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Date:	22 July 2017
To:	Mr Joe Seitsang Senior Investigator The Office of the Public Protector – Free State
From:	Ms Leona Kleynhans (MPL)
Subject:	Ref No: 7/2-008756/15 - INVESTIGATION INTO ALLEGATIONS OF MALADMINISTRATION REGARDING THE AWARDING OF THE TENDER FOR THE ERADICATION OF ASBESTOS ROOFED HOUSES IN THE FREE STATE TO BLACKHEAD CONSULTING (PTY) LTD.

Dear Sir,

With regard to our meeting at your office in Bloemfontein on 19 July 2017, I acknowledge your undertaking to investigate further:

1. The contract value has been confirmed by the Department as being R255 million, being in respect of R850-00 per house for 300 000 houses. The question now is, how was the figure of R850-00 per house price arrived at in view of the fact that the original contract in Gauteng stated R650-00 per house? What were the factors taken into consideration when deciding on the price per house?

How was the estimated number of 300 000 houses arrived at? This figure implies that there were 300 000 government type houses existing in the Free State prior to 1994? It was well within the capacity of the Department to narrow this figure down substantially by easily obtaining the township register information from the Deeds Office, as indicated by Adv. Cilliers. Even if there had been some cost to obtaining this information, it would have been minimal. The Department knew that the affected houses were built prior to 1994, and by simply directing the contractor to those townships built prior to that date, they would have been able to cut that estimate down to approximately 50 000. By doing that they would have immediately cut the contract value down to R42,5 million, instead of R255 million. Therefore we believe that although your office cannot declare the process of entering into the contract illegal, it could declare the terms of the contract to be reckless, wasteful and fruitless.

2. Your office has also indicated that it would be enquiring from the Department how they intend to proceed with the remaining Phase II and Phase III of this now illegal contract, and how the rights of the contractor will be protected. I would urge you to also consider the rights of the taxpayers who are footing the bill, as well as the residents of the 36 000 identified houses, some of whom may now be title-deed holders.

FREEDOM. FAIRNESS. OPPORTUNITY.

3. As I indicated to you during our meeting, I would also request you to investigate the advance payments to the contractor. In terms of the letter from Blackhead Consulting to the Director Supply Chain Management, Department of Human Settlements Free State, dated 20 June 2014, Blackhead confirm that 'the company will be responsible for securing funds to roll out the asbestos eradication project'. The IPW issued to Blackhead by the Department, in paragraph 4 states that '40% of 50% of the total project cost amounting to R51 million is payable on the commencement of the project on 1 December 2014. This therefore amounts to an irregular advance payment before any work was done. Clearly the consultant had a capital reserve, or the ability and obligation to secure funding to commence the work. Why this advance payment was included in the IPW is unclear, and very suspicious.

4. I would also request you to investigate the payments of R51 million, R31 million, and R25 million made in December 2014, January 2015 and February 2015. These invoices appear to have been generated internally on the HSS system of the Department of Human Settlements, which could amount to fraud. The tax invoices are also not valid which made the payments highly irregular.
 - Payment advice 1309061, date unclear, R51 000 000-00. This tax invoice is not valid.
 - Payment advice 1309200, 10 January 2015, R31 000 000-00. This tax invoice is not valid.
 - Payment advice 1310189, 10 February 2015, R76 500 000-00. This tax invoice is not valid. (R25 million was paid on this invoice)

It must be noted that all these payments were made before the receipt of the Structural Assessment Report from Blackhead Consulting dated 28 February 2015.

5. As I originally indicated, I would request you to investigate the motivation for entering into this contract with Blackhead Consulting (Pty) Ltd by the Department. At exactly the same time that the contract was being negotiated and signed, two other contractors were in the process of removing asbestos roofs in the province at one third of the price being asked by Blackhead. This can be confirmed by looking at:

Payment No	Date	Supplier	Amount
1308590	27/11/2014	C Max Civil Constr	50 000
1308591	02/12/2014	C Max Civil Constr	40 000
1308832	11/12/2014	Ruwacon (Pty) Ltd	110 000
1309922	05/03/2015	Ruwacon (Pty) Ltd	170 000

These payments were for the removal of asbestos roofs of 37 houses. This amounts to R10 000-00 per house, while Blackhead were offering to assess houses at R1350-00 per house, and remove roofs at R32 760-00 per house.

It is clear that Blackhead's price was highly inflated and that they could not claim that theirs was a specialised service, as other contractors were already doing the work.

This means that the participation in the Gauteng contract had another purpose unrelated to the need to find a contractor with the necessary expertise, or who could do the work at a better price. The Department were already using other contractors doing the work at one third of the price.

It is my opinion that this contract was entered into with the express purpose of directing funds from the Department into the accounts of Blackhead. The 36 000 houses which were eventually identified as having asbestos roofs was simply an excuse to make the payments appear legitimate.

Thank you for affording us this opportunity to further highlight our concerns regarding the complaint.

Thank you,

A handwritten signature in black ink, appearing to read 'Leona Kleynhans'. The signature is written in a cursive style with a large initial 'L'.

Leona Kleynhans
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