

**DEPARTMENT: PUBLIC ENTERPRISES**

**REPUBLIC OF SOUTH AFRICA**

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**QUESTION No: 1744**

**QUESTION**:

**1744. Ms O M C Maotwe (EFF) to ask the Minister of Public Enterprises:**

Whether, considering the presentation that the Auditor-General of South Africa made to the Portfolio Committee on Public Enterprises on 3 May 2023, which demonstrated that, state-owned companies (SOEs) have faced rampant corruption, mismanagement and financial loss since he took over as Minister of Public Enterprises, he intends to resign for failing to stabilise the SOEs; if not, why not, if so, what are the relevant details ? **NW1991E**

**REPLY:**

No.

Only six SOEs fall within the Department of Public Enterprises mandate. A large number of SOEs are the responsibility of other departments.

The following are some of the steps taken by the SOEs to fight corruption and stabilize their finances and operations:

Since 2018, the department has launched initiatives to eradicate fraud and corruption in the SOEs. This includes holding perpetrators of state capture and corruption to account. Progress to date in fighting corruption is as follows:

1. **Eskom** 
   1. Contracts amounting to R14.7 billion were subject to state capture.
   2. R4,8 billion is being claimed against former contractors and Eskom’s former directors.
   3. Eskom and SIU successfully recovered R2 billion unlawfully paid to contractors.
   4. Eskom has opened 11 criminal cases for investigation by law enforcement agencies with the view to ensure that perpetrators of state capture are prosecuted.
   5. 2 cases of corruption are before the courts, one relates to ABB and another one relates to former Acting GCE Mr. Koko.
   6. Consultations with CIPC and law enforcement agencies are unfolding to imminently launch director delinquency proceedings against 13 former directors of Eskom.
   7. 25 names of former senior executive of Eskom have been identified for inclusion into a state-wide central database of officials implicated in state capture and other administrative corruption.
   8. A central database to be used to monitor that individuals do not resurface elsewhere in the state is being established.
   9. DPE’s complaint laid with IRBA resulted in Mr. Aaron Buyiswa Mthimunye being fined R5.1 million and being barred from practicing as an auditor for incorrect audit opinion in respect of Eskom’s 2016 audit.
   10. The complaint laid with SAICA against Mr. Anoj Singh resulted in him being barred from practicing as an auditor and fined 50% (exact figure not provided) of the costs of the disciplinary hearing.
   11. The MOI of Eskom was revised in 2019 and all board tender committees were done away with.
   12. SIU launched investigations into 14 coal transportation service provider concerning payments from 2016 to 31 January 2021.

* Five employees were suspended, one resigned during the interview with the investigating team and one resigned prior to commencement of the investigation.
* The official who resigned during the interview received R3.1m from one of the vendors under investigation.
* The SIU Tribunal issued an order in October 2021 to freeze R11.5m held in a bank account of an entity, which a senior Eskom official was a signatory, and the official was dismissed.
* 15 criminal cases are being investigated in relation to coal transport contracts.
  1. Four diesel suppliers are implicated in potential wrongdoing are under investigation. SIU has referred 5620 matters to Eskom for institution of disciplinary proceedings as follows:
* 5464 for failure to submit financial declarations that are integral in preventing and detecting conflict of interest concerning the management of Eskom's resources.
* 135 for failing to declare or get approval for doing work outside of Eskom.
* 11 officials red flagged through lifestyle audits.
* 10 officials referred through whistle blower reports.
* 14 officials referred concerning findings from build contract investigations.
* 1 official in relation to coal transportation contract.
  1. Contracts cancelled by Eskom as a result of SIU’s investigations:
* CSA - R6.955bn.
* Build contracts – R4.128bn.
* Total – 11.083bn.
  1. Contracts declared invalid by the courts:
* CSA - R3.7 bn.
  1. Savings/Losses Prevented
* CSA: Setting aside Brakfontein CSA – R2.684 bn.
* CSA: Cancellation of Koorfontein CSA - R5.550 bn.
* Build Contract matter before Dispute Arbitration Board (Stefanutti Stocks) - R400m.
* ABB: Prevention of future losses – R1.45bn.
  1. Evidence referred to assist Eskom in Defence contractors' claims before the Dispute arbitration Board:
* Stefanutti Stocks R.6 bn.
* Tubular - R60m.
* Tenova – R300m.
* ABB – R1.45 bn.
* Total R3.41bn.

