

REPORT ON DCS CONTRACTS WITH AFRICAN GLOBAL OPERATIONS FORMERLY KNOWN AS BOSASA

Portfolio Committee on Justice and Correctional Services

27 February 2019



EXECUTIVE SUMMARY

BACKGROUND

For our citizens to feel safe, the criminal justice system must be seen to be efficient and must have a positive impact on the lives of our people. Hence the mandate of the Department of Correctional Services (DCS) is to contribute towards the maintenance and protection of a just, peaceful and safe society by enforcing courtimposed sentences, detaining offenders in safe custody under humane conditions.

Section 35(2)(e) of the Constitution makes provision for prisoners to be accorded nutrition that is consistent with human dignity. This right is embedded in section 8 of the Correctional Services Act 111 of 1998, stating that, each inmate must receive sufficient food to promote good health.

CONTEXT

In 2006, the President issued a proclamation to probe allegations of corrupt activities in the awarding of contracts to African Global Operations (AGO), formally known as Bosasa (Pty) Ltd, namely for nutrition services, access control, fencing and televisions. In 2009, the SIU issued a report revealing that the contracts awarded to AGO were irregular and implicated the former National Commissioner (Mr Linda Mti) and the then Chief Financial Officer, Mr Patrick Gillingham in corrupt activities.

The Special Investigation Unit Investigation (SIU) in its 2009 report found that the then DCS executive management, embarked on a process to outsource nutrition at the bigger management areas. The service on provisioning of nutrition in DCS is delivered through a mixed system of predominantly in-house as well as out-sourced services.

The SIU report came to the fore again at the Zondo Commission of Inquiry into State Capture with *inter alia* the testimony by Mr Angelo Agrizzi, the former Chief Operations Officer (COO) for AGO implicating additional senior officials in dishonest acts.

Following announcement by the two major banks FNB and ABSA that they will be closing the bank accounts belonging to AGO on 28 February 2019. AGO then notified DCS off its intention to apply for voluntary liquidation. Consequently, DCS had to serve AGO with a 30 day notice to cancel the contract on nutritional services. This is the only exiting contract between the DCS and AGO which was for the period of three years commencing on 01 February 2017 to end 31 January 2020.

Therefore, this report provides the Portfolio Committee the following:

- Contracts it has given to AGO and its subsidiaries since the beginning of the relationship with the Company.
- Contracts that are currently active.
- Business Continuity Plan with a normalisation and stabilisation plan for nutritional services at DCS facilities.
- Steps taken against implicated officials.

1.1. CONTRACTS AWARDED TO THE AFRICAN GLOBAL GROUP OF COMPANIES

- 1.1.1. Eight (08) contracts have been awarded to the African Global Group of companies since 2004/05 financial year. Under these contracts a total of R7,1 billion has been paid to date including extension and expansion of contracts.
- 1.1.2. Various contracts awarded by DCS to African Global Group of companies is categorised into five services, namely:
 - I. Nutritional Services: provision of outsourced nutritional services:
 - Access Control Systems: Supply, installation and maintenance of access control systems;
 - III. Staffing of Control Rooms: Staffing of control rooms in respect of access control systems;
 - IV. Installation of Perimeter fencing: Supply, installation and maintenance of outer perimeter fences;
 - V. Installation of Television Systems: Supply, installation and maintenance of television systems and monitors.
- 1.1.3. The detailed information on value and period of all contracts is attached as **Annexure A.**

1.2. Special Investigation Unit Investigation (SIU)

- 1.2.1. The Public Service Commission (PSC) and Office of the Auditor General (AG) referred the allegations to the Special Investigation Unit (SIU) for investigation.
- 1.2.2. The SIU was mandated in terms of proclamation R44 dated 28 November 2007 to investigate the allegations against the DCS that has taken place between 01 January 2000 and 28 November 2007.
- 1.2.3. In 2009, the SIU provided the DCS with a report with findings on the investigation into the allegations as well as recommendations.
- 1.2.4. The SIU found that there was evidence of corrupt activities in the awarding of the contract to AGO and made the following recommendations to the Department of Correctional Services;
 - i. Disciplinary action to be taken against Mr Gillingham;

