**MEDIA STATEMENT BY PREMIER SIHLE ZIKALALA ON THE FORENSIC INVESTIGATIONS INTO ALLEGED IRREGULAR PROCUREMENT OF PERSONAL PROTECTIVE EQUIPMENT AND BLANKETS AT THE DEPARTMENT OF SOCIAL DEPARTMENT – 21 JULY 2020**

**Ladies and Gentlemen of the Media;**

**Introduction**

We would like to start by welcoming members of the media present here today and we would like to thank you for attending this media briefing.

The purpose of today’s media briefing is therefore to provide feedback on the outcome of the forensic investigations which were commissioned by the KwaZulu-Natal Provincial Executive Council into:

1. Alleged irregular procurement of Personal Protective Equipment (PPE) in the Department of Social Development.
2. Alleged irregular procurement of blankets for the Covid-19 pandemic in the Department of Social Development.
3. Alleged irregular procurement of PPE in the Department of Education

The investigation was prompted by various allegations that were being reported even in the public space, alleging that the procurement contracts were inflated, and were linked to “connected” individuals.

Owing to the seriousness of the allegations, in April this year the KwaZulu-Natal Provincial Executive Council resolved to assign the Provincial Treasury to investigate alleged irregularities in the procurement of PPE worth R19-million and blankets worth R22-million by the Department of Social Development. This included, among others, hand sanitizers, pocket wet wipes, face towels, soaps.

The investigation was separated into two. The one focused on the procurement of blankets and the other one concentrated on the procurement of Personal Protective Equipment.

The evidence presented in the reports as we will detail shortly, is deeply concerning. While at this point it is not a reflection of either guilt or innocence of any party, it is critical that those who have to answer on these allegations will need to be held accountable. The report will also assist law enforcement authorities to ensure justice and accountability. As the Provincial Executive Council of KwaZulu-Natal, we have a huge responsibility to ensure that any allegation of state looting in the name of Covid-19, is scrutinized and investigated accordingly, with no compromise when it comes to consequence management.

In Covid-19, we are dealing with a serious emergency. At a time when we should be focusing all our energies on defeating this invisible enemy, we deeply regret that we have to be sidetracked by such matters.

**ALLEGATIONS INTO ALLEGED IRREGULAR PROCUREMENT OF PERSONAL PROTECTIVE EQUIPMENT AT THE DEPARTMENT OF SOCIAL DEVELOPMENT.**

**Scope of the Investigation**

The scope of this investigation was to establish whether the procurement process was followed by the Department in the procurement of PPE; whether the procurement processes were fair, competitive, transparent and cost effective; whether there was collusion between officials and service providers in the awarding of contracts; and whether there was value for money spent on the items procured.

The investigation included an analysis of all documentary evidence, interviewing all identified officials, capturing and analysing all payments and quotations using spreadsheets where applicable, examining telephone records of identified role players and following up any leads of possible irregularities or acts of criminality with an attempt to gather as much evidence as possible.

**Findings**

The investigation has highlighted significant irregularities which were caused by inadequate and ineffective systems of internal controls with the provincial Department of Social Development.

These included the purchase orders for PPE issued to 11 service providers prior to approval of the procurement submission by the Accounting officers; some of the service providers exceeded the minimum amount of purchase as regulated under Treasury instruction notes; in some instances quotations were changed three times and on each occasion the quantities of the items were reduced in order to reduce the total cost of procurement. However, most noticeably there was no reduction of the pricing per unit. As a result of the above, the investigation concluded that all payments made to the service providers are irregular to the tune of **R13 630 229.50.** Had the Department applied the regulated prizes and processes correctly it would have saved **R2 231 996.21.**

The investigation noted that some service providers were paid in full on the 4th of May 2020, while the delivery of goods happened on the 11th of May 2020. It is an anomaly to pay for services not rendered but effect payment in advance.

The investigation also noted that some service providers invoiced the department for goods not yet delivered.

