed amounts of credit.
- (vi) Establishing the amounts repaid to the credit providers by Government.
- (vii) Establishing actual existence of the projects on the ground and their level of implementation.



- (viii) Confirming the actual receipt of all goods and services said to have been delivered and ascertaining whether such goods were taken on charge.
- (ix) Looking into any other matter of audit/financial concern regarding these contracts
- (x) Reporting to Parliament the results of the audits.

3.0 AUDIT SCOPE AND COVERAGE

The audit scope and coverage was limited to the records and information supplied by the respective Accounting Officers (Permanent Secretaries) responsible for implementation of the projects, Treasury's Debt Management Department and the Central Bank of Kenya. The audit team did not attempt to contact or interview the suppliers and credit providers who in all cases were indicated to be foreign firms based overseas. Additional information from other arms of Government such as the Office of the Permanent Secretary, Governance and Ethics was also sought and used in compiling this report.

After the completion of each audit, an audit report was addressed to the Accounting Officer responsible for the project, drawing his attention to the unsatisfactory matters observed, unanswered questions and other audit findings. The audit reports also sought any further information necessary for the explanation of the audit issues and queries raised. Some of the Accounting Officers responded to the audit reports and this report has taken into account the responses of such Accounting Officers.

4.0 LIMITATION OF SCOPE

- 4.1 Audit of actual implementation and present status of some of the projects proved problematic because of a number of difficulties. Such difficulties included:-
- 4.2 Initially, the audit team encountered difficulties in accessing various contract documents, especially with regard to projects under the Office of the President, Provincial Administration and Internal Security Ministry, relating to Police Equipment and Administration Police Communication Network projects among others. Some of the documents were however made available later.
- 4.3 Detailed contract specifications of the goods and services to be delivered were in most cases not available. Consequently, it was not possible to ascertain whether the contracts were being implemented fully and in accordance with the respective agreements.
- 4.4 Non-availability in most cases of detailed contract specifications, invoices and delivery notes resulted in the audit team being unable to confirm the receipt of all the equipment and/or services said to have been delivered.

4.5 Non maintenance of up to-date Assets Registers of the equipment received under these credit supplier contracts also made it difficult to verify the description, date of receipt, value and location of the asset/equipment received.

5.0 AUDIT FINDINGS

From the information made available, we were able to establish the following facts and figures with regard to the eighteen (18) projects audited:-

5.1 List and Particulars including costs and magnitude of projects audited

The particulars of the projects audited including the credit amounts and payments made by Government as at 30 June 2005 was as follows:-