- ii. DCS consider instituting civil proceedings against AGO to recover possible losses; and
- iii. The NDPP consider criminal charges against Mr. Gillingham and Mr Mti as well as the company and individuals in the company;
- 1.2.5. During November 2018 the Head of the SIU wrote to the National Commissioner requesting feedback on the implementation of the recommendations made in the report under proclamation R44 0f 2007, and whether the Department of Correctional Services requested the National Treasury to place AGO and its subsidiary companies on the restricted suppliers database.
- 1.2.6. The National Commissioner replied to the SIU on implementation of the SIU recommendations:-
 - As far as could be established no civil proceedings were instituted by DCS against AGO or any individuals with no record at this stage as to why not.
 - Disciplinary proceedings were initiated against Mr Gillingham in 2009
 but he resigned with 24 hours' notice on 29 October 2010.
 - Although DCS is not involved in the criminal prosecution it is aware that criminal charges were instituted and that prosecution by the NPA commenced in 2019.
 - DCS at the time did not request the National Treasury to place AGO and its subsidiary companies on the restricted supplier's database as it was not recommended at the time.

1.2.7. Current actions by DCS

- The National Commissioner has since November 2018 wrote to African Global Operations to provide reasons why they should not be placed on the database of restricted suppliers to which a response has been received.
- DCS is currently processing recommendations on restrictions to the National Treasury.
- On 22 February 2019, AGO was served with a 30 day written notice to

- terminate the only remaining contract HO3/2016 (nutritional services at seven management areas).
- Officials mentioned in the State Capture Commission, testimony by Mr
 Agrizzi, have been served with notices in accordance with rules of natural justice in response to allegations made.

1.3. The Nutrition Services Contracts

- 1.3.1. The first contract (HK2/2004) for nutritional services was awarded on 27 July 2004 for a period of three years ending 31 July 2007. This contract was extended twice and ultimately ended on 31 January 2009.
- 1.3.2. The second contract (HK5/2006), on 30 August 2006, the department awarded the contract for nutritional services to AGO for the period of 05 years, commencing 01 October 2006 ending 30 September 2011 for Waterval Management Area. This contract was extended twice and ultimately ended on 31 July 2013.
- 1.3.3. The third contract (HK14/2008) was awarded on 08 December 2008 for a period of three years, commencing on 01 February 2009, ending 31 January 2012. This contract was extended twice and ultimately ended on 31 July 2013.
- 1.3.4. The fourth contract (HO11/2012) was awarded on 11 June 2013 for a period of three years, commencing on 01 August 2013, ending 31 July 2016. The scope of the contract was expanded to include Groenpunt and Bizzah Makhathe Management Areas. Furthermore, the contract was extended for the period of six months which ultimately ended on 31 January 2017.
- 1.3.5. The current contract (**HO3/2016**) was awarded on 19 December 2016 for a period of three years, commencing on 01 February 2017, ending 31 January 2020.
- 1.3.6. The value of all the above mentioned contracts is outlined in **Annexure A.**
- 1.3.7. However, a written notice of termination of contract has been served.

1.4. The Zondo Commission

1.4.1. The Zondo Commission into State Capture heard evidence by the former COO of AGO which placed evidence which implicated some DCS officials in

- acts of alleged impropriety.
- 1.4.2. The Commission focused *inter alia* on the SIU investigation and subsequently raised concerns in the public and financial institutions.
- 1.4.3. Financial institutions have subsequently notified AGO that they will be terminating services to the company.

1.5. Liquidation of African Global Operations

- 1.5.1. African Global indicated to DCS in writing on 18 February 2019, on its Voluntary Liquidation status whereby they sighted closure of their banking accounts by financial institutions as the main reason.
- 1.5.2. In previous correspondence dated 08 February 2019 (received on 15 February 2019), the service provider notified the department that its suppliers are also withdrawing their facilities and in some instance refusing to do business with them.

1.6. Business Continuity Risks and Mitigation

- 1.6.1. If AGO cannot continue with its operations this will cause risks as indicated below in case DCS is unable to put in place adequate mitigation on nutrition services.
 - i. Legal Risks: DCS is legally mandated in terms of the constitution and section 8 of the Correctional Services Act, 111 of 1998 (Act) as amended to provide inmates with food. This will lead to dissatisfaction and possible propel instability by inmate resulting in riots.
 - ii. **Security Risk**: Where inmates are not provided with meals as prescribed it will no doubt lead to dissatisfaction and instability by inmates and possibly even the families of inmates which poses a serious security risk for inmates, staff and the community.
 - iii. **Financial Risks**: Any actions flowing from litigation or instability in correctional centres will have negative financial risks and no doubt advance the negative public perception against DCS.
 - iv. **Health Risk**: any interruption of nutritional services may lead to inherent risk associated with poor nutrition.

