



PARLIAMENT COMMITTEE.

27 May 2020

AGENDA

- **PREAMBLE**
- **TERMS OF REFERENCE**
- **DEPARTMENT OBLIGATIONS**
- **OTHER MATTERS**
- **RECOMMENDATIONS**
- **OUTSTANDING MATTERS**

PREAMBLE

- Administrator was appointed on 12 September 2019 for a 6 month period
- Contract was concluded 2 weeks earlier on 28 February 2020
- Administrator occupied the following roles:
 - Executive Chairperson of Alexkor
 - Chairperson of the Pooling and Sharing Joint Venture (PSJV)
 - Chairperson of the Rehabilitation Trust

TERMS OF REFERENCE

1. Undertake an extensive review and analysis of the contract mining and revenue sharing models between the Alexkor Richtersveld Mining Company (RMC) PSJV and the contractors and provide proposed solutions
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
3. Remove the duplicate functions at Alexkor Head Office and Alexkor RMC PSJV with a particular focus on executive and overhead expenses as well as to identify and implement other remedial and cost reduction intervention plans and/or initiatives
4. Launch an investigation into any contractual impropriety and if needs be terminate marketing and sales contract with Scarlet Sky Investments (SSI) and propose solutions/options for the establishment of own or State Diamond Trader related diamond marketing and sales channel
5. Develop a revenue enhancing plan with emphasis on contracting for mid and deep-water mining operations
6. Propose a right sizing model for Alexkor and Alexkor RMC PSJV in line with the income streams
7. Manage the rooting out of corruption and State capture related practices and individuals at Alexkor and Alexkor RMC PSJV

TERMS OF REFERENCE continued

8. Optimal corporate structure
 1. Determine the optimal shareholding structure of the state's marine diamond resources
 2. Incorporate the Alexkor RMC PSJV to ensure adherence to the Act and proper Corporate Governance provisions
 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
9. Develop in collaboration with the Department a Key Stakeholder Engagement Plan to ensure support for the implementation of the above plans

1. REVIEW AND ANALYSIS OF THE CONTRACT MINING AND REVENUE SHARING MODELS

- The mine uses contract miners and the revenue splits are in favour of the contractors – this is as a result of a lack of geological information
- Future contracts' revenue splits will be determined on a scientific basis and be more equitable to both the PSJV and the miners
- Current contracts revenue splits are currently under review
- Contracts will be performance based
- Performance based contracts will enable the management to focus on the top producers and to use this system when contracts are reviewed

2. REVIEW THE COST STRUCTURE TO ENSURE THAT PROCUREMENT OF GOODS AND SERVICES IS AT FAIR VALUE AND WARRANTED

- Alexkor's Supply Chain Management policies comply with the Public Finance Management Act (PFMA)
- The PSJV's Supply Chain Management Policies largely comply with the PFMA
- The discrepancies are not significant and could be overlooked because of the PSJV's geographical location
- Due to the financial situation at both the PSJV and Alexkor, there is not much procurement taking place unless something is necessary to keep the operations going
- A focus area going forward should be the usage of fuel cards at the PSJV. The Acting Chief Financial Officer was tasked to monitor this expense going forward

3. REMOVE DUPLICATE FUNCTIONS AT ALEXKOR HEAD OFFICE AND THE PSJV

- Proposed to Department of Public Enterprises:
 - Close the Johannesburg office
 - Migrate the functions to the Department – mainly financial functions
 - Staff to be retrenched with options for settlement
 - CEO to be relocated to the mine in Alexander Bay
- Current Rental Agreement:
 - The Johannesburg office has approximately 16 months left of its current lease agreement.
 - The cancellation of the rental agreement will result in a penalty of approximately R2.3m, which is the rent for the remainder of the contract.
 - In January 2020, the Department officials undertook to meet with the Managing Agent to discuss a possible reduction in the penalty.
- Staff:
 - The staff at the Johannesburg office are all on fixed term contracts
 - Reported the potential retrenchments to the Council for Conciliation Mediation and Arbitration (CCMA).
 - The Chief Financial Officer (CFO) and the Financial Manager (FM) resigned with immediate effect on 31 December 2019, citing constructive dismissal due to the lack of decision making regarding the future of Alexkor and the financial situation that the company is trading in, as they are both Chartered Accountants.
- A letter requesting permission to start a Section 189 process was sent to the Department in early February 2020