Project Name	Date Agreement Signed	Equipment/ Consultant Supplier	Funding/Credit Provider	Main Type of Equipment/ Consultancy	Foreign Currency Value	Total Amount paid to Suppliers as at 30.6.05
1. Kenya Prisons Security and Telecommunication Project Phase I	1997	LBA Systems Limited of Stratharily, Upper Largo, KY8 6ED, Scotland	LBA Systems Limited of Stratharily, Upper Largo, KY8 6ED, Scotland	Digital Multi-channel Security Telecommunications Network	US\$24,600,000 (interest 5% pa)	US\$24,600,000 (Ksh.1,944,000,000)
2. Kenya Police Airwing Support Project	08.06.98	Sound Day Corporation of 2 Omega Business Centre, Caxton Close Drayton Fields Industrial Estate, Davetry, Northants NN11 5RT England	Apex Finance Corporation of P.O. Box 3655, 1211-CH, Geneve 3, Switzerland	4.Mi.17 Helicopters	US\$36,000,000 (interest 6% per annum)	US\$36,000,000 (Ksh.2,844,000,000)
3. Export Lease Purchase (Project said to have been cancelled)	16.08.01	M/S Leyland Export Ltd. Centurion Way Leyland Preston Lancashire PR 5 ITZ United Kingdom	Silverson Establishment Sheraton House Castle park Cambridge CBS OAX England	Supply of Security Vehicles for Police	US\$90,001,152 (Interest rate not specified included in the repayment instalments)	Amount paid not known but supplier refunded GoK Ksh.72,800,000
4. Forensic Science Laboratory	16.08.01	Anglo Leasing & Finance Ltd. Alpha House, 100 Upper Parliament Street, Liverpool, L19 UK	Anglo Leasing & Finance Ltd. Alpha House, 100 Upper Parliament Street, Liverpool, L19 UK	Establishment of a Forensic Science Lab.	US\$54,560,000 (Interest rate not specified but included in the repayment Instalments)	US\$4,744,444.44 (Ksh.375,285,555) (The amount has since been refunded to GoK)
5. Kenya Prisons Security and Telecommunication Project II	19.01.02	LBA Systems Limited of Stratharily, Upper Largo, KYB 6ED Scotland	LBA Systems Limited of Stratharily, Upper Largo, KYB 6ED Scotland	Digital Multi-Channel Security Telecommunications Network	Euros29,700,000 (Interest 5% per annum)	Euros5,616,000 (KSh.572,832,000)
6. Kenya Police Supply of Security Equipment Addendum 2	09.04.02	Sound Day Corporation of 2 Omega Business Centre, Caxton Close Drayton Fields Industrial Estates, Daventry Northants NN 11 SRT Scotland	Sound Day Corporation of 2 Omega Business Centre, Caxton Close Drayton Fields Industrial Estates, Daventry Northants NN 11 SRT Scotland	Supply of various security equipment to the Kenya Police	US\$30,000,000 (Interest 6% per annum)	US\$30,000,000 (KSh.2,631,830,172) Interest paid KSh.224,598,483.30

7. National Early Warning and Security Systems (Met Department)	07.06.02	LBA Systems Ltd. Stratharily Upper Largo KY8 5ED Scotland	LBA Systems Ltd Stratharily Upper Largo KY8 5ED	Supply and Installation of Early Warning Radar Systems	US\$35,000,000 (Interest 5% per annum)	US\$16,625,000 (KSh.1,292,410,000) Interest paid KSh.171,468,596.71
8. Kenya Police Supply of Security Equipment Addendum 3	14.06.02	Sound Day Corporation of 2 Omega Business Centre, Caxton Close Drayton Fields Industrial Estates, Daventry Northants NN II SRT Scotland	Sound Day Corporation of 2 Omega Business Centre, Caxton Close Drayton Fields Industrial Estates, Daventry Northants NN II SRT Scotland	Supply of various equipment to the Kenya Police	US\$31,846,500 (Interest 6% per annum)	US\$18,750,000 (KSh.1,759,425,000) Interest paid Ksh.161,463,619.30
9. Bandwidth Spectrum and Network Operations & Control Project	11.07.02	Universal Satspace (North America) 30 Old Rudnick Lane Dover 19901 DC USA	Universal Satspace (North America) 30 Old Rudrick Lane Dover 19901 DC USA	Independent Data Network & Internet Service Satellite Link Postal Corporation of Kenya	US\$28,106,400 (Interest rate not explicitly stated)	US\$13,213,421 (KSh.1,244,079,204) Interest paid KSh.22,083,949.50
10. Broad Band Communication Equipment	11.07.02	Space Net Corporation 1750 Old meadow Road Mclean Virginia 22102 USA	First Merchantile Securities Corporation 1 Place Des Florentius 55 Rue Du Rhone 1204 Geneve 3 Switzerland	Broad Band Communication Equipment for Postal Corporation of Kenya	US\$11,787,000 (Interest rate not explicitly stated)	US\$5,893,500 (KSh.533,666,462) Interest paid KSh.3,994,500
11. Kenya Police Airwing Support Project II	12.07.02	Sound Day Corporation (As above)	Apex Finance Corporation of P.O. Box 3655 1211-CH, Geneve 3, Switzerland	Procurement of Operational Technical Support and Warranty Services for M.17 helicopters	US\$12,800,000 (Interest 6% p. a.)	US\$8,110,000 (KSh.635,228,240) Interest paid KSh.69,765,200.65
12. Project Nexus (DOD)	19.11.02	Nedemar Technology of BV Keizergracht 62.64 1015Cs Amsterdam Netherlands	Nedemar Technology of BV Keizergracht 62.64 1015Cs Amsterdam Netherlands	Drawing and Execution of various works, delivery and installation of various security and communication equipment at the DOD	Euros36,903,750 (Interest 1.475% above London Interbank Offer Rate-LIBOR)	Euros12,464,662 (KSh.1,262,007,380.92)
Up to 31 December 2002	Sub Total				US\$354,701,052 Euros66,603,750 (KSh.32,530,312,650)	
13. Oceanographic Survey Vessel (DOD)	15.07.03	Euro marine Industries, Charles 84-3 Gran via Charles 64-3 Edifice Trade 88028 Barcelona	Euro marine Industries Impresa De Financas International Ltd. Pa Castellance 141,Edif Cuzco IV 20 th Floor E028046, Madrid Spain	Construction of Survey Vessel	Euros10,399,400 (Interest computed at 4.8% p.a.)	Euros4,554,567 (KSh.432,493,201.15) Interest paid Ksh.40,460,671.65

