



SIU SA

STRIKING AGAINST CORRUPTION

**Progress update on the implementation of
the State Capture report to the Standing
Committee on Public Accounts**

By Adv. Andy Mothibi

22 November 2023

**Institutions: SAA, Eskom, Denel,
Prasa, Alexkor, Transnet, and Free
State Dept. of Human Settlement**

**The State's preferred and trusted anti-corruption,
forensic investigation, and litigation agency**

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OUTLINE

1. About the SIU

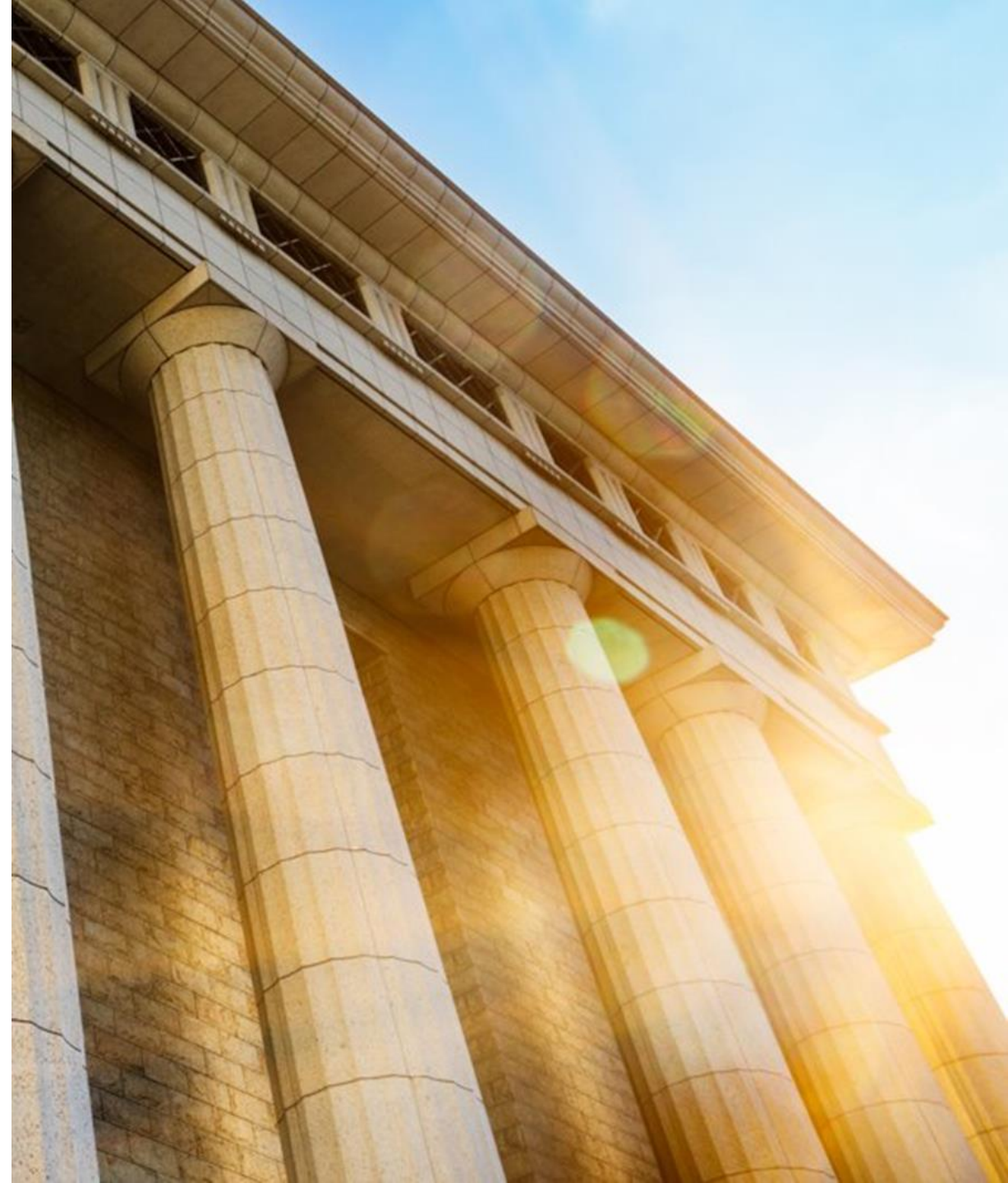
2. Background

3. High level summary of outcomes

4. Status of Investigation

- **Transnet**
- **South African Airways**
- **Eskom**
- **Denel**
- **Prasa**
- **Alexkor**
- **Free State Department of Human Settlements**

5. Motivation for Proclamations submitted to DOJ





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STRIKING AGAINST CORRUPTION

ABOUT THE SIU

SIU FUNCTIONS & POWERS

The SIU was established in terms of Special Investigating Units & Special Tribunals Act 74 of 1996 by Proclamation No. R118 of 2001. The SIU is a public entity that conducts investigations conducted by a Proclamation from the President, once the investigation is complete the President receives a final report with findings.

Major Functions

- Investigate corruption, malpractice and maladministration
- Institute civil proceedings
- Referrals to relevant prosecuting authority
- Referrals for disciplinary action

SIU Powers

- Able to subpoena, search and seize evidence, and interrogate witnesses under oath (once a proclamation has been issued)
- Institute civil litigation to recover state funds lost or to prevent future losses

Out of SIU Mandate

- Arrest or prosecute offenders
- Implement disciplinary action
- Works closely with other relevant agencies where its powers fall short in order to ensure consequence management

