



EXHIBIT T 35

**WILLIAM KHOTSO
DE WEE**



**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

2nd floor, Hillside House
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**M.L. MATEME INC**
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11th February 2019

**THE ACTING SECRETARY
COMMISSION OF INQUIRY: STATE CAPTURE
HILLSIDE HOUSE
17 EMPIRE ROAD
PARKTOWN
JOHANNESBURG**

Dear Mr Pedlar

Re: REQUEST TO GIVE EVIDENCE AND TO CROSS- EXAMINE OBO DR DE WEE

We confirm that we have been instructed by and act for Dr Khotso De Wee.

We refer to your notice to Dr De Wee dated 30 January 2019 pursuant to allegations made by Mr Angelo Agrizzi about Dr De Wee in his affidavit and his testimony to the Commission.

In response to your notice dated 30 January 2019 in connection with the above, we formally apply, on behalf of Dr De Wee, for Dr De Wee to be permitted to do the following: to give evidence; and to cross-examine Mr Angelo Agrizzi (through his [Dr De Wee's] legal representative).

In compliance with Rule 3.4 of the Commission's Rules, a statement made by Dr De Wee accompanies this request.

Should the Chairperson consider it desirable before a final decision is made on Dr De Wee's requests we will address the Commission on the cogency of our requests.

Yours faithfully,

PER.: 
M.L. MATEME INC

Received copy and attachments on this the 11 day of February 2019

By: 

Statement to the Judicial Inquiry into Allegations of State Capture, Fraud and Corruption in the Public Sector including Organs of State ("the Commission")

I, William Khotso De Wee, hereby declare as follows:

1. Mr Angelo Agrizzi has made several allegations, both in his affidavit and in his evidence to the Commission, about what he had been told by Mr Sesinyi Seopela about money that Mr Agrizzi allegedly handed to Mr Seopela. According to Mr Agrizzi my name was mentioned to him by Mr Seopela.
2. I record at the outset that I deny the truthfulness and correctness of what, according to Mr Agrizzi, Mr Seopela told him.
3. However, it is correct that, as stated by Mr Agrizzi, I was the Chief Operations Officer of the Department of Justice and Constitutional Development during the period to which he refers.
4. Before responding to the allegations that Mr Agrizzi alleges were made about me, I must record the following. Mr Agrizzi conceded during his testimony that the allegations he made about me are based entirely on what he had been told by Mr Seopela. Accordingly, they are hearsay. In the circumstances, it is difficult for me to respond in a meaningful way to the allegations.

5. On the basis of the foregoing, I must record that I am obviously unable to dispute Mr Agrizzi's evidence in respect of what Mr Seopela had told him about the money that Mr Agrizzi allegedly handed over to Mr Seopela. However, I strenuously deny the correctness of the allegations insofar as reference is made to me in the affidavit or Mr Agrizzi's evidence.
6. In particular, I strenuously deny each of the following allegations, direct or implicit, or implications that emerges from Mr Agrizzi's affidavit and/or evidence:
- (a) I was aware that Mr Seopela was receiving money from Mr Agrizzi;
and
 - (b) I received money from Mr Seopela.
7. It follows from the foregoing denials that I also strenuously deny the following further allegations, direct or implicit, or implications in the evidence of Mr Agrizzi:
- (a) Mr Seopela had any basis for allegedly mentioning my name to Mr Agrizzi in connection with money he allegedly received from Mr Agrizzi;
 - (b) I was upset with Mr Agrizzi because he had allegedly been late in getting a delivery [of money] to Mr Seopela.
8. Aside from what is set out above, I deny that I was involved in any wrongdoing, either of the type alluded to by Mr Agrizzi, or at all.

9. I also draw the attention of the Commission to the fact that Mr Agrizzi's allegations have gravely harmed and damaged my dignity and reputation. I accordingly respectfully aver and submit that in the circumstances fairness and justice require that I be permitted, through my legal representatives, to cross-examine Mr Agrizzi; and to testify at the Commission.



Dr William Khotso De Wee

Date: 11 February 2019

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ORIGINAL

23rd January 2019

THE CHAIRPERSON
Commission of Inquiry: State Capture
HILLSIDE HOUSE
17 EMPIRE ROAD
PARKTOWN
JOHANNESBURG
2193

Dear Justice Zondo

Re: Requests in terms of Rules 3.5, 3.6, 7.1, 8.1 and 8.2 obo Dr De Wee

We have been instructed by and act for Dr William Khotso De Wee.

This is a request made to you in your position of Chairperson of the Commission of Inquiry into State Capture to permit Dr De Wee, subject to the Rules of the Commission, to do the following: have Mr Angelo Agrizzi cross-examined by his (Dr De Wee's) counsel; and for Dr De Wee to give oral evidence at the Commission responding to the allegations that Mr Agrizzi levelled against him in his affidavit and his oral evidence at the Commission. In compliance with Rule 3.4, a statement made by Dr De Wee accompanies this letter.

In support of the foregoing requests, we find it appropriate to point out the following at the outset. The carefully crafted Rules of the Commission require that the processes adopted by the Commission are infused with procedural fairness especially towards those who are accused of some wrongdoing or the other. For present purposes we emphasise that Rule 3.3 (inclusive of Rules 3.3.1 to 3.3.7) with respect commendably imposes quite detailed obligations on the Commission's Legal Team to ensure that any prejudice to

an implicated person is sufficiently attenuated, provides of course that the Legal Team complies with those obligations.

However, none of the safeguards that Rule 3.3 provides for implicated persons were followed in respect of Mr Agrizzi's affidavit or the evidence he is presently giving. Had they been complied with, much of the prejudice visited upon Dr De Wee as a result of Mr Agrizzi's statement and evidence would have been ameliorated. In effect, had Rule 3.3 been properly complied with, Mr Agrizzi would have been required to deal with Dr De Wee's refutation of the allegations that Mr Agrizzi made against Dr De Wee, as emerges from Dr De Wee's accompanying statement.

This is neither the time nor place to debate whether there was sufficient justification for such an erosion of Dr De Wee's constitutional right to dignity and his good name. No doubt this is an issue with which the Commission will have to deal at some time in the future.

Instead, on behalf of Dr De Wee we respectfully request you exercise your powers in terms of Rule 3.6. We accept that ordinarily such a request would follow after Dr De Wee had been given the written notification contemplated in Rule 3.3.

Regrettably, we must record the following on that issue. Such notification has not been given to Dr De Wee to date. Yesterday, Dr De Wee informed the Commission's Evidence Leader that he wishes to exercise the rights set out in Rule 3.3.6. Third, the answer given to him was that he must await a Rule 3.3 notification.

With respect, such an approach merely compounds the grave prejudice that Dr De Wee has already suffered. It is an approach that ought not to be countenanced by the Chairperson of this Commission. Again, however, rather than using this as an opportunity to register complaints, we wish to persuade you in your capacity as Chairperson to do what can now be done, within the Commission's Rules, to ensure fairness and justice for Dr De Wee.

We respectfully point out that on behalf of Dr De Wee we are expressly requesting you to exercise the powers granted to you by Rule 3.6 to grant leave to Dr De Wee: to give evidence; and to cross-examine (through his counsel) Mr Agrizzi.

In addition, and perhaps more importantly having regard to the purpose of the requests being made to you, we respectfully request you to direct, in terms of Rule 8.2, that the cross-examination of Mr Agrizzi by Dr De Wee's counsel takes place immediately after the Commission's Legal Team and you have exhausted your respective questions to Mr Agrizzi.

Finally, we respectfully request that, utilising the power granted to you by Rule 8.1, you permit Dr De Wee to give his evidence immediately after Mr Agrizzi has been cross-examined by Dr De Wee's counsel.

We appreciate that other persons may wish to cross-examine Mr Agrizzi and that ordinarily the proposal that Mr Agrizzi's cross-examination ought to be interrupted to permit Dr De Wee to give his evidence would appear not to be a convenient arrangement. We nevertheless make the requests set out above because we submit

there are quite special circumstances justifying the grant of those requests. The circumstances to which we advert may be summarised as follows.

First, Dr De Wee is the Secretary of the Commission. He is presently on special leave, an arrangement that was precipitated by the unexpected allegations against him made by Mr Agrizzi during his evidence to the Commission last week and in an affidavit to which he deposed on 15 January 2019. The Commission's Legal Team obviously saw him as so special a witness as to justify non-compliance by its members with the procedural safeguards that are entrenched in the Rules to protect implicated persons.

Second, the allegations that Mr Agrizzi made against Dr De Wee are quite narrow in scope. In the result, insofar as he has implicated Dr De Wee in wrongdoing, the cross-examination of Mr Agrizzi and also the evidence that Dr De Wee will give will be quite limited and short.

Third, in asking that the cross-examination on behalf of Dr De Wee follow immediately after the Commission's Legal Team and the Chairperson have exhausted their questions to Mr Agrizzi, we respectfully ask you to bear in mind the following. The allegations made by Mr Agrizzi against Dr De Wee, limited as they are in their scope, have caused incalculable harm to Dr De Wee. The longer they are not properly challenged the more force they gather certainly in the media and the public eye. Whilst this consideration clearly will apply to all persons whom Mr Agrizzi has implicated in wrongdoing, Dr De Wee's request to clear his name deserves special urgency: given his position on the Commission, the allegations levelled against him will continue to cast a dark and giant shadow over the work of the Commission until they are properly and fairly challenged and refuted under oath. That work is too important for our country, and everything should be done to ascertain the true facts, as a matter of absolute urgency.

We have made the requests set out immediately above, notwithstanding the following. We are deeply conscious of the fact that the Commission should not be seen to be according special treatment to one of "its own" as it were. Whilst that is certainly a weighty consideration, we submit with respect that it ought not to be decisive.

In your decision to grant or refuse our request for an urgent opportunity to properly challenge, refute and rebut reputation-damaging allegations, we respectfully request you to take into account the following further matters. Mr Agrizzi has conceded that he has no proof that the allegations against Dr De Wee are true and correct: he has based it on the alleged say-so of a person to whom Mr Agrizzi states on oath he gave money.

Finally, we place on record the following. In Mr Agrizzi's affidavit, reference is made to a video clip in which Mr Agrizzi makes some sickening racial remarks about black people, in respect of whom he uses offensive and defamatory descriptions.

Dr De Wee is in possession of the video clip. We submit that before the Commission's and the public's perception of Mr Agrizzi's evidence is firmed, this

video is aired to the Commission. It might well provide a reason why Mr Agrizzi has so gratuitously implicated Dr De Wee in wrongdoing.

Should you consider it desirable before a final decision is made on our requests we will address the Commission on the cogency of our requests.

Thanking you.

Yours faithfully

PER.:

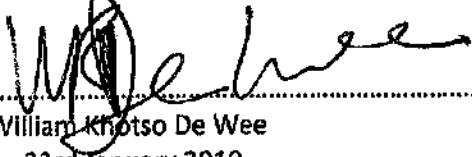
M.L. MATEME INC

Statement to the Judicial Inquiry into Allegations of State Capture, Fraud and Corruption in the Public Sector Including Organs of State ("the Commission")

I, William Khotso De Wee, hereby declare as follows:

1. Mr Angelo Agrizzi, who is currently giving evidence before the Commission, alleged in his affidavit and in his evidence to the Commission that Mr Sesinyi Seopela took money from him, with a view to pay officials in the Department of Justice and Constitutional Development ("the Department").
2. In his affidavit, Mr Agrizzi claimed the amount meant to bribe senior officials in the Department was R15 million over the 2012-2013 period. However, in his oral evidence to the Commission on 21st January 2019 he initially gave the impression that R2million was meant for me. However, after questions of clarification posed by the Chairperson, Mr Agrizzi claimed that the R2 million was to be shared by various senior officials of the Department.
3. I was the Chief Operations Officer of the Department during the period which Mr Agrizzi refers. He alleged that one of the names he remembers is mine.
4. Mr Agrizzi further stated in his affidavit, and his evidence on the 21st of January 2019 that, except for the verbal report he was given (about the distribution of money), he has no other evidence he can provide to the Commission.
5. I strenuously deny the allegations that Mr Agrizzi has levelled against me. Without limiting the generality of my denial, I expressly deny that I received money from Mr Seopela as alleged by Mr Agrizzi or at all.
6. I also draw the attention of the Commission to the fact that Mr Agrizzi's allegations have gravely harmed my dignity and reputation.
7. In this regard I respectfully point out that the harm has been exacerbated because Mr Agrizzi's unsubstantiated allegations have been widely written about and distributed by the local and international media since Friday, the 18th January 2019. This was even before he could begin testifying on 21st of January 2019. The consequences of which are immeasurable and include the loss of integrity, respect and reduced prospects for future job opportunities for myself. In addition, my wife, children and relatives have suffered incalculable emotional pain.
8. In a letter to the Chairperson, my attorney has respectfully proposed mechanisms that would go some way to assist me to move forward. I respectfully pray that the relief sought in the letter is granted.

9. I therefore request the Chairperson to exercise his powers and provide the necessary relief to me as a victim of Mr Aggrizzi's unsubstantiated allegations.



Dr William Khotso De Wee
Date: 23rd January 2019

AFFIDAVIT IN RESPONSE TO APPLICATION OF DR DE WEE

I, the undersigned,

ANGELO AGRIZZI

(IDENTITY NUMBER: 671203 5468 085)

hereby make an oath and state the following:

1. The facts contained herein fall within my own personal knowledge, unless the contrary appears from the contents hereof, and to the best of my belief are both true and correct.
2. My legal representatives were handed a substantial application together with an affidavit (and annexures) in terms of which Dr. Khotso De Wee wishes to give evidence before the Commission as well as an application to cross-examine myself in regards to evidence that I have given before the Commission.
3. I state further that before dealing with the statement I will abide by the decision of the Honourable Deputy Chief Justice in the said matter.
4. **AD PARAGRAPH 1**



4.1 I confirm the contents of this paragraph and state in particular that the facts in relation these allegations were told to me by Mr. Seopela.

5. **AD PARAGRAPH 2**

5.1 Save for noting the denial, I repeat and confirm what was told to me by Mr. Seopela.

6. **AD PARAGRAPH 3**

6.1 I admit the contents of this paragraph.

7. **AD PARAGRAPH 4**

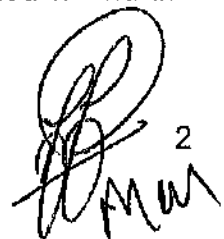
7.1 I admit the contents of this paragraph and confirm that it was hearsay evidence.

8. **AD PARAGRAPH 5**

8.1 Save for noting the denial I admit the rest of contents of this paragraph and confirm what Mr. Seopela told me.

9. **AD PARAGRAPH 6 (a) AND (b)**

9.1 Save for noting the denials I confirm what I previously testified to and the facts that I was given relating to Dr. De Wee by Mr. Seopela.



10. **AD PARAGRAPH 7 (a) AND (b)**

10.1 Save for noting the strenuous denials I again confirm that I related the facts in connection with Dr. De Wee and the money that he had received as told to me by Mr. Seopela.

10.2 I state further that I was personally aware that Dr. De Wee at all material times was very supportive of Sondolo IT and as told to me by Mr. Seopela that Dr. De Wee had a difficult relationship with the then Director of Justice and Constitutional Development who had on diverse occasions opposed the appointment of any of the Bosasa group of companies services and Dr. De Wee had always supported Sondolo IT and the Bosasa Group.

10.3 I was further informed that notwithstanding opposition the provision of security and systems being used where the Commission is housed was fully supported and approved by Dr. De Wee in respect of Sondolo IT or GTS (a subsidiary of the Bosasa Group) in relation to the installation and support of the security systems.

11. **AD PARAGRAPH 8**

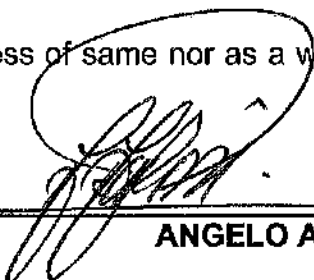
11.1 Save for noting the denial of any wrongdoing I repeat and confirm my testimony as to what I was told by Mr. Seopela.

A handwritten signature in black ink, appearing to be 'M. Seopela', is located in the bottom right corner of the page.

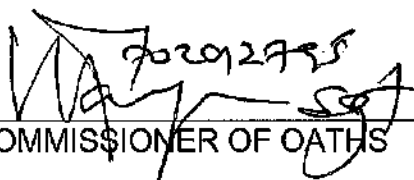
12. **AD PARAGRAPH 9**

12.1 I have noted the contents of this paragraph and I will abide by the decision of the Honourable Chairman of the State Capture Commission.

13. The failure to deal with any allegation should not be construed as any admission on my part as to either the truth or the correctness of same nor as a waiver of any of my rights.


ANGELO AGRIZZI

I certify that this affidavit was signed and sworn to before me at **JOHANNESBURG** on this the 20th day of **AUGUST 2019** by the deponent who acknowledged that he knows and understands the contents of this affidavit, has no objection to taking this oath, considers this oath to be binding on his conscience and uttered the following words: 'I swear that the contents of this affidavit are both true and correct, so help me God.'