	15.07.03		Impresa De Finanzas International Ltd. Pa Castellance 141,Edif Cuzco IV 20 th Floor E028046, Madrid Spain		Euros15,000,000 (Interest computed at 4.8% p.a.)	Euros1,913,155 (KSh.179,954,109.78) Interest paid KSh.63,708,783.25
	15.07.03		Navigia Capital International Ltd. PA Castellan 144 Idif IDIF, CUZ CO IV 20 th Floor E-26046 Madrid Spain	Total	<u>Euros26,597,600</u> (Interest computed at 4.8 p.a.) <u>Euros51,997,000</u>	<u>Euros3,300,271</u> (KSh.313,347,692.35) Interest paid KSh.124,371,820.35 <u>Euros9,767,993</u>
14.	29.09.03	Globottel Incorp of Sheraton House, Castle park, Cambridge CBS OAX UK	Midland Finance & Securities Ltd. of 20 Cours De Rive, Geneve, Switzerland	Multi-Channel Security Telecommunication Network for Administration Police	Euros49,650,000 (Interest 5% p.a.)	Euros6,536,000 (KSh.613,500,529.60) Interest paid KSh.74,225,411.90
15.	19.11.03	Infotalent Ltd. No. 10 Square Du Vieux Chene 1224 Geneva, Switzerland	Infotalent Ltd. No. 10 Square Du Vieux Chene 1224 Geneva, Switzerland	Installation, commissioning and establishment of Police Security Law and Order Systems	Euros58,688,200 (Interest 4% p.a.)	Euros5,287,164 (The amount has since been refunded to GoK) Ksh.509,616,520.00
16.	4.12.03	Anglo Leasing and Finance Ltd. Alpha House, 100 Upper Parliament Street, Liverpool, L119 AA U.K.	Anglo Leasing and Finance Ltd. Alpha House, 100 Upper Parliament Street, Liverpool, L119 AA U.K.	Passport and Visa Issuing Systems	Euros31,890,000 (Interest 4% p.a.)	Euros956,700 (The amount has since been refunded to GoK) Ksh.93,000,000
17.	17.12.03	Sound Day Corporation of 2 Omega Business Centre, Caxton Close Drayton Fields Industrial Estate, Daventry Northants NNI SRT England	Apex Finance Corporation of P.O. Box 3655, 1211 CH Geneve 3 Switzerland	Modernization of Police Equipment	Euros40,000,000 (Interest 4% p.a.)	Euros1,200,000 (Ksh.115,487,160)
18.	20.01.04	Ciara Systems Inc. 2720 Airport Drive Suite 100 Columbus Ohio 43219 USA	Ciara Systems Inc. 2720 Airport Drive Suite 100 Columbus Ohio 43219 USA	Design, Supply and Installation of various security (Electronic facilities)	US\$41,800,000 (Interest rate not separately specified)	Interest paid US\$2,730,556 (KSh.213,556,784.75)
From January 2003 to January 2004					Sub Total	
					US\$41,800,000 <u>Euros232,225,200</u> KSh.23,803,042,800	
Total					US\$396,501,052 <u>Euros298,828,950</u> KSh.56,333,355,450	US\$155,922,477 <u>Euros35,584,655</u> KSh.16,374,261,151.80 (Principal) Ksh.1,169,697,821.36 (Interest) <u>Ksh.17,543,958,973.16</u>