SIU CRITICAL SKILLS AND EXPERTISE



**Forensic Data
Analytics**

**Forensic
Accounting**

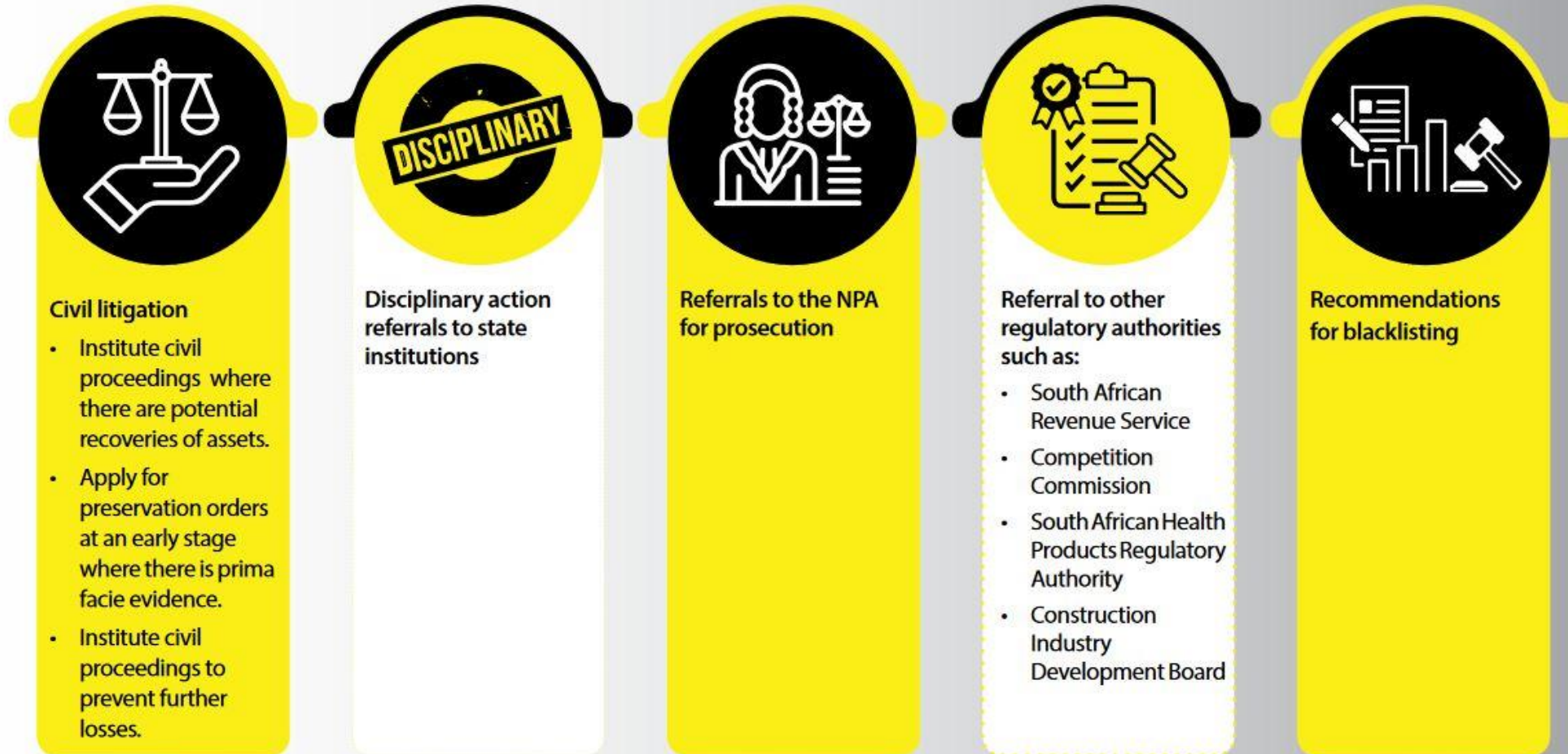
**Forensic
Investigation**

Civil litigation

Forensic Legal

**Cyber
Forensics**

SIU OUTCOMES & CONSEQUENCE MANAGEMENT



SYSTEMIC RECOMMENDATIONS

THE SIU'S LEGISLATIVE MANDATE

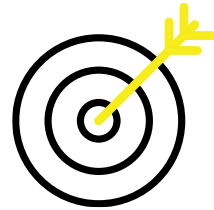
Empowering Legislation

Special Investigating Units and Special Tribunals Act, 1996 (Act no. 74 of 1996) ("SIU act").



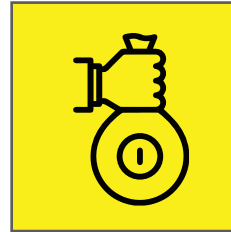
Vision

The State's preferred and trusted anti-corruption, forensic investigation and litigation agency.



Mission

We provide forensic investigation and civil litigation services to Combat corruption, serious malpractices and maladministration to protect the interest of the State and the public.



Major Functions

- Investigate corruption, malpractice and maladministration
- Institute civil proceedings



SIU Powers

- Able to subpoena, search and seize evidence, and interrogate witnesses under oath (once a proclamation has been issued)
- Institute civil litigation to recover state funds lost or to prevent future losses



Out of SIU Mandate

- Arrest or prosecute offenders
- Implement disciplinary actions
- Works closely with other relevant agencies where its powers fall short

State Capture Commission Investigation



- The SIU constituted a committee, chaired by the Head of SIU to consider the State Capture report and identified matters that will be further investigated to ensure that there is sufficient evidence to proceed with the appropriate action.
- The committee consisted of different managers leading different investigations related to the State capture and members of Civil Litigations Unit.
- The SIU also participated in the following forums which were formulated to deal with the implementation of the report:
 - State Capture Commission Steering Committee – chaired by the DG in the Presidency
 - Task Force Meeting – Chaired by the NPA
 - State Capture Case Management – Chaired by the DPCI
 - Blacklisting project headed by Department of Public Enterprise.

State Capture Commission Investigation



The role of SIU Steering Committee is to:

- Identify matters that are highlighted by the report and are covered by the issued proclamations and those that are not covered.
- Identifying matters where civil litigation for cancellation of contracts and recovery is underway and those matters where SIU will institute civil litigation.
- Holding officials, executives and directors to account based on evidence and findings.
- Making referrals to NPA where evidence points to criminal offence.
- Referrals of evidence to State institutions for Disciplinary Action.
- Collaborate with other Law Enforcement Agencies on common matters.
- Blacklisting of companies and directors and referrals to other Regulatory Authorities.

State Capture Commission Investigation



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SOE/ STATE INSTITUTION	PROCLAMATION NO.
Eskom	R11 of 2018 R3 of 2020 & R97 of 2022
Prasa	R51 of 2019
SAA	R.2 of 2020
Transnet	R11 of 2018 R3 of 2020
Alexkor	R45 of 2018
Denel	R.32 of 2019 R.57 of 2019
Free State Department of Human Settlement	R39 of 2019



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TRANSNET INVESTIGATION

PHASE 1 MATTERS: TRANSNET INVESTIGATION



The SIU is investigating allegations of irregularities in the following contracts/matters:

1. Acquisition of the 1064 Locomotives; 4 contracts with Original Equipment Manufacturers (“OEMs”) valued at R54 billion;
2. Relocation of two OEMs from Koedoespoort to Durban facility at a cost of R1.4 billion & Maintenance of locomotives by CSR;
3. The appointment and contracts awarded by Transnet with three Transactional Advisors (McKinsey, Trillian and Regiments) and the interest rate swap transactions concluded with Nedbank;

PHASE 2 MATTERS TRANSNET INVESTIGATION



1. Contracts awarded to Neotel (Pty) Ltd for the supply of CCTV Cameras at the ports to the value of R882 million, the Master Service Agreement and other contracts;
2. Software solutions contracts awarded to Systems Applications Products (South Africa) (Pty) Ltd ("SAP");
3. An ICT contract awarded to T-Systems South Africa (Pty) Ltd and the involvement of Zestillor; and
4. Tandem cranes procured from ZPMC
5. Cranes procured from Liebherr



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STATUS OF INVESTIGATIONS

STATUS OF THE INVESTIGATION: PHASE 1



1. Procurement of the 1064 Locomotives and the relocation of the building yard from Gauteng to KZN

Allegations	<p>The allegations received by the SIU were in relation to procurement irregularities and price inflation iro the 1064 locomotives procured by Transnet from 4 OEM's:</p> <ul style="list-style-type: none">• Bombardier (Bombardier Transportation South Africa (Pty) Ltd) now t/a Alstrom• General Electric (General Electric South Africa Technologies (Pty) Ltd) now t/a Wabtec SA Technologies (Pty) Ltd• CSR (China South Rail E-LoCo Supply (Pty) Ltd) now t/a CRRC E-LoCo Supply (Pty) Ltd• CNR (China North Rail Rolling Stock South Africa (Pty) Ltd) now t/a CRRC SA Rolling Stock (Pty) Ltd
Findings	<p>Investigation concluded; ongoing support being rendered iro SIU referrals.</p> <p>The SIU found that the contracts were awarded irregularly and the prices were inflated.</p>
Outcomes	<p>Civil recovery:</p> <p>1) <u>Civil matter #1</u></p> <p>The SIU and Transnet brought the main application against the 4 OEM's on 9 March 2021 in the High Court in respect of contracts to provide locomotives with a total contract value of R54,5 billion (Case No 21/11645)</p> <p>2) <u>Civil matter #2</u></p> <p>The SIU and Transnet have been granted a preservation order by the Special Tribunal on 31 August 2021 to freeze R4,2 billion held in bank accounts linked to CRRC E-LoCo Supply (Pty) Ltd. SARS has a preferential claim in respect of this amount due to an earlier preservation order.</p>

STATUS OF THE INVESTIGATION: PHASE 1



1. Procurement of the 1064 Locomotives and the relocation of the building yard from Gauteng to KZN contd...

Outcomes

Civil litigation:

- Settlement discussions are underway between the SIU, Transnet and the OEM's and have progressed well. The SIU has been consulted during these discussions and we have provided letters of support where requested.
- To date 2 settlement agreements have been signed and supported by the SIU with Wabtec and Alstrom for the recovery of R79 million and R365 million respectively.
- Transnet has received the R79 million as a credit note as well as R194 077 337,44 from Alstrom.
- The SIU and Transnet will proceed with the pending civil case in order to have the irregular contracts set aside in the High Court. The parties will present the settlements to the court as the proposed just and equitable remedy.

Civil Recovery:

- The SIU has noted the re-payment made to Transnet of R618 million by CRRC which was a refund of an advance payment for the MRSA (Material and Reliability Support Agreement).

Disciplinary Referrals:

- Officials involved had been dismissed or left Transnet before the start of the SIU Investigation.

STATUS OF THE INVESTIGATION: PHASE 1



2. The appointment of McKinsey, Trillian and Regiments Capital McKinsey & Company: Transaction advisory for 1064 Locomotives

Allegations	The allegations investigated were irregularities pertaining to the award of the contract to the McKinsey Consortium, the irregular inclusion of Regiments, the escalation in the price associated with the contract and the associated payments made to Regiments
Findings	<ul style="list-style-type: none">• McKinsey - Investigation concluded• Regiments – Investigation concluded• Trillian – investigation concluded <p>The SIU found that the award of the contract GSM12/05/0447 was irregular;</p>
Outcomes	Civil litigation <ul style="list-style-type: none">• Transnet brought various civil applications in respect of the above matters before the High Court.• Regiments, Trillian and previous executives of Transnet (Messers Molefe, Gama, Singh, Ramosebudi , Thomas, Jiyane and Pita) are cited in civil recovery litigation pending in the High Court instituted in November 2018 by Transnet.• These matters were already instituted before the SIU investigation started..