COMMISSIONER OF OATHS

Ek sertifiseer dat bostaande verklaaring waar is. I certify that the above statement was made by the deponent and that the deponent has acknowledged that he/she knows and understands the contents of this statement. This statement was sworn to/affirmed before me and the deponent's signature/mark/thumbnail was placed thereon in my presence.

Handtekening: Angelo Agrizzi (Signature)
Volle Voornamte en Van: Angelo Agrizzi (Full Name)
Woonadres: 19, Duxbury Road (Residential Address)
Werkadres: SA Police Service (Business Address)

Plaats: Pretoria (Place)
Datum: 2019/08/02 (Date)
Tied: 07:10 (Time)

SA POLISIEDIENS
POLICE SERVICE

SUID-AFRIKAANSE POLISIEDIENS
GEMEENSKAPSDIENSENTRUM

2019-08-02

STROMING
COMMUNITY POLICE CENTRE
SOUTH AFRICAN POLICE SERVICE

**M.L. MATEME INC**

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15th August 2019

**THE LEGAL ADVISOR
OPERATIONS & INVESTIGATIVE SUPPORT
COMMISSION OF INQUIRY ON STATE CAPTURE
HILLSIDE HOUSE
17 EMPIRE ROAD
PARKTOWN
JOHANNESBURG
E: ShannonV@commissions.org.za**

Dear Sir/Madam

Re: REPLY STATEMENT TO THE AFFIDAVIT OF MR ANGELO AGRIZZI


The above matter bears reference.

Herewith please find the attached reply statement to the affidavit of Mr Angelo Agrizzi.

Hope to find the above in order.

Thanking you

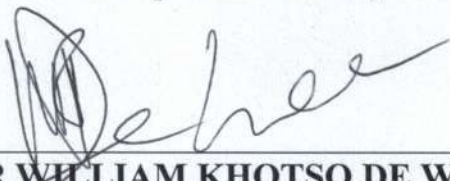
Yours faithfully

PER: 
ML MATEME INC

**REPLY STATEMENT TO THE AFFIDAVIT OF MR ANGELO AGRIZZI
PRESENTED TO THE JUDICAL INQUIRY INTO ALLEGATIONS OF
STATE CAPTURE FRAUD AND CORRUPTION IN THE PUBLIC
SECTOR INCLUDING ORGANS OF THE STATE ("THE COMMISSION")**

I, William Khotso De Wee, hereby declare as follows:

1. I have read the affidavit presented to the Commission by Mr Angelo Agrizzi which was received by my Attorneys of record on the 6th August 2019.
2. I reiterate the averments I made in my statement which I submitted to the Commission through my Attorneys on the 11th February 2019.
3. As far as my recollection serves me well, Mr Angelo Agrizzi had not during his giving of testimony mentioned the averments contained in his Affidavit on paragraph 10.2 and 10.3.
4. I maintain that I deny the truthfulness and correctness of what according to Mr Agrizzi, was told by Mr Seopela in respect of paragraph 10.2.
5. I further deny the averments of Mr Angelo Agrizzi, in respect of paragraph 10.3 and submit that I shall during the presentation of my testimony to the Commission give context to the sequence of events leading to the appointment of GTS to provide security and systems to the Commission.



DR WILLIAM KHOTSO DE WEE
15 AUGUST 2019



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**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

NOTICE IN TERMS OF RULE 3.3

TO : DR WILLIAM KHOTSO DE WEE

AT : C/O M L MATEME INC
46 VICTORIA AVENUE
BENONI

EMAIL : reception@mlmatemeattorneys.co.za

TEL : 011 421 0527

**IN TERMS OF RULE 3.3 OF THE RULES OF THE JUDICIAL COMMISSION OF
INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION, AND
FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE ("THE
COMMISSION"), YOU ARE HEREBY GIVEN NOTICE THAT:**

- 1 On the 16th of January 2019, the Commission's Legal Team presented the evidence of Mr Angelo Agrizzi ("Mr Agrizzi") at its hearing held at 4th Floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg.

2 The evidence was presented prior to you having been given notice as envisaged in Rule 3.3 of the Rules of the Commission due to matters that were explained in public prior to the witness' testimony which matters related to, *inter alia*, security matters pertaining to the witness. The Chairperson of the Commission permitted the leading of that evidence.

3 The evidence contained in the statement of the witness implicates you or may implicate you in unlawful, illegal or improper conduct in the respects set out below.

4 The allegations set out in the evidence of Mr Agrizzi implicate or may implicate you in the following respects. He alleges at pages 41 and 42 that:

4.1 "..... The money I handed to Seopela on a monthly basis from 2008 to 2016 was the following:

4.1.1 2.5% of all payments received from the Department of Justice and Constitutional Development in respect of the 2013 tender (awarded to Sondolo IT (Pty) Ltd) to establish secure systems in various courts was paid to Seopela for distribution to officials of that Department. This amount added up to R15 000 000-00 (fifteen million rand) over the period. I was informed by Seopela that these were for senior officials at the Department of Justice and Constitutional Development. One of the names mentioned to me was that the present Secretary of the Commission Dr De Wee. At the time he was Chief Operations Officer in the Department of Justice and Constitutional Development. Apart from this verbal report I have no other information to confirm the correctness of this report."

5 The evidence of Mr Agrizzi which implicates you in the above allegations is set out in paragraphs 23.7.2, pages 41 and 42 of his statement.

6 The following documents are attached to this Notice:

6.1 The portion of the statement of Mr Agrizzi relevant to you is annexed hereto marked "A".

6.2 A copy of the transcript of Mr Agrizzi's statement as Annexure "B".

7 If you wish to:

7.1 give evidence yourself;

7.2 call any witness to give evidence on your behalf; or

7.3 cross-examine the witness

then you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.

8 The witness statement and annexures thereto provided to you, are confidential. You attention is drawn to regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses' statements) submitted to the Commission by any person in connection with the Commission's inquiry.

9 An application referred to in paragraph 7 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness's statement in so far as it implicates you. The statement must identify what parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.

10 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.

DATED AT PARKTOWN ON THIS 30th DAY OF JANUARY 2019.



MR P PEDLAR
Acting Secretary
Judicial Commission of Inquiry into Allegations of
State Capture, Corruption and Fraud
in the Public Sector including Organs of State

AA-001

AFFIDAVIT OF ANGELO AGRIZZI

I, the undersigned,

ANGELO AGRIZZI

declare under oath as follows:

Introduction

1.

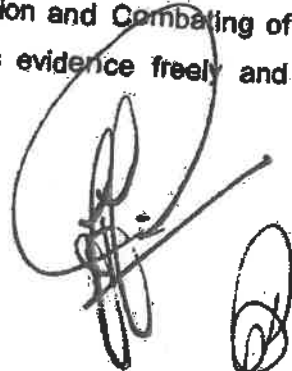
1.1 I am an adult male businessman. I live in Johannesburg. I was born in Germiston, Gauteng. I am a South African Citizen.

1.2 I am married with children.

1.3 The facts contained herein fall within my own personal knowledge, unless the contrary appears from the contents hereof, and to the best of my belief are both true and correct.

2.

I understand that in my statement that I will incriminate myself in respect of potentially serious offences. In addition, I failed to report these acts as apparently required in terms of the provisions of Sec 34 of the Prevention and Combating of Corrupt Activities Act, Act 12, 2004 (PRECCA). I give this evidence freely and voluntarily. I have been offered no incentive or reward.



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- 23.6 Seopela informed me that he was well connected with high ranking officials in the National Prosecuting Authority (hereinafter referred to as the NPA), the Hawks and the erstwhile Scorpions. It always amazed me how Seopela would be able to verify information that we had received particularly in relation to the investigation into Bosasa.
- 23.7 Seopela accompanied Gavin Watson and other directors on overseas trips and to meetings and appointments with high ranking government officials. He interacted with government departments on ministerial and director-general level on how Bosasa could benefit in various lucrative tenders. Although I was aware of the fact that money was paid to Seopela for unlawful payments to government officials in turn, I only supplied him with cash for this purpose from 2009 onwards (as will be discussed in further detail below). Seopela merely requested an amount of money from me, and was not prepared to supply me with a comprehensive list of individuals and the amount per individual. I raised this with Gavin Watson, who instructed to do as Seopela said. The cash handed to Seopela was distributed by him and he from time to time confirmed payments to some individuals. The money I handed to Seopela on a monthly basis from 2008 to 2016 was the following:
- 23.7.1 R500 000-00 for payment to the Department of Correctional Services. This was later increased to R750 000-00 when Tom Moyane (hereinafter referred to as Moyane) was appointed as the National Commissioner to accommodate payments to Moyane and other officials. This was told to me by Seopela. But I mention it here because this evidence is consistent with other evidence including the fact that at this time Bosasa was able to retain lucrative contracts with the Department of Correctional Services.

- 23.7.2 2.5% of all payments received from the Department of Justice and



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Constitutional Development in respect of the 2013 tender (awarded to Sondolo IT (Pty) Ltd) to establish secure systems in various courts was paid to Seopela for distribution to officials of that Department. This amount added up to R15 000 000-00 (fifteen million rand) over the period. I was informed by Seopela that these were for senior officials at the Department of Justice and Constitutional Development. One of the names mentioned to me was that of the present Secretary of the Commission ~~Dr. De Wee~~. At the time he was Chief Operations Officer in the Department of Justice and Constitutional Development. Apart from this verbal report I have no other information to confirm the correctness of this report.

23.7.3 R300 000-00 a month for the Department of Transport in respect of a contract held by one of the companies in the Bosasa Group for the administration of the Senior Management Services (SMS) Fleet for government. At times these monies were given to Leshabane. I can assist in the provision of further details in this regard.

23.8 When the money was to be delivered to Seopela, I would inform him and he would indicate to me where I should meet him. This was always at a different place. Sometimes we met in parking areas, other times at Monte Casino, Nicol-Way Shopping Centre, alongside roads and at fuel stations where I would then follow him to an undisclosed place. At times when I was not available, Leshabane or Gumede would deliver the money to Seopela.

Handwritten signature and initials in black ink, located at the bottom right of the page.

"B"

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

21 JANUARY 2019

DAY 37

20

21 JANUARY 2019 – DAY 37

is relevant to our terms of reference you are able to later on bring, bring in, bring to this Commission and give evidence about. So, so they will look at that. The legal team will look at that and certainly there is room for you to come back and give more evidence. As long as what you have is relevant to our terms of reference and is seen as quite material.

MR ANGELO AGRIZZI: Okay. I appreciate that Chair. My apologies Advocate Pretorius for interrupting.

CHAIRPERSON: Thank you, but what you – the details you wanted to give you have given now in regard to this?

10 **MR ANGELO AGRIZZI:** Yes.

CHAIRPERSON: Okay, alright. Thank you, thank you.

ADV PAUL PRETORIUS SC: Thank you Mr Agrizzi. Before the long adjournment ...[intervenes].

CHAIRPERSON: Maybe, maybe I could then say - put this question to you Mr Agrizzi. The latest - the details that you have just given now with regard to Ms Mokonyane:

1. They do not relate to 28.7.1. Is that right, because that is about the Department of Correctional Services or do they?

MR ANGELO AGRIZZI: No.

CHAIRPERSON: They relate to earlier?

20 **MR ANGELO AGRIZZI:** That ...[intervenes].

CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: That is correct, sir.

CHAIRPERSON: Okay, alright.

2. The details you have, is it correct that the details you have given now actually mean that to the extent that you may have said earlier on that in

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your discussion with Mr Watson you said you were – Bosasa was paying Ms Mokonyane, but not getting anything in return. That might not be completely accurate, because there were somethings that you got even thought it might not have contracts. Is that right?

MR ANGELO AGRIZZI: That is correct.

CHAIRPERSON: You got what you term protection?

MR ANGELO AGRIZZI: Correct.

CHAIRPERSON: Right. Okay, thank you.

ADV PAUL PRETORIUS SC: Thank you and just to place those recent comments of
10 yours in proper context you were referring to paragraph 22.13 of your affidavit.

MR ANGELO AGRIZZI: That is ...[intervenes].

ADV PAUL PRETORIUS SC: A section before the section where we are dealing with – before the long adjournment and which we will continue to deal with now.

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: Now we are dealing with Mr Seopela and monies that were given to him for onward payment for various purposes.

MR ANGELO AGRIZZI: That is correct Chair.

ADV PAUL PRETORIUS SC: And you named certain officials of the Department of Justice and Constitutional Development to whom according to what you were told by
20 Mr Seopela and from your own knowledge payments were made.

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: At the end of paragraph 23.7.2 you name the Secretary of the Commission Dr de Wee.

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: What were you told in relation to Dr de Wee?

21 JANUARY 2019 – DAY 37

MR ANGELO AGRIZZI: I was told by Mr Seopela that one of the names mentioned to me at the time was a Chief Operations Officer in the Department of Justice and Constitutional Development. It was Dr de Wee. Apart from this verbal report I have no other information to confirm the correctness thereof.

ADV PAUL PRETORIUS SC: Well just for completeness sake and we must obviously be thorough what were you told in relation to the secretary?

MR ANGELO AGRIZZI: At one stage I was told that I was late with packing a delivery. The amount was in excess of R2 million and I was told that Dr de Wee was very upset with me, because I was late in getting the delivery to Mr Seopela.

10 **ADV PAUL PRETORIUS SC:** Alright and is that all you were told?

MR ANGELO AGRIZZI: That is what I was told.

ADV PAUL PRETORIUS SC: Alright. So you do not know from your own knowledge indeed whether he was indeed a recipient – was complaining on his own behalf or was complaining on behalf of someone else?

MR ANGELO AGRIZZI: I cannot, I cannot confirm or deny that, yes.

ADV PAUL PRETORIUS SC: Then in paragraph 23.7.3...

CHAIRPERSON: I am sorry Mr Pretorius, around what year would that have been when this report - verbal report - was made to you?

20 **MR ANGELO AGRIZZI:** Chair that was probably about 2003/2004 if I remember correctly. 2013/2014.

CHAIRPERSON: Oh, okay. Thank you.

ADV PAUL PRETORIUS SC: Paragraph 23.7.3 Mr Agrizzi contains information that you have related to the ...[intervenes].

CHAIRPERSON: I am sorry again Mr Pretorius. I am sorry. You mentioned a figure of two million in relation to when you were given this – either when you were given this

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verbal report or when you were told that Dr de Wee was upset with you. Is part of what you were told or what you understood that he was to be paid R2 million or, or that was R2 million that was going to be distributed among a number of officials?

MR ANGELO AGRIZZI: Chair if I can clarify. When the Department of Justice and Constitutional Development paid us what would happen is 2.5 percent of that payment amount would be put into cash and then paid within that week. On this specific incident the R2 million was the amount and my understanding was that it was going to a group of people of which he was one as communicated to me by Senior Seopela.

CHAIRPERSON: Thank you. I interrupted you Mr Pretorius. I am sorry. You can
10 proceed.

ADV PAUL PRETORIUS SC: Thank you Chair. Paragraph 23.7.3, you relate facts relating to the Department of Transport. Now you are telling the Chair about payments made firstly and apparently for onward payment to officials in the Department of Correctional Services and then payments for apparently officials in the Department of Justice and Constitutional Development and now you are talk of the Department of Transport. How did it arise that payments were made for the Department of Transport and by that I presume you mean again officials in the Department of Transport?

MR ANGELO AGRIZZI: Chair that is correct. The contract with Kgwerano is called the RT62 Contract is a contract for providing administration and fleet management services
20 to people on the SMS Scheme and I would have to pack R300 000 a month which would go via Papa Leshabane to be delivered to various officials.

ADV PAUL PRETORIUS SC: The name of that company would you spell it again please?

MR ANGELO AGRIZZI: K-G-W-E-R-A-N-O and it would be Financial Services.

ADV PAUL PRETORIUS SC: Right and you talked of SMS Services. Do you know



**AFFIDAVIT
OF
ANGELO AGRIZZI**

AFFIDAVIT

AA-001

AFFIDAVIT OF ANGELO AGRIZZI

I, the undersigned,

ANGELO AGRIZZI

declare under oath as follows:

Introduction

1.

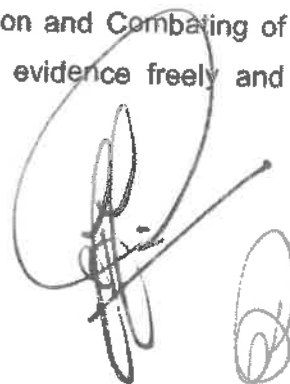
1.1 I am an adult male businessman. I live in Johannesburg. I was born in Germiston, Gauteng. I am a South African Citizen.

1.2 I am married with children.

1.3 The facts contained herein fall within my own personal knowledge, unless the contrary appears from the contents hereof, and to the best of my belief are both true and correct.

2.

I understand that in my statement that I will incriminate myself in respect of potentially serious offences. In addition, I failed to report these acts as apparently required in terms of the provisions of Sec 34 of the Prevention and Combating of Corrupt Activities Act, Act 12, 2004 (PRECCA). I give this evidence freely and voluntarily. I have been offered no incentive or reward.



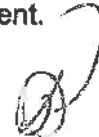
AA-040

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Sesinyi Seopela

23.