**Owing to the above, the investigation has recommended that:**

1. Disciplinary action be instituted against the Acting Accounting Officer at the time for, among others, contraventions in terms of section 38 read with sections 40 and 86 of the PFMA Act No 1 of 1999, on charges of misconduct in terms of Chapter 7, read with Annexure A of the SMS Handbook and for his failure to comply with Chapter of the Code of Conduct of the Public Service Regulations.
2. The investigation has revealed that the submissions were flawed in that approved submission for award to service providers were done ahead of the procurement process. For an example, one submission was signed on 26 March 2020 but the accounting officer only signed the submission for procurement on 31 March 2020.
3. The investigation found that there was abuse of Covid-19 emergency procurement provisions and efforts to cover up which included attempts to backdate submissions for awards to service providers. It is concerning that the investigation has revealed that prices were inflated and some service providers were not compliant in respect of documents specified in the invitation to tender.

The investigation has recommended that disciplinary action be taken against the Chief Financial Officer, Acting SCM Manager, Cluster Chief Directors and SCM Officials for the following acts and omissions:

Contravening duties in terms of section 45 read with section 81 and 88 of the PFMA Act of 1999 on charges of misconduct in terms of Chapter 7 read with Contravention of various SCM prescripts which financially prejudiced the Department.

It is also very concerning that the names of most companies were given as instruction by senior management to junior officials without following proper SCM procedures. The investigation has recommended that Cluster Chief Directors also be subjected to disciplinary processes for contravening their duties and for violation relevant procurement processes.

**ALLEGATIONS INTO EMERGENCY PROCUREMENT OF BLANKETS FOR COVID-19**

The scope of this investigation, among other things, was to establish whether the procurement of blankets by the Department under urgent and emergency cases complied with the relevant SCM prescripts; whether the Department misused the provisions of the urgent and emergency cases in terms of the Treasury Regulations; the blankets procured were delivered to the Department and whether there were any irregularities with the manner in how the procurement of blankets was managed by the Department.

The scope of the investigation also included establishing whether the regions and districts submitted requests for the provision of blankets for Covid-19; whether the Department suffered any financial loss in the procurement of blankets and whether there was any improper conduct or criminal offences committed by departmental officials or service providers.

The investigation has revealed that there was no record provided which proved that the decision to procure the blankets was informed by a needs analysis. The orders were issued to four service providers on 27 March 2020; but it was noted by the investigators that the cost of each blanket as quoted by the service providers varied from R350.00 to R559.00 even though all four service providers were requested to quote on the same specifications.

The investigation found that there was no evidence to suggest that the Department had:

1. Considered the difference in pricing to determine the reasonable value;
2. Negotiated any discount rates with the service providers, considering that the blankets were procured in bulk.

For example, one service provider procured each blanket for R500.00 while another procured each blanket for R559.00 while the other two procured each blanket for R350.00 and R355.00, respectively.

The investigation further established that the supplier misrepresented the specifications of the blankets and that most blankets supplied were not in accordance with the specifications of 220x24cm in size. The approximate financial loss to the department as a result of the misrepresentations amount to **R15 808 000.**

With regard to the distribution of blankets, the investigators noted that 4 982 blankets out of the 48000 were distributed as at 8 May 2020. From this observation, the investigators discovered that over 43 018 blankets, were left in storage centres with uncontrolled access; and some have been damaged and unaccounted for amounting to possible fruitless and wasteful expenditure as per the PFMA. ***The PFMA prescribes that “an official of the Department or trading entity or Constitutional Institution is responsible for management or safeguarding, of the assets and management of liabilities within the official’s area of responsibility”.*** The investigators found that contrary to the above, the Department Officials did not have an adequate and effective inventory management system in place to control, monitor stock levels, account for distribution of blankets and ensure completeness of stock on hand.

The investigators also noted that in this case as it was with the PPE, the intention to award the contract to service providers was signed on 27 March 2020. However, orders were issued when an amount to the tune of **R16-illion** was already paid to service providers.

The investigation found that the Department accepted all four service providers to procure the blankets, even though there was a vast variance in their pricing schedule. Some service providers did not deliver blankets within the stipulated period but were paid in full without any penalties being served.

