**NATIONAL ASSEMBLY**

**WRITTEN REPLY**

**QUESTION 1924**

**INTERNAL QUESTION PAPER [No 32-2020 SIXTH PARLIAMENT]
DATE OF PUBLICATION: 21 AUGUST 2020**

**1924. Mr N P Masipa (DA) to ask the Minister of Agriculture, Land Reform and Rural** **Development:**

With regard to the Agricultural Research Council and Onderstepoort Biological Products, what are the (a) latest findings from the investigation ordered by the Auditor-General on (i) serious mismanagement, (ii) irregular expenditure and (iii) serious supply chain irregularities that took place over the past four financial years, (b) details of the refurbishment and modernisation of the existing Good Manufacturing Practice facility and (c) details of all procurement done for Covid-19 related purposes? **NW2439E**

**THE MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT:**

**AGRICULTURAL RESEARCH COUNCIL (ARC)**

(a) Latest findings from the investigation ordered by the Auditor-General on:

1. **Serious Mismanagement**
* AGSA previously reported findings of serious financial misstatement at the ARC which relates to over expenditure for the 2015/16, 2016/17 and 2017/18 financial years; this was classified as a serious mismanagement by AGSA in their management reports.
* Irregular Expenditure of the ARC for the years ended 31 March 2016 (R205 177 358), 31 March 2017(R 199 263 480.40) and 31 March 2018 (R103 810 688.60) are attributed to over-expenditure on the budget.
* Included in the irregular expenditure for the year ended 31 March 2017 of R199 263 480 is an amount of R30 642 913 taken from the Foot and-Mouth Disease (FMD) Account to finance the overspending of R168 620 567.
* For the year ended 31 March 2018, included in the irregular expenditure of R103 810 688.60 is the amount of R27 808 410.60 taken from the Foot and Mouth Disease (FMD) Account which was used to finance the overspending of R76 002 278.
* The 2017/18 calculation of the overspending was based on excess expenditure over break- even budget as advised by the AGSA and was not in line with the calculations done for the other two years.

The overspending for the 3 years was as a result of the ARC not having sufficient budget to cover their operating expenses as the former Department of Agriculture, Forestry and Fisheries had the Parliamentary Grant (PG). Based on the analysis of the cash balance for the 3 years under review, the reflected cash balances were not a true reflection of the cash available for the operations of the organisation as it had cash designated for conditional grants as well as depositsreceived as advance payments from customers.

For the year ended 31 March 2017, the ARC actually had a negative cash balance of R133 million over expenditure on the ARC’s budget that resulted in an irregular expenditure finding by the AGSA.

National Treasury’s Irregular Expenditure Framework provides that if the irregular expenditure is irrecoverable and there is no person who is liable in law, the Accounting Authority may write off the amount in line with the policies and procedures of the Public Entity.

The investigation by Internal Audit noted that:

* The Executive Management Committee (EMC) of the ARC has regularly, through quarterly performance reports, reported the financial position of the ARC to the Accounting Officer of DAFF. This was done in compliance with the PFMA.
* The ARC has through its Council Committees raised concerns about the financial situation of the entity and letters were submitted to the Executive Authority about this matter.
* The financial situation of the ARC as a going concern was raised by the Audit and Risk Committee; and Council to the Minister and to the Portfolio Committee in each of the years. This was reported in the annual reports of the ARC for the relevant years. This is indicative of prudent and responsible management pertaining to the situation the ARC found~~s~~ itself in and it was recommended that cost saving measures be implemented by the office of the Chief Financial Officer, which would include monitoring of expenditure on a monthly basis.
* Details of the serious mismanagement and investigations are in **Annexure A.**
1. **Findings on Irregular Expenditure**.
* Irregular expenditure to the value of R2 414 755.84 was identified during the 2017/18 financial year. The matter was investigated, and consequence management was finalized against 3 employees; disciplinary hearings are continuing against the remaining 2 employees.
* During the 2018/19 financial year, irregular expenditure of R9 173 094.38 was identified by the AGSA. The irregular expenditure resulted from a misinterpretation of Treasury Instruction 3 of 2016-17 that Single Source procurements above R500 000 must be approved/supported by National Treasury; investigations have not yet been completed.
1. Same as (i) and (ii).

(b) Not applicable to the ARC.

(c) Please refer to **Annexure B** for details of COVID-19 related procurement.