4. LAUNCH AN INVESTIGATION INTO ANY CONTRACTUAL IMPROPRIETY

- The diamonds from the mine are marketed and sold in Johannesburg by Scarlett Sky Investments (SSI) on a monthly basis
- The appointment of SSI to do the marketing and selling of the diamonds is questionable from a governance perspective as SSI does not have a diamond trading license
- SSI was originally appointed in 2014 for a period of 3 years and reappointed in 2016 for a period of 5 years
- Alexkor has applied to the South African Diamond and Precious Metals Regulator (SADPMR) for a diamond-trading license to enable the company to market and sell its own diamonds on various platforms and thus being able to cancel the SSI contract
- It was anticipated that the license will be issued by end of February 2020

5. DEVELOP A REVENUE ENHANCING PLAN WITH EMPHASIS ON CONTRACTING FOR MID AND DEEP-WATER MINING OPERATIONS

- International Mining and Dredging South Africa (IMDSA) is currently contracted to mine the deep waters.
 - The current revenue split with IMDSA is 85:15 in favour of IMDSA.
 - IMDSA provided a proposal to do the exploration of both the land and the marine concessions.
 - The execution of the proposal from IMDSA will cost approximately \$22.5m.
 - The risks associated with exploration programmes, is that there is no guarantee of a sustainable resource after incurring the costs.
- The revenue split of the current and future mid and deep water contracts is being reviewed
- Bigger boats are being used in the mid water as this will assist during the winter months when fewer sea days are available because of inclement weather.
- A mid-year shutdown from mid June to mid July has been recommended

6. PROPOSE A RIGHT SIZING MODEL FOR ALEXKOR AND ALEXKOR RMC PSJV IN LINE WITH THE INCOME STREAMS

- This is dealt with under the section, “*Remove duplicate functions*” on slide 8.
- A proposed structure was sent to the Department on 17 December 2019.
- The PSJV currently only has one Geologist which is totally inadequate for a mining operation.
- The option of liquidation of the PSJV was proposed to the Department in January 2020:
 - A legal opinion on the closure of the PSJV operations was obtained and shared with the Department.
 - The Department undertook to assess the legal opinion and to have a follow up meeting with the legal advisor to get an in-depth understanding of the potential legal implications.
 - Successful liquidation depends on the Communal Property Association (CPA) being properly constituted.

7. MANAGE THE ROOTING OUT OF CORRUPTION AND STATE CAPTURE RELATED PRACTICES

- The Department hired Gobodo Forensic Services to perform a forensic investigation.
- A legal firm was engaged to formulate charges against all implicated individuals and/or companies emanating from the Gobodo report.
 - Charges have been formulated and presented to the CEO of the PSJV.
 - A suspension letter with charges were sent to him on Friday 31 January 2020.
 - The CEO has since reported his suspension to the CCMA
 - A disciplinary hearing will be scheduled after the CCMA process to ensure that the CEO does not continue to benefit from the PSJV while on suspension.
 - The Sales and Marketing contract awarded to SSI was found to be irregular.

8. OPTIMAL CORPORATE STRUCTURE

Proposal to Department:

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Option 1 - Liquidate

- Alexkor has funding until the end of March 2020 and should be placed under liquidation, as it cannot generate cash flows to continue operating.
- The company is currently trading recklessly in terms of Section 22 of the Companies Act, as it cannot meet its financial obligations.
- The PSJV is technically insolvent and cannot trade itself out of its current financial situation. Alexkor impaired a R200m loan in the 2018/19 financial year that was provided to the PSJV.
- The PSJV currently has outstanding debts of approximately R100m which includes statutory payments such as PAYE, VAT and Pension Fund Contributions.
- This will be reduced to R45m by the financial year end but the PSJV will not be able to meet its financial obligations during the winter months when carat production is low.
- After the liquidation process, a new corporatised and adequately recapitalised entity could be established.