2. The appointment of McKinsey, Trillian and Regiments Capital McKinsey & Company: Transaction advisory for 1064 Locomotives contd...

Outcomes

Other

- McKinsey - Settlement Agreement for R870m signed between Transnet and McKinsey & CC.
- Regiments - Settlement Agreement was concluded with Transnet and Regiments in October 2019 for R180 million in full and final settlement of all claims. To date nothing has been repaid to Transnet in terms of the settlement agreement entered into with Regiments.
- Regiments has now been liquidated and Transnet is not able to enforce the settlement. The SIU has decided that it will not make practical sense to intervene any further in this matter.
- Trillian – is in the process of liquidation which will affect the civil matters brought before the High Court by Transnet, as referred to on the previous slide.

STATUS OF THE INVESTIGATION: PHASE 1



3. * Nedbank Interest Rate Swap transactions in respect of the R12 billion Club Loan for the 1064 locomotives deal

Allegations

- The allegations were that the interest rate swap transactions were irregular and not in Transnet's best interests

Findings

- The SIU found that the interest rate swap transactions were concluded without the required authority and not in the best interest of Transnet

Outcomes

Referrals

- The SIU has referred evidence to the various regulatory bodies.
- Investigation concluded; ongoing support being rendered iro SIU referrals.
- The SIU and Transnet have completed the court papers to bring a review application in the Special Tribunal to review and set aside the irregular interest rate swap transactions executed on the R12 billion Club Loan.
- The SIU is working closely with Transnet, who are in the final stages of mediation with Nedbank, to reach a settlement over the irregular interest rate swap transactions.
- If mediation succeeds, the matter will be resolved within the next month. If not, civil litigation will be initiated within the next two months.

STATUS OF THE INVESTIGATION: PHASE 2



5. * Neotel – CCTV’s Contract (now trading as Liquid Telecommunications)

Allegations	<ul style="list-style-type: none">• Irregular award of the CCTV’s contract to supply CCTV cameras to the TNPA ports.
Findings	<ul style="list-style-type: none">• Investigation completed on this contract.• The SIU found that the contract was irregularly awarded• The SIU investigation is ongoing into other contracts awarded to Neotel, including the Master Services Agreement
Outcomes	<p>Civil Litigation</p> <ul style="list-style-type: none">• The SIU and Transnet launched a review application on 29 May 2023 in the Special Tribunal, under case no GP06/2023 for the supply of CCTV cameras to the value of R834,571,681. The SIU and Transnet are requesting the Court to review and set aside the irregular CCTV contracts awarded.• The SIU is participating in settlement discussions with Liquid Telecoms on various matters related to Transnet, which are being championed by the AFU and has agreed to stay the review application for a specified period to allow for these discussions.• The review application remains pended. However, the matter may be settled if agreement can be reached. It is hoped that the matter will be resolved before the end of the financial year. <p>NPA referrals</p> <ul style="list-style-type: none">• NPA referral against 43 persons (Neotel Directors, former Transnet Board members and officials) on 20 February 2020. <p>Disciplinary referrals</p> <ul style="list-style-type: none">• Officials involved had been dismissed or left Transnet before the start of the SIU Investigation

STATUS OF THE INVESTIGATION



6. * Software solutions contracts awarded to Systems Applications Products (South Africa) (Pty) Ltd ("SAP");

Allegations	It was alleged that SAP paid undue gratification to alleged Gupta enterprises CAD House CC and Global Softech Solutions CC ("GSS"), to secure contracts at Transnet, and in the absence of any counter performance
Finding	<ul style="list-style-type: none">• Investigation completed into the award of the contracts to SAP• The SIU found that undue gratification was paid to CAD House and GSS• SC to be appointed and briefed to recover the commissions paid by SAP• The SIU is participating in settlement discussions with the NPA and Transnet.
Outcomes	<p>NPA referrals</p> <ul style="list-style-type: none">• 1 NPA referral against 6 entities on 16 July 2021.• The SIU team has also engaged with the Securities and Exchange Commission investigators from the American DoJ to assist in their investigations. <p>Disciplinary referrals</p> <ul style="list-style-type: none">• Officials involved had been dismissed or left Transnet before the start of the SIU Investigation. <p>Civil referral</p> <ul style="list-style-type: none">• The SIU's Civil Litigation Unit approved the institution of civil litigation, and the SIU is in the process of appointing a Senior Counsel.• The parties have recently engaged in settlement negotiations and it seems likely that this matter will be settled within the next month.

8. * Zestilor contract ceded from T-Systems

Allegations

T-Systems is alleged to have used Gupta Enterprise connections to extend the MSA by 5 years.

Status

- Investigation nearing conclusion
- T-Systems is no longer in South Africa and the SIU team are considering the legal avenues available to the SIU to evaluate the prospects of successful civil litigation and recoveries.

STATUS OF THE INVESTIGATION



13. * Cranes procured from Liebherr

Allegations	It was alleged that the procurement processes to award the two contracts to Liebherr were irregular
Findings	<p>Investigation concluded; ongoing support being rendered iro SIU referrals.</p> <p>Civil litigation phase</p> <p>The SIU found that the procurement process followed to award the two contracts was irregular.</p>
Outcomes	<p>Civil recovery:</p> <ul style="list-style-type: none">• Liebherr offered to repay to Transnet a portion of the contract value.• The SIU, Transnet and Liebherr subsequently concluded a settlement agreement on 31 December 2022.• The Settlement Agreement reached was for the following:<ul style="list-style-type: none">• a cash recovery of R54 million for the agency fee which has been paid,• SIU, Transnet and Liebherr to engage regarding the audit of the Supplier Development aspect of the contract to determine any further recoveries to be made, and• the 3 parties will go to the Special Tribunal, once the matter is enrolled within the current financial year, to set aside the two unlawful contracts in the Special Tribunal and request the court to make the settlement agreement a just and equitable order. <p>Disciplinary Referrals:</p> <ul style="list-style-type: none">• Officials involved had been dismissed or left Transnet before the start of the SIU Investigation and they will be cited in civil proceedings.

ADDITIONAL PHASE 3 MATTERS: STATE CAPTURE



The SIU is investigating allegations of irregularities in respect of the following matters identified from the Report of the Judicial Commission of Inquiry into State Capture:

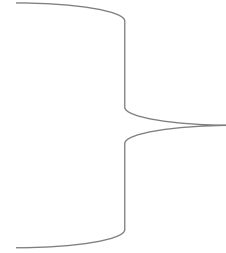
- Hatch Gobodo
- Combined Private Investigations
- TNA Media
- The Manganese Expansion Project

These matters are being assessed for prospects of civil recoveries

ADDITIONAL PHASE 3 MATTERS: STATE CAPTURE



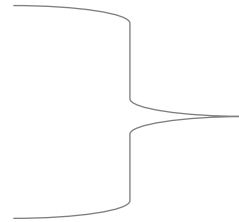
- Nkonki contract
- Delinquent Director applications



Investigation underway

SIU providing support to the DPE in this regard

- GNS/Abalozi Contract
 - Gama's legal fees and Langa Attorney



These matters are not covered by the current proclamation. SIU has drafted and submitted a new motivation for proclamation



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SAA INVESTIGATIONS

BACKGROUND



The scope of this investigation in terms of the schedule to the Proclamation cover the following key focus areas:

- The procurement of, or contracting for Airbus aircraft; maintenance, repair and operations services; legal services in terms of Bid number: RFQ-GSM073/19 and Bid number: RFQ-GSM117/14 (Panel); and service providers to support and expedite the implementation of the SAA Turn Around Plan ;
- Maladministration in the affairs of the SAA in relation to travel rebate benefits for qualifying beneficiaries; payments that the SAA made to vendors; and the implementation of the SAA's procurement policy provides for the procurement of 30% of goods and services for small, medium and micro enterprises, in respect of the supply and delivery of jet fuel.
- Any irregular, improper or unlawful conduct by officials or employees of the SAA; or any other person or entity, in relation to the allegations set out in paragraphs 1 or 2 of this Schedule."

This presentation outlines the progress and results on the matters that were investigated.



