DoE PPE Findings

KZN DoE – Water Tankers

The article that was published by the Sunday Times on 21/06/2020, led to the SIU to investigate the allegations of corruption in KZN DoE. The paper reported that a tender was awarded for the supply, delivery and installation of 41,000 water tanks at a cost of R28 000 per tank. It was further alleged that the cost of R28 000 was excessive as a 5 000 L water tank retails between R4 500 to R5 000, therefore suggesting that the KwaZulu-Natal DoE may have been prejudiced due this procurement.

**The findings**

The investigation confirmed that a directive the Water and Sanitation Emergency Procurement Covid -19 Disaster Response Directive was issued on 15 April 2020.

The probe into the above contracts revealed the following:

* Cover quoting between service providers who were awarded the contract and other

bidders;

* Service providers did not declare on their bid documents that they had conducted work

with other state institutions in the last 12 months which was a requirement when

completing the bid documents;

* Non-essential items such as 16 ltr spray pumps were purchased by the Department

under Covid-19 emergency provisions;

* Fraud (fronting), forgery and uttering committed by service providers in the submission

of the bid documents;

* Non-compliance with VAT Act in which service providers who were not already

registered for VAT; were obliged to apply to SARS to be registered as VAT vendors

within 21 days of receiving contracts exceeding R1 million;

* Under delivery of items by service providers; and
* Overpricing of items by service providers that were above the NT regulated prices

Out of 58 service providers, only six were found with no irregularities in which their contracts were awarded.

The SIU made referrals against the following 6 officials on the 05 November 2020 for transgression I in the awarding of 14 contracts to service providers at a total amount of R3, 856, 056:

* Ms H Khumalo (“Ms Khumalo”) - Director: Demand and Acquisitions;
* Ms Z Xulu (“Ms Xulu”) - Director: Assets and Logistics;
* Ms TP Masinga (“Ms Masinga”) - Deputy Director: Demand and Acquisitions;
* Ms A Mthembu (“Ms A Mthembu”) - Deputy Director: Demand and Acquisitions;
* Ms G Hadebe (“Ms G Hadebe”) - Deputy Director: Demand and Acquisitions; and
* Mr FE Radebe (“Mr Radebe”) - Deputy Director: Demand and Acquisitions.

It noted that disciplinary action against Ms Khumalo has been completed awaiting sanction and the disciplinary for Ms Xulu is currently underway.

Charges have been drafted in respect of all the other employees and the SIU is to be informed of the dates for the disciplinary hearings.

The SIU made referrals against the following seven officials on the 11 February 2021 for failing to take suitable steps to stop, within their area of responsibility, any unauthorised, irregular or fruitless and wasteful expenditure relating to the procurement and awarding of contracts of 16 liter spray pumps from 18 service providers with a total value of R68 129 339.80.

These are:

* Ms Khumalo;
* Mr Radebe;
* Dr EV Nzama (“Dr Nzama”) – Head of Department;
* Mr Lalsingh Rambarran (“Mr Rambarran”) – Acting Chief Financial Officer (“CFO”);
* Mr BV Mlambo (“Mr Mlambo”) – Chief Director;
* Ms PP Bhengu (“Ms Bhengu”) – Administrative Officer; and
* Ms TM Mntambo (“Ms Mntambo”) – Administrative Officer.

The SIU report revealed that the MEC requested that the SIU review its findings however that request was rejected.

The SIU also made referrals against two officials on 13 May 2021 for failure to disclose their interest with Bulum Trading who was awarded a contract for R1 241 425. Charge sheets have been formulated for both matters.

These officials are:

* Mr Lungelo Stewart Mhlongo (“Mr Mhlongo”) - Financial Manager, KwaZulu-Natal DoE Infrastructure Department; and
* Mr Brian Smiso Sikhakhane (“Mr Sikhakhane”) – Admin Officer, KwaZulu-Natal DoE Infrastructure Department.

While the SIU busy with investigation it also noted that the company that was awarded a contract to investigate the awarding of PPE contracts was irregularly appointed by the KZN DoE.

A disciplinary referral was submitted on the 29 September 2021 against the following 2 officials for a failure to exercise due diligence in the awarding of two contracts to Morar at a total contractual value of R4 436 276.50.

These are:

* Dr Nzama – Head of Department; and
* Mr Rambarran – Acting CFO.

The SIU has made several criminal referrals to the NPA.

These include:

2 referrals with total value of R2 224 649.60 were submitted to the NPA for fraud against Esomkhulu Trading CC, its Director, Ms ZW Mkhize (“Ms Mkhize”) and Manager, Mr S Mjwara (“Mr Mjwara”) on 15 and 20 October 2020

Referrals were made to the NPA for fraud against the following entities and its Directors on the 31 March 2021 at a total value of R480 000.

The SIU also made a referral at a total value of R1 241 425 was submitted to the NPA for fraud and/or corruption against the following entity, its Director and two KwaZulu-Natal DoE officials on 13 May 2021.

A referral at a total value of R32 321 565.60 were submitted to the NPA for fraud and/or corruption against the following entities, its Directors and a teacher employed at KwaZulu-Natal DoE.

Administrative action

The SIU made a referral to the DoE to Blacklist Bulum Trading and its Director, Ms NFM Mthembu, for 2 contracts awarded to the value of R1 241 425 0n 13 May 2021.

A referral was submitted to KwaZulu-Natal DoE on the 03 June 2021 to Blacklist the following entities and individuals. The total value of the contracts amounts to R32 321 565.60.

* Njiki (entity);
* Mashibela (entity);
* Ms Hlengwa – Director – Njiki;
* Mr PS Mabaso – Director – Mashibela; and
* Ms Xaba – ex-teacher at KwaZulu-Natal DoE and spouse of Mr PS Mabaso.

A referral was made in respect of 21 contracts to the value of R48 759 400 to SAHPRA on 21 April 2021. One referral was made against a service provider for a contract value of R4000 000 on December 2021 against the following suppliers who were not registered with SAHPRA to supply medical devices, thereby violating section 22(C)(6) of the Medicines and Related Substances Act of 1965 as amended:

SARS Referral

Referrals at a total value of R48 812 404.40 was submitted to SARS on 07 October 2020 for possible tax irregularities by the following 13 service providers:

Actual cash recovered

The AoDs listed above have been paid and an amount of R6 017 328 has been recovered.

Civil litigation

Counsel was selected on 29 September 2021 for the potential recovery of profits in respect of 2 contracts awarded to Njiki Yesizwe Projects and Mashibela Business Enterprise at a total contractual value of R32 321 565.60.

Papers are being drafted for enrolment in the Special Tribunal.

Engagements with Counsel are still ongoing.

Counsel appointed on 29 September 2021 for potential recovery of profits from Bulum Trading at a contractual value of R1 241 425.

Papers are being drafted for enrolment in the Special Tribunal.

Engagements with Counsel are still ongoing