



July 13, 2021

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Enq: L Lekgetho

Ms A F Muthambi, MP
Chairperson: Portfolio Committee
Co-operative Governance and Traditional Affairs
Parliament of South Africa
Cape Town

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Dear Honourable Muthambi

**Re: THE SPECIAL INVESTIGATING UNIT RESPONSE TO FURTHER QUESTIONS
FROM THE MEETING OF THE PORTFOLIO COMMITTEE ON COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS HELD ON 8TH JULY 2021**

During the portfolio Committee meeting of the 8th of July 2021, the Chairperson requested the SIU to submit a written response to the following questions:

1. Slide 28 – is Disciplinary Action Board established by the Nelson Mandela Bay Metropolitan Municipality functional.

Answer: Yes, the DC Board is functional because we are getting constant feedback from the municipality in terms of the disciplinary process and requests for documents.

2. In all the municipalities we are investigating, did we engage/ interview MPAC?

Answer: On the Covid-19 investigations, MPAC was not engaged/ interviewed because we did not require their inputs.

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3. O.R Tambo Municipality. Were the politicians not involved in the identified irregularities?

Answer: As SIU investigations are allegations based and findings are evidence based. In the O.R Tambo Municipality, to date we have not received allegations regarding any politician nor received any evidence pointing to any politician. However, the investigations do focus on determining responsibility and accountability for any irregularities found. Such determination of accountability and responsibility is conducted for all levers from the lower officials to the Executive Authority.

4. Slide 33 – Govan Mbeki Municipality – SIU to explain the values mentioned in the slides.

Answer: Eight (8) Admission of Debt (AoDs) were signed to the value of R102 120,00 because the investigation revealed that the service providers provided goods and/or services to the Municipality for a price more than what was regulated by National Treasury. To date R700.00 has been repaid in respect of those AoDs. Further payment will be followed on. In the event of failure to pay, the SIU will institute legal proceedings to enforce payment.

5. Section 106 – Does SIU consider section 106 investigation?

Answer: – SIU does consider Section 106 investigation, however as these investigations are usually conducted by COGTA themselves and none have been referred to the SIU to pursue a proclamation authorising such an investigation. We have however set up a communication channel with COGTA to leverage assistance and provide same where possible within our mandate. We are also engaging different MEC's on several matters for further investigation.

6. Slide 21 – SIU need to explain the difference between 477 service providers and 735 contracts.

Answer – 735 contracts were awarded to 477 service providers as in some instances service providers received more than a single contract.

7. What is the latest update on the proposed amendment of the SIU Act?

Answer: The SIU prepared draft amendments and submitted same to the Department of Justice who will administer the legislative process. The SIU anticipate that the legislation will be accommodated in the 2021-2022 legislative program.

8. Is SIU billing municipalities for investigations?

Answer: Yes they are being billed. There was an early indication that there would be a central budget for these PPE investigations, however this did not materialise. Letters of engagement (LoEs) are being prepared per State Institution including Municipalities where we set out the mandate, approach, team composition, duration and cost involved and we require the municipality to acknowledge receipt thereof. This is not a negotiated process and is aligned to our SIU Act. We are however finding a significant push back from these municipalities where they are not even willing to acknowledge receipt of the LoE. We are issuing invoices where we have a signed LoE in a few instances and accruing the remainder of these invoices. We will identify all instances of push back and escalate to the relevant authority for intervention.

9. What is SIU doing regarding the non-implementation of recommendations by the municipalities?

Answer: The SIU is collaborating with the AGSA in order that the AGSA may follow up during its audits at the municipalities. The SIU is also escalating the identified non-implementation to the relevant Executive Authority for intervention.

10. Does SIU have recourse regarding the non-implementation of the DC recommendation by the municipalities.

Answer: While SIU could invoke legal process to compel implementation, currently non-implementation matters will be escalated to the responsible Executive Authority. In terms of sections 105 and 106 of the Local Government: Municipal Systems Act, No. 32 of 2000 and schedule 1 thereof, as read with Chapter 3 of the Local

Government: Municipal Structures Act, No. 117 of 1998, the relevant MEC is obliged to exercise the necessary oversight.

