



national treasury

Department
National Treasury
REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria, 0001 • Enquiries: TS Mtungwa or Ditshego Magoro • Tel: +27 12 315 5517/ 5102 • Email: talent.mtungwa@treasury.gov.za

Director: Mr R Nath
Tegeta Exploration & Resources (Pty) Ltd
144 Katherine St
Sandton

By email: nath@oakbay.co.za

Dear Sir,

REQUEST FOR INFORMATION SUBMITTED IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000 ("THE ACT")

1. The National Treasury has received a request for access to information in terms of section 18 of the Promotion of Access to Information Act 2 of 2000. The request was received on 12 May 2016 from Mr. David Maynier, who is a Democratic Alliance (DA) political party member of parliament. The request is described as: *"Reports of the National Treasury's review of the Eskom's coal contract conducted by the office of the Chief Procurement Officer."*
2. It is understood that the final report conducted by National Treasury was furnished to your office, however it was deemed necessary to inform you about the request, since it contains information that may be contemplated in section 36 (1) (b) of the Act.
3. In line with section 48 of the Act, you are requested to make a written or oral representation to the National Treasury and state why the request should be refused or give a written consent for the disclosure of the records, within 21 calendar days from the date signed hereon.
4. Should there be no response from your side within the 21 calendar days; a decision to grant or refuse the request will still be taken as required by the Act. Your cooperation in this regard will be highly appreciated.
5. We trust that you will find the above in order. Should you have any queries, kindly contact Talent Mtungwa at (012) 315 5517 or on the e-mail address mentioned in this letter.

Regards,

STADI NGOMEZULU
DEPUTY INFORMATION OFFICER

DATE: 31/5/16

Tegeta Exploration & Resources Pty Ltd.

Registration No.: 2006/014452/07

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COAL COPPER & PGM

Deputy Information Officer
Department of National Treasury

Date: 23rd June 2016

Your Ref: Chief Directorate: Strategic Projects Support: Semedi Chiloane

Dear Sir,

TEGETA EXPLORATION AND RESOURCES (PTY) LTD / DEPARTMENT OF NATIONAL TREASURY / ESKOM

Thank you for your email received on 22nd June 2016 where to you appended a copy of the request for information and the report prepared by your Chief Procurement Officer, Mr Kenneth Brown, dated 12 April 2016.

We have attempted to peruse the report on the verification of compliance with Treasury norms and standards and we have noted the contents of the report.

From what we understand you intend to make the report available under Section 18(1) of the Promotion of Access to Information Act, No. 2 of 2000 on request of Mr David Maynier, representative of the Democratic Alliance.

We object to the aforesaid on the following basis:

1. The document you supplied to us consists of various remarks and findings of which we were not aware and to which we were not given an opportunity to respond or comment on.
2. The report seems to portray a unilateral effort by your Department to severely prejudice our business and our commercial relationship with Eskom.
3. The report consists of, what seems to be, a main reasoning following an investigation covering approximately 12(twelve) pages. This is, in fact, incorrect as a proper reading of the document will clearly show that there are various annexures appended to the report to which we were not privy and on which you disable our comment.
4. It seems evident that you requested Eskom to respond to the report and to submit information thereon on or before 30 April 2016. It is obvious that the aforesaid information should be made available to Tegeta Exploration & Resources (Pty) Ltd in order to consider its contents as it must necessarily be incorporated in the contextualisation of the matter.
5. Tegeta Exploration & Resources (Pty) Ltd should be afforded an opportunity to respond and to give accurate comments on what seems to be an effort to adversely affect the rights of our company.

Directors :
Ronica Ragavan
Ravindra Nath
Ashu Chawla
Nazeem Howa

Tegeta Exploration & Resources Pty Ltd.

Registration No.: 2006/014492/07

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In light of the aforesaid we vehemently object to the disclosure of the document prior to us having had the opportunity to peruse the complete document and comment thereon, which comments should accompany any such report. At the moment your disclosure of the report will most definitely cause an uninformed and biased perception towards our company and we therefore submit that your effort to obtain our "feedback" on the request of Mr Maynier must be seen as an unwarranted attempt to obtain our "approval" to publish your report to a political party with the motive of defaming our business with facts not tested or commented on.

