

**DEPARTMENT: PUBLIC ENTERPRISES REPUBLIC OF SOUTH AFRICA**

**NATIONAL ASSEMBLY QUESTION FOR WRITTEN REPLY**

**QUESTION NO.: PQ 2293**

**QUESTION:**

# 2293. Mrs O Clarke (DA) to ask the Minister of Public Enterprises:

Considering that contracts must be managed properly by suitably skilled and qualified persons to ensure that expiring contracts are identified timeously and that the appointment of contractors is done through an open market process, what (a) processes are in place at Eskom to ensure that this is done, (b)(i) total number of contractors are currently in place on Eskom’s sites and (ii) have they been appointed to do, (c) total number of expiring contracts are coming up, (d) number of the appointed contractors did not adhere to the specifications and (e)(i) measurers were put in place to deal with defaulting contracts and

(ii) is the list of names of such contractors?

**REPLY:**

**According to the information received from Eskom**

(a) Eskom appoints contract managers with delegation, after contract award and upon confirmation that the individual has the necessary pre-requisite training as prescribed in the Procurement Procedure. Eskom has an approved Contract Management Competency Development Program, that is run with the Eskom Academy of Learning.

In compliance with the National Treasury regulations and other legislative prescripts, Eskom has its approved Procurement Plans which serve as the basis for monitoring expiring contracts in accordance with project plans. Monthly reports on Procurement Plans provide status of each contract and flags contracts expiring, thus enabling the business to commence with the procurement process of replacing/placing new contracts in advance.

Guided by the Eskom Procurement and Supply chain Management procedure, various

procurement mechanisms are applied when acquiring the services of contractors depending on the nature of the service or product. The mechanisms include inter alia Open tender, Closed tender, Single/sole source, Urgent and Emergency procurement as well as Informal tendering. In instances where the confined market/tendering mechanisms (i.e. Closed tender, Sole/Single source) must be applied, an approval is sought from National Treasury prior to commencement with the procurement process.

(b)(i) As at 1 November 2021 there 4547 active contracts at Eskom. Annexure A provides the number of contracts by plant code i.e. Divisional plant/operating unit/grid area.

(b)(ii)Eskom does not have readily available reports with description for each of the 4547 contracts.

However, contracts across the business will vary, for example Eskom Distribution will mainly have electrification, operations, and maintenance, vending and asset creation contracts.

1. Of the 4547 active contracts:
   * 537 of these contracts have an expiry date between 0 and 3 months.
   * 1094 of these contracts have an expiry date between 0 and 6 months.
   * 1920 of these contracts have an expiry date between 0 and 12 months; and
   * 2627 after 12 months.
2. Eskom does not have consolidated records of contractors who did not adhere to the specifications. Defects are dealt with through contractual remedies in accordance with the specific contract, as explained in (e)(i) below.

(e)(i) When Eskom enters into a contractual agreement with a contractor a performance evaluation criteria forms part of the agreement, against which the contractor’s performance is measured. Should the contractor not deliver according to the agreement, the contractor is given an opportunity to correct.

Non-conformance is addressed within the provisions of the contract via the Non- Conformance Request (“NCR’s”) process. When an NCR is raised, consultations take place with the contractor and if an agreement is reached the NCR is either closed (i.e. satisfactorily rectified) or voided / withdrawn (no longer regarded as a NCR). An NCR will remain open until it is resolved or rectified. In cases where there is failure to rectify, a dispute is raised, and contractual dispute processes are followed.

(e)(ii) The names of contractors who did not adhere to the specifications will not be disclosed as the information is commercially sensitive and may compromise the resolution and rectification initiatives. Further, the confidentiality provisions of the contracts must be followed in order to release contractual information.