



**MINISTRY
PUBLIC WORKS & INFRASTRUCTURE
REPUBLIC OF SOUTH AFRICA**

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**PROGRESS REPORT IN RESPECT OF THE INSTITUTION OF DISCIPLINARY
PROCEEDINGS AGAINST OFFICIALS IMPLICATED IN THE FORENSIC
INVESTIGATION REPORT INTO ALLEGATIONS OF IRREGULARITIES RELATED
TO SERVICES PROCURED BY THE DEPARTMENT OF PUBLIC WORKS**

INTRODUCTION

- 1 This Report outlines the progress made by the Department in relation to the implementation of the recommendations made by PricewaterhouseCoopers Inc. (“PwC”) pursuant its findings in the forensic investigation pertaining to allegations of irregularities in the procurement of services by the Department of Public Works (“the PwC Report”).
- 2 The PwC Investigation was commissioned by the Anti-Corruption Fraud Awareness Unit in the Department (“the ACU” or “the Unit”), after a request was made by the office of the Director-General to the Unit, to investigate allegations of irregularities related to the services rendered by Crocia Events (Pty) Ltd (“Crocia” or “the service provider”) in relation to the provision of moveable infrastructure for official state funerals.
- 3 The PwC issued a report into its forensic investigation in March 2019, and the ACU submitted its report to the Minister on 28 January 2020. The findings made in the PwC Report are incorporated in the ACU Report to the Minister.

THE ACU REPORT TO THE MINISTER

- 4 The ACU mandated PwC, amongst other functions, to conduct a high-level review of the procurement process embarked on by the Department prior to the appointment of Crocia (Pty) Ltd. In addition, the team investigated allegations of irregularity in the management of official state funerals by Crocia (Pty) Ltd, as per the Director-General's instruction.
- 5 In conducting its investigation into the allegations of irregularity in relation to the services rendered by Crocia (Pty) Ltd, it was found that:
 - 5.1 no service level agreement ("SLA") had been concluded between the Department and Crocia (Pty) Ltd at the time that the service provider started rendering services to the Department. This was so despite the fact that the terms of reference for the supply and delivery of movable infrastructure for official funerals stipulated that the successful bidder enter into a service level agreement with the Department;
 - 5.2 the reason for this is that there was disagreement between the Department and the service provider as to whether the latter was entitled to management and retainer fees. In this regard, the Department obtained a legal opinion from counsel, in terms of which the Department was advised that it would not be legally permissible for the Department to include management and retainer fees in the SLA as these did not form part of the tender; and
 - 5.3 in light of the absence of a signed and binding SLA, the general conditions of contract and tender pricing schedule submitted during the tender process

governed the contractual arrangement between the Department and Crocia.

6 The Department awarded Crocia a 24 months' contract for the rendering of services in the form of moveable infrastructure for state and/or official funerals in all nine provinces. It was therefore responsible for rendering these services in the funerals of Ms Winnie Mandela, Dr Zola Skweyiya and Ambassador Billy Modise. These funerals occurred in 2018.

7 The findings made in respect of each funeral, in sum, are dealt with in turn.

8 In respect of Ms Mandela's funeral, it was found that:

8.1 Crocia issued an invoice of R35 731 835.85, which was paid by the Department on 25 May 2018;

8.2 the contractually compliant items invoiced only amounted to R4 743 021.40;

8.3 items that were invoiced, but not listed on the tender pricing schedule amounted to R 17 899 174.15;

8.4 invoiced items that were listed in the tender pricing schedule, but in different unit prices, varied in the amount of R 8 399 566.06;

8.5 items that were invoiced, but could not be reconciled to the tender pricing schedule, amounted to R 29 400.00;

8.6 the quotation provided by Crocia exceeded the final specifications issued by the Department, at an excess amount of R 11 450 780.21. There was no

evidence of a request for these additional items by the Department; and

8.7 Crocia's quotation included a management fee of R 4 052 760.21.

9 The Department is currently taking advice on consequent management emanating from the failure to manage the charges of and the payment to Crocia in relation to Ms Mandela's funeral.