- 23.1 During 2005/2006 I was introduced to Sesinyi Seopela (hereinafter referred to as Seopela) on a Saturday morning at Tasha's at Hyde Park shopping centre with Mansell, Gavin Watson and one or two other people. Seopela had been a long -time friend of Leshabane (a director of Bosasa). When he was introduced to me, I was told that he was very well connected politically and that he had been a bodyguard for Peter Mokaba (a previous ANC Youth leader).
- 23.2 I was told that Seopela had completed an LLB degree but had never practised as an attorney. Initially, my involvement with Seopela was limited to when he visited Leshabane at the Bosasa offices.
- 23.3 During or about November 2004, Gavin Watson involved Seopela as a consultant (on the payroll of Consilium Business Consultants (Pty) Ltd in which Dr Jurgen Smith had an interest) earning about R100 000-00 per month. At a later stage, Seopela was allowed to use the Bosasa VIP travel account at Blakes Travel for personal use which expenses would be deducted from his income paid by Consilium Business Consultants (Pty) Ltd.
- 23.4 Around 2011, Gavin Watson instructed me to make the necessary arrangements for Bosasa to supply Seopela with a new vehicle (Audi S5) in Bosasa's name (Registration Number BF51GMGP), a petrol card and a company credit card.
- 23.5 Through Seopela, Gavin Watson became aware that the Department of Justice and Constitutional Development was investigating the implementation of access control and surveillance equipment.



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23.6 Seopela informed me that he was well connected with high ranking officials in the National Prosecuting Authority (hereinafter referred to as the NPA), the Hawks and the erstwhile Scorpions. It always amazed me how Seopela would be able to verify information that we had received particularly in relation to the investigation into Bosasa.

23.7 Seopela accompanied Gavin Watson and other directors on overseas trips and to meetings and appointments with high ranking government officials. He interacted with government departments on ministerial and director-general level on how Bosasa could benefit in various lucrative tenders. Although I was aware of the fact that money was paid to Seopela for unlawful payments to government officials in turn, I only supplied him with cash for this purpose from 2009 onwards (as will be discussed in further detail below). Seopela merely requested an amount of money from me, and was not prepared to supply me with a comprehensive list of individuals and the amount per individual. I raised this with Gavin Watson, who instructed to do as Seopela said. The cash handed to Seopela was distributed by him and he from time to time confirmed payments to some individuals. The money I handed to Seopela on a monthly basis from 2008 to 2016 was the following:

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23.7.2 2.5% of all payments received from the Department of Justice and



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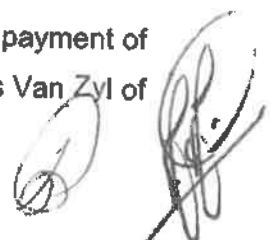
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individuals to ensure Bosasa enjoyed preference in tender contracts amounted to approximately between R4 000 000-00 and R6 000 000-00 per month. I recorded the amount of cash taken from Gavin Watson's safe and put into mine. The amounts requested by any of the directors for payments they had to make were also recorded. Thereafter, I packed the cash in the grey sealable security bags for distribution. These bags were collected by whoever requested the cash. I recorded the cash I delivered to Ishmael Dikane, Joe Gumede, Seopela, Mti, Thandi Makoko, Papa Leshabane, Syvion Dlamini, Gillingham, and others. Whatever surplus cash there was, was then returned to Gavin Watson's safe.

39.

- 39.1 During approximately 2013 Sondolo IT (Pty) Ltd was awarded the contract of secure systems at various courts across the country with the Department of Justice and Constitutional Development. The value of this contract was R601 000 000-00. Seopela played a major role in ensuring that Sondolo IT (Pty) Ltd was awarded this tender. He knew strategic officials in the Department of Justice and Constitutional Development. I was instructed by Gavin Watson to co-ordinate the submission of the tender bid with Seopela. In my mind it was a foregone conclusion that Sondolo IT (Pty) Ltd would be awarded this contract based on the payment of the 2.5% of money received by certain individuals in the Department of Justice and Constitutional Development. I attach a spreadsheet in which the calculation of the 2.5% was made. (Annexure "U")
- 39.2 At that time, Bosasa had already been providing security guarding services in various regions for the Department of Justice and Constitutional Development in terms of a contract which had been awarded during approximately 2006. I became involved in the payment of cash during approximately 2009 and submitted lists to Jacques Van Zyl of



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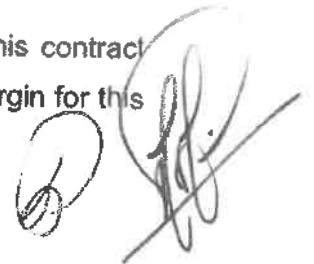
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money requested by directors of the Bosasa Group of Companies for payment to third parties. I became aware of the fact that Gumede requested R40 000-00 for Mams Nyumbuse and R30 000-00 for Norman Thobane. I packed these cash amounts. Their names and payments are recorded in code in the black book referred to above. Payments in respect of rentals, furniture and repairs of vehicles on behalf of Nyumbuse and Thobane were also made by Bosasa (on the request of Gumede).

- 39.3 Seopela arranged for Bosasa to supply security upgrades to the Department of Justice and Constitutional Development to the value of approximately R20 000 000-00 when the SALU building in Pretoria was renovated. No tender processes were followed. This was apparently met with some resistance from The Billion Group from whom the Department of Justice and Constitutional Development rented the building. The Billion Group was liable for the payment for the security upgrade to the building. Seopela informed me that he could obtain the approval of the Billion Group if money were to be paid to individuals in the Billion Group who were responsible for payments. Seopela requested the amount of R1 900 000-00 which I then supplied to him in cash. I do not know if the money was ever paid over.

40.

- 40.1 During or about 2013, a third catering contract for Correctional Services was awarded to Bosasa. The same tender specifications as previously used were used in the advertising of the tender. A new tender application was submitted. However, the award to Bosasa was not a foregone conclusion, as it no longer had substantial influence in the Department of Correctional Services.
- 40.2 This contract was for a three year period and the value of this contract was R420 000 000.00 per annum. The approximate profit margin for this



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opened by Johannes Gumedde and Papa Leshabane on the 31st August, regarding the alleged racial comment I had made. The recording which Jarred Watson had made when they had met with me in my private residence was circulated on the 1st September 2018 on social media (Facebook and Twitter) and print media. This is an attempt to discredit me further.

53.10 The threats that I have been receiving have continued.

54.

54.1 Having reviewed this statement I realise that I have not included all the facts and records at my disposal. This was entirely due to the time pressures under which the statement was prepared. The events of the past almost 20 years are too voluminous to have been recorded in this statement in the circumstances in which it has been prepared. I have no intention of withholding any information from the Commission. For this reason, I will cooperate fully with the Commission's investigators in the further investigations regarding my conduct. I have also tendered my assistance to law enforcement agencies in their investigations. I have handed all relevant documentation in my possession relating to the above matters to the Commission's investigators.



ANGELO AGRIZZI

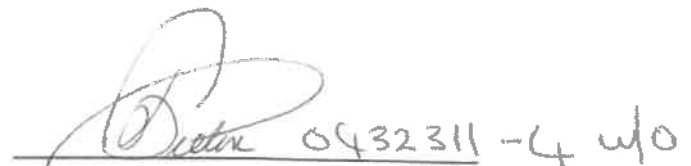


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ANGELO AGRIZZI

THUS SIGNED AND SWORN TO before me at PARKTOWN on this the 15TH day of JANUARY, 2019 by the deponent who acknowledges that he knows and understands the contents of this affidavit; that it is the truth to the best of his knowledge and belief and that he has no objection to taking the prescribed oath and regards the same as binding on the deponent's conscience and the administration of the oath complied with the Regulations contained in Government Gazette No. R1258 of 21 July 1972, as amended.


COMMISSIONER OF OATHS

EX OFFICIO:

FULL NAMES:

Dawid Jacobus Pieterse

PHYSICAL ADDRESS: No.1. Clarendon Place SAPS. Hillbrow

DESIGNATION: warrant officer SAPS.



AA-691

“U”

Annexure “U”

Handwritten signature and initials in black ink. The signature is a large, stylized loop with a dot, and the initials are a smaller, more compact loop.

AA-692

Independent Development Trust

Invoices paid in full as at 2013/02/28

Amount Paid to Sondolo IT	96 842 025.32
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Contract	Invoice Date	Invoice no	Site	Value (Excl VAT)	Date Paid
DoJ&CD	2012/07/10	INV0004269	Botchabello MC (116) - Payment 1	449 399.90	2012/07/31
DoJ&CD	2012/07/10	INV0004270	Brandfort MC (117) - Payment 1	442 283.37	2012/07/31
DoJ&CD	2012/07/10	INV0004271	Grahamstown HC (103) - Payment 1	449 399.90	2012/07/31
DoJ&CD	2012/07/10	INV0004272	Groblershoop MC (132) - Payment 1	442 283.37	2012/07/31
DoJ&CD	2012/07/10	INV0004273	Hartswater MC (133) - Payment 1	445 841.64	2012/07/31
DoJ&CD	2012/07/10	INV0004274	Kriel MC (203) - Payment 1	442 283.37	2012/07/31
DoJ&CD	2012/07/10	INV0004275	Lichtenburg MC (217) - Payment 1	449 399.90	2012/07/31
DoJ&CD	2012/07/10	INV0004276	Mdutlane MC (205) - Payment 1	445 841.64	2012/07/31
DoJ&CD	2012/07/10	INV0004277	Meyerton MC (162) - Payment 1	445 841.64	2012/07/31
DoJ&CD	2012/07/10	INV0004278	Mkobohe MC (207) - Payment 1	445 841.64	2012/07/31
DoJ&CD	2012/07/10	INV0004279	Pietermaritzburg HC (179) - Payment 1	460 074.69	2012/07/31
DoJ&CD	2012/07/31	INV0004297	Botchabello MC (116) - Payment 2	197 363.81	2012/08/14
DoJ&CD	2012/07/31	INV0004298	Botchabello MC (116) - Payment 3	2 449 905.20	2012/08/14
DoJ&CD	2012/07/31	INV0004286	Calvinia MC (128) - Payment 1	445 841.64	2012/08/16
DoJ&CD	2012/07/31	INV0004287	Ficksburg MC (120) - Payment 1	449 399.90	2012/08/16
DoJ&CD	2012/07/31	INV0004288	Harding MC (172) - Payment 1	442 283.37	2012/08/16
DoJ&CD	2012/07/31	INV0004289	Hlanganani MC (185) - Payment 1	449 399.90	2012/08/16
DoJ&CD	2012/07/31	INV0004290	Kokstad MC (174) - Payment 1	449 399.90	2012/08/16
DoJ&CD	2012/07/31	INV0004291	Sekgosee MC (193) - Payment 1	445 841.64	2012/08/16
DoJ&CD	2012/07/31	INV0004292	Whiteriver MC (212) - Payment 1	442 283.37	2012/08/16
DoJ&CD	2012/07/31	INV0004293	Mkobohe MC (207) - Payment 2	237 214.73	2012/08/16
DoJ&CD	2012/07/31	INV0004294	Mkobohe MC (207) - Payment 3	2 881 926.20	2012/08/16
DoJ&CD	2012/07/31	INV0004295	Hartswater MC (133) - Payment 2	206 723.21	2012/08/16
DoJ&CD	2012/07/31	INV0004296	Hartswater MC (133) - Payment 3	2 181 193.96	2012/08/16
DoJ&CD	2012/07/31	INV0004299	Kriel MC (203) - Payment 2	252 720.54	2012/08/16
DoJ&CD	2012/07/31	INV0004301	Meyerton MC (162) - Payment 2	289 325.08	2012/08/16

Confidential

2013/02/28

AA-693

Independent Development Trust

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Amount Paid to Sondolo IT	96 842 025.32
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Contract	Invoice Date	Invoice no	Site	Value / Excl VAT	Date Paid
DoJ&CD	2012/07/31	INV0004302	Meyerion MC (162) - Payment 3	2 665 480.26	2012/08/16
DoJ&CD	2012/07/31	INV0004303	Grobbershoop MC (132) - Payment 2	237 619.06	2012/08/16
DoJ&CD	2012/07/31	INV0004304	Grobbershoop MC (132) - Payment 3	2 182 103.36	2012/08/16
DoJ&CD	2012/07/31	INV0004305	Mduliene MC (205) - Payment 2	194 771.43	2012/08/16
DoJ&CD	2012/07/31	INV0004306	Mduliene MC (205) - Payment 3	2 194 781.97	2012/08/16
DoJ&CD	2012/07/31	INV0004307	Hangani MC (185) - Payment 2	197 570.85	2012/08/16
DoJ&CD	2012/07/31	INV0004308	Hangani MC (185) - Payment 3	2 393 575.71	2012/08/16
DoJ&CD	2012/07/31	INV0004309	Sekgose MC (193) - Payment 2	161 849.65	2012/08/16
DoJ&CD	2012/07/31	INV0004300	Kriel MC (203) - Payment 3	2 165 092.81	2012/09/14
DoJ&CD	2012/07/31	INV0004310	Sekgose MC (193) - Payment 3	1 946 678.44	2012/09/14
DoJ&CD	2012/09/17	INV0004327	Bishop Lavis MC (145) - Payment 2	207 281.23	2012/09/20
DoJ&CD	2012/09/17	INV0004325	Potadder MC (138) - Payment 1	445 841.64	2012/09/27
DoJ&CD	2012/09/17	INV0004326	Bishop Lavis MC (145) - Payment 1	449 399.90	2012/09/27
DoJ&CD	2012/09/17	INV0004329	Cullinan MC (157) - Payment 1	445 841.64	2012/09/27
DoJ&CD	2012/09/17	INV0004328	Bishop Lavis MC (145) - Payment 3	2 389 709.75	2012/09/27
DoJ&CD	2012/09/17	INV0004331	Cullinan MC (157) - Payment 3	2 059 841.12	2012/09/27
DoJ&CD	2012/11/01	INV0004352	LadyFrere MC (104) - Payment 1	445 841.64	2012/11/08
DoJ&CD	2012/11/01	INV0004354	Alexandra MC (237) - Payment 1	452 958.16	2012/11/08
DoJ&CD	2012/11/01	INV0004365	Lichtenburg MC (217) - Payment 2	219 554.48	2012/11/08
DoJ&CD	2012/11/01	INV0004366	Lichtenburg MC (217) - Payment 3	2 258 416.85	2012/11/08
DoJ&CD	2012/11/01	INV0004367	Whiteriver MC (212) - Payment 2	287 025.71	2012/11/08
DoJ&CD	2012/11/01	INV0004368	Whiteriver MC (212) - Payment 3	2 348 399.99	2012/11/08
DoJ&CD	2012/11/01	INV0004369	Mokorong MC (189) - Payment 2	259 876.00	2012/11/08
DoJ&CD	2012/11/01	INV0004370	Mokorong MC (189) - Payment 3	2 973 847.30	2012/11/08
DoJ&CD	2012/11/01	INV0004351	Thabamopo MC (195) - Payment 1	452 958.16	2012/11/08
DoJ&CD	2012/11/01	INV0004353	Mokorong MC (189) - Payment 1	452 958.16	2012/11/23

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96 842 025.32

Contract	Invoice Date	Invoice no	Site	Value / Excl VAT	Date Paid
DoJ&CD	2012/11/01	INV00004355	Edenburg MC (119) - Payment 1	445 841.64	2012/11/23
DoJ&CD	2012/11/01	INV00004356	Khayelitsha MC (234) - Payment 1	456 516.43	2012/11/23
DoJ&CD	2012/11/01	INV00004358	Mohloli'stadt MC (239) - Payment 1	445 841.64	2012/11/23
DoJ&CD	2012/11/01	INV00004359	Moutse MC (208) - Payment 1	445 841.64	2012/11/23
DoJ&CD	2012/11/01	INV00004361	Gumbu MC (243) - Payment 1	445 841.64	2012/11/23
DoJ&CD	2012/11/01	INV00004362	Zwellitsha MC (232) - Payment 1	456 516.43	2012/11/23
DoJ&CD	2012/11/01	INV00004357	Madadeni MC (241) - Payment 1	456 516.43	2012/11/27
DoJ&CD	2012/11/01	INV00004360	Nerina Place Of Safety (233) - Payment 1	445 841.64	2012/11/27
DoJ&CD	2012/11/01	INV00004363	East London MC (101) - Payment 2	458 340.63	2012/11/28
DoJ&CD	2012/11/01	INV00004364	East London MC (101) - Payment 3	5 047 449.79	2012/11/28
DoJ&CD	2012/09/17	INV00004330	Cullinan MC (157) - Payment 2	175 012.47	2012/12/14
DoJ&CD	2012/12/03	INV00004382	Nerina Place of Safety (233) - Payment 2	192 608.88	2012/12/14
DoJ&CD	2012/12/03	INV00004383	Nerina Place of Safety (233) - Payment 3	1 999 110.37	2012/12/14
DoJ&CD	2012/12/03	INV00004384	Khayelitsha MC (234) - Payment 2	301 629.67	2012/12/14
DoJ&CD	2012/12/03	INV00004385	Khayelitsha MC (234) - Payment 3	1 833 702.87	2012/12/14
DoJ&CD	2012/12/03	INV00004386	Madadeni MC (241) - Payment 2	262 900.71	2012/12/14
DoJ&CD	2012/12/03	INV00004387	Madadeni MC (241) - Payment 3	2 187 992.94	2012/12/14
DoJ&CD	2012/12/05	INV00004394	Harrismith MC (121) - Payment 5	479 713.76	2012/12/14
DoJ&CD	2012/12/10	INV00004397	Hartswater MC (133) - Payment 4	1 733 547.58	2012/12/14
DoJ&CD	2012/12/10	INV00004399	Mkobola MC (207) - Payment 4	2 020 835.98	2012/12/14
DoJ&CD	2012/12/10	INV00004400	Mdutfane MC (205) - Payment 4	1 691 563.93	2012/12/14
DoJ&CD	2012/03/01	CRN0000167	Brits MC (213) - Credit 1	-17 947.23	2012/12/14
DoJ&CD	2012/12/03	CRN0000181	Umtata MC (111) - Credit 1	-1 141 685.49	2012/12/14
DoJ&CD	2012/12/03	INV00004378	Thabamopo MC (195) - Payment 2	336 010.88	2012/12/14
DoJ&CD	2012/12/03	INV00004379	Thabamopo MC (195) - Payment 3	3 352 544.10	2012/12/14
DoJ&CD	2012/12/03	INV00004388	Mmabatho HC (218) - Payment 4	1 313 810.56	2012/12/14