At best we should be afforded an opportunity to peruse and consider all relevant facts and documents, an opportunity which you have denied us thus far.

We have received legal advice to record that we reserve our rights and, should you decide to disclose the aforesaid report, obviously not in context with the Constitutional principles *affording us the right to comment on these averments you do so at your own peril*. We will consider obtaining further advice in launching an urgent application to interdict you from releasing the report until it has been subjected to scrutiny of all parties concerned.

Please revert to us as a matter of urgency in order for us to convey the actual, necessity and truth to those who are entitled to receive it.

Yours faithfully

(R. Nath)

Directors:
Bonika Ragavan
Ravindra Nath
Astru Chawla
Nazeem Howa



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&
Associates Incorporated

Attorneys • Notaries • Conveyancers • Prokureurs • Notarisse • Aktevervaardigers

Director / Direkteur:
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Our Ref: **MR GT VD MERWE/st/T473**

Your Ref: **THE CHIEF DIRECTOR: STRATEGIC PROJECTS
SUPPORT: SEMEDI CHILOANE**

13-07-2016

The Department of National Treasury
Semedi.Chiloane@treasury.gov.za

Dear Sir/Madam,

**TEGETA EXPLORATION AND RESOURCES (PTY) LTD
(TEGETA) / DEPARTMENT OF NATIONAL TREASURY
RE: ESKOM**

We refer to the abovementioned matter and wish to confirm that we received instructions to act on behalf of Tegeta Exploration and Resources (Pty) Ltd (Tegeta).

Our client's representative furnished us with documents forwarded to them in order to obtain our client's comments with regard to a request by Mr D Maynier, a representative of the Democratic Alliance.

Our client also furnished us with a copy of an email directed to you on or about 24 June 2016 in terms of which our client objected to your Department furnishing any political party with the document.

It is of imperative importance to appreciate our client's concerns under circumstances where it seems to be common cause that the document requested from your Department is a draft document, on the face of it, still work in progress.

There are two reasons for this remark:

1. The first reason is the fact that the draft report collated by your Department forwarded to our client seems to be an annexure to a letter directed to the Group Chief Executive of Eskom, Mr B Molefe. In that letter your Department calls on Eskom to submit information on the report on or before 30 April 2016. Your Department failed to furnish our client with a copy of the aforesaid despite the fact that it is of imperative importance that our client has access to the information. Until your Department has compiled its final report taking cognisance of the further information the report must be seen as a draft report and any disclosure thereof will severely prejudice our client especially if cognisance is taken of the second point raised herein.
2. The second point we need to raise is the fact that your report seems to rely on inaccurate and ill-advised facts/assumptions/recommendations. To assume, for one second, that the contents of the report forwarded to our client is accurate will be fatal since we need to record that the report is flawed and to a very large extent relying on defective and incorrect information. It will be reckless to issue such a report without affording our client the opportunity to present its version of those facts. If your report wants to address issues of concern to your Department and/or within your jurisdiction of investigation we submit that our client has a constitutional right to be heard if and when any adverse decisions or conclusions are to be drawn from such a report. Your failure to afford our client the opportunity to address you on the draft report is, in our view, a further point which would render the report suspect and not due to be disclosed to political parties seeking any possible reason to criticise Government, its Departments, State Owned Entities and any other business conducting a commercial relationship based on sound principles.

As a result of what we have mentioned hereinabove (read in context with the further issues raised by our client in its letter dated 24 June 2016) we submit that there is nothing in the form of a final report you are at liberty to disclose or send copies of to Mr Maynier. If you do receive an instruction to disclose the document and make a copy available we need to record that we are of the view that it should be done with a firm endorsement that the

document is a draft document and that it did not afford our client the opportunity to give any input in order to correct the flawed results and/or comments and/or recommendations.

Having said this we need to reserve our client's rights and we express our concern about the way in which the matter has been conducted. If the intention of your investigation was to find the truth nothing would have prevented you from affording any and all interested parties the opportunity to address you before you issue a final report.

Please revert as a matter of urgency.

Kind regards.

Gert van der Merwe
VAN DER MERWE & ASSOCIATES
✉ simone@vdmass.co.za