The investigation has found that the procurement of 48 000 blankets for Covid-19 was not done in accordance with section 217 of the Constitution, the Department’s SCM Policy of 2019 and applicable prescripts for urgent and emergency provisions of the Covid-19 pandemic; nor all other SCM prescripts issued by National or Provincial Treasury to assist departments to respond to prevailing emergencies.

The service providers according to the report failed to supply and deliver blankets according to the specifications and misrepresented the quality and specifications of the blankets that were eventually delivered in most instances.

The investigation uncovered that procurement was not done through a system that is fair, transparent, competitive and cost effective. It also appeared that two service providers operate from their residential houses which are listed on CSD as their business addresses.

The investigation has therefore found that the submission on which the procurement of the blankets is premised is flawed and hence the entire process that emanates from this submission is irregular.

The investigators found contradictions in the procurement process adopted by the Department from the sourcing of service providers, the invitations to quote, the receipt of quotations to the payments made to service providers, the delivery of blankets and the specifications of goods procured. These revealed inconsistencies, contradictions and non-compliance with the process.

Based on the above, the report concludes that there is evidence of the abuse of Deviation procedures in terms of the emergency and urgency provisions and the entire process should be deemed irregular.

The investigation concludes that the fact that only 4985 blankets have been distributed in the last two months highlight that invoking emergency provision procurement may have not been justified.

**Recommendations**

**Actions against the Acting Accounting Officer at the time:**

* The investigation is therefore recommending that disciplinary action be taken against the Acting Accounting Officer at the time for the following acts or omissions;
* Contravening duties in terms of section 38(1) (a) read with sections 81 and 88 of the PFMA ACT No. 1 of 1999.
* Signing of flawed submissions on the 25 March 2020 for the procurement of blankets
* Failing to ensure the needs analysis and end user analysis was conducted prior to the signing of procurement submission and;
* For abuse of the Covid-19 emergency procurement provisions.

**Recommendation on the Acting Director General, Chief Financial Officer, Acting SCM Manager, Chief Directors and SCM Officials**

* The Investigation further recommend disciplinary action against the Acting DDG and the CFO, Acting SCM Manager, Chief Directors and SCM Officials, for the following acts or omissions: To mention a few they include:
* Signing the flawed submission for the procurement of blankets
* Failure to ensure that the distribution storage plans were in place prior to procurement
* Abuse of emergency procurement for Covd-19 pandemic.
* Failing to ensure that there the competitive bidding process as per Treasury practice note is adhered to
* For providing the names of the service providers to officials
* For failing to ensure that a proper specification of blankets was drafted in line with the needs of the department
* For issuing an instruction that prompted the irregular procurement of blankets through WhatsApp messages.
* Failing to ensure that a proper supply chain management process was followed in line with the KZN DSD Policy
* Failing to ensure that that the budget was in place for the programme under which the procurement was funded
* For having backdated the signature on the submission to purport that it was signed on 27 March 2020.

**ALLEGATIONS ON THE PROCUREMENT OF PPE PRODUCTS IN THE DEPARTMENT OF EDUCATION.**

We also wish to report on the procurement of PPE in the KZN Department of Education.

The report reveals that the National Treasury (NT) on 15th April 2020 issued the Instruction No.3 to provide for a disaster management *central emergency procurement process* for Personal Protective Equipment (PPE). The Instruction No.3 alludes to a  government challenge in sourcing and securing critical and essential health products because of unprecedented global demand for PPEs and other Covid-19 essentials.

*The effect of NT Instruction No.3 was such that products could not be procured provincially and/or at Local Level of government*. Eventually this had a knock-on effect on the lead times on the delivery to schools.

It would seem the implementation of NT Instruction No.3 would prove to be a difficult exercise to undertake because no sooner than 15 days later, on 28 April 2020, NT Instruction No.3 was repealed by NT Instruction No.5. The NT Instruction No.5 effectively decentralised the procurement of PPE products, prescribed the procurement procedures and set the maximum prices to be paid by institutions for selected COVID-19 PPE items and cloth masks.

The Department of Education only started the process for  procurement of PPE  products on the 7th May 2020, after a series of consultations on the costs of procuring these products.

