



public enterprises

Department:
Public Enterprises
REPUBLIC OF SOUTH AFRICA

Performance of Contract Report

Alexkor/ Alexkor RMC PSJV Administrator's Report

Report to Study Group

25 May 2020

1 Background

- 1.1 Mr Lloyd McPatie was appointed to assume the role of the administrator consequently the role of the Board and develop a turnaround plan for Alexkor and Alexkor Richtersveld Mining Company Pooling and Sharing Joint Venture (Alexkor RMC PSJV). Mr McPatie was appointed for a period of six months from September 2019 to March 2020.
- 1.2 The service agreement concluded between the Department and the Administrator, provides that the responsibilities of the Administrator include but are not limited to: 1) ensuring sustainability at Alexkor and the Alexkor RMC PSJV, 2) developing the optimum shareholding structure for the State's marine diamond resources; and 3) assisting in the rooting out of corruption and mismanagement at the Alexkor RMC PSJV.
- 1.3 Upon extensive assessment of the final report by the Administrator to the Minister of Public Enterprises, February 2020' as well as other reports. The Department concluded that the Administrator did not meet the expectation as per the outlined deliverables. There were a number of shortcoming identified in the reports and as a result the Department could not rely on the entirety of the report
- 1.4 The Department has since written to the Administrator informing him of our dissatisfaction with his performance. The matter is yet to be concluded.
- 1.5 The Department's assessment of the Administrator's performance is detailed in the table below.

Performance Assessment Alexkor/Alexkor RMC PSJV Administrator

Assigned Tasks	Expectation	Evidence	% Completion
1 Undertake an extensive review and analysis of the contract mining and revenue-sharing models between the Alexkor RMC PSJV and the contractors and provide proposed solutions	<p>A comprehensive review of the current marine and land mining contracting models applied at the PSJV to assess the possibility of the PSJV to increase the current revenue sharing split</p> <p>The Report should provide possible revenue returns based on the proposed solutions</p>	<p>The Report contains some level of detail with respect to the type of contracting models currently applied at the PSJV and the proposed future consideration with regards to the revenue sharing arrangements.</p> <p>There are no economic and financial assessments of the proposed alternatives and the preferred option.</p> <p>The risk for the Department is unable to rely on information in the absence of clearly substantiated evidence supporting the proposals.</p> <p>The section of the Report is attached as Annexure 2</p>	60%
2 Review the Alexkor and the Alexkor RMC PSJV cost structure to ensure that procurement of goods and services is at fair value and warranted	<p>A review of the cost structures of the two entities and an assessment of the procurement process to determine if proper procedure are followed.</p>	<p>The Alexkor and PSJV procurement policies were compared and negligible differences were identified. The PSJV is an unincorporated entity, the entity is not governed by PFMA and Companies Act prescripts. The section is attached as Annexure 3</p> <p>There is no assessment of the cost structures of the two entities</p> <p>The Report states that due to the financial position of the two entities the assessment of the cost structures of the two entities would not provide</p>	40%

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		adequate indication of whether the procurement of services and goods are fair or warranted	
3	Remove the duplicate functions at Alexkor Head Office and Alexkor RMC PSJV with particular focus on executive and overhead expenses as well as to identify and implement other remedial and cost reduction intervention plans and/or initiatives	<p>A review of the functions of the executives at the head office and at the PSJV and proposal of the functions that can be collapse into the PSJV to reduce the head office costs.</p> <p>The report makes proposals in respect of a revised proposed structure suffice to say that Alexkor be wound up if there is no cash injection or recapitalisation of both entities by Government alternatively a private partner. The report states that due to the proposed winding up of Alexkor, and retrenchment of staff there is no proposal on the removal of duplicate functions as Alexkor will cease to exist in the future.</p>	40%
4	Launch an Investigation into any contractual impropriety and if needs be terminate marketing and sales contract with Scarlet Sky Investments (Pty) Ltd. (SSI) and propose solutions/options for the establishment of own or State Diamond Trader-related diamond marketing and sales channel;	<p>Implementation of the Gobodo Forensic Report findings on the PSJV operations.</p> <p>Proposals on alternative diamond sales and marketing company to replace SSI</p> <p>The Administrator highlighted that a letter of termination has been prepared and will be forwarded upon the conclusion of the diamond sales in the month of February 2020. Further information or progress with regards to the action is not provided in the report for the Department consideration.</p> <p>Alexkor has applied for diamond marketing and trading license, approval is awaited from the South African Diamond and Precious Metals Regulator to enable Alexkor to sell their diamond upon termination of SSI contract.</p>	60%

