

**DEPARTMENT: PUBLIC ENTERPRISES**

**REPUBLIC OF SOUTH AFRICA**

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**QUESTION NO.: 2224**

**QUESTION**:

**2224. Ms O M C Maotwe (EFF) to ask the Minister of Public Enterprises:**

Whether any of the state-owned companies under his supervision are conducting any private investigation that is not linked to the SA Police Services and that is funded by the companies and/or private donors; if not, what is the position in this regard; if so, what are the details of each investigation? NW2521E

**REPLY:**

**Department**

The Public Finance Management Act prescribes that the boards of State-Owned Enterprises (SOEs) must:

1. Exercise the duty of outmost care to ensure reasonable protection of the assets and records of the company.
2. Act with fidelity, honesty, integrity and in the best interests of the public in managing the financial affairs of the company.
3. Comply with tax laws, which include donor funds.
4. Have and maintain an effective, efficient, and transparent system of financial, risk management and internal control.
5. Have and maintain an appropriate procurement and provisioning system that is fair, equitable, transparent, competitive and cost-effective.

If the board of a SOE is unable to comply with the PFMA provisions, the failure to comply must be disclosed to the Minister of Public Enterprises. The Department of Public Enterprises is not aware of any investigation concerning the affairs of any of the SOEs under the Ministry that is funded by private companies and/or through donor funds. Records available to the Department indicate none of the SOEs are conducting any investigation that is funded by a private company or through donor funding. The Department is aware of investigations conducted by law enforcement agencies into the affairs of SOEs, and is actively monitoring progress relating to this, including implementation of recommendations emanating from them.

**ALEXKOR**

No private investigations are being conducted and no funding was received from private donors or companies. The only investigation, which is currently underway, is that of the SIU under Proclamation No: R. 42 of 2021.

**DENEL**

Denel SOC Ltd is not conducting any private investigation that is not linked to the SA Police Services and that is funded by the companies and/or private donors.

**ESKOM**

Eskom has its own Forensics and Anti-Corruption Department which provides an independent and objective forensic service into fraud, corruption, and general and financial irregularities in Eskom. Eskom’s internal capacity is augmented by a panel of external investigators. This service (including the costs of the panel) is funded from Eskom’s own operating account, and no investigation is funded by external entities or private donors. In cases where our forensic investigations uncover criminal conduct, these are referred to law enforcement agencies for further investigation.

Eskom Group Security did not conduct, is not conducting nor has it authorised any private investigation that is funded by other companies or private donors to date. The Security Department, through its internal investigation mandate, has contracts in place for outsourced specialised investigation services focusing on high impact crimes such as coal, diesel, and fuel oil crimes affecting Eskom or infrastructure crimes. These types of contracts are fully funded by Eskom. All Eskom criminal investigations are conducted by the SAPS.

**SAA**

South African Airways (SAA) is not conducting any private investigations. SAA does conduct internal investigations, which could result in internal disciplinary and/or criminal referrals and/or civil referrals. SAA does not rely on funding from other companies and/or private donors. The airline funds its own internal investigations from working capital when these are required.

**SAFCOL**

The South African Forestry Company SOC Ltd (SAFCOL) and its subsidiaries do not conduct private investigations that are unrelated to the SA Police Services and are funded by companies and/or private donors. SAFCOL investigates questionable cases internally and, where feasible, appoints investigators using current procurement procedures.

**TRANSNET**

**Transnet Corporate Centre**

Investigations at Transnet which pertain to fraud and corruption (Financial Crimes) are conducted by the Investigations Function which resides within the ambit of Transnet Group Security. The mandate to perform these investigations is derived from paragraph 25 of the National Treasury Irregular Expenditure Framework which states that, “the accounting authority must conduct an investigation if he/she suspects any possibilities of fraudulent, corrupt criminal acts emanating from the incurrence of irregular expenditure”. Allegations which relate to fraud and corruption are initially conducted either by in-house Transnet personnel or by firms which have duly been appointed and serve on a Forensic Investigations Panel dedicated to investigating such matters. The forensic panel is paid by Transnet like any other creditor and is not financed in any way by private donors. All matters which are found to have a criminal bearing are reported to the South African Police Service or the Directorate Priority Crime Investigations where such matters that are related to the Prevention and Combatting of Corrupt Activities Act 12 of 2004.

