



RESPONSES TO QUESTIONS RAISED BY AZIMIO LA UMOJA ONE KENYA COALITION PARTY, THE KENYA KWANZA PRESIDENTIAL CAMPAIGN SECRETARIAT AND OTHER STAKEHOLDERS

1. *What protocols has the commission put in place to ensure efficient management of the accreditation of agents, access to polling stations, and recording of complaints by agents and candidates?*

- The Commission recognizes the critical role of agents in the delivery of a free fair and credible elections. The law obligates the Commission to accredit agents for all political parties who are participating in the election. In the event a political party does not present agents for its candidates, each candidate is entitled by law to present their own agent.
- The respective Returning officers will undertake the accreditation of agents and harmonise their presence at the polling stations.
- The agents are entitled to register their complaints with the Returning Officer or the Presiding Officers.
 - i) Where complaints arise at the polling station, the agent will raise it with the Presiding officer and if not resolved, escalate to the chief agent who will then address it to the Returning Officer.
 - ii) Where complaints arise at the tallying centre, the tallying centre agent will raise it directly with the Returning Officer.

2. *How will the commission deal with the issue of?*

a) *ungazetted polling stations and any results transmitted from such stations?*

- There are no ungazetted polling stations. All polling stations have been published Vide a Special Issue of the Kenya Gazette No. 7996 carried in Vol. CXXIV—No. 130 and Gazette Notice No. 8786 carried in Vol. CXXIV –No. 144 published on 1st July, 2022 and 26th July, 2022 respectively.

b) *What is the total number of polling stations in the country?*

- 46,229 as per 2(a) above.

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- c) *What is the remedy for the Presiding Officer to transmit results in the event of exigencies such as flash floods, violence, insecurity and other emergencies?*
- In the event of such occurrences, the Presiding Officer shall transmit the results at the Constituency Tallying Centre.
3. *What protocols has the Commission put in place to resolve discrepancies in results captured in:*
- a) The form 34A posted on the door of the polling station*
 - b) The form 34A transmitted electronically*
 - c) The copy of form 34A availed to agents*
 - d) The hard copy form 34A delivered to the national tallying center*
 - e) The form 34A's and the respective 34B's*
 - f) Complaints regarding recording of results*

- In accordance with Article 86 of the Constitution, the “results” are those announced by the Presiding Officer at the polling station. With respect to the Presidential election, those results are captured in Form 34A;
- Upon close of the poll, the Presiding Officer is required to count the votes garnered by each candidate and enter the respective votes in Form 34A, take a scanned image of that Form using the KIEMS device and transmit to the presidential tallying center, avail a copy to the agents and observers and deliver the original to the Constituency Returning Officer for onward transmission to the Chairperson of the Commission who is the Returning Officer for the Presidential Election;
- Based on the foregoing, there can be no discrepancy between the results recorded in Form 34A at the Polling Station and those transmitted electronically or even those received by the Returning Officer because it is essentially the same Form captured by the Presiding officer, witnessed by the agents with a resultant 5 carbon copies;
- The Constituency Returning Officer is required to collate all Form 34As and prepare Form 34B and submit all the 34As together with the 34B to the Presidential Returning Officer. In the event there is a discrepancy between Form 34As and Form 34B with respect to the entries for any polling station, the entry in the respective Form 34A will be taken as the correct reflection of the results at the polling station;

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- Complaints with respect to the results announced at the polling station must be resolved by the Presiding Officer.
- Any complaints or discrepancies that may arise in the results Form 34A can only be resolved by the Supreme Court through a Presidential Election Petition pursuant to the decision in *Raila Amolo Odinga & Another v Independent Electoral and Boundaries Commission & 2 others* [2017] eKLR.

4. *Has the Commission resolved the issue of the 3000 or so KIEMS kits that went missing as identified by the auditor general? What measures has the Commission put in place to ensure these kits and other missing equipment is not used to tamper with the elections?*

- This statement is false and misleading.
- The Auditor General's report made reference to BVR kits and not KIEMS kits. BVR kits are used for voter registration and not voting. The Commission procured 15,000 BVR kits in 2012 that have technically reached end of life.
- The Commission keeps an inventory of all its kits and in the event of any loss the kit will be blocked from doing any transaction on the system.