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STATUS OF INVESTIGATIONS

STATUS OF THE INVESTIGATIONS



1. SAA Working Capital – McKinsey/Regiments Capital

Allegations	Allegations of irregular contract awarded to McKinsey Incorporated to assist the SAA in unlocking the working capital of SAA.
Findings	<p>The investigation found that there was an unfair advantage given to Regiments Capital who became a subcontractor to McKinsey in this tender. The unfair advantage was when Mr Phetolo Ramosobedu provided the scope and evaluation criteria to Regiments Capital before the tender was advertised.</p> <p>Investigations Finalized</p>
Outcomes	<p>Civil recovery: The SIU facilitated the reimbursement of R14 million by McKinsey to SAA. There was no civil litigation proceedings instituted.</p> <p>Disciplinary Referrals: No disciplinary action referrals could be made because all the implicated officials have left the employment of SAA and are not employed in the public service. All members who contributed to the loss suffered by SAA and including those who left the employment of SAA will be cited in the Civil Ligation process.</p> <p>Criminal referral: A referral to the NPA Investigative Directorate made on 31/03/23 against 1 former official.</p>

STATUS OF THE INVESTIGATIONS



2. Turnaround Strategy

Allegations

Allegations of irregular award of the Turnaround Strategy contract

Findings

The relevant RFQ's were non-compliant with the PFMA and SCM Policies as well as the applicable Treasury Regulations and Practice Notes. The value of the contracts concluded was R170 million.

Investigations Finalized

Outcomes

Civil Recovery: The SIU recommended the cancellation of the contract which brought about a saving of R130 million for SAA.

Disciplinary Referrals: No disciplinary action referrals could be made because all the implicated officials have left the employment of SAA and are not employed in the public service . All members who contributed to the loss suffered by SAA and including those who left the employment of SAA will be cited in the Civil Ligation process.

Criminal Referral: A criminal referral to the Hawks was done (Enq. 4/4/2019). The AFU is involved in the civil recovery of the outstanding R40 million.

STATUS OF THE INVESTIGATIONS



3. LSG Skychefs

Allegations	Airchefs SOC Ltd is alleged to have been awarded the contract under the tender RFP-GSM044/2015 irregularly and with interference from the former SAA Chairperson Ms Dudu Myeni.
Findings	<p>In the process followed leading to the award of the contract to LSG Sky Chefs, the process was first an open tender in which only two service providers responded. SAA then decided to go on a closed tender process in which they only invited service providers that are alleged to have certification from ACSA, that is, LSG Sky Chefs and AirChefs. Then LSG Sky Chefs was appointed.</p> <p>On 3 September 2015, Ms Myeni instructed that the appointment of LSG be cancelled, and the services be reinstated with AirChefs. On 9 October 2015, a board resolution was decided in which the award to LSG Sky Chefs was cancelled and the services were awarded without going through a tender process.</p>
Outcomes	<p>Civil recovery: Under consideration for loss suffered by SAA as a result of the Boards unlawful decision (quantification ongoing)</p> <p>Disciplinary Referrals : no disciplinary action referrals could be made because all the implicated officials have left the employment of SAA and are not employed in the public service .</p> <p>Criminal referral :Under consideration for loss suffered by SAA as a result of the Boards unlawful decision. Quantification of fruitless and wasteful expenditure ongoing.</p>

STATUS OF THE INVESTIGATIONS



4. Airbus acquisition and Pembroke transaction (Cont..)

Allegations

Ms Myeni's conduct in the Pembroke transaction resulted in delays in the delivery of the aircraft that cost SAA approximately R800m in pre-delivery payments.

PDP paid by SAA have not been refunded to the SAA after the swap deal

Findings

The SAA and Airbus took a decision to discontinue the manufacturing of the last ten (10) A320-200 aircraft for a Swap Transaction of five (5) A330-300 aircraft. The Airbus/Pembroke agreed to reimburse the SAA PDPs to the value of \$103 213 340, which will be \$20 642 668 on delivery of each aircraft. On a letter dated 11 September 2015, the former Minister of Finance Mr Nhlanhla Nene approved the Swap Transaction. On a letter dated 29 September 2015, the SAA Board Chairperson Ms Duduzile Myeni wrote a letter to Airbus making a U-turn on Swap Transaction, which was going to cost the SAA extra \$117 000 000 for suspended PDP's.

STATUS OF THE INVESTIGATIONS



4. Airbus acquisition and Pembroke transaction (Cont...)

Findings

Airbus/Pembroke reimbursed the SAA \$50 932 544 for PDP's instead of \$103 213 340 because:

SAA purchased two aircraft (A340-313) for \$12 400 000; \$26 441 784 security deposit; \$4 406 964 first month rental and \$9 032 050 for additional modifications requested by the SAA.

Irrespective of the fact that the SAA Board, Minister of Finance and Minister of Public Enterprise knew that the SAA were supposed to receive R824 000 000 as PDP's reimbursement from Pembroke, there is no proof that this money was paid back and/or part of it was paid and why not all;

The Airbus was supposed to pay back Pre-Delivery Payments ("**PDP's**") of \$103.2 million to the SAA but instead they received back \$50 932 544 and the SAA officials (Ms Elsje Du Preez and Ms Lindsay Olitzki) tried to justify the reason for receiving less than half of what was due to them;

The SAA employees signed the terms of reference on the Amendment contract number 3 and 4 without the powers to do so and without the knowledge of the Board and Shareholders;

There is no proof that Swap Transaction between SAA and Airbus were done through normal procurement processes.

Outcomes

Civil recovery: Potential civil recovery of R824 Million under consideration. We are awaiting quantification and confirmation from SAA regarding the exact amount refunded by Airbus. **It is anticipated that a decision regarding civil litigation will be made before the end of the financial year.**

Disciplinary Referrals : 1 x DC referral made to SAA in April 2023.

Criminal referral : Potential criminal referral under consideration. If the PDP's were not refunded or a lesser amount is refunded, PFMA criminal referral will be done.

STATUS OF THE INVESTIGATIONS



5. Swissport _Ground Power Units

Allegations

The disposal process did not follow the applicable SCM processes.

Findings

The assets (Ground Power Units) were sold by SAAT at a lesser value than their book value. SAAT disposed of 12 GPU's at a loss of R5 640 000.00 and then leased a number of them back at R550 p/h at a monthly cost of between R200 000 to R250 000 p/m.

Outcomes

Civil recovery: Civil recovery is in process with Counsel appointed to recover at least R5 640 000. Quantification ongoing, awaiting 6 outstanding invoices from SAA. It is anticipated that a decision regarding civil litigation will be made before the end of the calendar year.

Disciplinary Referrals : No disciplinary action could be recommended because all implicated official left the employment of SAA and are not employed in the public service. All members who contributed to the loss suffered by SAA and including those who left the employment of SAA will be cited in the Civil Ligation process.

Criminal referral : A criminal referral was made to the Hawks (Ref. ORTIA Cas 114/12/2019).

STATUS OF THE INVESTIGATION: PHASE 1



6. Aircraft Components Support Tender

Allegations	Various tender irregularities which include non-compliance with the PFMA and SCM Policies as well as Treasury Regulations and Practice Notes. Various corruptive relationships and payments which was made between entities, third parties and officials/Board members of SAA
Findings	Various tender irregularities was confirmed as well as Board members of SAAT and staff that visited AAR in the USA during the period that the tender was still open. Two award submissions submitted to the Board, dated the same, with different successful bidders. Board overruled submissions and LOA issued.
Outcomes	<p>Civil recovery: Potential civil recovery against approximately 10 individuals and entities. This investigation is completed except for the quantification of the flow of funds as well as contractual services not rendered and paid. The civil litigation decision will be reached before calendar year end.</p> <p>Disciplinary Referrals : No disciplinary action could be recommended because implicated official left the employment of SAA and are not employed in the public service . All members who contributed to the loss suffered by SAA and including those who left the employment of SAA will be cited in the Civil Ligation process.</p> <p>Criminal referral :Potential Criminal referrals against approximately 10 individuals and entities are in progress.</p>

STATUS OF THE INVESTIGATIONS



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7. Paint Tender

Allegations	The tender was non-compliant with the PFMA and SCM Policies as well as the relevant Treasury Regulations and Practice Notes.
Findings	The tender was awarded irregularly. The value of this tender amounted to R19.2 million.
Outcomes	<p>Civil recovery: This matter was concluded during the secondment. There was not enough evidence to pursue civil recovery.</p> <p>Disciplinary Referrals : No disciplinary action referrals could be made because as all the implicated officials have left the employ of SAA and are not employed in the public service . All members who contributed to the loss suffered by SAA and including those who left the employment of SAA will be cited in the Civil Ligation process .</p> <p>Criminal referral :A criminal referral to the Hawks was done (ORTIA Cas 115/12/2019).</p>



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ESKOM INVESTIGATIONS

STATUS OF THE INVESTIGATIONS



Tegeta Brakfontein

Allegations

Allegations of irregular contract awarded to Tegeta.