AA-695

Independent Development Trust

Invoices paid in full as at 2013/02/28

Amount Paid to Sordolo IT	96 842 025.32
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Contract	Invoice Date	Invoice no	Site	Value (Excl VAT)	Date Paid
DoJ&CD	2012/12/05	CRN0000182	KempionPark MC (160) - Credit 1	-13 099.86	2012/12/14
DoJ&CD	2012/12/10	INV0004401	Botchabello MC (116) - Payment 4	1 859 986.50	2012/12/14
DoJ&CD	2012/12/05	INV0004391	Mankweng MC (187) - Payment 5	10 042.80	2012/12/18
DoJ&CD	2012/12/05	INV0004392	Middelburg MC (206) - Payment 3	136 687.11	2012/12/18
DoJ&CD	2012/12/03	INV0004380	Queensstown MC (108) - Payment 2	366 194.26	2012/12/20
DoJ&CD	2012/12/03	INV0004381	Queensstown MC (108) - Payment 3	3 170 190.43	2012/12/20
DoJ&CD	2012/12/10	INV0004398	Cullinan MC (157) - Payment 4	1 554 696.29	2012/12/20
DoJ&CD	2012/12/05	INV0004390	Delmas MC (200) - Payment 5	479 713.76	2013/01/22
DoJ&CD	2012/12/05	INV0004396	CapeTown MC (147) - Payment 5	425 043.95	2013/01/22
DoJ&CD	2013/01/22	INV0004402	Moutse MC (208) - Payment 2	341 439.02	2013/02/05
DoJ&CD	2013/01/22	INV0004403	Moutse MC (208) - Payment 3	2 768 639.14	2013/02/05
DoJ&CD	2013/01/22	INV0004404	Qumbu MC (243) - Payment 2	192 608.88	2013/02/05
DoJ&CD	2013/01/22	INV0004405	Qumbu MC (243) - Payment 3	1 999 110.37	2013/02/05
DoJ&CD	2013/01/22	INV0004406	Brandfort MC (117) - Payment 2	152 367.35	2013/02/05
DoJ&CD	2013/01/22	INV0004407	Brandfort MC (117) - Payment 3	1 520 724.00	2013/02/05
DoJ&CD	2013/01/22	INV0004419	Edenburg MC (119) - Payment 2	176 655.61	2013/02/05
DoJ&CD	2013/01/22	INV0004420	Edenburg MC (119) - Payment 3	1 773 295.23	2013/02/05
DoJ&CD	2013/01/22	INV0004421	Alexandra MC (237) - Payment 2	360 121.02	2013/02/05
DoJ&CD	2013/01/22	INV0004422	Alexandra MC (237) - Payment 3	3 492 668.43	2013/02/05
DoJ&CD	2013/01/22	INV0004424	Ficksburg MC (120) - Payment 3	2 274 366.88	2013/02/05
DoJ&CD	2013/01/22	INV0004423	Ficksburg MC (120) - Payment 2	196 085.28	2013/02/07
DoJ&CD	2013/01/22	INV0004426	Mkobola MC (207) - Payment 5	549 999.99	2013/02/15

YTD Receipts 96 842 025.32
2.5% Management Fee 2 421 050.63

Confidential

2013/02/28

AA-696



Independent Development Trust

Invoices paid in full as at 2013/02/28

Amount Paid to Sondolo IT	96 842 025.32
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<u>Contract</u>	<u>Invoice Date</u>	<u>Invoice no</u>	<u>Site</u>	<u>Value (Excl VAT)</u>	<u>Date Paid</u>
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Management Fee already provided	2 026 098.60
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Additional Management fee to be provided - February 2013	394 952.03
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Receipts for February 2013	15 798 081.19
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Confidential

2013/02/28

COMMISSION OF INQUIRY INTO STATE CAPTURE
HELD AT
PARKTOWN, JOHANNESBURG

10

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MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: After this discussion did you continue to arrange for payments to government officials for benefits?

MR ANGELO AGRIZZI: Yes, I did.

ADV PAUL PRETORIUS SC: Then let us go on then to page 40.

CHAIRPERSON: So Mr Watson did not go along with the idea of stopping doing business in this way, namely through bribes?

MR ANGELO AGRIZZI: Chair, it would take me the rest of the afternoon what was said, but in a nutshell I was told that you are in Africa, do as Africa.

10 **CHAIRPERSON:** Yes, thank you.

ADV PAUL PRETORIUS SC: And you continued in your participation as before?

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: Then let us move on then to page 40 paragraph 23.1 please? You now relate events relevant to a Mr Sesiniyi Seopela and his relationship with Bosasa, correct?

MR ANGELO AGRIZZI: That is correct, Chair.

ADV PAUL PRETORIUS SC: When were you introduced to Mr Seopela?

20 **MR ANGELO AGRIZZI:** Yes, I could, during 2005/2006, I was introduced to him on a Saturday morning. I was visiting with Gavin Watson, at the Hyde Park Shopping Centre. He had gone there specifically for a meeting with Mr Mansell and myself and just leaning against the wall at a shop that sold record players, B and O I think was the name, was Mr Seopela and it was then that he was first introduced to me.

CHAIRPERSON: Well let me ask this Mr Agrizzi, when one reads your affidavit one gets the impression that you have a very good memory and I see that you have just told us that you can even remember on what day of the week it was when you were

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introduced to Mr Seopela. Have you got a very good memory?

MR ANGELO AGRIZZI: Not at all. I have a very good long term memory, Chair. My short term memory is terrible.

CHAIRPERSON: Okay, alright, thank you.

ADV PAUL PRETORIUS SC: What was your knowledge of Mr Seopela's history and qualifications?

MR ANGELO AGRIZZI: My knowledge was that I was first introduced to Mr Seopela that he was Peter Mokaba's bodyguard and driver, he was a previous ANC Youth Leader. He had a LLB degree, but never done his articles. I was also told, Chair, that
10 he was very close to the previous detail of the late President Nelson Mandela. I was told that he was very influential in government circles and he was involved in a major way with Fana Hlongwane from the arms deal. That is what I was told.

ADV PAUL PRETORIUS SC: Right. In relation to Mr Seopela's involvement with Bosasa or Bosasa related companies, do you recall what happened during or about November 2004?

MR ANGELO AGRIZZI: I refer back to November 2004, Chair, because apparently it had been already involved in Bosasa, I just did not know about it. He was on the payroll as a consultant. I, at that stage was not allowed to see the payroll so I cannot attest to the exact date, but he was a consultant then and he was being managed by
20 Dr Jurgen Smith and by Gaven Watson.

At a later stage he was allowed to utilise, this was in 2006, I think it was, he was allowed to use the Bosasa VIP travel account for his own ends and for people he needed to travel around with.

ADV PAUL PRETORIUS SC: And you say in your affidavit his travel expenses would be indirectly paid by him, because it was deducted from his income, which had been

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paid by Concillium?

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: And during 2011 did he receive a benefit at the instruction of Gavin Watson?

MR ANGELO AGRIZZI: In 2011 it became more and more prevalent that Gavin needed his assistance and Gavin approached me and said to me I need to buy him a new vehicle, which I ordered for him and I provided him with a company expense card and a company credit card for petrol as well. And that started happening more, and I know for a fact that there were no deductions made in terms of the travel as well.

10 **ADV PAUL PRETORIUS SC:** No deductions from his income?

MR ANGELO AGRIZZI: Correct.

ADV PAUL PRETORIUS SC: Did, to your knowledge Mr Seopela give Mr Gavin Watson some information regarding developments at the Department of Justice and Constitutional Development?

MR ANGELO AGRIZZI: Yes.

ADV PAUL PRETORIUS SC: And I am referring to paragraph 23.5 of your affidavit. What information was given?

MR ANGELO AGRIZZI: That is correct. I cannot tell you what information Mr Seopela gave Mr Watson. I can only tell you what information Watson gave me. I was not privy

20 to that meeting specifically.

ADV PAUL PRETORIUS SC: Alright, what did Mr Watson tell you?

MR ANGELO AGRIZZI: Mr Watson told me to get ready and to be able to draw up a design and to be able to implement a national program for the Department of Justice and Constitutional Development.

ADV PAUL PRETORIUS SC: Alright, a design and a program for what? I am sorry,

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Chair?

CHAIRPERSON: Maybe before you proceed, you said he was, Mr Seopela a consultant to Bosasa or to Mr Gavin Watson. He was a consultant, is that right?

MR ANGELO AGRIZZI: That is correct.

CHAIRPERSON: And in terms of the work that he was doing was that liaising with potential clients for Bosasa and being a link with clients or what was the content of his duties as a consultant?

MR ANGELO AGRIZZI: That is correct and it was to get involved with politicians which he had introduced us to.

10 **CHAIRPERSON:** Okay.

MR ANGELO AGRIZZI: And that is why I give the history of Mr Seopela.

CHAIRPERSON: Yes, thank you.

ADV PAUL PRETORIUS SC: At the time Mr Seopela was employed as a consultant and paid by Concillium Business Consultants Pty Ltd did he have any other form of employment?

MR ANGELO AGRIZZI: I am not aware of that, I cannot recall where he was working.

ADV PAUL PRETORIUS SC: And when was this information received by Gavin Watson or to put it differently when did Gavin Watson tell you about the information he had received from Seopela, more or less?

20 **MR ANGELO AGRIZZI:** Chair, I was told by Gavin Watson that the Department of Justice Constitutional Development are looking to investigate the implementation security systems. I cannot remember the exact date that, that was actually was told to me.

ADV PAUL PRETORIUS SC: More or less? The year? Before 2010, after 2010?

MR ANGELO AGRIZZI: This will be about the short term memory, it must have been

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2010.

CHAIRPERSON: Okay.

ADV PAUL PRETORIUS SC: Did Mr Seopela give you any information in relation to his connections?

MR ANGELO AGRIZZI: Yes, he often would tell me who he is working with.

ADV PAUL PRETORIUS SC: And provide some detail please for the, Chair?

MR ANGELO AGRIZZI: I do not understand that question correctly. Are you talking only in terms of Correction, Department of Justice and Constitutional Development?

ADV PAUL PRETORIUS SC: No, anyone else? And I am referring to paragraph 23.6.

10 **MR ANGELO AGRIZZI:** Yes.

ADV PAUL PRETORIUS SC: So I am not – my question is not limited to Department of Justice and Constitutional Development.

MR ANGELO AGRIZZI: Okay.

ADV PAUL PRETORIUS SC: It is specifically in relation to what Mr Seopela told you about his connections in various arms of government to put it broadly.

MR ANGELO AGRIZZI: So Mr Seopela would tell me that he is working with various individuals, they were high level people, DG's. There were people that he was working with that I have been introduced to and some that I did not even meet, but I would be told that I would have to prepare money for them so he would say to me that I want you
20 to prepare X amount and these people are benefitting from it as well.

ADV PAUL PRETORIUS SC: Alright, we will come to the payments in due course.

MR ANGELO AGRIZZI: Okay.

ADV PAUL PRETORIUS SC: But for the moment did he tell you anything about whether he was connected to officials in the National Prosecuting Authority or other law enforcement agencies?

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MR ANGELO AGRIZZI: Yes.

ADV PAUL PRETORIUS SC: What did he tell you?

MR ANGELO AGRIZZI: Do you want me to mention the names, Chair?

ADV PAUL PRETORIUS SC: Well you do not in your statement, so I am not inviting you to go further than your affidavit at this stage, perhaps later, but for the present did he tell you anything about high ranking officials in these institutions, in particular law enforcement agencies?

MR ANGELO AGRIZZI: Yes, he interacted with them on that level, on ministerial level and he also made sure that he let us know that Bosasa could benefit in high lucrative
10 tenders that were coming out. Although I was aware of the fact that the money was paid to Seopela for these unlawful issues, Seopela just asked me for an amount, I would prepare it and I would then raise it with Mr Watson. Mr Watson would tell me just do as Seopela tells you to do it is fine, he is aware of the people.

The cash that was handed over to him was then distributed by him and it happened from until 2016 until I left. Does that answer your question?

ADV PAUL PRETORIUS SC: In broad terms yes, but no, Mr Agrizzi, I am asking specifically about whether Mr Seopela ever told you that he was connected in any sense with officials in the National Prosecuting Authority, the HAWKS and the erstwhile
Scorpions?

20 **MR ANGELO AGRIZZI:** Most definitely he did.

ADV PAUL PRETORIUS SC: He did tell you that?

MR ANGELO AGRIZZI: Yes.

ADV PAUL PRETORIUS SC: And did you have any information from him that appeared to verify what you had been told by Mr Seopela?

MR ANGELO AGRIZZI: Chair, if I may. I just want to know do you want me to mention

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who the people were?

CHAIRPERSON: No, what Mr Pretorius is asking at this stage...[intervenes]

MR ANGELO AGRIZZI: Yes?

CHAIRPERSON: Is this, you have just told me that Mr Seopela told you that he had interactions with certain people in enforcement at the NPA?

MR ANGELO AGRIZZI: Correct.

CHAIRPERSON: And Mr Pretorius is asking whether you ever had occasion to receive information from Mr Seopela which corroborated what he had told you, namely that he had connections and he was interacting with people in the NPA?

10 **MR ANGELO AGRIZZI**: Chair, I am well aware that is the question and my answer to that is most definitely. I am just asking you do you need me to give the names?

CHAIRPERSON: No at this stage...[intervenes]

MR ANGELO AGRIZZI: To verify it?

CHAIRPERSON: No, at this stage he has not asked for the names, he just wants you to be able to say, yes I did if that is the case.

MR ANGELO AGRIZZI: Yes.

CHAIRPERSON: Get information through him that there was such a stage that he did have interaction with people in the NPA, then he can ask further questions.

MR ANGELO AGRIZZI: Chair?

20 **CHAIRPERSON**: Yes?

MR ANGELO AGRIZZI: That was my answer.

CHAIRPERSON: Thank you.

MR ANGELO AGRIZZI: Yes, but I can elaborate if need be.

CHAIRPERSON: Yes, okay.

ADV PAUL PRETORIUS SC: Well, if you look at paragraph 23.6 of your affidavit, just

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take a moment to read it please?

MR ANGELO AGRIZZI: Yes?

ADV PAUL PRETORIUS SC: Is what you say in that paragraph 23.6 correct?

MR ANGELO AGRIZZI: 100%.

ADV PAUL PRETORIUS SC: So is it correct that as you say it always amazed me how Seopela would be able to verify information that we had received particularly in relation to the investigation into Bosasa?

MR ANGELO AGRIZZI: It was spot on, I was shocked.

ADV PAUL PRETORIUS SC: Alright. We will come to more detail in due course about
10 Bosasa's interest in the SIU investigation in particular. In paragraph 23.7 and if you need to just refresh your memory please do so, you expand on the relationship between Mr Seopela and Bosasa and in particular Gavin Watson and you record how payments were made, to which you have already referred. Would you tell the, Chair, please of those circumstances?

MR ANGELO AGRIZZI: As, Chair, as it is contained in 23.7, alright there would be numerous meetings with high ranking government officials. Often there would be visits as well to the offices of Bosasa would he would accompany us with. Although I was aware of the fact that the money was paid to Seopela for unlawful purposes to these government officials in turn, I only supplied him with the cash from 2009 onwards and
20 Seopela would just ask for an amount and we would be done, but he was influential and he was able to get people to do things and get information to us that was accurate that was informative and that assisted the process.

Does that answer the question, Chair?

ADV PAUL PRETORIUS SC: Yes, thank you.

MR ANGELO AGRIZZI: Ja.

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ADV PAUL PRETORIUS SC: So, in relation to the payment of moneys, sorry I answered the question on your behalf, Chair, perhaps I should...[intervenes]

CHAIRPERSON: I confirm the same thing.

ADV PAUL PRETORIUS SC: Thank you, Chair.

CHAIRPERSON: Okay.