5. *What specific measures has the Commission put in place to secure the integrity of all ballot papers and results forms?*

- The Commission appreciates the need to ensure that ballot papers and result forms enjoy the highest form of security to avoid replication or loss.
- The Commission has put in place elaborate security features on the ballot papers and result declaration forms to avoid any attempt to reproduce them. These include, but is not limited to;
 - a) Visible and invisible security features;
 - b) Polling Station data personalization;
 - c) Barcodes;
 - d) and QR codes.
- Further, the Commission in partnership with the National Police Service has deployed armed security to guard ballot papers in transit and at the respective warehouses.

6. *What measures has the commission put in place to comply with the provisions of Regulation 69(1)(d) which states that: "require the voter to place his or her fingers on the fingerprint scanner and cross out the name of the voter from the printed copy register once the image has been retrieved."*

- The Commission is guided by the decision in *NASA vs IEBC* [2017] that adopted the Commission's protocol to use the Printed Register of Voters upon confirmation that the KIEMS kits have completely failed and that there is no possibility of repair or replacement.

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7. *What measures has the commission put in place to ensure that voters who have been moved from their polling stations will not be unduly inconvenienced on election day?*

- The Commission published the final register of voters vide Gazette Notice No. 7290 carried in Vol CXXIV—No. 119 published on 21st June, 2022 in accordance with the law following the verification of biometric data by voters.
- The Commission believes that all voter details are captured in the respective polling centres as chosen by the voter. Voters can only vote at the polling station where their registration data are located.
- The Commission has further put in place measures to ensure voters know their polling stations, including:
 - i) Providing an SMS service where voters send their Identification number#year of birth to the SMS code 70000.
 - ii) Posting a truncated Register of voters at all polling stations.

8. *What specific assurances can the Commission give Kenyan's that the issues raised in the KPMG audit of the voters' register have now been conclusively dealt with and that the integrity of the voters' register is guaranteed?*

- The Commission contracted KPMG to undertake an audit of the Register of voters as part of providing assurance on completeness and accuracy of the Register. The issues raised by the report were fully addressed by the Commission prior to certification of the Register of Voters.
- The said report and its implementation matrix has been submitted to the Speakers of the National Assembly and Senate in compliance with Section 8A (6) of the Elections Act.

9. *When will the Commission release the voters register to stakeholders for inspection?*

- The Register of Voters was published in the Kenya Gazette on 21st June 2022 and is publicly available upon payment of a nominal fee.
- The same is open for inspection which is a continuous process as guided by Section 6(1) of the Elections Act. Any voter who wishes to confirm their registration details can send their Identification number#year of birth to the SMS code 70000. In addition, voters may visit polling stations and confirm their details from the truncated Register displayed thereon.

10. *What assurances can the commission give that the satellite modems are part of the Virtual Private Network (VPN)?*

- Virtual private network will be provided in both GSM network and satellite modem network.

11. *Has the Commission put in place an effective logistical plan to ensure election materials are transported on time, equipment calibrated on time and KIEMS Kits and power banks fully charged*

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- The Commission has put in place a robust election logistical plan to ensure a timely, accurate and efficient delivery of election materials. In addition, the Commission has contracted experienced third party service providers to support its logistical function.
- All KIEMS Kits have been prepared and ready for dispatch to the Returning Officers before deployment of election officials and materials.
- All KIEMS Kits have accompanying power banks which will be fully charged before deployment.

12. Has the Commission reviewed its communication protocols to ensure effective communication of material information regarding planning of the elections and the timely publicizing of all important information affecting the election?

- The Commission has an effective Communication Protocol established to ensure timely dissemination of all important information in the period leading to, during and after the General Election.
- The Commission developed its Strategic Plan 2020-2024 and Election Operation Plan (EOP) that are available at the Commission website. The Commission has implemented the two plans in consultation with Stakeholders.
- In addition, the Commission has shared general information via alternative platforms through print, electronic and social media.
- Regular stakeholders' engagement to update on election preparedness
- Finally, the Commission recently launched a Media Center and a Call center at the Bomas of Kenya.