5.2 In summary, the overall Government financial commitments and actual expenditure on the eighteen (18) contracts as at 30 June 2005 stood as follows:-

	KSh.
• Value of Credit Agreements signed before 31 December, 2002	32,530,312,650.00
• Value of Credit Agreements signed after 31 December, 2002	<u>23,803,042,800.00</u>
• Total value of credit Agreements	<u>56,333,355,450.00</u>
• Amount paid by Government against pre-31 December, 2002 Credits	15,372,852,808.38
• Amount paid by Government against post-31 December, 2002 Credits	<u>2,171,106,164.78</u>
• Total amount paid by Government as at 30 June, 2005	<u>17,543,958,973.16</u>

N.B. *The Exchange Rate used is the one prevailing in July/August 2005 which was US\$1.00 = Ksh.75.00 and Euro 1.00 = KSh.89.00*

5.3 Information available at the Treasury's Debt Management Department show that the Treasury stopped payments in respect of all the credits by 30 June 2004 except for Project No. 9 – Bandwidth Spectrum and Network (PCK) for which four payments were made as follows:-

Date	PA Number	Amount in Ksh		Total
		Principal	Interest	in Ksh.
22.11.04	097388	92,829,817.90	-	92,829,817.90
11.01.05	097454	91,345,800.00	-	91,345,800.00
24.05.05	094178	87,275,993.30	-	87,275,993.30
24.05.05	094178	87,275,993.30	22,083,949.50	109,359,942.80
				<u>KSh.380,811,554.00</u>
				(US\$5,077,487.38)

The reasons given for the continued servicing of the credit under Project No. 9 up to May 2005 was that the service provider, Universal Satspace (North America) had threatened to sue Government and to disconnect the Postal Corporation of Kenya from the Satellite channel through which the Corporation was providing the public with the internet services through VSAT sites installed in 396 Post Offices under the project.

5.4 Unexplained Refunds

According to information available at the Treasury and the Central Bank of Kenya, amounts totalling Ksh.1,050,702,075.00 as shown below have been refunded by credit suppliers in respect of four (4) projects which have since been cancelled:-

Project No. and Title	Credit/Supplier	Amount in Foreign Currency	Amount in Ksh	Date Refunded	Remarks
3. Export Lease Purchase	Leyland Export Ltd Centurion Way Leyland Preston Laucashire PR 5 ITZ UK Financed by Silverson Establishment Sheraton House Castle Park Cambridge CB3 OAC England	US\$910,000	72,800,000	June '04	Project cancelled
4. Forensic Science Laboratories	Anglo Leasing & Finance Ltd. Alpha House, 100 Upper Parliament Street Liverpool L19 AA UK	US\$4,744,444.44	375,285,555	June '04	Project cancelled
15. Kenya Police Law and Order (E Cops)	Infotalent Ltd. 10 Square du Vient Chene 1224 Switzerland	Euro5,287,164	509,616,520	June '04	Project cancelled
16. Immigration ISDCS	Anglo Leasing & Finance Ltd Alpha House, 100 Upper Parliament Street Liverpool L19 AA UK	Euro956,700	93,000,000	June '04	Project cancelled
			Total refunds		<u>1,050,702,075.00</u>

The audit confirmed the receipt of these refunds by the Treasury with the amounts being credited into a special miscellaneous account. No reasons were however given by the firms for refunding the money.