ADV PAUL PRETORIUS SC: So the procedure you speak about in paragraph 23.7 is the following, Mr Seopela would request an amount of money from you?

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: Did he tell you what the purpose of that payment of
10 money to him was?

MR ANGELO AGRIZZI: Correct, he would.

ADV PAUL PRETORIUS SC: What did he say?

MR ANGELO AGRIZZI: He would tell me where it was, who, which department it was or what transaction it was happening for. Sometimes he would not give me all the detail, but at least tell me where it was going to.

ADV PAUL PRETORIUS SC: So Mr Seopela came to you, he asked for money and he would describe in general terms the purpose for which money would be paid?

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: He would give you details of departments to which it
20 would be paid or official, and he would give you details of contracts in respect of which moneys would be paid?

MR ANGELO AGRIZZI: It was very broad stroke. I often would request more detail and he would say no.

ADV PAUL PRETORIUS SC: Alright, did you request details of individuals to whom money was intended to be paid?

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MR ANGELO AGRIZZI: Yes.

ADV PAUL PRETORIUS SC: And did he provide that information?

MR ANGELO AGRIZZI: No.

ADV PAUL PRETORIUS SC: And did you raise that issue with Gavin Watson?

MR ANGELO AGRIZZI: I did.

ADV PAUL PRETORIUS SC: What had Gavin Watson respond?

MR ANGELO AGRIZZI: Just told me to do what Seopela says.

CHAIRPERSON: So whereas, as you told me last week, in regard to requests for payments you would confirm with Mr Gavin Watson in regard to money requested by
10 Mr Seopela the word from Mr Watson was, in effect, if Mr Seopela ask for money, just give him the money. So you did not have to after some time you did not have to basically check with Mr Watson? As long as Mr Seopela wanted the money you were supposed to give him, is that correct?

MR ANGELO AGRIZZI: Chair, that is correct, but I must just add that I would still ask and sometimes he would tell me.

CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: But a lot of times he would not tell me, but if he did not tell me then I would not be able to refuse, because I had an instruction that he has to get paid anyway.

20 **CHAIRPERSON:** Yes, but the point I was making was, that I was wanting you to confirm is that you after – whether after Mr Watson had told you if Mr Seopela is asking you for money, just give him. I was asking whether that meant that you did not have to confirm with Mr Watson each time Mr Seopela asked money, whether you should give him. You just gave him, because that was an instruction?

MR ANGELO AGRIZZI: It meant that, but I would still just every time double check and

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confirm.

CHAIRPERSON: Yes, but with Seopela not with Mr Watson?

MR ANGELO AGRIZZI: With, sorry, Chair, let me clarify.

CHAIRPERSON: *Ja?*

MR ANGELO AGRIZZI: Even though he had said to me you do not need to check on him I would still check.

CHAIRPERSON: Okay, alright, thank you.

MR ANGELO AGRIZZI: So I would still, even if it was a week later I would still turn around and say, by the way he asked for this, this and this.

10 **CHAIRPERSON**: Okay, alright, thank you.

MR ANGELO AGRIZZI: I would still do that.

CHAIRPERSON: Okay.

MR ANGELO AGRIZZI: I was not just going to just stop it.

CHAIRPERSON: Okay, thank you. Now, just something arising from last week's evidence. When you were told by a Director or somebody was requesting money, when you were told by such a person who the money would be used to pay, would you always record that in the black book or not always, only sometimes?

MR ANGELO AGRIZZI: Always in the black book, always.

CHAIRPERSON: Okay, okay, so...[intervenes]

20 **MR ANGELO AGRIZZI**: It did not matter, it was always recorded. I always put it down.

CHAIRPERSON: Yes, so if – I know that we did look at some pages of the black book last week, and I cannot remember whether – I think you might have said that some black books got lost or whatever, but if we were to get any of the black books it would have names of people who you were told were going to be paid by different people, who took money from you?

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MR ANGELO AGRIZZI: You would have all the detail if we can get the black books.

CHAIRPERSON: Okay, thank you.

ADV PAUL PRETORIUS SC: Alright, again just to provide a little more detail there, Mr Agrizzi you have said to the, Chair, in evidence that there were many black books, is that correct?

MR ANGELO AGRIZZI: Yes.

ADV PAUL PRETORIUS SC: And that you were responsible for recording information in those black books?

MR ANGELO AGRIZZI: That is correct.

10 **ADV PAUL PRETORIUS SC**: There were also lists kept on pieces of paper prior to the utilisation of black books?

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: But you have some lists and one black book in your possession, which you have given to the investigators?

MR ANGELO AGRIZZI: That is correct.

CHAIRPERSON: How long would one black book last before it was filled up, more or less on average?

MR ANGELO AGRIZZI: They were swapped so we would use one, take one, use one take one.

20 **CHAIRPERSON**: Oh.

MR ANGELO AGRIZZI: It would last about six months, seven months.

CHAIRPERSON: Okay, alright, thank you.

MR ANGELO AGRIZZI: Sometimes a year.

ADV PAUL PRETORIUS SC: Mr Agrizzi in paragraph 23.7.1 and following you relate in your affidavit what you do know about payments?

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MR ANGELO AGRIZZI: Yes.

ADV PAUL PRETORIUS SC: Let us just deal with 23.7.1 first, please and before mentioning any names I would like to understand the basis upon which the particular name mentioned there is referred to by you. You say that a particular amount was paid to the Department of Correctional Services. How much was that?

MR ANGELO AGRIZZI: The initial amount was R500 000 a month.

ADV PAUL PRETORIUS SC: And that was during the period 2008 to 2016?

MR ANGELO AGRIZZI: As far as I can see, yes.

ADV PAUL PRETORIUS SC: Alright, and you say initially R500 000 per month was
10 paid, I presume to Mr Seopela if one reads this statement in proper context for onward payment to the Department of Correctional Services?

MR ANGELO AGRIZZI: Correct.

ADV PAUL PRETORIUS SC: Was that now...[intervenes]

CHAIRPERSON: I am sorry Mr Pretorius, I guess for onward payment to the Department means for onward payment to certain officials in the Department as opposed to, to the Department.

MR ANGELO AGRIZZI: Correct.

CHAIRPERSON: Ja.

ADV PAUL PRETORIUS SC: Is that what you mean when you referred to the payment
20 in the first sentence of 23.7.1?

MR ANGELO AGRIZZI: Those were bribes, Chair.

ADV PAUL PRETORIUS SC: Alright, was that amount later amended?

MR ANGELO AGRIZZI: The amount was amended, Chair, increased to R750 000 and this was when the Commissioner was appointed at this stage.

ADV PAUL PRETORIUS SC: And who was that, well before we go on, you are about

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to mention a name. What was the relationship between the increase and the appointment of the Commissioner? Well we all know that the Commissioner appointed that time was Mr Tom Moyane so we cannot ask you more about corroborative information. You say it was increased to R750 000 per month when the new Commissioner was appointed?

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: That is the new Commissioner of the Department of Correctional Services?

MR ANGELO AGRIZZI: That is correct.

10 **ADV PAUL PRETORIUS SC**: And that Commissioner was Mr Tom Moyane?

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: How did you learn that?

MR ANGELO AGRIZZI: It was told to me by Seopela. So I would have to increase the amount that was packed.

ADV PAUL PRETORIUS SC: And did you believe this?

MR ANGELO AGRIZZI: His evidence, as I said earlier, Chair, was always very credible. I never needed to check up. I did check up in the initial stages and now and again I would do a check, but his evidence in whatever he told me was, he was always very accurate.

20 **ADV PAUL PRETORIUS SC**: At this time was Bosasa receiving any benefits from the Department of Correctional Services?

CHAIRPERSON: Maybe you need to clarify that Mr Pretorius, because you are asking him in the context of Section 23.7.1, which relates to 2008/2016, are you asking about the whole of that period?

ADV PAUL PRETORIUS SC: Perhaps I should clarify. Generally your evidence

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relates to the period 2008 to 2016?

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: But in particular in relation to the time when Mr Moyane was appointed as National Commissioner, you say that the amount was increased from R500 000 per month to R750 000 per month?

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: You do not say in particular to whom any of this money was given personally?

10 **MR ANGELO AGRIZZI:** I know where it has been and, Chair, quite simply, I mean it is common sense really.

ADV PAUL PRETORIUS SC: Yes, well, anybody can make those deductions including the, Chair, but let us just take it step by step. At the time when Mr Moyane was appointed National Commissioner of Department of Correctional Services and therefore at the time the amount paid to officials or for the purpose of payment to officials within the Department of Correctional Services was Bosasa enjoying the benefits of contracts with the Department?

20 **MR ANGELO AGRIZZI:** That is correct, Chair. And if I can put into perspective, I will give you an example. For instance a letter was written to Mr Moyane by a certain journalist to start quering about why are you retaining Bosasa and it was just simply put away, and when I asked the question is Mr Moyane assisting us? I was told yes, what happened with the investigation? Absolutely nothing happened. So yes, it was confirmed to me as well. Does that answer the question?

CHAIRPERSON: Mr Pretorius will follow up if he is not happy with that answer.

MR ANGELO AGRIZZI: Thank you.

CHAIRPERSON: So the R500 000 to which you refer in paragraph 23.7.1 per month?

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MR ANGELO AGRIZZI: Yes.

CHAIRPERSON: Was being given to Mr Seopela and according to him he was paying it over to some or other official or officials in the Department of Correctional Services before Mr Moyane's time?

MR ANGELO AGRIZZI: That is correct.

CHAIRPERSON: That is right, and you are saying that after Mr Moyane's appointment as Commissioner of Correctional Services that monthly payment that you were giving to Mr Seopela increased to R750 000?

MR ANGELO AGRIZZI: That is correct.

10 **CHAIRPERSON**: Yes, and Mr Seopela is the one that would pay it to whoever it was supposed to be paid?

MR ANGELO AGRIZZI: That is correct, Chair.

CHAIRPERSON: Thank you. Do you know whether it was paid to one official or whether to a number of – it was shared among a number of officials or divided among a number of officials? In other words do you know whether Mr Seopela while it was R500 000 a month would divide it among a number of officials at Correctional Services or whether it was going to one person only?

MR ANGELO AGRIZZI: In terms of the R500 000 initial I know it was being split up, Chair.

20 **CHAIRPERSON**: Yes.

MR ANGELO AGRIZZI: And thereafter I presume with the extra they would have split it to the new additions.

CHAIRPERSON: Yes, okay.

ADV PAUL PRETORIUS SC: You, I understand, were tasked with preparing and handing over the money to Mr Seopela?

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MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: It was always in cash, I understand?

MR ANGELO AGRIZZI: That is correct, Chair.

CHAIRPERSON: And in grey security bags?

MR ANGELO AGRIZZI: The grey security bags would be packed in R50 000 and up until R1-million would be packed into a cheap havosack type bag that was bought at the China Mall.

CHAIRPERSON: Okay.

ADV PAUL PRETORIUS SC: Is it possible that Mr Seopela simply pocketed this
10 amount for his own purposes?

MR ANGELO AGRIZZI: Most definitely not.

ADV PAUL PRETORIUS SC: Why do you say that?

MR ANGELO AGRIZZI: He was trusted and he had a reputation and the integrity that he used to transport quite a lot of cash previously and there was never an issue. From time to time I would check, but we, I would not say that he pocketed the cash.

ADV PAUL PRETORIUS SC: Then in paragraph 23.7.2 you...[intervenes]

CHAIRPERSON: I am sorry Mr Pretorius. So in other words what you are saying is Mr Seopela as far as you know was the type of person who would have – if he was required to take this money and go and pay certain officials, he would go and do that
20 and he was receiving his own salary as a consultant in relation to his work for Bosasa?

MR ANGELO AGRIZZI: That is correct, Chair.

CHAIRPERSON: Thank you.

ADV PAUL PRETORIUS SC: When you say that Mr Seopela was a man of integrity I presume you mean that he could be relied upon to deliver money in accordance with the understanding with Gavin Watson and Bosasa?

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MR ANGELO AGRIZZI: I presume so, Chair, that is what I meant.

ADV PAUL PRETORIUS SC: The next paragraph 23.7.2 you may want to look at it, because there are number of allegations you make in it.

MR ANGELO AGRIZZI: Yes.

ADV PAUL PRETORIUS SC: You refer to 2.5% of all payments received from the Department of Justice and Constitutional Development in respect of the 2013 tender awarded to Sondolo IT to establish secure systems in the various courts?

MR ANGELO AGRIZZI: Correct.

ADV PAUL PRETORIUS SC: And you say that money was paid to Seopela for
10 distribution to officials of that department. First of all who or what was Sondolo IT Pty Ltd?

MR ANGELO AGRIZZI: Sondolo IT Pty Ltd was a technology solutions provider that provided a singular platform on an IP based infrastructure where we would offer solutions for security, x-ray scanning, various electronic security encounter measures.

ADV PAUL PRETORIUS SC: And did it have a contract, sorry, was it a company associated with or within the group?

MR ANGELO AGRIZZI: Yes, it is.

ADV PAUL PRETORIUS SC: The Bosasa group?

MR ANGELO AGRIZZI: That is correct.

20 **ADV PAUL PRETORIUS SC:** And did it have a contract with the Department of Justice and Constitutional Development?

MR ANGELO AGRIZZI: It had a very lucrative contract, yes.

CHAIRPERSON: And was that a contract which originated in 2013 as you said?

MR ANGELO AGRIZZI: Correct, if I remember correctly?

CHAIRPERSON: And you say that the contract related to the provision of systems of

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security control in the various courts?

MR ANGELO AGRIZZI: That is exactly what it did.

ADV PAUL PRETORIUS SC: Alright. Approximately what amount was constituted by that 2.5%?

MR ANGELO AGRIZZI: It was about 15-million South African Rands, Chair.

ADV PAUL PRETORIUS SC: So you say that about R15-million was paid to the – well to officials of the Department of Justice and Constitutional Development?

MR ANGELO AGRIZZI: Correct.

ADV PAUL PRETORIUS SC: From your own knowledge are you able to say to which
10 officials this money was paid?

MR ANGELO AGRIZZI: I know of four of the names.

ADV PAUL PRETORIUS SC: From your own knowledge?

MR ANGELO AGRIZZI: Correct.

ADV PAUL PRETORIUS SC: Who are those officials? And I am not talking about what Mr Seopela told you.

MR ANGELO AGRIZZI: I know that.

ADV PAUL PRETORIUS SC: That will come later.

MR ANGELO AGRIZZI: I know that.

ADV PAUL PRETORIUS SC: So will you tell the, Chair, please, which officials
20 received money and the basis upon which you are able to say from your own knowledge that they indeed received money?

MR ANGELO AGRIZZI: Chair, do you want the actual names? You want me to give them to you?

CHAIRPERSON: Yes, that is what you are being asked.

ADV PAUL PRETORIUS SC: Yes.

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MR ANGELO AGRIZZI: There was a Ms Masha, there was a...[intervenes]

CHAIRPERSON: I am sorry Mrs or?

MR ANGELO AGRIZZI: Ms Masha.

CHAIRPERSON: Ms Masha?

MR ANGELO AGRIZZI: That is all I know.

ADV PAUL PRETORIUS SC: Spell that please?

MR ANGELO AGRIZZI: I think it was M-A-S-H-A. There was...[intervenes]

CHAIRPERSON: I am sorry do you remember what her position in the Department of Justice was?

10 **MR ANGELO AGRIZZI**: It was in security.

CHAIRPERSON: Sorry?

MR ANGELO AGRIZZI: It was involved in security.

CHAIRPERSON: In security, okay.

MR ANGELO AGRIZZI: Correct.

CHAIRPERSON: Yes, as you mention them if you are able to say what, whether they were in security or what?

MR ANGELO AGRIZZI: Correct. There was a gentleman by the name of Norman Thobane. There was a woman by the name of Mamsie Nyambuse, head of security.

20 **CHAIRPERSON**: I am sorry, Mamsie?

MR ANGELO AGRIZZI: Mamsie Nyambuse.

CHAIRPERSON: Okay.

MR ANGELO AGRIZZI: The fourth one I just cannot remember right now.

CHAIRPERSON: Okay.

ADV PAUL PRETORIUS SC: And how do you know that?

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MR ANGELO AGRIZZI: Because I was present at some of the meetings and payments.

ADV PAUL PRETORIUS SC: So...[intervenes]

CHAIRPERSON: Where they were given cash?

MR ANGELO AGRIZZI: Yes.

CHAIRPERSON: And each one of the ones that you have mentioned?

MR ANGELO AGRIZZI: Yes.

CHAIRPERSON: Thank you.

ADV PAUL PRETORIUS SC: And who was present when cash was handed over and
10 who handed over the cash?

MR ANGELO AGRIZZI: Well, are you talking specifically relating to the whole of justice?

ADV PAUL PRETORIUS SC: Now I am talking about these four individuals, three of whom you have named?

MR ANGELO AGRIZZI: Joe Gumede was present and I was present and they were present.

ADV PAUL PRETORIUS SC: Yes, and who actually handed over the money?

MR ANGELO AGRIZZI: It would have been Joe Gumede.

ADV PAUL PRETORIUS SC: But I thought Mr Seopela was responsible for handing
20 over the money?

MR ANGELO AGRIZZI: There were two lots, if you recall, there were two lots. There is the big amount, which he would also hand over and there were smaller amounts which were handed over.