**ONDERSTEPOORT BIOLOGICAL PRODUCTS (OBP):**

Following the Auditor General’s (AG) Report, the OBP Board requested that all tenders awarded in the past five years including the Good Manufacturing Practice (GMP) facility upgrade be investigated. Four companies were selected for the investigation viz,

* Succoth: security services;
* Hadi holdings: supply of animal feed;
* Pressure group: supply of coal; and
* DEC: GMP facility upgrade
1. The latest findings from the investigation ordered by the Auditor-General on:
2. **Serious mismanagement:**

Several cases of serious mismanagement were identified and led to the following consequence management actions:

* The CFO was suspended in October 2019 for serious breach and non-compliance with supply chain policies and processes*.* He lodged a dispute at the CCMA against the suspension and the case was settled at the CCMA.
* Operations executive was suspended in January 2020 for gross dereliction of duties.
1. **Irregular expenditure:**
* The awarding of Development Engineering Consultant Ltd (DEC) a tender was found to be irregular because it did not comply with the definition of deviation. An application for condonation in line with National Treasury Irregular Expenditure Framework is in progress.
* Succoth was found to be irregular due to the owner being a state employee. The contract was immediately terminated. An application for condonation in line with National Treasury Irregular Expenditure Framework is in progress.
1. **Serious supply chain irregularities that took place over the past four financial years:**
* The review of the contracts with four of the above service providers found several irregularities and were terminated during the third quarter of 2019-2020, namely
	+ Succoth – security services: as described above.
	+ Hadi holdings – supply of animal feed: terms of the contract were crafted to be unfavourable to OBP (over-priced and over supply).
	+ Pressure group – supply of coal: contract crafted in a way that encouraged delivery of non-compliant coal.
* Two procurement administrators were suspended for amongst others collusion between staff and the tenderer / sub-contractors. They were charged and eventually resigned during the disciplinary hearings.
1. **Details of the refurbishment and modernisation of the existing Good Manufacturing Practice (GMP) facility.**

In 2013 National Treasury approved and awarded OBP a grant of R493 million for the construction of a modern GMP compliant vaccine production facility. Upon receipt of the grant, Executive Management decided to use R130 million from the R493 Million received for refurbishment and procurement of equipment, leaving a balance of R363 million available for the GMP facility project. Later when the Executive Management established that the R363m will be insufficient for the initially planned new vaccine production facility (Green Field), they resolved to embark on the upgrade of the current facility (Brown Field Project).

The consulting engineers were then requested to drastically reduce the provisional sums, but the scope was not revised. The tender was advertised where DEC Engineering was appointed with a tender pricing of R31 million excluding value added tax, on a contract which includes a multidisciplinary team of consultants. ISF Construction was appointed for the construction and process equipment with a tender pricing of R277 million excluding value added tax.

Both internal and external audit raised a range of concerns. In November 2019, the project Manager resigned, leaving the Operations Executive as the driver. In January 2020, the Operations Executive was suspended and later charged for misrepresentation, gross dereliction of duties including lying to the Board. He resigned on mutual separation whilst the disciplinary process was in progress.

The CEO appointed a Project Manager reporting directly to his office and to a Project Steering Committee comprising of several executives and managers directly relevant to the project. The CEO and the Board resolved to commission an independent review that will provide a comprehensive status of the project including year to date variances, extrapolated expenditure, completion date and legislative impact.

To date the procurement of equipment is in progress and construction of the facility resumed after level 3 lockdown. The expected date of completing construction is 1 June 2021.

However, the CEO discovered that certain critical processes at downstream level were not included during the planning and advised the Board who resolved that a revision of process flow be conducted with the involvement of the Project Engineers, Operation Management and the Quality Assurance Manager. The Quality Assurance Manager was tasked to lead the process given the vast experience and certification in GMP of the newly appointed manager. The adjusted facility plan and subsequent budget will be finalised and presented to the board.

1. **Details of all procurement done for Covid-19 related purposes**

Below is a table listing all Personal Protective Equipment (PPE) procured during the COVID period. On or about 22 June 2020 it was brought to the CEO’s attention that surgical masks were purchased in a period of two weeks at a unit price of R32 (while the price from most suppliers was around R7 per mask). This resulted in an investigation which led to the suspension of the Supply Chain Manager on 25June 2020. An investigation has taken place and the charges have been drafted and sent to the Supply Chain Manager; she is now facing a disciplinary hearing for gross misconduct on three charges. The Company will soon start with the disciplinary hearing into the matter.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Company Name** | **Description** | **Quantity** | **Unit Price** | **Total** |
| Siphumelele Industries | Surgical Face Masks | 150\*50(per box) | R32 | R240 000 |
| Siphumelele Industries | Surgical Face Masks  | 180\*50 (per box) | R32 | R288 000 |
| Rashuma Consulting | Surgical Face Masks | 300 \* 50 (per Box) | R7,20 | R108 000 |
| ACS Promotions | 99% Ethanol  | 160\*25 Liters | R22,59 | R90 390 |
| KRU Energy  | Ethanol  | 600\*25 Liters | R69 | R1 035 000 |
| KRU Energy (Pty) Ltd | Ethanol  | 2 000 liters | R50,60 | R105 685 |
| KRU Energy (Pty) Ltd | Hand Sanitizer | 2 000 | R69 | R138 000 |
| KRU Energy (Pty) Ltd | Hand Sanitizer | 7 020 | R69 | R484 380 |