- 5.5 Out of the eighteen (18) projects, twelve (12) were contracted and respective agreements signed between 1997 and December 2002 while the remaining six (6) were contracted and signed for between January 2003 and January 2004.
- 5.6 However, the information provided indicates that out of the latter six (6) projects, three were initiated and negotiated between the years 2000 and 2002 while no information has been made available regarding the initiation and negotiation of the other three (3) projects.
- 5.7 The policy regarding consideration and use of lease financing and supplier credit arrangements in respect of key high priority security projects had received government approval in 2001, as an alternative approach to the then increasingly uncertain and fast dwindling donor support.

- 5.8** It will be noted that through the eighteen (18) security related supplier/financier credit contracts/projects, Government had been committed to spending a total of US\$396,501,052 and Euros 298,828,950, (approximately a total of KSh.56.33 billion at the exchange rate of US\$1.00 to Ksh.75.00 and Euro 1.00 to KSh.89.00). The commitments were in the form of irrevocable Promissory Notes which were given to the credit providers on the dates the respective credit agreements were signed.
- 5.9** Against the total commitment of Ksh.56.33 billion, Government had by 30 June 2005 paid a total of Ksh.16.37 billion leaving a balance of KSh.39.96 billion still outstanding. In addition, Government had by that date paid interest totalling Ksh.1.16 billion on these credits.
- 5.10** The commitment of KSh.56.33 billion which is equivalent to 16.21% of the Kenya Government annual gross expenditure for the year 2003/2004 for example, was made outside the Government budgetary process and without the approval of Parliament. Most of the payments of Ksh.16.37 billion were charged against the Consolidated Fund Services – external debt, interest and redemption accounts.
- 5.11** Competitive bidding as provided for in the Public Procurement Regulations (2001) was not applied in the identification and award of the contracts to the various suppliers.
- 5.12** In the absence of competitive bidding, it was not possible to ascertain how the contract sums were determined and accepted by Government as fair and competitive.
- 5.13** Similarly, no competitive bidding was used to identify the financiers/credit providers where such firms were different from the supplier.
- 5.14** In the absence of competitive selection of financiers/credit providers, it was not possible to ascertain how the terms of the credit including the interest rates chargeable were determined and agreed upon.
- 5.15** As a result of (5.14) above, it has not been possible to ascertain whether the respective interest rates and other terms were fair and competitive.
- 5.16** For most of the contracts, the suppliers were not subjected to diligence tests with the result that it has not been possible to establish how their competence, capacity and capability to deliver the contracts were ascertained.
- 5.17** Additional available information indicates that at least seven (7) of the supplier/credit providers do not exist in the countries in which they are purportedly registered and may therefore not be bona fide registered business firms.

These are:-

Firm Given	Address Given	Firm	Address
1. Forensic Laboratories	26 Rutland Square Edinburgh, EH1 2B Scotland	5. Midland Finance & Securities Ltd.	20 Cours de Rive 1204 Geneve, Switzerland
2. Anglo Leasing and Finance of U.K.	Alpha House 100 upper parliament street, Liverpool L19, AA, UK	6. Apex Finance Corporation	P.O. Box 3655 1211-CH, Geneve, 3 Switzerland
3. Sounday Corporation	2 Omega Business Centre Caxton Close Drayton Fields Industrial Estate Daventry Northants, NN 11 5RT England	7. First Merchantile Securities Corporation	1 Place Des Florentius 55 Rue Du Rhone 1204 Geneve, Switzerland
4. Infotalent Ltd.	No. 10 Square Du Vieux Chene 1224 Switzerland		

Additional firms among the list of the suppliers/credit providers may also prove to be non-existent as and when information about them is obtained.