ADV PAUL PRETORIUS SC: Alright, and these particular amounts handed over to the four people, three of whom you have named, were these big or small amounts?

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MR ANGELO AGRIZZI: Well it was small in comparison to that.

ADV PAUL PRETORIUS SC: Alright. Did Mr Seopela tell you the names of persons to whom he handed money? You have already told us that you relied on his information?

CHAIRPERSON: I am sorry, before you get there, let me ask about these three in respect of whom you have personal knowledge of them receiving money, according to your evidence.

MR ANGELO AGRIZZI: Yes.

CHAIRPERSON: You said Mr Joe Gumede and yourself?

MR ANGELO AGRIZZI: Yes.

10 **CHAIRPERSON**: The two of you were present?

MR ANGELO AGRIZZI: That is correct.

CHAIRPERSON: Now, let us talk about Ms Masha?

MR ANGELO AGRIZZI: Yes.

CHAIRPERSON: Was it more than one occasion where you observed...[intervenes]

MR ANGELO AGRIZZI: That one was specifically one occasion, Chair.

CHAIRPERSON: One occasion?

MR ANGELO AGRIZZI: That is correct.

CHAIRPERSON: And can you remember how much the amount was on that occasion or not really?

20 **MR ANGELO AGRIZZI**: That specific lady I was there on the one occasion.

CHAIRPERSON: Yes?

ADV PAUL PRETORIUS SC: I remember one occasion only.

CHAIRPERSON: Yes.

ADV PAUL PRETORIUS SC: The others I can remember regular.

CHAIRPERSON: Yes.

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MR ANGELO AGRIZZI: And it was more than one occasion.

CHAIRPERSON: In regard to her, where was the place where cash was handed over to her?

MR ANGELO AGRIZZI: It was normally in a restaurant, there is a – I can remember vividly the sign board at 232 or something, there was a brown sign board in Johannesburg and sometimes it would be at the Protea Hotel, I think it was a Protea in Johannesburg itself.

CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: Pretoria sorry, not Johannesburg, Pretoria.

10 **CHAIRPERSON**: Yes. Okay, and are you able to recall more or less when that may have been in terms of just a year?

MR ANGELO AGRIZZI: No, I cannot.

CHAIRPERSON: You cannot remember?

MR ANGELO AGRIZZI: It was 2013/2014 around there.

CHAIRPERSON: Okay, alright. Mr Norman Thubane, what was, was he also within the security section of the Department of Justice or what was his position as you understood it?

MR ANGELO AGRIZZI: He was, Chair, he was in an integral part, because he handled the guarding services and he was involved with the security application services as
20 well.

CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: And he was involved with security. He reported to Ms Mamsie Nyambuse.

CHAIRPERSON: Yes, I am sorry, did you say in regard to Ms Masha you cannot remember how much cash was – you cannot remember?

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MR ANGELO AGRIZZI: I cannot remember exactly how much it was.

CHAIRPERSON: Alright. Mr Norman Thubane, can you remember the amount?

MR ANGELO AGRIZZI: I will have to look in my notes, but the amounts, if I am not mistaken, it is in my notes, I think it was between...[intervenes]

CHAIRPERSON: Yes, it may be in the affidavit as well.

MR ANGELO AGRIZZI: Yes.

CHAIRPERSON: About how many occasions were you present when he was given cash, if you are able to recall?

MR ANGELO AGRIZZI: About five or six occasions.

10 **CHAIRPERSON**: About five or six occasions?

MR ANGELO AGRIZZI: Correct.

CHAIRPERSON: And in terms of years or year would that also have been around 2013/14 or other years?

MR ANGELO AGRIZZI: Yes, it was from when we received one of the first contracts, that is correct.

CHAIRPERSON: Yes, and the place where...[intervenes]

MR ANGELO AGRIZZI: Various places.

CHAIRPERSON: Various places?

20 **MR ANGELO AGRIZZI**: As well also restaurants and at one stage I still had to take him to his house.

CHAIRPERSON: *Ja*.

MR ANGELO AGRIZZI: And I can explain where he stays, but I had to take him there and drop him off there with it.

CHAIRPERSON: So you at that time got to know where he stayed?

MR ANGELO AGRIZZI: I took him, I gave him a lift home.

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CHAIRPERSON: Yes, yes, and did you only go to his house when you gave him a lift only once, or did it happen more than once?

MR ANGELO AGRIZZI: It was only once.

CHAIRPERSON: Only once?

MR ANGELO AGRIZZI: Yes.

CHAIRPERSON: But would your recollection of his house be as good as your recollection was of Ms Mokonyane?

MR ANGELO AGRIZZI: Not as good no.

CHAIRPERSON: Not as good, yes?

10 **MR ANGELO AGRIZZI**: But I would find my way, I would have to think about it.

CHAIRPERSON: If it was disputed that you have been there you would, you think you would be able to find your way there?

MR ANGELO AGRIZZI: I will work a way out of getting my memory jogged.

CHAIRPERSON: Okay, alright, and then Ms, you say Mamsie?

MR ANGELO AGRIZZI: Yes.

CHAIRPERSON: Mamsie, yes, with regard to her you cannot remember the amount as well with her?

MR ANGELO AGRIZZI: I have written it down.

CHAIRPERSON: Somewhere?

20 **MR ANGELO AGRIZZI**: I cannot remember exactly.

CHAIRPERSON: Okay, no that is fine.

MR ANGELO AGRIZZI: There are certain numbers that stick out in my mind and there are certain that I have to go and check.

CHAIRPERSON: Well, I think in regard to Mr Thubane you may have it in the affidavit, I am not sure about the others.

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MR ANGELO AGRIZZI: Yes.

CHAIRPERSON: And also where this lady was given cash...[intervenes]

MR ANGELO AGRIZZI: Often we will meet her...[intervenes]

CHAIRPERSON: As well?

MR ANGELO AGRIZZI: Well the one time I met her on the road whilst with Mr Gumede.

CHAIRPERSON: Yes?

MR ANGELO AGRIZZI: The second time I met her it was actually a restaurant. The third time, if I recall correctly, it was also a restaurant and I mean I cannot recall the
10 others.

CHAIRPERSON: About how many times did you observe?

MR ANGELO AGRIZZI: About four/five times.

CHAIRPERSON: About four/five times?

MR ANGELO AGRIZZI: Yes.

CHAIRPERSON: Yes, and when you met her on the road can you recall what road it was?

MR ANGELO AGRIZZI: It was the Pretoria to Krugersdorp Road.

CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: And I think it is called the R24 or something.

20 **CHAIRPERSON**: Okay.

MR ANGELO AGRIZZI: I am not too sure what the road is called.

CHAIRPERSON: Okay.

MR ANGELO AGRIZZI: It is between Krugersdorp and Pretoria.

CHAIRPERSON: Yes, okay. Thank you.

ADV PAUL PRETORIUS SC: Chair, is this a convenient time?

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CHAIRPERSON: Yes, it is. We are going to take the lunch adjournment now and we will resume at 15:00. We adjourn.

ADJOURNS FOR LUNCH

HEARING RESUMES

CHAIRPERSON: Yes Mr Pretorius.

ADV PAUL PRETORIUS SC: Thank you Chair. Mr Agrizzi you were telling us before the long adjournment of payments made to the officials of the department or to officials within the Department of Justice and Constitutional Development. Do you recall that?

10 **MR ANGELO AGRIZZI:** I do. Chair I would like to ask a question at this stage, request.

CHAIRPERSON: Or make a request, ja.

MR ANGELO AGRIZZI: Make a request.

CHAIRPERSON: Ja.

MR ANGELO AGRIZZI: The request is during lunch I was thinking about the testimony in terms of 22.7 and 22 and I feel that it would be an injustice if I do not tell you and explain a little bit more onto that.

CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: So if I could attend to that first.

CHAIRPERSON: Yes, no that is fine.

20 **MR ANGELO AGRIZZI:** Alright.

CHAIRPERSON: Let us do that, ja.

MR ANGELO AGRIZZI: I think, not I think, I know. I want to clarify exactly what I meant and explain it in detail to you. When we first met Nomvula Mokonyane we realised that she was extremely powerful. As a matter of fact, we actually referred myself and Mr Watson to her as an energizer bunny. That was the name that we used

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and the reason for that was because whatever we needed done would be done. If we needed people spoken to it would be done. If we needed protection it would be done. So she was the new person for us and that is why I raised the issue. I think what is – what is very important to note as well is that we knew that if we had any issues we could go to her and it would be sorted, if you had any issues.

CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: It will be sorted.

CHAIRPERSON: Maybe before you proceed let us go back a little bit. You say whenever you needed protection, as I understand it. Me putting it in my own words she
10 would make sure you get it.

MR ANGELO AGRIZZI: Correct.

CHAIRPERSON: What exactly are you talking about in regard to protection?

MR ANGELO AGRIZZI: When ...[intervenes].

CHAIRPERSON: What form of protection did you ask her for and she gave – she made sure you got?

MR ANGELO AGRIZZI: For instance we knew that she was very close to the President at the time.

CHAIRPERSON: President Zuma?

MR ANGELO AGRIZZI: Yes.

20 **CHAIRPERSON:** Yes.

MR ANGELO AGRIZZI: But even further than that if there were certain people to be spoken to in the Hawks we knew that she would be able to do that and that is why it continued.

CHAIRPERSON: Now as I understood you, you were saying at the beginning that is how it was like. Is that right or did I misunderstood you?

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MR ANGELO AGRIZZI: Correct, right the way through actually.

CHAIRPERSON: Oh, right through?

MR ANGELO AGRIZZI: Yes.

CHAIRPERSON: Okay, alright. Let us continue.

MR ANGELO AGRIZZI: That is how we explain it in terms of what we got in return and that type of thing, contracts and that, but even though we did not get them the fact of the matter was she was powerful and we had to keep her on our side. That is what I was trying to get at and maybe I did not explain it properly.

CHAIRPERSON: Yes.

10 **MR ANGELO AGRIZZI**: That is – I would just like to add that on to it as well.

CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: And I think what, what the Chair needs to understand is this. An affidavit was done in the matter of three, four, five days.

CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: It took us a lot of time.

CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: I would like to add supplementaries to it.

CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: As we go on.

20 **CHAIRPERSON**: Yes.

MR ANGELO AGRIZZI: But obviously...

CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: It needs a lot of work still.

CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: There is a lot of things ...[intervenes].

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CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: I have not included in there.

CHAIRPERSON: Yes. Well to be fair to you I think somewhere in your affidavit you do say – maybe towards the end – you do say that within the time available you could not put in everything and that there is more that can be given and you are prepared to do that. I have no doubt that the investigators and the legal team still have lots of work to do with you. You have already mentioned some pieces of evidence that you have given them which they are looking at or which is supposed to help them do further investigations, but let me say that it is very important that you be satisfied that what is
10 in the affidavit is correct. It is very important that you be satisfied that what you have told me is what you intended to say. So – and, and indeed if there are things that have not been said that you have not had a chance to say the legal team will make sure that you talk to them and if need be supplementary affidavits can be made, because it is very important that this Commission gets given as much information as possible from people who have got personal knowledge of what was happening in regard to activities that fall under its terms of reference. So, so if you feel that you, there is something that is important feel free to make sure that you are able to say it.

MR ANGELO AGRIZZI: Chair thank you and I appreciate that. An investigations team will tell you that there is new evidence coming up daily and ...[intervenes].

20 **CHAIRPERSON:** Yes.

MR ANGELO AGRIZZI: But because of the time constraints.

CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: We did not get to anything.

CHAIRPERSON: No, no, that that is fine. I have no doubt that they are working towards making sure that everything else that might not have been covered here which

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is relevant to our terms of reference you are able to later on bring, bring in, bring to this Commission and give evidence about. So, so they will look at that. The legal team will look at that and certainly there is room for you to come back and give more evidence. As long as what you have is relevant to our terms of reference and is seen as quite material.

MR ANGELO AGRIZZI: Okay. I appreciate that Chair. My apologies Advocate Pretorius for interrupting.

CHAIRPERSON: Thank you, but what you – the details you wanted to give you have given now in regard to this?

10 **MR ANGELO AGRIZZI:** Yes.

CHAIRPERSON: Okay, alright. Thank you, thank you.

ADV PAUL PRETORIUS SC: Thank you Mr Agrizzi. Before the long adjournment ...[intervenes].

CHAIRPERSON: Maybe, maybe I could then say - put this question to you Mr Agrizzi. The latest - the details that you have just given now with regard to Ms Mokonyane:

1. They do not relate to 28.7.1. Is that right, because that is about the Department of Correctional Services or do they?

MR ANGELO AGRIZZI: No.

CHAIRPERSON: They relate to earlier?

20 **MR ANGELO AGRIZZI:** That ...[intervenes].

CHAIRPERSON: Yes.

MR ANGELO AGRIZZI: That is correct, sir.

CHAIRPERSON: Okay, alright.

2. The details you have, is it correct that the details you have given now actually mean that to the extent that you may have said earlier on that in

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your discussion with Mr Watson you said you were – Bosasa was paying Ms Mokonyane, but not getting anything in return. That might not be completely accurate, because there were somethings that you got even thought it might not have contracts. Is that right?

MR ANGELO AGRIZZI: That is correct.

CHAIRPERSON: You got what you term protection?

MR ANGELO AGRIZZI: Correct.

CHAIRPERSON: Right. Okay, thank you.

ADV PAUL PRETORIUS SC: Thank you and just to place those recent comments of
10 yours in proper context you were referring to paragraph 22.13 of your affidavit.

MR ANGELO AGRIZZI: That is ...[intervenes].

ADV PAUL PRETORIUS SC: A section before the section where we are dealing with – before the long adjournment and which we will continue to deal with now.

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: Now we are dealing with Mr Seopela and monies that were given to him for onward payment for various purposes.

MR ANGELO AGRIZZI: That is correct Chair.

ADV PAUL PRETORIUS SC: And you named certain officials of the Department of Justice and Constitutional Development to whom according to what you were told by
20 Mr Seopela and from your own knowledge payments were made.

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: At the end of paragraph 23.7.2 you name the Secretary of the Commission Dr de Wee.

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: What were you told in relation to Dr de Wee?

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MR ANGELO AGRIZZI: I was told by Mr Seopela that one of the names mentioned to me at the time was a Chief Operations Officer in the Department of Justice and Constitutional Development. It was Dr de Wee. Apart from this verbal report I have no other information to confirm the correctness thereof.

ADV PAUL PRETORIUS SC: Well just for completeness sake and we must obviously be thorough what were you told in relation to the secretary?

MR ANGELO AGRIZZI: At one stage I was told that I was late with packing a delivery. The amount was in excess of R2 million and I was told that Dr de Wee was very upset with me, because I was late in getting the delivery to Mr Seopela.

10 **ADV PAUL PRETORIUS SC:** Alright and is that all you were told?

MR ANGELO AGRIZZI: That is what I was told.

ADV PAUL PRETORIUS SC: Alright. So you do not know from your own knowledge indeed whether he was indeed a recipient – was complaining on his own behalf or was complaining on behalf of someone else?

MR ANGELO AGRIZZI: I cannot, I cannot confirm or deny that, yes.

ADV PAUL PRETORIUS SC: Then in paragraph 23.7.3...

CHAIRPERSON: I am sorry Mr Pretorius, around what year would that have been when this report - verbal report - was made to you?

20 **MR ANGELO AGRIZZI:** Chair that was probably about 2003/2004 if I remember correctly. 2013/2014.

CHAIRPERSON: Oh, okay. Thank you.

ADV PAUL PRETORIUS SC: Paragraph 23.7.3 Mr Agrizzi contains information that you have related to the ...[intervenes].

CHAIRPERSON: I am sorry again Mr Pretorius. I am sorry. You mentioned a figure of two million in relation to when you were given this – either when you were given this

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verbal report or when you were told that Dr de Wee was upset with you. Is part of what you were told or what you understood that he was to be paid R2 million or, or that was R2 million that was going to be distributed among a number of officials?

MR ANGELO AGRIZZI: Chair if I can clarify. When the Department of Justice and Constitutional Development paid us what would happen is 2.5 percent of that payment amount would be put into cash and then paid within that week. On this specific incident the R2 million was the amount and my understanding was that it was going to a group of people of which he was one as communicated to me by Senior Seopela.

CHAIRPERSON: Thank you. I interrupted you Mr Pretorius. I am sorry. You can
10 proceed.

ADV PAUL PRETORIUS SC: Thank you Chair. Paragraph 23.7.3, you relate facts relating to the Department of Transport. Now you are telling the Chair about payments made firstly and apparently for onward payment to officials in the Department of Correctional Services and then payments for apparently officials in the Department of Justice and Constitutional Development and now you are talk of the Department of Transport. How did it arise that payments were made for the Department of Transport and by that I presume you mean again officials in the Department of Transport?

MR ANGELO AGRIZZI: Chair that is correct. The contract with Kgwerano is called the RT62 Contract is a contract for providing administration and fleet management services
20 to people on the SMS Scheme and I would have to pack R300 000 a month which would go via Papa Leshabane to be delivered to various officials.

ADV PAUL PRETORIUS SC: The name of that company would you spell it again please?