- 1.6.2. In light of the above background and the associated risks it is absolutely imperative for the department to implement contingency measures so as to ensure continuity of nutritional services at the various management areas where the service provider is currently contracted.
- 1.6.3. In this regard, Regions have instructed to procure stock reserves for perishable and non-perishable food items which would sustain the operations at various correctional centres during immediate transition.
- 1.7. This contingency plan is part of the risk mitigation plan in the event the supplier is unable to secure meals for inmates, during transition period.

2. DISCUSSION

- 2.1. The departmental policy on nutrition services was developed based on the Bill of Rights section 27 of the Constitution as well as section 8 of the Correctional Services Act 111 of 1998, as amended, mandates the department to provide inmates with meals in order to meet their nutrition, religious, cultural and health needs.
- 2.2. There are currently 239 operational Correctional Centres in South Africa with an average population of 162 000 offenders as of end of January 2019 with 226 kitchens. Out of the 226 kitchens, 31 provide nutrition services through an outsourced service to 49 246 offenders (30%) while 112 754 offenders (70%) receive nutrition services in-house.
- 2.3. The Department has a total of 46 Management Areas, where eight (8) of these areas are utilising an outsourced service. In 2017, the Department of Correctional Services (DCS) and African Global Operations (AGO), formally known as AGO (Pty) Ltd entered into a contract for the provision of nutrition to seven (7) management areas, covering 26 kitchens. This was a three (3) year contract, effective from 01 February 2017 to 31 January 2020. The seven management areas accommodates 46 434 inmates, which is 29% of the total inmate population. The 8th management is Waterval, KwaZulu-Natal being serviced by C3 Food Services

2.4. **Table 1** below indicates the location of the 26 outsourced kitchens which are managed by African Global Operations which accommodates 46 434 inmates (29%).

Table: 1 Outsourced Management Areas as of end of January 2019:

Region	Management Area	Services Provider
Eastern Cape	St Albans (5 kitchens)	African Global Operations
Gauteng	 Johannesburg (4 kitchens) Kgoši Mampuru (4 kitchens) Krugersdorp (1 kitchen) Modderbee (3 kitchens) (12) 	African Global Operations
KwaZulu-Natal	Durban Westville (6 kitchens)	African Global Operations
Western Cape	Pollsmoor (3 kitchens)	African Global Operations

2.5. It should be noted that as from 01 February 2019, the contract for uKweza Holdings came to an end on 31 January 2019. *Two kitchens from Groenpunt Management Area are now successfully insourced.*

3. DCS IMMEDIATE IMPLEMENTATION PLAN: STABILISATION AND NORMALISATION OF DCS NUTRITION SERVICES

- 3.1. The above has necessitated the Department of Correctional Services to embark on a business continuity plan to ensure that provision of nutrition is not interrupted. Prior to any representation made to at the Zondo Commission, the Department had already embarked on the process to take over all the facilities from 01 February 2020. DCS did not renew the contract for Groenpunt that expired on 31 January 2019 and had developed a process to insource in anticipation of termination of contract.
 - Management decided to set up a war room, capacitated with work streams captains, working on an in-depth operational plan which will immediately kick in to facilitate a seamless transition in the event there is disruption of services. This resulted in the development of a mitigation plan, which will mitigate both the identified and emerging risks.

- 3.2. In improving Good Governance, the Department has engaged with the National Treasury so as to assist in addressing some of challenges that may arise during the transitional phase. The Department has developed an alternative food services plan that will ensure insourcing of services with its core effective service delivery.
- 3.3. Catering Services for the 26 DCS kitchens have been prepared for readiness to be available with immediate effect should a service provider terminate within 24 hours. Immediate DCS work streams focus on the following:
 - Finance and Supply Chain (procurement);
 - Organisational and Personnel Implications;
 - Offender Skills Development; and
 - Facilities including Asset Management.
 - Security

3.4. Finance and Supply Chain

3.4.1. Procurement of food:

The Department has issued an instruction, closely monitored by Head Office, on Monday, 18 February 2019 to all identified kitchens to procure rations based on Nutrition policy to sustain the kitchens during the transition period. This process will ensure stock availability in all management areas.