Findings

The SIU found that the contract was unlawful and invalid in that it did not comply with Section 217 of the Constitution. The SIU made findings against various Board members and executives of Eskom.

Outcomes

Civil litigation:

- The contract was reviewed and set aside R3,7bn. Future savings were calculated at R2.6bn.
- SIU instituted proceedings against Tegeta and the Business Rescue Practitioners for just and equitable relief as a result of damages suffered due to the poor quality of coal that was supplied to Eskom– Value R734m .
- The matter is pending in the High Court

Disciplinary Referrals:

- No disciplinary action referrals could be made because all the implicated officials have left the employment of Eskom and are not employed in the public service .
- The SIU in collaboration with Eskom, the DPE and CIPC have prepared papers to embark on director delinquency proceedings against various former Eskom Board members

Criminal referral: No criminal referrals were made as the ID were already investigating the matter.

STATUS OF THE INVESTIGATIONS



Tegeta Optimum,

Allegations

Allegations of irregular contract awarded to Tegeta.

Findings

- The SIU found that the contract was unlawful and invalid in that it did not comply with Section 217 of the Constitution.
- The SIU made findings against various Board members and executives of Eskom.

Outcomes

Civil litigation:

- The contract was terminated in September 2016.
- SIU instituted proceedings against the Executive Authority, Accounting Authority, Executive Management and private individuals for the recovery of R3.8bn. The SIU and Eskom have been seized defending interlocutory applications which have now been disposed of. A trial date is yet to be set.
- The SIU is supporting the DPE in the process of seeking to declare certain former Directors of Eskom delinquent and the process is ongoing.

Disciplinary Referrals:

- No disciplinary action referrals could be made because all the implicated officials have left the employment of Eskom and are not employed in the public service .
- The SIU in collaboration with Eskom, the DPE and CIPC have prepared papers to embark on director delinquency proceedings against various former Eskom Board members

Criminal referral: No criminal referrals were made as the ID were already investigating the matter.

STATUS OF THE INVESTIGATIONS



Tegeta Koornfontein

Allegations

Allegations of irregular contract awarded to Tegeta.

Findings

- The SIU found that the contract was unlawful and invalid in that it did not comply with Section 217 of the Constitution.
- The SIU made findings against various Board members and executives of Eskom.

Outcomes

Civil litigation:

- The contract was terminated by Eskom based on the SIU's findings. Value R6.5bn.

Disciplinary Referrals:

- No disciplinary action referrals could be made because all the implicated officials have left the employment of Eskom and are not employed in the public service .
- The SIU in collaboration with Eskom, the DPE and CIPC have prepared papers to embark on director delinquency proceedings against various former Eskom Board members

Criminal referral: No criminal referrals were made as the ID were already investigating the matter.

STATUS OF THE INVESTIGATIONS



ABB International

Allegations

Allegations of irregular contract awarded to Tegeta.

Findings

- The SIU found that the contract was unlawful and invalid in that it did not comply with Section 217 of the Constitution.
- The SIU made findings against an Eskom executive members, his family and private individuals and entities

Outcomes

Civil litigation:

- The SIU filed papers in the high court on 3 April 2023 to have the contract reviewed and set aside.
- The application is not opposed and is currently with the Judge President of the High Court in Johannesburg for set down.
- ABB reached an out of court settlement for the repayment of R 1,577bn to Eskom.
- ABB has already repaid R 1,577 billion to Eskom.
- Claims by ABB against Eskom to the value of R1,9bn was cancelled.

Disciplinary Referrals:

- No disciplinary action referrals could be made because all the implicated officials have left the employment of Eskom and are not employed in the public service.

Criminal referral:

- The SIU made supplementary referrals to the NPA as the matter was already being investigated by the ID at the commencement of the SIU investigation.
- The ID issued ABB with a reparations fine of R 2,5bn

STATUS OF THE INVESTIGATIONS



Impulse International

Allegations	Allegations of a corrupt relationship between an Eskom executive and Impulse.
Findings	<ul style="list-style-type: none">The SIU investigated 2 x contracts awarded to Impulse International. Both contracts were found to be unlawful and invalid in that it did not comply with Section 217 of the Constitution.
Outcomes	<p>Civil litigation:</p> <ul style="list-style-type: none">The contracts were terminated by Eskom.Impulse sued Eskom for damages as a result of the early termination of the contracts. Eskom is defending the matter and also filed a counter claim to have the contracts declared invalid. The SIU is actively assisting Eskom in the defense of this matter. <p>Disciplinary Referrals:</p> <ul style="list-style-type: none">No disciplinary action referrals could be made because all the implicated officials have left the employment of Eskom and are not employed in the public service . <p>Criminal referral:</p> <ul style="list-style-type: none">The SIU made supplementary referrals to the NPA as the matter was already under investigation by the ID.The SIU is assisting the ID in their investigation and has also seconded one of the SIU investigators to the ID to finalise all outstanding investigations.

STATUS OF THE INVESTIGATIONS



SAP

Allegations

Allegations that the 2016 SAP contracts were awarded as a result of corruption.

Findings

- The SIU investigated 2 x contracts awarded to SAP in 2016 by Eskom.
- Both contracts were found to be unlawful and invalid in that they did not comply with Section 217 of the Constitution.

Outcomes

Civil litigation:

- The SIU embarked on civil litigation in November 2022 to have the contracts reviewed and set aside.
- SAP filed its answering affidavit wherein certain facts were admitted. SAP also made an offer of settlement.
- The SIU has requested that the Special Tribunal suspend the proceedings whilst it engages with SAP.
- The SIU have rejected the offer proposed by SAP and made a counter proposal.
- Settlement talks between the parties are well advanced and it is anticipated that this matter will be concluded before the end of the calendar year.
- The matter is ongoing.

Disciplinary Referrals:

- No disciplinary action referrals could be made because all the implicated officials have left the employment of Eskom and are not employed in the public service.

Criminal referral:

- The SIU made 13 NPA referrals.
- The matter has been declared by the ID and the SIU is assisting the ID in their investigation and has also seconded one of the SIU investigators to the ID to finalise all outstanding investigations.



SIU^{SA}
STRIKING AGAINST CORRUPTION

DENEL INVESTIGATIONS

BACKGROUND



- This matters emanates from a complaint received by the SIU on or about October 2018. Some of the allegations emanated from the 2018/19 audit findings.
- Proclamation R.32 of 2019 was published on 5 July 2019 authorising the SIU to investigate certain allegations in relation to the affairs of Denel SOC Ltd (“Denel”).
- On 8 November 2019, Proclamation R.57 of 2019 was published extending the scope of investigation to include additional matters
- With regard to the Steel fabrication and steel fabricated services, the investigation was divided into two phases:
- Phase one we looked at the awarding of contracts to VR Laser for the provision of steel fabrication services and steel fabricated goods.
- Phase two we looked at the appointment of the other 29 sub-contractors for the provision of steel fabrication services and steel fabricated goods.

STATUS OF THE INVESTIGATION: PHASE 1



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STRIKING AGAINST CORRUPTION

1. IT security assessment services

Allegations	It was alleged that in the procurement of or contracting for IT security assessment services Denel did not follow any formal procurement and/or competitive bidding process prior to the conclusion of the IT assessment services. It was further alleged that Denel failed to follow its own Supply Chain Management(SCM) Policy.
Findings	Investigation concluded; ongoing support being rendered iro SIU referrals. Civil litigation review
Outcomes	<p>Civil recovery: There is a pending civil litigation between Denel and Telspace. The litigation has been stalled due to special plea in that the High Court has no jurisdiction and instead the matter should go to arbitration in terms of the concluded Contract. The SIU seeks to institute civil litigation in its names at the ST once the ITC report commissioned by Denel is completed and received. In that intended civil suit, the SIU seeks to recover the R4.6 million paid to Telspace.</p> <p>Disciplinary Referrals: All implicated officials have resigned from Denel and are not employed in the public service . All members who contributed to the loss suffered by Denel and including those who left the employment of Denel will be cited in the Civil Ligation process.</p> <p>Criminal referral: ID and SIU are considering the criminal evidence on this matter.</p>

STATUS OF THE INVESTIGATION: PHASE 1



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STRIKING AGAINST CORRUPTION

2. Steel fabrication of goods and steel fabrication of services: The Hulls contract

Allegations

Denel commissioned an investigation into 3 contracts signed with service provider for namely:

- Hulls Contract (Hoefyster contract) – R229 million
- Two MoA's with Service Provider for all Steel fabricated goods – open contracts

The process was found to be fraught with irregularities

Findings

- During November 2014, the former Denel GCEO appointed a Gupta linked service provider for the manufacturing of different variants of Hoefyster vehicles despite the strategic requisition of LMT by Denel for the manufacturing of the Hoefyster.
- In late 2014 and early 2015 two MOAs were also concluded appointing the same service as a single source supplier for DLS and DVS for all steel fabrication and steel fabricated goods for 10 years. No value was attached to these contracts. This process was found to be irregular.
- The two MOAs were approved by the then Acting GCEO even though the GSCE had declined the recommendation of the DLS Exco to appoint the service provider.
- All processes to appoint this service provider on all three contracts were irregular and the adjudication scores for the Hulls contract were manipulated to favour this service provider. This resulted on an award of R229 million Hulls contract was incorrectly awarded.
- The service provider is under Business Rescue, however, this company obtained Default and Execution judgements against Denel because of breach of contract and unpaid debt.