- 5.18** With regard to disbursement status of the credits, it has not been possible in most cases to establish the amounts of credit disbursed or the amounts which remained undisbursed because in all the contracts, there was no provision requiring the suppliers to submit to Government, invoices, delivery notes or certificates of completion of works which would normally indicate the monetary value of the contract deliverables accomplished.
- 5.19** In all the contracts, there was no linkage between payments made to the contractors/suppliers by the Treasury and the level of actual project implementation by the contractors/suppliers on the ground.
- 5.20** As a result of (5.19) above, in all cases, the project implementing Ministries and Departments were not aware of the amounts actually paid to the contractors/suppliers or whether such amounts matched the actual performance/deliveries to the projects by the contractors.
- 5.21** In practically all the supply/credit agreements, a comparison of the project implementation and credit repayment schedules indicates that the Government was in effect funding the financiers/suppliers to finance the procurement of the goods and services due under the contracts while also paying interest and other financing costs to the same financiers/suppliers.

- 5.22** The agreements did not require the contractors/suppliers to adhere to a specific implementation schedule. In some cases, the full repayments of the credits were accomplished before the projects were completed as for example in the case of Supply of Security Equipment to Kenya Police Department Project – Addendum 2. The repayment schedule for this particular project shows that the credit was to be fully repaid by 15 August 2004 but in the event, it was fully repaid by 2 March 2004, over five (5) months ahead of schedule.
- 5.23** From the information made available, only the contractors/suppliers themselves were in the unique and advantageous position of knowing at any one point in time how much they had been paid and the value of what they had actually delivered.
- 5.24** From the evidence and information gathered it is evident that the contract sums and particularly the prices of goods/equipment were grossly inflated compared to the market prices at the time. As an example, while the MI 17 Kenya Police Airwing helicopters were procured at a unit cost of US\$9,000,000, information available from other sources (e.g. the Internet) indicate that a similar model was procured at unit prices of US\$4,000,000, US\$3,900,000 and US\$5,000,000 by Malaysia, India and Pakistan, respectively.

6.0 PROJECT IMPLEMENTATION STATUS

According to information made available, some of the projects are completed on the ground while others are barely started. Other projects are indicated as cancelled and even the initial payments (commitment fees and first installments) have been refunded to Government. However, even where the project is said to have been completed on the ground, the value received is still questionable in view of the uncompetitive manner in which the suppliers/credit providers were identified and the contract prices agreed.

- 6.1** The information indicates that the categorization of the projects on the basis of the level of project implementation is as follows:-
- 6.2** **Projects which are already fully paid and indicated as completed:-**

No.	Project	Supplier/ Financier		Credit Sum US\$
1.	Kenya Prisons Security and Telecommunication Project I	LBA System Ltd.	LBA Systems Ltd.	24,600,000
2.	Kenya Police Airwing Support Project	Sound Day Corporation	Apex Corporation	36,000,000
6.	Kenya Police Supply of Security Equipment Addendum 2	Sound Day Corporation	Sound Day Corporation	30,000,000

The above three projects are already fully paid for. However, because of inadequate information and records provided by the respective Accounting Officers, there are still several outstanding audit issues which need to be explained. Such issues include:-

- whether all the goods/services which were to be supplied under the contract were indeed received.
- whether as noted elsewhere in this report in the absence of competitive sourcing, the prices of goods/services and the terms of the credits were fair.
- whether value for money was obtained.
- whether all the terms of the supplier/credit agreements had been fully adhered to.

Under the circumstances, the Accounting Officers responsible for these projects still need to provide the additional necessary information and documentation to enable the determination of the above issues. Such information would facilitate the quantification of any losses suffered by Government on account of single sourcing and other irregularities, with a view to taking appropriate action against the officers responsible for such losses and irregularities.