13. When will the last batch of ballot papers arrive in the Country?

- The last batch of ballot papers will be delivered on 3rd August, 2022.

14. What happens to the second original copy of Form 34A from the second Booklet?

- There will be no USE of the second booklet as resolved in meeting held between the Commission, Presidential candidates and their agents on 29th July, 2022.

15. How will the Commission distribute the Result Declaration Forms?

- Following a meeting held between the Commission, Presidential candidates and their agents on 29th July, 2022, it was resolved to **ONLY** use Booklet one (1) of the two (2) booklets bearing statutory Presidential Results Form 34A that has one original, and five self-carbonating copies. The sequential use shall be as follows: -

- I. Presidential election Result Forms (34A)

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- a) The Presiding Officer (PO) shall remove booklet 2, labelled 2 of 2 of the Presidential Result Form 34A from the package and seal it off in a tamper proof envelop.
- b) The package in (a) above shall form part of the materials to be sealed in the presidential ballot box after completion of the counting process.
- c) The PO shall ONLY use booklet one, labelled 1 of 2 of the Presidential Results Form 34A to populate the Presidential election results at the polling station.
- d) The PO shall clearly and firmly write the results on the original Presidential Result Form and ensuring replication on the attached self-carbonating Form 34A.
- e) The PO shall confirm the statistics of the vote in the presence of the accredited agents and invite them to sign the original result Form 34A.
- f) The PO shall ensure that the Original Form 34A is appropriately signed and stamped to complete the process.
- g) The PO shall capture the image of the ORIGINAL results Form 34A and transmit it to the National Tallying Centre (NTC), Constituency Tallying Centre and a public portal.
- h) The PO shall detach the original results Form 34A and seal it in a tamper proof envelop for delivery to the Constituency Returning Officer (RO)
- i) The PO shall detach and share four (4) self-carbonated copies of the result Form 34A with the four presidential candidates' accredited agents present at the polling station.
- j) The PO shall put the last self-carbonated copy of the result Form 34 A in a tamper proof envelop as a package to be sealed in the ballot box.
- k) The RO shall take an image of the ORIGINAL result Form 34 A, using a smartphone, print and ensure that it is affixed at the public entrance to respective polling station. In the event there are uncollected agents' carbonated copies of results Form 34A in (i) above, the PO shall, affix one copy at the public entrance to the polling station or at any place convenient and accessible to the public at polling station.

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- l) Persons authorised to be at the polling station including media, observers and polling station agents shall be allowed to take an image of the original results form 34A.

II. Election Results Forms for; Member of National Assembly (35A), Member of the County Assembly (36A), Governor (37A), Senate (38A) and County Woman Member to the National Assembly (39A)

The Commission prescribes the following procedures applicable to the other Five (5) elective positions in line with Part xiii (counting of votes and declaration of results) of the Elections (General) Regulations, 2012; -

- a) The Presiding Officer (PO) shall ONLY use booklet ONE of the Forms to populate the election results for the respective elective position at the polling station.
- b) The Presiding Officer (PO) shall remove all remaining booklets from the package and seal the same off in a tamper proof envelop.
- c) The package in (b) above shall form part of the materials to be sealed in the ballot boxes for the respective elective positions after the counting of votes.
- d) The PO shall clearly and firmly write the results on the original results Form and ensuring replication on the attached self-carbonating Form.
- e) The PO shall confirm the statistics of the vote in the presence of the accredited agents and invite them to sign the original result Form.
- f) The PO shall ensure that the original result form is appropriately signed and stamped to complete the process.
- g) The PO shall detach the original results Form and seal them in the respective tamper proof envelop for delivery to the Constituency Returning Officer (RO)
- h) The PO shall in respect to each elective position detach one self-carbonated copy of the result Forms and seal it in a tamper proof envelop as a package to be sealed in the ballot box.
- i) The PO shall detach one self-carbonated copy of the result Form and affix it at the public entrance to the polling station or at any place convenient and accessible to the public at the polling station.
- j) In the event there are not more than three (3) agents, the PO shall issue each agent with carbonated copies of the results Form. 