11. SIU to provide report on covid-19 expenditure by the provincial departments.

Answer: The SIU sources Covid-19 expenditure from the National Treasury. The SIU will present at the next appearance at the Portfolio Committee on CogTa present the sourced Provincial Covid-19 expenditure and the updated relevant amounts subject to SIU Investigation.

12. Executive action – JB Marks Municipality. What happens when the executive resign before the action is taken against them. Is it the end of the disciplinary process?

Answer: It is not the end of the disciplinary action, the executive will be disciplined if he/she get employed at any State Entity, Department or Local Government at a later stage. This matter has also been referred to the relevant MEC.

13. Slide 32 - Administrative Action - What mechanism did the SIU put in place to make sure that the recommendation for Administrative Action is implemented.

Answer: SIU monitors the implementation of the recommendation. To the extent that it may be necessary, the matter will be appropriately escalated if it becomes necessary to do so.

14. Slide 34 – O.R Tambo - what mechanism did the SIU put in place in order to make sure that the municipality does not pay the money to the service provider.

Answer: The SIU referred the contract (Door to Door) to the Special Tribunal and it was set aside and the Municipality was ordered not to pay any costs related to the contract. In addition, the investigation team presented its findings and recommendations to the Municipality and the council. However, the Service Provider has applied for rescission of the Special Tribunal judgement and it is the view of the SIU while the judgement is not rescinded, no payments should be made by municipality. The SIU reiterates that it presented a very strong case before Special Tribunal and it is unlikely that the service provider will be successful in its quest for a rescission of judgment.

15. Slide 38 – City of Tshwane Metro – Homeless shelter – what mechanism did the SIU put in place in order to make sure that the municipality does not pay the service provider?

Answer: A letter was issued to City Manager not to effect any payments before investigation is finalised. We are in constant contact with the municipality regarding the investigation.

16. City of Tshwane – Did we consider the AGSA finding?

Answer: Yes, we engaged the AG office and obtained additional information regarding the matter mentioned above in number 15.

17. City of Matlosana – matter reported FF+, How did the information goes out.

Answer: The SIU received the allegations from multiple whistle blowers. The SIU is are therefore not informed about who might have revealed the allegations. The SIU can assure the Honorable Committee that once allegations are subjected to the SIU Case Management Process, there are measures to safeguard the integrity of the process.

18. Explain the period covered by the proclamation?

Answer: The commencement date is informed by the date of the earliest allegation. The end date is determined by the publication date of the proclamation in the Government Gazette. The proclamation also provides for matters falling outside of this period to be investigated provided that such matters are ancillary to, connected with, or incidental to matters falling within the period of the proclamation, that is, there must be a link between the two.

19. Have the SIU considered the 3rd AGSA report?

Answer: Yes, the 3rd AGSA reported was circulated to the investigation teams in order for the teams to identify matters flagged by the AGSA for further investigation.

20. In some instances such as in slide 30, dates are not updated.

Answer: In respect of slide 30 where the “information required was to be submitted by the 21st May 2021”, the SIU Provincial Head in North West reports that the information is not submitted yet as there is still a court process where the Administrator seeks access to the municipality. The SIU has escalated this matter to the relevant MEC who stated that he is looking at the matter.

21. How does SIU link with other Forensic Investigations?

Answer: The SIU only gets involved where the specific forensic investigations report is referred to the SIU by the Municipality.

The SIU has observed that Municipalities do appoint private companies to conduct forensic investigations where they could have referred the investigations to the SIU. In almost all instances all investigations are inconclusive as the forensic report would require that findings be referred to law enforcement agencies for further investigations.

22. Does SIU receive budget allocation through Department of Justice.

Answer: The SIU does receive budget allocation through the Department of Justice.

Yours Sincerely



Adv JL Mothibi
Head of the Special Investigating Unit

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