6.3 Projects which are partly completed (at least 60% completed)

No.	Project	Supplier/ Financier		Credit Sum
7.	National Early Warning and Security Systems	LBA Systems	LBA Systems	US\$35,000,000
8.	Kenya Police Security Equipment Addendum 3	Sound Day Corporation	Sound Day Corporation	US\$31,846,500
9.	Bandwidth Spectrum and Control – Postal Network Operations and Control - Postal Corporation of Kenya	Universal Satspace Corporation	Universal Satspace Corporation	US\$28,106,400
10.	Broad Band Network Spectrum Equipment Corporation of Kenya	Space Net Corporation	First Merchantile Corporation	US\$11,787,000
12.	Project Nexus - Department of Defence	Nedemar Technology	Nedemar Technology	Euros36,903,750
13.	Oceanographic Survey (Navy Ship) - DOD	Euromarine Industries	Euromarine Industries Impressa de Financas Navigia Capital	Euros51,997,000

These projects are at various stages of completion (at completion level of 60% or above). However, as in the case of the projects cited in paragraph 6.2 above and in the absence of all the necessary information and documentation, there are several outstanding audit issues which still require explanation by the respective Accounting Officers. Such unexplained issues include:-

- whether the goods/services/works indicated to have been supplied/completed were indeed supplied in accordance with the terms of the respective supplier/credit Agreements.
- whether in the absence of competitive sourcing the prices of goods/services/works and the terms of the credit were fair.
- whether value for money was obtained.
- whether all the terms of the supplier/credit agreements had been adhered to.

The respective Accounting Officers responsible for these projects should therefore provide the additional information and documentation necessary for the determination of any losses suffered by Government on account of single sourcing and other irregularities with a view to taking appropriate action against the officers responsible for such losses.

6.4 Projects which appear to be in progress but against which it has not been possible to ascertain the level of completion because of lack of adequate information

No.	Project	Supplier	Financier	Credit Sum
5.	Kenya Prisons Security and Telecommunication Project II	LBA Systems	LBA Systems	US\$29,700,000
11.	Kenya Police Airwing Support Project II	Sound Day Corporation	Apex Finance Corporation	US\$12,800,000

The extent of implementation of these two projects could not be fully established because of inadequate information made available to the audit team. Although this matter had been taken up with the respective Accounting Officers, such information was not provided. The respective Accounting Officers should provide credible evidence of the receipt of equipment and/or services and the cost of such goods and services. Once such information is provided the actual losses to Government should be established and action taken to identify the officers responsible with a view to taking appropriate action against such officers.

6.5 Project which is not started but for which some equipment is said to have arrived in Mombasa

No.	Project	Supplier/Financier		Credit Sum
14.	Telecommunication Network for Administration	Globotell Incorp.(UK)	Midland Finance and Securities	Euros 49,650,000

The detailed justification for this project both in terms of need, size and cost has not been seen. The few items of equipment delivered and said to be lying at the port of Mombasa may have to be paid for and cancellation of the project considered. Any losses suffered by Government should be ascertained and action taken against the officers responsible for such losses.

6.6 Projects which only preliminary planning/documentation work had been done

No.	Project	Supplier/Financier		Credit Sum
3.	Export Lease US\$90,001,152 Purchase of Security Vehicles	Leyland Export Ltd. U.K.	Silverson Establishment U.K.	
4.	Forensic Science US\$54,560,000 Laboratories	Anglo Leasing U.K.	Anglo Leasing U.K.	
13.	Kenya Police – Security Law and Order (E-Cops) Project	Infotalent Ltd. Switzerland	Infotalent Ltd. Switzerland	Euros 58,688,200
16.	Immigration Security Document Control System	Anglo Leasing U.K.	Anglo Leasing U.K.	Euros 31,590,000
17.	Modernization of Police Equipment and Accessories	Sound Day Corporation	Apex Finance Corporation	Euros 40,000,000

Only preliminary planning and documentation work had been done in respect of these five projects. Available information indicates that all the five projects have been cancelled by Government and in the case of four, money paid has been refunded to Government as indicated in paragraph 5.4 above. However the question of any losses suffered by Government should be addressed and such losses ascertained and action taken against the officers responsible.