**Transnet Freight Rail**

Investigations at Transnet Freight Rail, which pertain to network theft and sabotage, as well as Goods in Transit Theft, are conducted by the Investigations Function supported by service providers. The mandate to perform these investigations is derived from the following policy regulations:

* National Railway Safety Regulator Act 16 of 2002. (Specific reference to Section 38)
* Criminal Procedure Act 51 of 1977 (Specific reference to Sections 40 to 42).
* Critical Infrastructure Protection Act 8 of 2019 (Specific reference can be made to Chapter 4, Section 24).
* The Prevention and Combating of Corrupt Activities Act, Act No. 12 of 2004 (Specific reference to Section 34(1) of the Act, Sections 3 to 16, 20 to 21 and Section 34) and
* Public Finance Management Act 1 of 1999 (PFMA).

Transnet is authorised to investigate any incident or occurrence where *prima facie* evidence indicates any reasonable possibility that Transnet is, or maybe, the victim of a criminal, unlawful, or irregular act. Transnet will be regarded as a (potential) victim of a criminal, unlawful, or irregular act if such an act (potentially) causes loss of or damage to, Transnet`s assets, reputation and/or if it endangers the safety or well-being of Transnet personnel in their official capacity.

An incident or occurrence is investigated/attended to, either by in-house Transnet personnel or by service providers duly appointed. Information gathering, evaluation, business intelligence, and investigation is conducted for each incident of theft and/or sabotage.

Matters of criminal nature are reported to SAPS for investigation. The process involves compilation of identification statements done. This is in addition to comprehensive dockets comprising incident detail, photo albums, witness statements, and impact statements. Transnet provides support to SAPS during investigations. The above must be considered in terms of national occurrence and is relevant to network theft and sabotage as well as Goods in Transit Theft, thus showcasing the task of effectively combating network theft and sabotage.

The service providers are funded by Transnet like any other creditor and are not financed in any way by private donors. All incidents and business intelligence gathered that is found to have a criminal bearing are reported to the South African Police Service for their finalisation.

**Transnet Pipelines (TPL)**

Forensic Investigation – referred to as Group Forensics.

1. Security Incident investigations (Pipeline breach) – Contracted Security Service Provider provides a suite of services, amongst which, Security incident investigations are included.
2. Security Incidents in TPL buildings and offices (laptops and other personal effects Theft, etc.) – TPL investigator (junior employee) investigates these matters.

**Transnet Engineering (TE)**

All investigations emanating from security breaches are reported to SAPS as per the PFMA. TE’s investigation function works closely with the appointed detectives from SAPS. The TE’s team’s role in investigations is to identify and close existing security gaps. All “white collar” investigations are undertaken by Group Security Investigations where that portfolio is centralized. Contractors or independent panels are in the employ of Transnet to extend its arm and act as Transnet contractors. These independent contractors are fully funded by Transnet.

**Transnet National Ports Authority (TNPA)**

TNPA neither makes use of any private investigation firms or receives any funding from private companies or donors to conduct investigations. Any inquiry is conducted internally when necessary**.**

**Transnet Port Terminals (TPT)**

TPT does not have any investigations being conducted by private investigators. Any security incident is investigated by the in-house security personnel to identify root causes and control failures to put corrective measures in place. Where necessary, criminal cases are opened with SAPS for investigation.

**Transnet Property (TP)**

1. Forensic Investigations are referred to Group Forensics.
2. Security Incident investigations are investigated by internal resources and or appointed security service providers through the open, fair and transparent procurement system as approved by National Treasury. These service providers are normal creditors.

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

**Jacky Molisane P J Gordhan, MP**

**Acting Director-General Minister**

**Date: Date:**