1. **Transnet** 
   1. The total value of tainted contracts identified by the Commission amounted to R41.2bn.
   2. Transnet successfully recovered R744m from CRRC and Liebher R1.181bn.
   3. Transnet opened 12 criminal cases for investigation by law enforcement agencies with the view to ensure that perpetrators of state capture are prosecuted.
   4. The value of contracts under investigation is as follows:

* Procurement of 1064 locomotives - R49,46bn;
* Liebherr crane contracts - R1,084bn;
* ZPMC crane contract – R961m.
* Regiments and Trillian advisory services contract - R1.49bn;
* Nedbank interest rate swaps transaction facilitated by Regiments that has cost Transnet R2.339bn payments and interest rate of around R531m and fees of R146m paid to Regiments;
* Neotel contract for installation of CCTV cameras in ports with potential civil recovery of R834m;
* Global Software Solutions (GSS) contract for wagon optimisation project amounting to R250m;
* Commission paid to GSS for facilitating the IT contract awarded by Transnet to SAP on a R165m contract; and
* Zestilor for cession of Transnet hardware from T-Systems to Zestilor contract valued at R154,2m.
  1. Value of successful civil recovering:
* R18m paid to CRRC for an advanced payment made for spares that were not delivered; and
* R54m paid to Liebherr for the crane contract.
  1. Transnet and SIU progressing with litigation to:
* Review and set aside of1064 locomotives contract and just and equitable relief;
* Review and set aside of ZPMC 1064 locomotives contract and just and equitable relief;
* Review and set aside Neotel CCTV cameras contract and just and equitable relief;
* Review and set aside Liebherr crane contracts where just and equitable relief sought is that the settlement agreement of Liebherr is just and equitable remedy;
* Claims of R521,37m against Trillian and Regiments (both in liquidation) and former Transnet officials related to the transaction advisory services; and
* CRRC interdict and forfeiture of CRRC funds in South Africa (SARS has executed against R4.9bn and it is unclear what will remain after tax assessments are completed).
  1. The DPE is currently finalising consultations with CIPC with the view to imminently launch director delinquency proceedings against 25 former directors of Transnet.

1. **South African Airways**
   1. Value of contracts tainted by state capture that are under investigation amount to R1.8bn.
   2. 10 criminal cases have been opened with law enforcement agencies for investigation.
   3. SAA and SIU are progressing with launching of the following civil claims:

* ARR/JM Aviation – R1.bn relating to corruption between third parties, board members and employees of SAA;
* Recovery of R14m emanating from disposal of Ground Processing Units at a loss of R5.64m;
* Motion papers filed at Special Tribunal to set aside a contract and recover R85m plus interest pertaining to leasing of aircraft from FlyoFofa Airways;
* Airbus/Pembroke - R824m regarding tender irregularities and contract non-compliance issues on sale and lease back agreement of aircraft; Zonkesiswe/IEPS Protection Services – R985m regarding irregular payments and contract extensions.
  1. R130m savings registered concerning cancellation of a contract amounting to R170m that was awarded irregularly to Ugandra/TATA (Tata Consultancy Services).
  2. McKinsey (Sale of obsolete stock)- SIU facilitated civil reimbursement of R14m contract by McKinsey.
  3. 1 former director (Yakwe Kwinana) was fined R6.1m and barred from practicing as a CA subsequent to a complaint laid by the department.
  4. The MOI of SAA was revised in 2019 to do away with all board tender committees.

1. **Denel**
   1. Former board chairperson implicated in state capture referred to Law Society to prevent them from practicing.
   2. All recommendations of criminal contained in the state capture report are under investigation by law enforcement agencies.
   3. DPE is currently finalising consultations with CIPC with the view to imminently launch director delinquency proceedings against 9 former directors of Denel.
   4. Former director (Daniel Mantsha) referred to LPC for discipline.
2. **Alexkor**
   1. State capture report currently being analysed and cases being prepared for referral to law enforcement agencies.
   2. All recommendations of criminal cases contained in the state capture report are under investigation by law enforcement agencies.
   3. DPE is currently finalising consultations with CIPC with the view to imminently launch director delinquency proceedings against 25 former directors of Alexkor.

In addition, many other initiatives are in place (e.g., the intervention of government to take part of Eskom’s debt onto the sovereign balance sheet) to stabilize the SOEs.

**Remarks: Reply: Approved / Not approved**

**Jacky Molisane PJ Gordhan, MP**

**Acting Director-General Minister**

**Date: Date:**