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		The Report fails to explore alternatives for the diamond marketing and sales, instead providing one single option, the pursuit of its own license by Alexkor from the Regulator. Other options have not been explored.	
5	Develop a revenue-enhancing plan with emphasis on contracting for mid and deep water mining operations;	<p>An assessment of the contracting models of the mid and deep water mining operations and the revenues generated from the operations.</p> <p>Determine opportunities for enhancing the current marine operations and revenues</p>	40%
6	Propose a right-sizing model for Alexkor and Alexkor RMC PSJV in line with the income streams	<p>Assessment of the income streams generated by the Alexkor and PSJV and propose the operational staff requirement aligned to the revenues generated.</p> <p>The report on the task was submitted to the Department in December 2019.</p> <p>The proposal lacks detail and only includes an organogram indicating executive level positions. At minimum the Report should include operational staff required for the size of the operation and alignment to the revenues generated</p>	20%
7	Manage the rooting out of corruption and State Capture related practices and individuals at	<p>Identify corruption related practise at Alexkor and PSJV and take necessary</p> <p>A PSJV CEO was suspended on 31 January 2020, consequently the</p>	60%

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Alexkor and Alexkor RMC PSJV:	steps to address these practises within the applicable legal prescripts	<p>incumbent reported the suspension to the CCMA.</p> <p>The report does not advise of the charges brought against the CEO as there were a number of findings highlighted by the Gobodo Forensic Investigation commissioned by the Department.</p> <p>The Report is silent on the contingency measure put in place by the Administrator or the status of the PSJV's performance since the CEO was suspended.</p>	
<p>8 Optimal Corporate Structure:</p> <p>8.1 Determine the optimal shareholding structure of the state's marine diamond resources;</p> <p>8.2 Incorporate the Alexkor RMC PSJV to ensure adherence to the Act and Proper Corporate Governance provisions; and</p> <p>8.3 Obtain in collaboration with the Department the support of the Richtersveld Communities and their appropriate entities into implementation of the Alexkor RMC PSJV restructuring interventions.</p>	A report on various options to be considered by the Department on the optimal shareholding structure of the state's marine assets including associated implications of the proposed options	<p>The report proposes four high level options for Government to consider. There is no economic, social, financial and legal etc. assessment indicating the risk and opportunities of the proposed options.</p> <p>The Report fails to provide any information on any engagements that Administrator held with Richtersveld community</p>	20%

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Assigned Tasks	Expectation	Evidence	% Completion
9 Develop in collaboration with the Department a Key Stakeholder Engagement Plan to ensure support for the implementation of the above plans	<ul style="list-style-type: none"> – Monthly Reports indicating progress on each task – Notification of any matters affecting Alexkor/ PSJV – Compliance Reports (Quarterly reports) – PFMA and SMF transactions that require Ministerial support/ approval 	<p>The following reports/ letters were received from the Administrator during his tenure.</p> <ul style="list-style-type: none"> i. October 2019 - February 2020 Monthly Reports ii. Alexkor Request to utilise MTEF Funds iii. Resignations of the CFO and Financial Manager iv. Quarter 3(Sept – Dec 2019) Report v. PSJV Business Plan vi. Section 54(2) e application - Cessation of Significant Business Activity vii. Approval and Funding of the Alexkor Offices viii. Illegal Mining Activities Report ix. Legal opinions on: (1) options should Alexkor cease to exist and (2) the suspension of the Alexkor CEO 	80%
9.1 Develop a long term plan (operational, financial, social, and environmental) for the mine			
9.2 As the accounting authority on behalf of Alexkor, the Administrator must also			
9.2.1 Take decisions on behalf of Alexkor and give effect to those decisions;			
9.2.2 Provide guidance and management oversight to the Chief Executive Officer concerning the functions of Alexkor;			
9.2.3 Report regularly and at least monthly to the Minister through the Department on the work done and progress made regarding the state of Alexkor and Alexkor RMC PSJV;			
9.2.4 Notify the Minister through the Department immediately of any matter that may prevent or materially affect the achievement of the objectives or financial targets of Alexkor and Alexkor RMC PSJV;			
9.2.5 Generally, refer to the Minister through the Department any matter that may affect the functioning of Alexkor and Alexkor RMC PSJV; and			
9.2.6 Notwithstanding the aforesaid, the Administrator shall at all times interact with the Department and where assistance is			



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required, submit the required motivation with the relevant cost to the Department for consideration and/or approval.			
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