STATUS OF THE INVESTIGATION: PHASE 1



2. Steel fabrication of goods and steel fabrication of services: The Hulls contract: (Cont...)

Outcomes

Civil recovery: The SIU instituted a civil proceedings at the ST to set aside three default judgement and an attachment order for Denel IP trademark to satisfy a debts awarded in favour of VR Laser. The VR Laser's Business Rescue Practitioners (BRP) wrote a letter to SIU Counsel requesting to hold a meeting with a view to settle the matter. The request is under consideration by the SIU and Counsel. The meeting between SIU's Counsel and the Business Rescue Practitioner has not yet happened for strategic reasons. The team is consulting with counsel for additional motion papers

Disciplinary Referrals: 2 DC were referred to Denel.

Criminal referral: 7 former officials were referred to NPA.

STATUS OF THE INVESTIGATION: PHASE 2



3. Steel fabrication of goods and steel fabrication of services: 30 Subcontractors

Allegations	<ul style="list-style-type: none">• On 02 May 2007, the Armscor Board of Directors approved the placement of contract 1161 to the value of R8 337 444 750 at DLS for Project Hoefyster for the design, develop, manufacture and deliver 264 different variants to Armscor in 140 months (10 years)• Project Hoefyster is the acquisition of the new Generation Infantry Combat Vehicles Product System (NGICV-PS). Original requirements detailed in purchase order no. KT519535, consisted of 5 current combat variants (Section Variant, Command Variant, Mortar Variant, Fire Support Variant and Missile Variant).• Each combat variant included logistics, ammunition and training simulation;• SANDAF later amended their requirements to include additional new variants, and a new order was issued to accommodate SANDAF request. for the new variants.• In terms of this contract, Armscor paid in excess of R8bn and DLS delivered.• DLS delivered and some of the work is still work in progress.• Some of the money was used for non-project related issues.• DLS failed to follow its own SCM policy in appointing some of the companies.
Findings	Ongoing investigation
Outcomes	<p>Civil recovery: Not at this stage because the investigation is ongoing.</p> <p>Disciplinary Referrals: Not at this stage because the investigation is ongoing.</p> <p>Criminal referral: Not at this stage because the investigation is ongoing.</p>

STATUS OF THE INVESTIGATION: PHASE 2



4. Steel fabrication of goods and steel fabrication of services: The Chad Contract

Allegations	The Chad contract The irregular appointment of a service provider to deliver the Sinotruk drive-train chassis (Donor trucks from China). Amount paid – R 13 898 538.00
Findings	<ul style="list-style-type: none">• Denel approached the service provider for the Chad Contract on the belief that it owned the IP.• The service provider then demanded a payment of outstanding invoices for other contracts and DLS settled an amount of R15 million from the Chad funds• After the payment was made, the service provider failed to render services and did not even sign the order for Chad contract.• At least R15 million of the Chad contract funds were used to settle this service provider's outstanding debt
Outcomes	<p>Civil recovery: The matter is currently being considered by the Counsel for possible recovery.</p> <p>Disciplinary Referrals: No disciplinary action referrals could be made because all the implicated officials have left the employment of Denel and are not employed in the public service . All members who contributed to the loss suffered by Denel and including those who left the employment of Denel will be cited in the Civil Ligation process.</p> <p>Criminal referral: Evidence pointing to the commission of criminal conduct is under consideration and will be forwarded to the NPA once finalized.</p>

STATUS OF THE INVESTIGATION: PHASE 2



4. Steel fabrication of goods and steel fabrication of services: The Chad Contract

Allegations	The Chad contract The irregular appointment of a service provider for the manufacturing of the Casspir vehicles Amount paid – R15 million. .
Findings	<ul style="list-style-type: none">• DLS entered into an agreement with a service provider for the delivery of Donor Vehicles from a Chinese Company called Sinotruk China.• These Donor Vehicles were going to be used as platforms for the Armored Vehicles requested by the Chadians.• The SIU found that the appointment of this company was irregular because the submission for deviation was based on misrepresentation.• The company was paid R 13 898 538.00 in advance based on a Purchase Order which was generated from a non-responsive RFQ.• It must be noted that no contract existed between DLS and this service provider when the payment was made.• One Sino truck was delivered.
Outcomes	<p>Civil Recovery</p> <ul style="list-style-type: none">• Referral in respect of one service provider for the balance of the advance payment was made.• Amount considered R12,756, 829.00 <p>Criminal Referral: Evidence pointing to criminality against 7 entities and individuals is under legal review for referral to NPA.</p> <p>Disciplinary Referral: No disciplinary action referrals could be made because all the implicated officials have left the employ of Denel and are not employed in the public service . All members who contributed to the loss suffered by Denel and including those who left the employment of Denel will be cited in the Civil Ligation process.</p>

STATUS OF THE INVESTIGATION: PHASE 2



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STRIKING AGAINST CORRUPTION

4. Steel fabrication of goods and steel fabrication of services: The Chad Contract

Allegations

The irregular appointment of a Technical Advisor. Amount paid – R9.7million.

Findings

Investigation is completed and findings are:

Denel signed a contract with the Technical Advisor (**TA**) for the Chad contract.

The appointment of TA's is in accordance with the Policy of Denel when contracting with foreign countries. However, in terms of the Chad contract:

- The appointment of the TA was found to be irregular and unlawful in that Denel did not follow its own policy and the former GCEO did not consult with the relevant departments when appointing the TA.
- The payment of R 9 727 200.00 to the TA was fruitless wasteful and irregular

Outcomes

Civil Recovery

- Referral to Civil Litigation Unit for the institution of review of the contract is under legal review.
- Value is R9 727 200.00

Criminal Referral: None

Disciplinary Referral: No disciplinary action referrals could be made because all the implicated officials have left the employment of Denel and are not employed in the public service. All members who contributed to the loss suffered by Denel and including those who left the employment of Denel will be cited in the Civil Litigation process.

STATUS OF THE INVESTIGATION: PHASE 1



5. The awarding of contract for the provision of legal services

Allegations	Khampha Attorneys was appointed to render legal professional services to Denel without following proper procurement processes. The value of the contracts is R10 m.
Findings	<ul style="list-style-type: none">• Irregular procurement process• No contractual agreement signed• Fees negotiated outside normal SCM processes• GCEO and Chairperson managed and directed the project and Denel's legal department was not involved.• No records/instruction files kept by the firm of Attorneys• In some of the invoices submitted, there were no supporting documents and no statement of account attached.• The investigation further established that one invoice was for legal services not involving Denel, but it was a case between the Law Society and Chairperson which Denel paid.• The investigation also identified misrepresentation and/or fraud• Fraudulent invoice of R65 000.00 issued by the firm and paid by Denel for alleged claim by a counsel without his knowledge.• Fraudulent double billing for an amounts totaling R425 192.50.• Embezzlement of funds – an amount of R290 000 withdrawn from the Attorney's trust account into the firm business account which was meant for a purchase agreement involving Reclaim
Outcome	<ul style="list-style-type: none">• Civil recovery: The referral to Civil Litigation is under internal legal review and will be submitted to the SIU Civil litigation Unit soon.• Disciplinary referral: The affected officials is no longer employed in the public sector. . All the members who contributed to the loss suffered by Denel and including those who left the employment of Denel will be cited in the Civil Ligation process.• Criminal referral: The evidence pointing to the commission of criminal act is under consideration and will be forwarded to the NPA.• Administrative action: The referral of the book accounts of the law firm to LPC is currently under internal review.