3.4.2. Offender Skills Development

We have expedited the training of offenders which will commence on 08 March 2019. This is necessary to ensure that inmates who involved in preparing food in kitchens under the supervision of inmates are adequately equipped with the required skills.

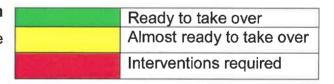
3.5. Organisational and Personnel Implications

- 3.5.1. Functional Kitchens should have the following:
 - Supervisor/ Divisional Head Nutritional Services
 - Caterers
 - Store Clerks
 - Ration Clerks
 - Security Services

- 3.5.2. For the immediate intervention, the roles related to dieticians and management of food services have not been prioritised as Management Areas/Centres are directed to make alternative arrangements as an immediate/short term measures, i.e. for dietician services, inmates will be referred to the nearest public health care facility, as is the case currently with insourced nutritional services.
- 3.5.3. Three options for securing the immediate capacity are as follows:
 - <u>Option 1</u>: Deployment of current DCS employees who have already been trained on food services management, but are not employed in the kitchens.
 - Option 2: Consideration of employment of AGO staff currently in affected kitchens, on a contract basis, until permanent positions are created and filled via normal recruitment processes.
 - Option 3: The last option would be to secure urgent recruitment in order for the required minimum resources to be recruited within a short period of time.
- 3.5.4. The Department has initiated engagement with organised and recognised labour formations represented within the Departmental Bargaining Chamber (DBC) on the human resource implications associated with the intended insourcing of nutritional services.

3.5.5. Provincial Analysis

Legend (Based on war room information): Readiness to take over from the service provider:



3.5.6. Gauteng Region



- **Dietician Services** will continue to be rendered in line with the current practise of our insourced centres (through the Department of Health);
- Divisional Head Nutritional Service: we have sufficient number of staff available across all centres;
- Caterers: we have sufficient number of staff available across all centres;
- Storeman and Ration Store Clerks: we have sufficient number of staff

available across all centres.

3.5.7. KwaZulu-Natal (Durban Management Area):



- **Dietician Services** will continue to be rendered in line with the current practise of our insourced centres (through the Department of Health);
- Divisional Head Nutritional Service: we have sufficient number of staff available across all centres;
- Caterers: we have sufficient number of staff available across all centres;
- Storeman and Ration Store Clerks: we have sufficient number of staff available across all centres;

3.5.8. Eastern Cape: St Albans and Patensie:



- **Dietician Services** will continue to be rendered in line with the current practise of our insourced centres (through the Department of Health);
- Divisional Head Nutritional Service: we have sufficient number of staff available across all centres;
- Caterers: we have sufficient number of staff available across all centres:
- Storeman and Ration Store Clerks: we have sufficient number of staff available across all centres.

3.5.9. Western Cape Region (Pollsmoor):



- Dietician Services will continue to be rendered in line with the current practise of our insourced centres (through the Department of Health);
- Divisional Head Nutritional Service: we have sufficient number of staff available across all centres and ready to take over immediately;
- Caterers: we have sufficient number of staff available across all centres and ready to take over immediately;
- Storeman and Ration Store Clerks: we have sufficient number of staff available across all centres and ready to take over immediately.

3.6. Assets and Kitchen Equipment:

3.6.1. Most of the kitchen equipment was bought through AGO contract and we are currently verifying assets in these facilities.

- 3.6.2. Legal steps are also being considered by the department in order to engage with AGO in case they challenge the department by removing such assets from facilities.
- 3.6.3. The following centres are classified as High Risk should the service provider remove such:
 - Johannesburg (Med A and B)
 - Kgosi Mampuru (Odi and Central)
 - Pollsmoor (Med A and B including Remand)
 - Durban (Med A, B, C D and Female

3.7. Engagements with the Liquidators

On 26 February 2019, the department has met with the liquidators and established that service will continue to be rendered during the 30 day notice period ending 24 March 2019.

Conclusion

Although the Department has limited resources it has put mechanisms in place in order to manage the transition of insourcing within the short period of time and the normalisation of services on the medium to long term.