8. OPTIMAL CORPORATE STRUCTURE continued

Proposal to Department cont.

Option 2 - Recapitalise:

- If the mine were to continue, it would need to be recapitalised.
- The budget required to do the exploration is approximately R400m.
- The debt excluding the loan to Alexkor is around R100m.
- Further funding will be required to adequately staff the mine with the correct levels of technical skills.
- If a decision is taken to recapitalise the PSJV, the Deed of Settlement (DoS) and the Unanimous Resolution (UR) must be set aside by a court of law and a Partnership Agreement between Alexkor and the PSJV must be entered into.

8. OPTIMAL CORPORATE STRUCTURE continued

Proposal to Department:

Option 3 - Sale to Private Sector:

- The marine mining right can be sold to the private sector to partner with the community.
- It will be a hard sell as the exploration has not been done and there is no tangible value in the mining right without understanding the resource.

Option 4 - Put Option:

- Government can exercise its put option only when the Communal Property Association (CPA) is established.

9. DEVELOP IN COLLABORATION WITH THE DEPARTMENT A KEY STAKEHOLDER ENGAGEMENT PLAN

- A Stakeholder engagement plan was submitted to the Department with the October month end report
- The key stakeholder is the CPA, which is not properly constituted and was placed under administration.

DEPARTMENT OBLIGATIONS AS PER CONTRACT

- Timeously provide the Administrator with all available information and data that may be required by the Administrator for the rendering of the Services
- The Minister and/or the Department are required to render assistance or take decisions which impact on the performance of the Administrator, such decision/s and/or assistance shall be provided without unnecessary or unreasonable delay
- Ensure that Alexkor makes available the adequate working space and necessary facilities required by the Administrator to render the Service, including desk space, etc

Financial Position

- A significant portion of Alexkor's monthly operational costs is related to the management of the town of Alexander Bay
- The PSJV will run into financial difficulties during every winter period due to the lack of sea days that results in less diamonds being mined resulting in insufficient cash being generated from its operations.

Township Handover

- The town of Alexander Bay was established in 2013.
- In the past seven years hardly any progress has been made in handing over the town to the Municipality.
- Alexkor maintains the town at significant cost to the company and has 32 employees based in Alexander Bay for this purpose.
- There must be a concerted effort to hand over the services to the Municipality.
- Alexkor has a substantial property portfolio in Port Nolloth and Alexander Bay.
- The properties must be disposed of as the rent that is currently being collected is not economically feasible and those properties that must be transferred to the Municipality must be done.
- The current rent collected is around R3.6m per annum compared to the salary bill of the maintenance team which is around R7.5m per annum.
- Alexkor is also currently paying the water and electricity for the entire town which equates to approximately R6m a year and this expense is not recovered from the tenants as most of them do not pay for services.

OUTSTANDING MATTERS

- The CEO of the PSJV is currently suspended for various charges related to the findings of the Gobodo Forensic Report
- The license application with the SADPMR is completed. The SADPMR had follow up questions to which we responded. The Alexkor Company Secretary is handling this matter
- The staff at the Alexkor Head Office reported the company to the CCMA for unfair labour practice. The matter is still to be attended to at the CCMA but a date has not been set as yet
- The Rehabilitation Trust hasn't committed to any rehabilitation. It will be important to attend to this in the medium to short term
- The town must be handed over to the Alexander Bay Municipality
- If Government wants to assist this community, other options such as agriculture should be considered
- Illegal mining has started on the PSJV license area and they illegal miners are armed and aggressive. A task team will need to be established to deal with this.

Thank you