STATUS OF THE INVESTIGATION: PHASE 1



6. The awarding of pilot's bursaries: Student 1

Allegations	Denel awarded a bursary to Student 1 for a Jet Pilot Programme who signed a bursary agreement on 1 February 2017 for R1 156 378.20. This was in breach of Denel SCM Policy.
Findings	<ul style="list-style-type: none">• The student was issued with a termination letter in June 2018 after his exclusion from the Air School and therefore failed to adhere to the bursary conditions.• Denel had already paid R881 270.30 and out of this amount, R559 990.65 had been credited to the student study program. The balance of the money was credited by the Air school to Student No. 3 account without any approval from Denel.• Given the fact that there was no contract between the Air School and Denel during this period and Denel was consulted by Air School in this process, the SIU advised Denel to start engaging with the school to remedy the situation
Outcome	<p>Civil Recovery: An Acknowledgement of Debt (AOD) in the amount of R559 990.65 was signed by the debtor.</p> <p>Criminal Referral: SAPS is already investigating a criminal matter relating to the award of these bursaries.</p> <p>Disciplinary Referral: No referrals for disciplinary action could be made because all the implicated officials have left the employment of Denel and are not employed in the public service</p>

STATUS OF THE INVESTIGATION: PHASE 1



6. The awarding of pilot's bursaries: Student 2

Allegations

A bursary was awarded to Student No.2 for an Integrated Commercial Pilot License Course and the student signed a bursary agreement on 15 May 2017 for R793 308.90 whilst she was already a student at the Air School. This was in breach of Denel SCM Policy.

Findings

- The student was issued with a termination letter on 2/11/2017 after her exclusion from the Air School and therefore failed to adhere to the bursary conditions.
- Denel had already paid R641 683.90 and out of this amount, R234 413.31 had been credited to her study program.
- The balance was credited to Student No.3's account without any approval from Denel.
- Given the fact that there was no contract between the Air School and Denel during this period and Denel was consulted by Air School in this process, the SIU advised Denel to start engaging with the school in order to remedy the situation

Outcome

Civil Recovery: Summons were issued in the Special Tribunal and the matter is currently at a stage where it is awaiting set down for default judgment. The target date for finalization of the matter is December 2023.

Criminal Referral: SAPS is already investigating a criminal matter relating to the award of these bursaries

Disciplinary Referral: No referrals for disciplinary action could be made because all the implicated officials have left the employment of Denel and are not employed in the public service.

STATUS OF THE INVESTIGATION: PHASE 1



2. The awarding of pilot's bursaries: Student 3

Allegations	A bursary was awarded to Student No.3 for an Integrated Commercial Pilot License Course and the student signed a bursary agreement on 15 May 2017 for R801 927.30. This was in breach of Denel SCM Policy. The Student successfully completed the program.
Findings	<ul style="list-style-type: none">• Denel only paid R510 335. 50 towards student No.3's study program and the entire amount remaining from Students 1&2 was credited to student 3 study program. In essence, the balance of the contract amount was taken from credits of the other bursary holder accounts and paid to his account.• There was an overpayment of R182 229.84, and this was outside the contractual agreement with Denel.• Given the fact that there was no contract between the Air School and Denel during this period and Denel was consulted by Air School in this process, the SIU advised Denel to start engaging with the school in order to remedy the situation.
Outcome	<p>Civil Recovery: None, no "possible recovery" against Air School due to no contract in place between the parties (Denel and Air school) and because Denel was aware of student 3's bursary "overpayment". The matter was assessed by the Civil Litigation Unit, and it was concluded that there was not prospects of succeeding with civil litigation,</p> <p>Criminal Referral: SAPS is already investigating a criminal matter relating to the award of these bursaries.</p> <p>Disciplinary Referral: No referrals for disciplinary action could be made because all the implicated officials have left the employment of Denel and are not employed in the public.</p>



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STRIKING AGAINST CORRUPTION

PRASA INVESTIGATIONS

BACKGROUND



- In May 2019, the SIU and PRASA concluded a Secondment Agreement, wherein the SIU seconded members to PRASA for a period of three months. The scope of the Secondment included, inter alia,
 - the collection and analysis of investigation reports prepared by Werksmans Attorneys and forensic investigation firms commissioned by the National Treasury, in compliance with the remedial actions directed by the Public Protector South Africa in her Derailed Report that was issued in August 2015;
 - the collection and analysis of management reports pertaining to irregular and/or fruitless and wasteful expenditure identified by the Auditor General of South Africa in the Annual Financial Statements for the 2015 - 2018 financial years; and
 - to advise the Board of Control (“BoC”) of PRASA on the matters that may require further investigation by the SIU.
- Subsequent to the analysis of the relevant reports, the SIU identified matters that required further investigation and motivated for a proclamation which was proclaimed by the President on 30 August 2019. The Proclamation included seven focus areas of investigation and this Report provides an overview of the investigations conducted, the findings and the outcomes.

STATUS OF THE INVESTIGATION: PHASE 1



1. Procurement of Royal Security CC

Allegations	<ul style="list-style-type: none">• According to Werksmans Attorneys forensic report, the Public Protector found that the appointment of Royal Security was irregular after the initial contract WV/FIN/CA/7/24/06 was cancelled due to underperformance.• PRASA tried to cancel the subsequent appointment but Royal continued to deploy security to PRASA and protect PRASA's assets on the basis of a verbal request from a former GCEO who instructed the Head of Group Corporate Security to continue with the engagement.• Werksmans indicated that Royal appears to be a preferred service provider to PRASA and continually obtains further work through extensions and deviations from open tender processes. Werksmans opined that the appointment of Royal was irregular but required detailed scrutiny.
Findings	<ul style="list-style-type: none">• The SIU found that PRASA signed the original contract with Royal Security on 17 May 2011. This contract was on numerous occasions extended with the approval of all the former GCEOs.• The SIU found that the procurement of Royal Security was though an irregular confinement process.• The SIU concluded that at all relevant times, the appointed GCEO's failed to ensure that PRASA followed a competitive procurement process in the appointment of the security service provider.• the total amount paid to Royal Security escalated to R578.8 million for the period between 1 January 2010 and 31 September 2019.
Outcomes	<p>Civil recovery: Due to lack of documentation, the SIU could not conduct full investigation to quantify any losses by PRASA. The members who were responsible for keeping the records and the documents are no longer working for Prasa.</p> <p>Disciplinary Referrals: All official involved in the procurement of Royal Security have since left PRASA and are not employed in the public service.</p> <p>Criminal referral: Six criminal referrals against all former GCEOs has been referred to the NPA for the contravention of the PFMA.</p>

STATUS OF THE INVESTIGATION: PHASE 1



2. Procurement of Forensic Investigation Services

Allegations	<ul style="list-style-type: none">The Auditor General found that the appointment of Werksmans Attorneys was irregular as it did not follow the competitive procurement process.
Findings	<ul style="list-style-type: none">On 6 August 2015, PRASA signed the Terms of Engagement with Werksmans Attorneys to conduct forensic investigations in response to remedial actions ordered by the Public Protector.The Board of Control took a decision to request two Board members to facilitate the appointment of a service provider to conduct the investigations and excluded the executive management from the process. According to the Board, this was to ensure that the process is not tainted by the same officials that would be investigated.There was no competitive process followed in the appointment of Werksmans but instead the Board members relied on the fact that Werksmans was already part of the panel of attorneys that were on the database of PRASA. The SIU found that the appointment of Werksmans was irregular.
Outcomes	<p>Civil recovery: None, the service was delivered to PRASA by Werksmans and sub-contractors and we found no evidence of overpayment.</p> <p>Disciplinary Referrals: The SIU is considering evidence for referral of the two Board members for administrative referral.</p> <p>Criminal referral: None</p>

STATUS OF THE INVESTIGATION: PHASE 1



3. Procurement of Royal Security CC

Allegations	<ul style="list-style-type: none">• Various service providers were appointed by PRASA by means of a deviation from an open tender process to augment the capacity and improve reaction time for the rolling stock repairs for Shosholoza Meyl and Metrorail• Werksmans Attorneys investigated the procurement process and recommended that PRASA should investigate the agreements entered into with these various entities to determine whether the work contracted and paid for was in fact completed by each such entity and to the satisfaction of PRASA;
Findings	<ul style="list-style-type: none">• On 14 June 2013, Mr Montana approved the appointment of DB International and Siyaya for the technical design for the Depot Modernisation Programme at a cost of R97 999 999.68 (VAT inclusive).• On 25 June 2013, Mr Godfrey Sonny, the Senior Manager: SCM at PRASA Technical advised Siyaya that the proposal pertaining to the "Depot Modernisation Programme: Technical design work for Braamfontein and Wolmerton Depots" in the amount of R97 999 999.60 (VAT inclusive) with a 10% mobilisation fee was approved. A Consultancy Agreement for the Depot Modernisation Programme: Technical Designs and Tender Design for Braamfontein and Saltriver ("Depot Modernisation Agreement") was concluded between PRASA and Siyaya. In order to proceed with the design, construction and refurbishment of the depots, PRASA in terms of the Depot Modernisation Agreement appointed Siyaya to carry out the design of works to the level that PRASA could appoint Contractors to implement the design.