MR ANGELO AGRIZZI: K-G-W-E-R-A-N-O and it would be Financial Services.

ADV PAUL PRETORIUS SC: Right and you talked of SMS Services. Do you know

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invitation to bid under the name of Bosasa Security PTY LTD?

MR ANGELO AGRIZZI: Correct.

ADV PAUL PRETORIUS SC: Gavin Watson then intervened before the tender documents were submitted and said we must establish a new company?

MR ANGELO AGRIZZI: Correct.

ADV PAUL PRETORIUS SC: And the new company established at that stage was Sondolo IT PTY LTD?

MR ANGELO AGRIZZI: That is correct.

10 **ADV PAUL PRETORIUS SC**: This required amendments presumably to the bid documents, correct?

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: And were these effected, it should read effected with an e not an a but they were effected and the application was submitted?

MR ANGELO AGRIZZI: That is correct.

ADV PAUL PRETORIUS SC: Alright. What happened in regard to the award of the contract?

MR ANGELO AGRIZZI: It was about the April 2005 we were actually awarded that contract.

ADV PAUL PRETORIUS SC: Sondolo IT PTY LTD?

20 **MR ANGELO AGRIZZI**: That is correct, that is correct.

ADV PAUL PRETORIUS SC: And for what period was the contract awarded?

MR ANGELO AGRIZZI: The contract's initial period was a two year contract. It was then later expanded.

ADV PAUL PRETORIUS SC: In what respect was it expanded?

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MR ANGELO AGRIZZI: Well it was all well and fine that they had this beautiful system but they did not have anybody to manage it so that it was extended in terms of a control room contact and where we basically were paid to manage control rooms for the department.

ADV PAUL PRETORIUS SC: At how many sites?

MR ANGELO AGRIZZI: At – if I recall correctly it is 66 sites.

ADV PAUL PRETORIUS SC: Right and what was the value of that expansion?

MR ANGELO AGRIZZI: Just that value was about R240 million around there.

ADV PAUL PRETORIUS SC: Alright is that the figure referred to in paragraph 26.9?

10 **MR ANGELO AGRIZZI:** My correction R236 997 385, 31.

CHAIRPERSON: This amount is quite a big amount but maybe not by Bosasa standards. Was it as far as you are concerned the true value of the contract or was there any act of inflation? Now I am talking about this one but maybe you can enlighten me on others as well because some of these contracts that Bosasa seems to have been awarded at Correctional Services and the one in the Department of Justice in 2013 the amounts seemed quite large but it maybe that they were – they reflected the true value but I just want to find out from you?

MR ANGELO AGRIZZI: Chair they had captured the department. So the – it was inevitable that the R236 million which was budgeted was going to be exceeded. They –
20 who was going to – you see Chair if I may explain? You had this beautiful system, state of the art but who was actually going to run it? We knew at that stage that unless they took the proper measures and employed the right staff that the system would fall flat. So you had them in your clutches because now you would have to employ people and train them up to actually run the system and keep them there for the rest of time.

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CHAIRPERSON: But – but does that talk to the question of whether there was inflation?

MR ANGELO AGRIZZI: Yes.

CHAIRPERSON: At the beginning?

MR ANGELO AGRIZZI: Yes.

CHAIRPERSON: Okay, okay.

MR ANGELO AGRIZZI: Because you now had to pay and I think the amount that they paid every month was an additional R7.8 million rand per month. Because now you had to staff it. So it was never budgeted for.

10 **CHAIRPERSON:** That is in regard to this one. Now in regard to the others that were – other contracts that you awarded to Bosasa by Correctional Services.

MR ANGELO AGRIZZI: Yes Chair.

CHAIRPERSON: And the one by the Department of Justice and Constitutional Development in 2013 are you able to say that in regard to those two there was inflation of prices or not really?

MR ANGELO AGRIZZI: There was most definitely.

CHAIRPERSON: There was?

MR ANGELO AGRIZZI: Correct.

CHAIRPERSON: Thank you.

20 **ADV PAUL PRETORIUS SC:** In relation to the expansion to include the staffing of the control rooms at 66 sites you will recall right in the beginning of your evidence we told the Chair that there was some expansions that were authorised by the original tender documents and some were not and therefore would have to go out to new tender?

MR ANGELO AGRIZZI: Correct.

ADV PAUL PRETORIUS SC: What was the case here? Was this expansion

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Justice and Correctional Services

28 March 2011

Chairperson: Mr L Landers (ANC)

Meeting Summary

The Department of Justice and Constitutional Development (the Department) presented its strategic plan and budget for 2011. The mandate of the Department of Justice and Constitutional Development was derived from the Constitution and various legislative provisions. The Department had to provide an environment for the effective and efficient administration of justice, and promote constitutional development through the development of legislation and implementation of programmes that would deepen and nurture constitutional democracy. It was noted that transformation of the judicial system would include institutional reforms to strengthen the Office of the Chief Justice, rationalisation of the Superior courts, the re-alignment of magisterial districts with municipal districts, and a review of the civil justice system. The budget of the Department had been reduced by R2.1 billion for the Medium Term Expenditure Framework (MTEF). This affected a number of areas, but key concerns were the need to replace ageing IT infrastructure, in view of the risk posed by a breakdown, so the Department was attempting to source donor funding and provide IT services in house. Safety and security costs were also escalating and the Department might consider engaging the South African National Defence Force to secure the courts. Some infrastructure building projects had had to be halted, due to poor cash flow, but National Treasury had provided some funding. Another concern was the increased litigation against State departments, and the Department saw the need to have a properly coordinated approach and was aiming to develop a policy framework and capacitate the State Attorney. Budget cuts had also affected the judiciary, particularly the lower courts. It was necessary to expand support staff in courts, to make adequate provision for library services and enhance Constitutional programmes.

The Department had received qualified audits in 2008/09 and 2009/10, both containing qualifications on Third Party Funds, but it aimed to have an unqualified audit in 2010/11. The services provided through the Office of the Master of the High Court were important to protect the rights of minors, and Legal Aid South Africa was also assisting minors who were heirs. The Master's Office would be rebranded. Maintenance services would also be undergoing a turnaround in 2011/12, including services on Saturdays, increased maintenance investigators, queue reduction and properly qualified maintenance staff. Media and awareness campaigns would support this. The Department reported that it was within targets for case backlogs, and was addressing bail issues. Three new Chief Directors would take up their posts on 1 April 2011. Critical capacity was needed in the Compliance Unit, Labour Relations, Contract management and Research and Development.

The four main strategic goals were outlined, which aimed to have increased accountability, effectiveness and efficiency, increased effectiveness and efficiency in delivery of justice services, transformed legal services and effective coordination of the Cluster. The Department would be focusing on an unqualified audit, improved maintenance services and improved delivery of Masters' services. The main programmes of the Department, and the supporting projects, were outlined.

Members were quite critical of many aspects of the presentations. They commented that this presentation bore little relation to what had been presented before, and was difficult to follow. Members were particularly concerned, and questioned the Department extensively on the Third Party funds, and whether the Department was intending to introduce legislation or pursue the idea of a Trading Entity. They were also concerned whether there had been corruption in these funds. Other issues of concern were vacancies and human resources. Members commented on the slow payout of benefits to victims identified in the Truth and Reconciliation Commission (TRC) process, questioned the figures, commented that many of those receiving the benefits were the great-grandchildren of the victims, and commented that their plight seemed to be taken less seriously than military veterans. Members also queried the State litigation processes and the use of the State Attorney. A Member questioned the contract allegedly awarded to Bosasa by the Department. Concern was expressed about library allocations.

The afternoon session of the meeting commenced with answers to questions posed during the morning session, relating to the strategic plans. Members also questioned, at some length, the position of the State Attorney, and the briefing policy in relation to counsel from previously disadvantaged backgrounds. The Committee suggested that more should be done to educate citizens about their rights where maintenance was not being paid, particularly attachment of the property of the party failing to pay, and enquired why the Department had not regularised the position of the Commission on Gender Equality, which was legislated for under the Interim Constitution. They further questioned the arrangements for security of the courts, whether any risk assessments had been done, the case backlog figures, the filling of senior management posts, and the reduction of the numbers of sexual offences courts, which were particularly effective and should be increased. Members also asked what had been done to combat fraud related to the Guardian's Fund, suggested that community radio should be used to try to trace TRC victims, and asked what had been done to facilitate the implementation of the Traditional Courts Bill, and why no reports were given on the currently-operating courts. The Department was urged to introduce much stronger internal controls and improve its relationship with the Auditor-General. Members also asked about the support structure for the Chief Justice, the allocations for implementation of the Protection of Personal Information Bill, and urged that areas of potential duplication with the Chapter 9 institutions must be identified and eliminated.

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The Department of Justice and Constitutional Development (the Department) then presented its Estimates of National Expenditure to the Committee. It was expected that the Department would grow by 6.3% for the 2011/12 financial year. A contributing factor to the forecasted growth were new courts in Limpopo and Mpumalanga, which would cost an estimated R500 million each to construct. The budget figures for new legislation were set out, and another important allocation was a sum of R100 million for 2012, rising in the following year, for the renewal of Information Technology infrastructure. A Presidential Initiative, entitled "The Nation in Dialogue" was allocated R30 million. Personnel costs had increased, largely because of the implementation of the Occupation Specific Dispensation, and backpay for this. In addition, a number of new posts were to be created, as set out fully in the presentation. It was noted that all non-essential expenditure had been cut back. The total budget growth was driven mainly by personnel costs, court services and the National Prosecuting Authority. More money was spent on the lower courts, which were more numerous than higher courts, at 61% of the court services allocation. One challenge was how to allocate money for facilities management, and it was decided to set aside R27.7 million for fixing of minor maintenance. The Department was aware of the challenging need to fill all vacant posts and expand capacity.

A Member criticised the way in which information was presented to the Committee, noting, firstly, that some of the information now presented conflicted with a presentation made in October 2010, and secondly that the information on the courts in Nelspruit and Polokwane did not present all the facts comprehensively, and thus resulted in confusion as to whether the courts were running already. Members asked about the ending of the Public-Private Partnership, the reasons, and how much had been spent to date. Members also asked for a report on the Department's response to the Committee's Budgetary Review and Recommendations Report, and on the meeting with the Standing Committee with Public Accounts, and wondered if the Bosasa contract was addressed at that meeting. Members also asked who was responsible for maintenance, and commented that it was disempowering for this Department to have to direct all maintenance via the Department of Public Works.

Meeting report

Department of Justice and Constitutional Development: 2011-16 Strategic Plan and Budget briefing

Ms Nonkululeko Sindane, Director-General, Department of Justice and Constitutional Development, tabled the Strategic Plan of her department (DOJ&CD or the Department), indicating that this encompassed the strategic objectives, which were linked to the programmes of the Department. The Department was also developing the Annual Performance Plan (APP), which would indicate how much the Department had done so far.

She noted that the targets must now be in line with the principles set by the Auditor-General, referred to as "SMART" (Specific, Measurable, Attainable Realistic and Time bound) principles. The mandate of the Department was derived from the Constitution and various legislative provisions. These required the Department to provide an environment for the effective and efficient administration of justice and to promote constitutional development through the development of legislation, and implementation of programmes that would deepen and nurture constitutional democracy. She outlined some of the most important constitutional legislation.

Ms Sindane noted that the transformation of the judicial system entailed some key programmes, which included institutional reforms to strengthen the Office of the Chief Justice, rationalisation of the superior courts, the re-alignment of magisterial districts with municipal districts, and the review of the civil justice system (CJS). The Department was also working on the judges' registrable interests.

Ms Sindane noted that the Department was organised under categories dealing with financial, internal processes, customers, and people issues. The budget of the Department had been reduced by R2.1 billion for the Medium Term Expenditure Framework (MTEF) period. This, amongst others, affected its Information and Communication Technology (ICT) systems. This was of concern, since the Department had ageing servers that were out of warranty and this posed a risk for operations countrywide. The Department would try to address this challenge by attempting to engage the donor community, and consider performing Information Technology (IT) services in-house. Another concern was the escalating cost for safety and security, including the national courts, and a possible solution might be to engage the South African National Defence Force (SANDF) to secure the infrastructure. The Department was experiencing infrastructure costs that were above the inflation rate, and insufficient cash flow had resulted in some building projects being halted midway. The number of staff in the Department was growing, and there was simply not enough accommodation for them. The Department continued to engage with National Treasury on this matter to try to secure funds.

Ms Sindane noted that State departments were experiencing increasing litigation against them, which resulted from the growing awareness of people's rights. A coordinated approach was needed. The Department was aiming to develop a policy framework for the efficient management of State litigation, to capacitate and enhance the Office of the State Attorney by increasing human capital, to implement a standardised fee structure for private Counsel, and to develop an alternative dispute resolution (ADR) procedure.

Ms Sindane outlined that the judiciary had also been affected adversely by budget cuts, particularly in the lower courts, which lacked adequate tools of trade. The Department had to expand the support personnel in courts, to have adequate provision of library services to the various courts, and to enhance constitutional development

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programmes.

The Department had also realised that it was falling behind in its management of internal processes and this had to be addressed. In 2008/09, the Department received an audit qualification in respect of Third Party funds, assets, leases, leave and irregular expenditure. In 2009/10, there was a qualification, but only in relation to Third Party funds and irregular expenditure. The Department hoped that there would be no audit qualifications in the 2010/11 financial year. It was planning to increase its anti-corruption capacity to deal with fraud and corruption. It was also planning to have more efficient internal disciplinary processes to deal with corrupt individuals within the organisation.

Ms Sindane stressed that it was important for the Department to provide services that directly affected the lives of citizens. One of these was the Office of the Master of the High Court (the Master). The Department had signed a cooperation agreement with Legal Aid South Africa (LASA), to assist minors who were heirs to estates so that they were not exposed to deceit and fraud, as well as high legal fees. LASA was now already assisting more re minors who were heirs to estates. The Home Affairs National Identification System (HANIS) had been adapted by the Master, in order to verify clients who were beneficiaries of the Guardian's Fund. The Department was also planning to prioritise the Master's Services and also to rebrand this office. The Maintenance Services Project had been developed to deal with maintenance services, and this would be rolled out in the coming financial year. The turnaround strategy here would include offering services on Saturdays, increasing maintenance investigators, and reducing the numbers of citizens in queues at Maintenance Courts. The Department would also ensure that all maintenance staff were properly qualified. The Department would launch improved media and awareness campaigns, which would include making the contact numbers of Court managers available to anyone needing assistance or wanting to lodge a complaint.

Ms Sindane then outlined the performance for certain defined goals. The Department was currently performing within the targets set in its signed performance agreement, in respect of the case backlog project. Bail was one of the issues with which the Department had struggled, and the Department would try to keep those committing very serious crimes behind bars. The Department was building its ability to respond to queries received from the Presidential Hotline. It acknowledged that it had shortage of skills in critical areas such as finance, risk management, internal audit and strategy. However, three new Chief Directors would take position on 1 April 2011. The Department had experienced some challenges in attracting people to take up the vacancies, particularly women and the disabled. Critical capacity was needed in the four key areas of the Compliance Unit, Labour Relations, Contract Management, and Research and Development.

The Department would continue to assist and protect the Chapter 9 institutions by facilitating the budgetary process and assisting with financial arrangements, promoting proposals emanating from the reports of those institutions, and ensuring that Section 181(3) of the Constitution was complied with.

Ms Sindane then proceeded to set out the strategic goals. Strategic Goal 1 related to achieving increased accountability, effectiveness and efficiency of the DOJ&CD, and this was directly linked to activities in Programme 1 (Administration). Strategic Goal 2 related to the improved effectiveness and efficiency in the delivery of justice services. Strategic Goal 3 aimed to transform legal services to protect and advance the interests of government and citizens, and to promote constitutional development. Strategic Goal 4 related to effective coordination of the Justice Crime Prevention and Security (JCPS) Cluster.

The Department's top three priorities were to achieve an unqualified audit, to improve the delivery of maintenance services and improve the delivery of Masters' services. Its efforts to achieve an unqualified audit focused on the development, implementation and monitoring of effective controls, and putting in place an accounting system that would enable the Department to produce financial statements for Third Party Funds and the Criminal Asset Recovery Account (CARA), to appoint qualified staff to support and implement financial processes and procedures, to implement human resources systems that would improve the management of leave, and finally to implement internal audit processes that would provide early warnings of impending risk areas. The Maintenance Turnaround Project would be implemented in 2011/12 and would address service improvement through Saturday services, upgrading of skills for frontline staff, improved management of customer complaints and the launch of an improved media an awareness campaign. Key initiatives for the improved delivery of Masters' services were the appointment of frontline staff who could resolve a wide variety of enquiries without escalations, and the implementation of training for a client-driven approach.

Ms Sindane then turned to a description of the various programmes. She reiterated that Programme 1 related to Administration. The objectives were set out in some detail (see attached presentation) and included increased compliance with prescripts to achieve and sustain an unqualified audit, improved management of fraud and corruption cases, improved human resources and service delivery, and increased optimisation of 11 manual and automated systems, as identified in the Information Technology Plan. The Department also aimed to complete 90% of outstanding Truth and Reconciliation Commission (TRC) victim reparation cases, and believed that this was now achievable, because it had had major breakthroughs in locating beneficiaries.