MR A FRASER

NATIONAL COMMISSIONER: CORRECTIONAL SERVICES

DATE: 2019/02/27

ANNEXURE A

Table: Contracts awarded to BOSASA and its subsidiaries

CONTRACT	DESCRIPTION	AWARDED TO	VALUE
	2004/05-FINANCIAL YEAR	AR	
HK 2/2004	Rendering of catering, training and related	Bosasa Operations	±R 718 283 082. 00
Contract	services at the seven large Management	(Pty) Ltd	
	Areas:		
	From: 01 August 2004 to 31 July 2007		
	Approved: 27 July 2004		
	2005/06-FINANCIAL YEAR	AR	
HK 2/2005	Supply, delivery, installation, commissioning,	Sondolo IT	R 236 997 385-31
Contract	support and maintenance of a comprehensive		
	access control and body scanning system with		
	CCTV coverage of Department of Correctional		
	Services staff and inmates, at 66 Maximum		
	Security Facilities/Centres of Excellence		
	Maintenance for four-year period:		
	From: 01 April 2007 to 31 March 2011		
	Approved: 11 April 2005		

CONTRACT	DESCRIPTION	AWARDED TO	VALUE
NUMBER			
HK 2/2005 1 ST Expansion	Staffing of control rooms for a period of thirty-nine (39) months, ending 31 March 2009.	Sondolo IT	R214 092 000. 00
	Approved: 04 August 2005 Service Level Agreement signed on 22 December 2005		
HK 24/2005 Contract	delivery, installation ng of security outer por taut wire detection inne	Phezulu Fencing (Pty) Ltd	R 486 937 910, 36
	and CCTV surveillance cameras: Various Centres. Maintenance for four-year period:		
	Approved: 29/11/2005		
HK 25/2005 Contract	Supply, delivery, installation, commissioning and maintenance of television systems and monitors to all Correctional Centres within the Department of Correctional Services Maintenance for four-year period: From: 01 September 2008 to 31 August 2012 Approved: 03 March 2006	Sondolo IT	R 224 364 480. 00
	2006/07-FINANCIAL YEAR	EAR	
HK 5/2006 Contract	Rendering of Full Facilities Management Services (which include catering services) at Waterval Management Area (Utrecht) (all Correctional Centres), for a five-year period	Bosasa Operations (Pty) Ltd	R 123 253 955. 65

CONTRACT	DESCRIPTION	AWARDED TO	VALUE
	From: 01 October 2006 to 30 September 2011 Approved: 30 August 2006		
	2007/08-FINANCIAL YEAR	AR	
HK 2/2004\ 1 ST Extension	One year extension from 01 August 2007 to 31 July 2008.	Bosasa Operations (Pty) Ltd	± R 254,167,261. 63
	Approved: 25 July 2007		
HK 24/2005 1 ST Expansion	Variance on HK 24/2005 approved by National Bid Adjudication Committee on 11 December 2007.	Phezulu Fencing (Pty) Ltd	R 29 817 386. 85
	2008/09-FINANCIAL YEAR	AR	
HK 2/2004 2 ND Extension	Six months extension from 01 August 2008 to 31 January 2009.	Bosasa Operations (Pty) Ltd	± R 271 589 908. 74
HK 2/2005 1 ST Extension (Staffing)	Approved: 04 July 2008 Extension of the Service Level Agreement for staffing of control rooms for a period of one (1) month, ending 30 April 2009.	Sondolo IT	R 5 352 300. 00
HK 14/2008	ST March 2009	Carolitana Carolitana	+ D 020 000 126 00
Contract	<u> </u>	bosasa Operations (Pty) Ltd	± K 639 392 436. 39