STATUS OF THE INVESTIGATION: PHASE 1



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3. Procurement of Royal Security CC

Findings

- From an analysis of the Depot Modernisation Agreement and the extensions thereto, the SIU established the total contract value was R201 491 731.79. The SIU further established that for the period from 29 July 2013 to 2 September 2016, PRASA paid a total of R266 355 756.51 to Siyaya. In terms of the SAP payment information, the Depot Modernisation Agreement and the extensions thereto, there is an indication that there was an overpayment in the amount of R64 864 024.72 paid by PRASA to Siyaya. However, there is insufficient documentation, i.e. the payment bundles, to confirm the overpayment.
- The SIU established that Siyaya is under liquidation. The SIU obtained the Liquidators Report and established that the SARS was the preferred creditor. In terms of the Liquidators Report, PRASA was noted as owing Siyaya an amount of R63 million.

Outcomes

Civil recovery: Due to lack of documentation, the SIU could not conduct full investigation to quantify any losses by PRASA. The members who were responsible for keeping the records and the documents are no longer working for Prasa.

Disciplinary Referrals: All official involved in the procurement of Royal Security have since left PRASA and are not employed in the public service.

Criminal referral: None



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STRIKING AGAINST CORRUPTION

Alexkor Investigation

- The Special Investigating Unit is mandated in terms of Proclamation No. R45 of 2021, as published in Government Gazette No 45617 on 10 December 2021 to investigate the following allegations of maladministration in the affairs of Alexkor SOC:
 - Serious Maladministration in the affairs of Alexkor in respect of the marketing, valuation, sale and beneficiation of diamonds, pursuant to agreements concluded between Alexkor and service providers, including the causes of such maladministration; and
 - Any improper or unlawful conduct by officials or employees of Alexkor or any other person or entity, in relation to the serious maladministration.
- This matter was investigated as part of the Judicial Commission of Inquiry into State Capture.
- This presentation outlines the progress and results on the investigation.

- Background on Alexkor
 - After a land claim by the Richtersveld Community (Community), Alexkor lost its land mining rights to the Community however retained its marine mining rights.
 - The Community and Alexkor formed a Pooling and Sharing Joint Venture (PSJV). Under this PSJV the land and marine mining rights are pooled and shared by the parties at a participation interest of 51% to Alexkor and 49% to the Community.
 - In 2015, the PSJV awarded a 3 year contract to a service provider to market, value, sell and beneficiate the diamonds.
 - In 2016, the PSJV again awarded a 5 year contract to a service provider to market, value, sell and beneficiate the diamonds.
- The SIU investigation had 2 focus areas: the procurement of SSI and the selling of diamonds by SSI.



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STATUS OF INVESTIGATIONS

STATUS OF THE INVESTIGATION: PROCUREMENT



1. 2015 Contract

Allegations	Irregular award of contract
Findings	<ul style="list-style-type: none">• Possible contravention of section 217 of the Constitution and the PFMA.
Outcomes	<p>Civil recovery: Investigation concluded, referral to civil litigation to consider invalidating and possible recovery of funds.</p> <p>The civil litigation capacity of the SIU will evaluate the evidential material and assess whether there are prospects of successful civil litigation. The timeline for this is the end of the financial year.</p> <p>Disciplinary Referrals: Employees involved have left the employment of the PSJV and are not employed in the public service. All members who contributed to the loss suffered by Alexkor and including those who left the employment of Alexkor will be cited in the Civil Litigation process.</p> <p>Criminal referral: November 2022 a criminal referral was made to the NPA for possible criminal prosecution against PSJV Board and Management.</p>

STATUS OF THE INVESTIGATION: PROCUREMENT



SIU_{SA}

2. 2016 Contract

Allegations Irregular award of contract to the service provider

- Findings**
- The need for the contract was not clearly defined
 - Possible contravention of the Diamonds Act as the service Provider did not have a license to sell, purchase, beneficiate and run a trading house
 - Contravention of Section 217 in the irregular disqualification of other bidders rendering the process uncompetitive

Outcomes

Civil recovery: Investigation concluded, referral to civil litigation unit to invalidate and recover funds is underway.
The civil litigation capacity of the SIU will evaluate the evidential material when it is received and assess whether there are prospects of successful civil litigation. The timeline for this is the end of the financial year.

Disciplinary Referrals: Employees involved have left the employ of the PSJV and are not employed in the public service. All members who contributed to the loss suffered by Alexkor and including those who left the employment of Alexkor will be cited in the Civil Ligation process.

Criminal referral: Referral to the NPA for possible criminal prosecution against PSJV Board and Management underway

STATUS OF THE INVESTIGATION: QUANTIFICATION AND VALUATION



3. Quantification and Valuation

Allegations	Diamonds were undervalued and the service provider
Potential Findings	<ul style="list-style-type: none">• The Service Provider sold the diamonds on auction.• Total of about 271 715.98 diamonds carats sold at about R1 811 442 194.51• Some of the parcels sold below market value• Auction invited possible known associates indicating possible conflict of interest, possible collusion, transactions not at arms length.
Status	<p>90% of the investigation is concluded. There is an ongoing support being rendered iro Civil litigation referral.</p> <p>Possible amount to be recovered is the 1.5% commission paid to SSI for the rendering of services which is about R25 954 832.60. Quantification on going.</p>



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FINALISED INVESTIGATIONS



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Free State Department of Human Settlements

BACKGROUND



- A complaint was received from a whistle blower who made various allegations regarding the appointment of a service provider to undertake a technical assessment of old township houses roofed with asbestos. The SIU applied for a proclamation to investigate the allegations.
- The SIU was mandated, through the issuance of Proclamation R.39 of 2019 to conduct an investigation into the affairs of the Free State Department of Human Settlements (Department) in respect of, *inter alia*:
 - The procurement of, or contracting for, services pertaining to the identification and removal of asbestos from houses in the Free State by or on behalf of the Department and payments made in respect thereof in a manner that was not fair, equitable, transparent, competitive or cost effective and contrary to applicable legislation;
 - Any related unauthorised, irregular or fruitless and wasteful expenditure incurred as a result thereof; and
 - Any unlawful or improper conduct by the employees or officials of the Department, the applicable service providers, or any other person or entity in relation to the allegations set out above.
- The value of the contract was R255 000 000.00 and a total of R230 000 000.00 was paid by the Department.

Procurement of Diamond Hill Trading 71 – Blackhead Joint Venture for the identification and removal of asbestos from houses in the Free State

Status	The investigation is in the supporting phase, supporting ongoing remedial action such as the referral to the NPA, the disciplinary referrals and the ongoing civil action in the High Court
Findings	<p>The main findings were as follow:</p> <ul style="list-style-type: none">▪ The procurement process in respect of the appointment of the service provider did not comply with section 217(1) of the Constitution and the subsequent Service Level Agreement was void▪ Due to the fact that the procurement process was irregular, the expenditure of R230 000 000.00 that was incurred, constituted irregular expenditure▪ The amount of R208 608 510.70 that the Department overpaid (R230 000 000.00 minus R21 391 489.30 (the amount for which the services could have been rendered), constitutes fruitless and wasteful expenditure

Procurement of Diamond Hill Trading 71 – Blackhead Joint Venture for the identification and removal of asbestos from houses in the Free State

Outcomes

Disciplinary referrals: Four referrals made against senior officials for financial misconduct and contravention of sections of PFMA between June and August 2021.

NPA referrals: One criminal referral made to the NPA in 2020 against officials and service providers for further action. Several officials, private individuals and entities are facing charges of fraud, money laundering, corruption, attempted theft, failure to report corrupt activities, and the contravention of Section 86 of the PFMA in the High Court.

Civil action: Blackhead Joint Venture instituted action proceedings against the Free State Department of Human Settlement in the High Court to claim R25 million, which has allegedly not yet been paid to them.

The SIU and the Free State Department of Human Settlements (FSDHS) thereafter filed an Application to review the validity of the entire contract (value R 255 million).

The Application by the SIU and FSDHS will have to be heard first, because if the contract is declared *void ab initio* it will also constitute a complete defence to the claim by Blackhead Joint Venture. The Court will then also be able to make an order that is just and equitable.



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MOTIVATION FOR PROCLAMATION SUBMITTED TO DOJ

Motivation for Proclamations



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- Eskom,
- PRASA,
- Transnet,
- TNA breakfast briefings.
- ACSA



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Thank you

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