6.7 Project Flagstaff – NSIS - CIARA SYSTEMS – US\$41,800,000

This project is in progress. However, due to its nature, the audit team was not able to ascertain the current level of implementation.

6.8 Losses to Government

In all the above projects Government appears to have suffered losses due to the single sourcing mode of procurement. However, in the absence of complete information on work/goods/services delivered in respect of each contract, it has not been possible to establish the actual losses suffered by Government. In this regard and as stated above, the responsible Accounting Officers should be required to provide all the information and documentation necessary for the determination of such losses. If as indicated in some cases no such additional information and documentation is available, it may be necessary to carry out professional valuation of the actual contract performance so that the actual losses may be established. Once this has been done, the officers responsible for such losses should in all cases be identified with the appropriate action being taken against them.

- 6.9** In addition where overpayment to the suppliers/credit providers is proved or where payments have been made but no works/goods/services have been received efforts, including legal action, should be made to recover such overpayments.

7.0 GENERAL RECOMMENDATIONS

As stated in this report some of the firms (supplier/financiers) are not registered in the countries they have claimed to be domiciled and at the given addresses. This implies that they may not be bona fide trading/financing firms. The agreements signed with such firms may therefore be null and void. This view is however subject to legal advice from the State Law Office. However, should this be the case, Government would have the upper hand in determining the fate of such contracts/agreements. I would therefore recommend that the first and immediate step to be taken is to establish the legal status of these firms, starting with the seven (7) listed in paragraph 5.17 above which could not be located or traced at the addresses they gave in the Agreements.

- 7.1** For proper accountability of Government expenditure on security projects/equipment or services, it is recommended that the following procedures be considered for adoption in future:-
- 7.2** Currently both the Department of Defence (DOD) and the National Security Intelligence Service (NSIS) budgets are included in the Annual Budget presented to Parliament for approval. This is done in a manner that addresses security concerns. There is no reason why all security projects' budgets should not be similarly presented to Parliament for approval under the respective Ministry's/Department's estimates/votes.
- 7.3** Once the security projects provision is approved in the annual estimates, the respective Accounting Officers should be required to take personal responsibility for the implementation of the projects and, in consultation with the Treasury for authorization of payments to the suppliers/financiers.

- 7.4 If the financing of the projects/purchases is proposed to be under foreign credit arrangement, the matter would still have to be reported to Parliament in accordance with the External Loans and Credits Act (Cap. 422). Provision for repayment of such foreign credits would also have to be included in the Public Debt estimates for approval by Parliament.
- 7.5 The respective Accounting Officers should also be required to account for the expenditure on security projects in their respective votes/appropriation accounts which will be subject to audit by the Controller and Auditor-General.
- 7.6 Consideration should be given for the establishment of a Special Procurement Committee to oversee the procurement of security related equipment/services.
- 7.7 Consideration should also be given for the establishment of a Special Parliamentary Committee to deal with Defence/National Security issues including the related accounts and audit reports. Members of such a Committee would have to be subject to security vetting.

8.0 **DETAILED REPORTS**

As already stated the nature of the subject matter of this Report precludes the publication of detailed Audit Reports on the individual supplier/credit contracts. However, such detailed Reports have been issued to the respective Accounting Officers with copies to the Treasury. This Report takes into account the contents of any comments/responses received from the Accounting Officers and the Permanent Secretary, Treasury.



E. N. MWAI
CONTROLLER AND AUDITOR-GENERAL

10 April 2006