The report discloses that the department opted to approach bidders by way of Request for Proposals from the potential suppliers, of which 40 suppliers responded. The route to approach suppliers for request for proposals was followed to have certainty of compliance with various standards from Treasury, WHO and the National Department of Health. The report indicates that potential service providers also had to demonstrate the availability of minimum stock on hand. Furthermore, potential suppliers were required to submit sample products to be quality assured by the Department of Health. The Department of Health had to make a written report advising on the quality of products that were submitted as samples.

At the same time a pre-audit exercise was undertaken by the Provincial Treasury and specific recommendations were made in relation to the process leading to final adjudication. It has been established that it took the Department of Education fifteen days to finalise the procurement process in order to ensure that the initial date, 25 May 2020, for the resumption of schools is adhered to.

The department SCM adjudication committee considered both recommendations from department of health and treasury department pre-audit report.

It has been established as a fact that the Department also grappled with the issue of prices due to volatility in the market and the depreciation of the rand.  It is against this background that Treasury introduced a maximum price to be paid by institutions across the country for selected COVID-19 PPE items and cloth masks.  The limitation of the maximum price by the Treasury is that it only covered the unit cost but excluded the warehousing, packaging, and transportation and delivery costs.

In view of the fact that costs for packaging, warehousing, transportation, delivery and VAT were not factored in the maximum price, the department had to negotiate with appointed service providers to accept the department price offer as inclusive of everything.

 The costs for warehousing, packaging,  transportation and  delivery costs were calculated at 15% within the maximum price. Using one example of the procurement of masks, a consideration of 15% would result in R3.60 savings on each mask at a unit price of R24 (15% of R24).Thus the mask would have costed R 20.40 .In some cases sanitizers were recommended at R 1.86 by National but the Department negotiated at R1.67 inclusive of VAT storage ,warehousing and delivery to 12 districts

      In addition, if one were to take the matter of 15% warehousing, packaging and transport delivery costs to its logical conclusion, the Department saved more than R75 000 000,00.

 Even though there were these omissions from the Treasury set prices, the department had to negotiate with appointed service providers to accept the department price offer as inclusive of everything.  The negotiations led to the prices being revised in favour of the department and inclusive of everything.  The department eventually procured an inclusive package at a cost less that set by the National Treasury.

The report indicates that in all cases the Department of Education, did not go beyond the maximum prices recommended by National Treasury.  In fact, most of the order prices are much lower than the prices that were recommended by National Treasury.

There is a trail of evidence that indicate that the department approach yielded savings to the government.  This is very important in the current constrained fiscal environment.  The total sum spent may look high to a person who does not appreciate that department of education is a huge department with a high number of personnel and institutions involved.

**Way Forward**

In the interest of public accountability and transparency we have decided to give progress on the outcomes of these investigations. We want to express our serious concern about the findings, which reveal a flagrant disregard and abuse of procurement processes which have allegedly prejudiced not only the Department of Social Development but the KZN Government and the people of KwaZulu-Natal.

Based on the above, the investigators have recommended that, in addition to the disciplinary procedures, in some areas, cases be opened with the SAPS on collusion and corruption between officials and service providers.

It further recommends that recovery of the amounts from some of the suppliers be instituted for non-delivery.

This report will be processed in line with the recommendations, and there will be consequence management.

We are very concerned about the prima facie evidence of collusion between officials and suppliers, however, as the report recommends this warrant an investigation by the SAPS – and this will have to be actioned as such.

**Conclusion**

As Government, we would like to state that we are unwavering in our commitment to clean and good governance, and ensuring that each and every cent of taxpayers’ money is spent efficiently – especially, given the tough economic climate in which we find ourselves. It is very unfortunate and totally unacceptable that today we deal with allegations that parts of our service delivery machinery may have been used to serve personal interests at this most critical times when we have to save lives. We commit to taking action and ensuring accountability for anyone linked to wrong deeds. The National Development Plan enjoins us to have a professional public service where managers deal properly with contracts, tenders, and procurement and are less vulnerable to any other pressure. We are committed to live up to these ideals of the NDP.

**Ends**