- k) In the event there are more than three (3) agents, the PO shall allow the agents to take a photographic image of the original result Form and NOT issue the remaining carbonated copies of the results forms.
- l) In the event of (k) above, the PO shall insert and seal in a tamper proof envelop the three (3) carbonated copies of the result and seal them in the ballot box.
- m) Persons authorised to be at the polling station including media, observers and polling station agents shall be allowed to take an image of the original results forms.

16. Does the Collation B Series Form have security features similar to those in the other Forms?

- All results forms have similar security results

17. Give assurance that the 290 Constituencies will have backup power to transmit results.

- In addition to grid power the Commission has provided stand by generators

18. Who authorizes the use of the printed register of voters?

- The Commission will authorize the use of the printed register in accordance with paragraph 6 above.

19. Has the Commission allowed stakeholders to visit the Commission Production facility in the Likoni Warehouse?

- Following the Commission meeting with Presidential candidates on 29th June 2022 at the Windsor Golf Hotel and Country club, the Commission has been hosting representatives of Presidential candidates on weekly basis at the Production facility to witness the process.

20. Was IEBC involved in the appointment of eminent persons?

- The Commission was not involved in the appointment of eminent persons.

21. How will agents be identified at the polling stations?

- The agents will be accredited and issued with Badges by the respective Returning Officers.

22. How many backup kits does the Commission have per Ward?

- Six (6) Back up KIEMS kits per ward.

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23. Are the police officers at the polling stations under the authority of IEBC?

- Section 105 of the Elections Act, 2011 provides that all police officers deployed at the polling station are election officials and are under the instruction and direction of the Commission.

24. How are ballot papers distributed in a Registration Centre?

- During voting, Registration centres become polling stations that are allocated different Codes. These Codes are in sequential distribution of Ballot papers for the respective stations.

25. Other Frequently Asked Questions

No	Question	Response
1.	What if the Polling Station does not open on time	Polling time is from 6:00 am to 5:00 pm. Where there is delay in opening the polling station, the Presiding officer shall extend the hours of polling by the amount of time lost in so starting late.
2.	What if a voter does find his name on the Register posted on the wall of the polling station but previously confirmed it on IEBC website?	The Register posted on the wall of the polling station is a print-out of the digital Register hence there can be no disparity.
3.	What if there is a power blackout on polling day and the KIEMS kits run out of charge?	The KIEMS kit has an internal battery and two external batteries (power banks) that are fully charged before deployment. The three batteries have sufficient power to last beyond the voting and transmission period.
4.	What if there is failure or slump in internet connectivity?	-The KIEMS kit voter identification function is offline hence does not require network connectivity. -For purposes of electronic transmission of results, the KIEMS kit is fitted with both primary and secondary GSM sim cards to ensure continuity of network in case one fails. The Commission will also deploy satellite modems as back up and in the event of failure, the Presiding Officer shall transmit results from the Constituency Tallying Centre in the presence of agents.
5.	What if there is insecurity at the polling station that prevents or suppresses the process of voting? At what point at all can the IEBC call off elections at a polling station, centre or region and	-A Presiding Officer, in consultation with the Returning Officer, shall adjourn the voting process and re-start at the earliest practicable moment once security and calm is restored. The voting process shall be extended by the amount of time the voting process had been stopped.

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	how would this be communicated	-The Returning Officer can postpone the elections to the earliest practicable time after security is restored. -Any postponement of elections will be communicated by the Commission.
6.	What if there is failure of KIEMS Kits several polling stations such that back up kits cannot cure the problem, what is the alternative.	-All KIEMS Kits have passed the functionality test. -However, in the event of mass failure, the Commission shall be guided by the protocols of the decision in <i>NASA vs IEBC</i> and Regulation 26 of the Elections (Technology) Regulations, 2017
7.	At what point and in what circumstances can the truncated manual register be used?	The truncated Register is displayed at the polling station at least seven(7) days before the election date for inspection by the public.
8.	Who can authorize the use of the manual register and what is the form of the said authorization.	The Commission authorizes the use of the Printed Register by operation of Regulation 26 of the Elections (Technology) Regulations, 2017



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