CONTRACT	DESCRIPTION	AWARDED TO	VALUE
	unit equipment, cleaning services of the food service units and training of offenders at seven Management Areas.		
	From: 01 February 2009 to: 31 January 2012 Approved: 08 December 2008		
	2010/11-FINANCIAL YEAR	AR	
HK 25/2005 1st EXPANSION	Variance on HK 25/2005 approved by National Sondolo IT Bid Adjudication Committee.	Sondolo IT	R 7 081 553-13
	Approved: 16 March 2011		
HK 2/2005 1st Extension (Contract)	Supply, delivery, installation, commissioning, support and maintenance of a comprehensive access control and body scanning system with CCTV coverage of Department of Correctional Services staff and inmates, at 66 Maximum Security Facilities/Centres of Excellence. From: 01 April 2011 to: 31 March 2012	Sondolo IT	±R47 700 000.00
	Approved: 29 March 2011		
	2011/12-FINANCIAL YEAR	AR	
HK 5/2006 1 ST Extension	11 Months extension. Rendering of Full Facilities Management Services (which include catering services) at Waterval Management Area (Utrecht) (all	Bosasa Operations (Pty) Ltd	R 46 990 715-61

CONTRACT	DESCRIPTION	AWARDED TO	VALUE
	Correctional Centres).		
	From: 01 March 2012 to 31 January 2013 Approved: 31 January 2012		
HK 14/2008 1 ST Extension	Rendering of full food provisioning services, full maintenance of food services unit equipment, cleaning services of the food service units and training of offenders at seven Management Areas.	Bosasa Operations (Pty) Ltd	R 410 778 704-78
	From: 01 February 2012 to 31 January 2013 Approved: 31 January 2012		
	2012/13-FINANCIAL YEAR	AR	
HK 5/2006 2 ND Extension	6 Months extension. Rendering of Full Facilities Management Services (which include catering services) at Waterval Management Area (Utrecht) (all Correctional Centres).	Bosasa Operations (Pty) Ltd	R 26 430 117-48
	From:01 February 2013 to 31 July 2013 Approved: 21 January 2013		
HK 14/2008 2 ND Extension	6 Months extension. Rendering of full food provisioning	Bosasa Operations (Pty) Ltd	R 211 408 185. 60

CONTRACT	DESCRIPTION	AWARDED TO	VALUE
	services, full maintenance of food services unit equipment, cleaning services of the food service units and training of offenders at seven Management Areas.		
	From: 01 February 2013 to 31 July 2013 Approved: 21 January 2013		
	2013/14-FINANCIAL YEAR	AR	
HO 11/2012 Contract	Rendering of full food provisioning services, full maintenance of food services unit equipment, cleaning services of the food service units and training of offenders at eight Management Areas. From: 01 August 2013 to 31 July 2016 Approved: 11 June 2013	Bosasa Operations (Pty) Ltd	R 1 311 400 191, 04
HO 11/2012 1 ST Expansion	Rendering of full food provisioning services, full maintenance of food services unit equipment, cleaning services of the food service units and training of offenders at eight Management Areas. (Inclusion of 9th Management Area: Groenpunt Management Area for a period of 12 months)	Bosasa Operations (Pty) Ltd	R 36 339 147. 36

CONTRACT	DESCRIPTION	AWARDED TO	VALUE
	Approved: 04 December 2013		
	2014/15-FINANCIAL YEAR	AR	
HO 11/2012	24 Months extension.	Bosasa Operations	R 46 536 595. 98
2 ND Expansion	Rendering of full food provisioning services, full maintenance of food services	(Pty) Ltd	
	unit equipment, cleaning services of the food service units and training of offenders at eight		
	Management Areas. Kroonstad Management		
	7000		
	From: 01 October 2014 to: 31 July 2016 (2		
	years)		
	Approved: 02 September 2014		
	2016/17-FINANCIAL YEAR	AR	
HO 11/2012	8 Months extension.	Bosasa Operations	R388 754 836. 66
1st Extension	Rendering of full food provisioning	(Pty) Ltd	
	services, full maintenance of food services		
	unit equipment, cleaning services of the food		
	Management Areas.		
	Kroonstad Management Area		
	(Was only extended for a period of 6		
	months)		
	From: 01 August 2016 to 31 January 2017 (6		

CONTRACT	DESCRIPTION	AWARDED TO	VALUE
	Approved: 07 September 2016		
HO 03/2016	Provision and management of food services, Bosasa (maintenance of food service equipment and units, and training of officials and offenders on food services at ten (10) Management Areas for a period of three (3) years except for Bizzah	Bosasa Operations (Pty) Ltd	R1 547 337 068. 16
	Makhate & Groenpunt Management Areas which is two (2) years.		
	From: 01 February 2017 to: 31 January 2020 to: 31 January 2019 Approved: 19 December 2016		