10 In respect of Dr Zola Skweyiya's funeral, PwC found that:

10.1 Crocia issued an invoice to the value of R 28 967 791.37, and the Department made payment of the amount on 24 May 2018;

10.2 the contractually compliant items invoiced only amounted to R 4 315 030;

10.3 items that were invoiced, but not listed on the tender pricing schedule amounted to R 6 108 830.00;

10.4 invoiced items that were listed in the tender pricing schedule, but in different unit prices, varied in the amount of R 14 762 023.80;

10.5 items that were invoiced, but could not be reconciled to the tender pricing schedule, amounted to R 3 500.00;

10.6 the quotation provided by Crocia exceeded the final specifications issued by the Department, at an excess amount of R 945 071.80. There was no evidence of a request for these additional items by the Department; and

10.7 Crocia's quotation included a management fee of R 3 285 571.80

11 These transactions occurred in May 2018, a day after the payment in respect of

the Mandela funeral. The Department is currently taking advice on consequent management emanating from the failure to manage the charges of and the payment to Crocia in relation to Dr Skweyiya's funeral.

- 12 PwC furthermore found that in respect of the funeral of Ambassador Billy Modise:
 - 12.1 Crocia issued an invoice to the value of R 11 440 661.84, and the Department made payment of the amount on 14 August 2018.
 - 12.2 the contractually compliant items invoiced only amounted to R 3 179 606.60.
 - 12.3 items that were invoiced, but not listed on the tender pricing schedule amounted to R 5 540 725.00.
 - 12.4 invoiced items that were listed in the tender pricing schedule, but in different unit prices, varied in the amount of R 826 070.00; and
 - 12.5 items that were invoiced but could not be reconciled to the tender pricing schedule, amounted to R 402 000.
- 13 In addition to the findings in respect of the individual funerals, the investigation team also found that:
 - 13.1 the procurement process in terms of which Crocia was appointed was flawed, as bids were evaluated based on the total amount of the bid, without considering individual line items. Had individual line items been considered, it would have been found that Crocia's bid was at a higher price;

- 13.2 Crocia charged for, and was paid, management fees as these were infused into different line items in the invoices presented to the Department for the Mandela and Skweyiya funerals;
 - 13.3 Clause 3.9 of the National Treasury Instruction Note on Enhancing Compliance Monitoring and Improving Transparency and Accountability in Supply Chain Management may have been contravened;
 - 13.4 Clause 3.4.3 of the National Treasury Practice Note on Supply Chain Management: Threshold Values for the Procurement of Goods, Works and Services by Means of Petty Cash, Verbal/Written Price Quotations or Competitive Bids may have been contravened, as the sum of deviations exceeded R 1 million for all three funerals.
- 14 It was recommended, amongst others, that:
- 14.1 corrective action be taken against specific officials for the approval of Crocia's invoices and for failing to identify the infusion of management fees in the invoices presented to the Department in respect of the Skweyiya and Mandela funerals;
 - 14.2 corrective action be taken against specific officials, for failing to exercise due care in the execution of their duties, in that they failed to perform a detailed review between the pricing schedule, specifications, quotation and invoice, in order to identify inconsistencies between these; and
 - 14.3 corrective actions be taken against other subordinate personnel in the Department who were found to have acted negligently in the management and administration of the Modise, Skweyiya and Mandela funerals.

1. UPDATE ON PROGRESS IN RESPECT OF DISCIPLINARY PROCESS

- On 17 March 2020, the President delegated the power to initiate disciplinary processes to the Minister. Since then the impact of COVID-19 and the impact of the lockdown had to be dealt with. In any event, and since early June 2020, the Office of the State Attorney was engaged to procure the services of attorneys to:
 - advise the Minister on the process to be embarked on in light of the findings and recommendations made by PwC; and
 - consider the PwC Report and implement the recommendations set out in these reports by drafting charges on the basis of the evidentiary material contained in the report.
- On 11 June 2020, the Office of the State Attorney, on the instruction of the Minister, appointed Cheadle Thompson & Haysom Inc. (“the appointed law firm” or “the legal team”) to advise on disciplinary proceedings in respect of those persons who have been implicated.
- The appointed law firm has already commenced with the process and has provided the Minister with a draft of preliminary charges, which were received on 2 July 2020. The Minister is applying her mind to the matter and is in regular contact with the legal team appointed to initiate the disciplinary process.
- Currently, the team is also liaising with the office of the Public Service Commission, in relation to the investigations undertaken by that office in respect of a number of appointments in the Senior Management Service, which the PSC found to have been made irregularly.

- It is anticipated that the legal advice will be finalized during the course of July 2020.
- The Committee will be kept updated of all further developments in the matter, as the matter progresses.

P. de Lille

MS PATRICIA DE LILLE, MP
MINISTER OF PUBLIC WORKS AND INFRASTRUCTURE
DATE: 6 July 2020