Programme 2 related to court services. The purpose of this programme was to facilitate the resolution of criminal, civil and family law disputes by providing accessible, efficient and quality administrative support to courts, and management of court facilities. This programme took up about 70% of the Departmental budget, and was at the core of the delivery of justice services. There were still major challenges around financial constraints, insufficient capacity

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and an insufficient budget. Within this programme were objectives related to the improved coordination of the JCPS, improved finalisation of matters, and improved delivery of maintenance services. Other programmes would be directed to increased protection of the rights of vulnerable groups, increased access to justice services in underserved communities and improved functionality of justice service points. Overall, the Department sought to establish high standards in court services across the country, and there would be ongoing investment into this over the next five years.

Programme 3 related to State Legal Services. The Department aimed to provide legal and legislative services to government, supervise the administration of deceased and insolvent estates, and liquidation of juristic persons, deal with the registration of trusts and management of the Guardian's Fund. Several challenges had been identified under this programme, including insufficient capacity to meet the legal services requirements of all State organs, increasing litigation costs and a shortfall of participatory democracy programmes. Ms Sindane highlighted particular objectives, as improved service delivery at the Master's service points, increased efficiency in the provision of services to beneficiaries of the Guardian's Fund, of trusts and of the insolvent and deceased estates. In addition, the Department would seek to promote constitutional development and strengthen participatory democracy and ensure the respect for fundamental rights. Overall, it would strive to achieve an improved policy and legislative framework for effective and efficient delivery of justice services. The Department was confident that all internal issues would be adequately dealt with.

Discussion

Mr J Jeffery (ANC) said that it was sometimes difficult to follow the presentation, and assess exactly where it stood. He highlighted that in the past there had been a focus on key performance indicators (KPIs), but now the objectives were outlined.

Mr Jeffery added that the Department had not said much about the virtual IT library.

Mr Johnson said that the virtual (IT) library was started from the baseline, and R120 million would be needed per year to provide this service to the Department and the judiciary. The Department would need R10 billion over the next three years to satisfy all its needs. Through the interventions of the Committee, the Department was able to get R100 million for the second year of the MTEF, and R110 million in the third year. This had created the opportunity for the Department to invest in IT.

Adv Simon Jiyane, Deputy Director General: Court Services, DOJ & CD, added that the Department was aiming to invest more funds in the virtual library.

Mr Jeffery queried the status of Third Party funds. The Committee had been told that a trading entity would be established, following instructions from National Treasury (NT), but there was nothing in the presentation on this point.

Mr Johnson responded that for the past ten years the Department had not been able to produce credible financial statements for the Third Party Fund. Over the next six months, forty-five additional finance practitioners would be appointed in order to assist with financial management. The Department had submitted an application to establish a trading entity for the Third Party Fund, and another option could be to draft legislation to regulate this.

Mr Jeffery said that he was now confused. Mr Johnson seemed to be suggesting that the issue of the trading entity was not resolved, and that the Department did not know whether to establish it or to have legislation drafted. The Department seemed to have advanced no further on this than it had by October 2010.

Mr Deon Rudman, Deputy Director General: Legislative Development, DOJ & CD, said that there was draft legislation in place and there were a few outstanding issues that had to be sorted out with National Treasury. Since there had been no response from National Treasury on the trading entity, the Department had gone ahead with drafting the Bill.

Mr Jeffery said that he thought the Committee had been told that legislation was not needed, that the public-private partnership (PPP) was not to proceed, and that it would be preferable to go ahead with the trading entity.

Ms Sindane confirmed that the Department had indeed said this. She apologised for the confusion. The bill to which Mr Rudman had referred, and the trading entity were two interventions aimed at addressing the same issue.

Mr Jeffery said that the Committee and the House had adopted a report, in October 2010, that said that National Treasury had advised that a trading entity was needed. The Committee was now being told that legislation had been developed, despite the Department having advised the Committee, in October, that there was no need for legislation, and that the trading entity would suffice. This indicated that the Department simply did not know what it was doing. He warned that, in light of this, he was expecting the qualified audits to continue into 2011/12.

Mr Jeffery added that apart from Third Party funds, other outstanding concerns were the vacancies and the Human Resource (HR) issues. The Department had not said much on these. The Department was large, and in order to fulfill its mandate it had to fill vacancies and sort out the staff grievances, so a report was needed. He asked when last a Chief Master had been in place.

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Mr Johan Johnson, Acting Chief Financial Officer, DOJ & CD, said that the current vacancy rate in the office of the CFO was 24.36%. Three new chief directors were going to be appointed for budgeting, legislative costing and financing.

Mr Jeffery interjected and said that in a previous presentation the Committee was told that it was 25%, and this was not good enough. This was raised as an issue in October 2010. He noted that an entity such as Legal Aid South Africa could manage to fill about 97% of its posts and asked why the Department could not do the same. There were bound to be problems with the financial systems if a quarter of the staff needed were not in place.

Mr Vuso Tshabalala, Head: Corporate Services, DOJ & CD, said that the current overall vacancy of the Department was a little over 9%, and this included the judiciary. The vacancy rate in the office of the CFO had remained steady and had not gone down. In the past four months, one hundred staff had been appointed. The particular challenge in the office of the CFO was the high turnover rate, and in order to mitigate this the Department had tried to hire staff on a fixed term basis.

Mr Jeffrey said it was also impossible to follow what was happening on case backlogs, as the numbers kept changing.

Adv Jiyane noted that the Department, in consultation with the judiciary, was looking at proposals and measures that were aimed at reducing case backlogs. They included the introduction of performance targets for courts, especially lower targets. The Chief Justice (CJ) had taken ownership of the productivity of the courts, and had set up a committee that monitored the performance of the courts. This Committee was headed by a judge.

Mr Jeffrey questioned who was responsible for maintenance, and whether there was coordination.

Mr Jiyane outlined some of the interventions that were planned in respect of maintenance. He said that maintenance prosecutors coordinated all maintenance related issues. Not all courts had maintenance prosecutors and this posed a major challenge. Most prosecutors would be inclined to focus on criminal matters rather than maintenance ones. To address this challenge the Department had appointed maintenance officers. The Department also wanted to have an alternate dispute resolution programme to avoid litigation on every single aspect of maintenance.

Mr Jeffrey also asked about the TRC Regulations, as the Department had spoken only to the tracing of beneficiaries. Overall, this presentation did not address the issues raised in the last meetings.

Dr Khotso De Wee, Chief Operations Officer, DOJ & CD, said that there were no major differences between this strategic plan and the previous one of 2010/11. He explained that regulations pertaining to the educational assistance of TRC victims had been finalised. Health and Education Regulations would be published for comment during April. He noted that the Independent Electoral Commission (IEC) had linked 500 registered voters to the TRC beneficiaries and the Department had addresses for 461 of the outstanding TRC cases. Within the next 24 months, the Department would be able to pay beneficiaries. The Community Liaison Officers of the Independent Development Trust would be used to do a needs assessment so that the Department could initiate further interventions.

The Chairperson said that the concern was that the beneficiaries who might eventually receive payouts would be the great grandchildren of those who appeared before the TRC. That was unacceptable.

Mr Jeffrey asked how far the Department had gone in finalising the Housing Regulations.

The Chairperson said that this must be a standing issue at every quarterly meeting.

Mr Jeffery commented that, following a request from the Department, the Committee had managed to persuade the National Assembly (NA) to approve additional funds, to the tune of R319 million, for the improvement of court security and justice offices. However, National Treasury then said that this amount was not requested by the Department.

Dr M Oriani-Ambrosini (IFP) raised a point of order, noting that Mr Jeffery had been allowed to ask questions for the past hour, and that the opposition members now had to leave the meeting.

The Chairperson noted that this Committee had the entire day allocated to the Department.

Adv S Swart (ACDP) said that he found the manner in which Mr Jeffery was allowed to ask questions very useful. The Department should be provided with the documents prepared by the Researchers of this Committee, as very important issues were raised. What the Committee was essentially trying to establish was if there had been any improvement in the running of the Department. It was interested in knowing to whether and to what extent there might be fraud and corruption in the Third Party funds.

Mr Swart noted that the Office of the Chief Justice was a government department, and it obviously had to be independent. He would like to hear more on the reporting lines, as the CJ had to have full control.

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Mr Swart also asked for more clarity on the process of getting more funding and what should happen when the Committee had recommended that the Department should get more funding. He wondered if there were blockages in National Treasury.

Mr Swart noted that State liability was another important issue. He asked if it would not be possible for the Department to fund judgments against the State, as the first person who would know of a judgment debt against the State would be a State Attorney. He asked for more clarity on the comment that around 30% of State legal services would be privatised. He also sought more information on the success rates of State Attorneys appearing on behalf of the State in civil litigation. It would also be useful to know at what point settlement was reached in these cases, as it would save huge legal costs if early settlement was obtained in cases that were not so likely to succeed.

The Chairperson added that he would like to hear what criteria there were as to when a government department could decide whether to use State Attorneys or private Counsel.

Dr Oriani-Ambrosini said that he was a dissatisfied customer of the Department. A suggestion had been made that an American style legal system could be adopted, and this could shrink the trial times considerably. Lawyers could sort out issues before trial, leaving only a few issues still to be resolved at trial. He described the split profession of attorneys and advocates as “an absurdity” that was penalising citizens, as three lawyers ended up doing the work that could be done by one. He commented that the legislature could make laws for anything, but it tended to sit back and wait for the lawyers to sort out the matters around the legal profession. He urged that the notion of junior and senior lawyers should be done away with, and that the Department should be taking the lead in this.

Ms M Smuts (DA) said that the ideas expressed by Dr Oriani-Ambrosini were interesting but this was the wrong forum to express them.

Ms Smuts asked the Department to respond to *City Press* and *Rapport* media reports that the Department had given a contract to Bosasa in December 2010, to the value of R391 million over twenty-four months, and another for R333 million related to court security, particularly in view of the statement that the SANDF might now be asked to assist in securing courts. She pointed out that Bosasa was being investigated by the Special Investigating Unit (SIU), following allegations of corruption in the awarding of Department of Correctional Services (DSC) tenders to this company. This matter was apparently now with the NPA. She asked why the Department appeared to be awarding contracts to the same company.

Ms Smuts said that judges were not happy with library services. The Constitutional Court (CC) had a budget allocation of R117 million, whilst the Supreme Court of Appeal (SCA) had a budget of R17 million. She asked if the DOJ & CD decided on the budget allocations, saying that they were incorrect. Ms Luthuli, the librarian at the Constitutional Court, had been asked by the CJ to visit all the libraries, according to a report from the General Council of the Bar. She had apparently told the Supreme Court of Appeal that the Constitutional Court had eight qualified librarians, as well as other staff who dealt with other facilities and the website. The Supreme Court of Appeal, on the other hand, had one unqualified librarian and an assistant. The allocations were also widely divergent, as the CC's library allocation was R8 million whilst the SCA's was R100 000, for all 22 judges' chambers and subscriptions. The SCA had not bought a single book in eighteen months. This was clearly not right, as the SCA was the final court on all matters save for Constitutional cases.

Ms Smuts commented that the TRC figures did not add up. The Committee was advised that there were 875 cases outstanding. The DHA had apparently traced 500 people, many of whom were deceased so only their next of kin could be found. That meant that only 375 still had to be traced. However, it was said in this meeting that 461 victims were traced through the IEC. This did not seem to add up. She noted that there was apparently R1 billion in the President's Fund that was being used for exhumations.

Ms Smuts noted that the Minister of Defence had tabled a Bill promising housing, health and education to military veterans, but had apparently failed to cost the Bill, although a later costing by Alexander Forbes estimated that this would cost R65 billion. This was not achievable. Although the TRC victims were also adversely affected during the apartheid era, it was likely that the Bill tabled by the Minister of Defence would go through, given the political interest, and that those beneficiaries would be looked after. She then wanted to know what would be in the regulations in regard to the benefits for TRC victims, and what the cost implications would be. That R1 billion in the President's Fund had to be used so that it had a productive effect. She did not think that the Community Liaison Officers would work, as they would most likely serve their own interests.

The Chairperson proposed that the Committee adjourn and reconvene at 14:00 for the latest questions to be answered.

The first part of the meeting was adjourned.

Continuation of Discussion from morning session

The Chairperson requested that the previous session's questions be addressed by the Department of Justice and Constitutional Development (DOJ & CD or the Department).

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Ms Nonkululeko Sindane, Director General, Department of Justice and Constitutional Development, added to the answers given earlier on the amount of R391 million that the House approved, yet that Mr Jeffery thought had not been allocated by National Treasury. She explained that the Department had in fact applied for this funding, and it had received an amount that would be allocated to IT infrastructure from the 2011/12 financial year onwards. The exact figure remained to be confirmed. National Treasury had also approved funding for the Business Continuity Plan that would commence in 2012/13.

Dr Khotso De Wee, Chief Operations Officer, DOJ & CD, answered questions around the Bosasa tenders, and said that this was recently of concern to the Department as well. The contract followed the normal processes of tender advertising, establishment of the bid evaluation committee, who then made recommendations to the bid adjudication committee and selecting a final bidder out of three recommendations. The Department at one stage had considered cancelling the contract. However, it did not do so because this company was not blacklisted, none of its directors had been charged and a number of departments had either renewed or awarded contracts to Bosasa. The Department thus continued with the contract.

Mr de Wee responded to questions on the TRC beneficiaries, noting that the Department had previously informed that 500 of the TRC beneficiaries were deceased. For this reason, the Department thus had to find their next of kin. The Independent Electoral Commission (IEC) had identified 461 addresses and had linked the ID numbers of 579 beneficiaries. The Department had been working with the Institute for Justice and Reconciliation.

Mr Johan Johnson, Chief Director: Budgets, DOJ & CD answered the questions on the budget allocations for Constitutional Court (CC) and Supreme Court of Appeal (SCA) He noted that the allocated figures for the two courts were informed by the services provided. The additional costs for the CC included costs for the Judicial Service Commission (JSC), all international travel of judges, and the Judicial Education Institute (JEI). The President of the SCA had revealed that there was a R2.9 million shortfall for this court. However, he reiterated that the difference in budget was related to the difference in the courts' support staff, personnel and services provided.

Ms D Schaefer (DA) said that the original question related to the huge difference in the budget allocations for the libraries.

Mr Johnson said that there was a Library Committee, consisting of members of the judiciary, chaired by Judge Dennis Davis, who advised on the budget allocations. He agreed that there were concerns on the funding for the SCA's library. There should be communication between court managers at the various court structures. The Department's national office did not make specific allocations of funds. The Department would consider what more could be done after it had determined the costs of the additional judges that have just been appointed.

The Director General added that one of the resolutions taken by the JSC was that the various judicial committees should work with the Department directly in order to tackle such issues.

Mr Deon Rudman, Deputy Director General, DOJ & CD addressed the question of whether the Department could settle judgment debts against other departments in civil litigation. He noted that this would be extremely difficult to do, especially as National Treasury had been identified in Judge Mokgoro's judgment in the *Nyathi 1* case.

The Chairperson added that the other question related to the criteria for the use of private counsel. If private counsel were briefed, then this raised the question of what the State Attorney should be doing.

The Director General replied that there was no straightforward answer to this. The Department and Minister have considered whether it was discretionary for departments to retain private counsel over State Attorneys. The State Attorneys Act bestowed the responsibility for the State's legal cases on that office. The criteria for using counsel was provided by that office, as the State Attorneys prepared the briefs for counsel. Every Department had its own counsel, because of established relationships. The Department of Justice was of the view that the retention of private counsel had to be managed tightly, but there were no special criteria.

Mr J Jeffery (ANC) noted that the advocates working for the State were prosecutors with the National Prosecuting Authority (NPA). If there was any civil court work that required advocate, then private counsel would be used. The enquiry had not related to the use of advocates, but had rather been directed to the circumstances under which departments were allowed to use private attorneys. Theoretically every department should use state attorneys, but he wanted to know the official position on this. In October, the Department had said that a policy framework for briefing counsel had been developed. However, it now seemed to be saying that this still had to be developed. He enquired what the correct position was.

Mr Jeffery also questioned the briefing patterns. He noted that private counsel had expressed their concern that it seemed as if only those close to the State Attorney would be briefed. The Department's targets for developing previously disadvantaged black individuals would not necessarily be achieved if there was unequal distribution of briefs. It would be useful for the Committee to receive reports on who was getting the briefs, how they were being distributed, the criteria and whether a policy framework was in place.

The Director General said that there was a blueprint policy that determined the allocation of briefs and a draft policy was in place, but was awaiting approval from Cabinet.

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Mr Jeffery asked when the policy was going to be approved, and whether it was ready to go to Cabinet.

Ms Pillay, Legal Services, DOJ & CD said that more research had needed to be done on the document that was prepared in October, but this research was now complete, the document was being consolidated, and a final draft would be submitted to the Director General within the next two weeks.

Mr Jeffery said that the Department should have said this up front, and not insult the Committee by assuming that Members would have forgotten about this issue.

The Director General noted this comment. She continued that 65% of briefs, both in number and value, were being given to counsel from previously disadvantaged backgrounds. It was now a requirement that reports pertaining to briefs should take into consideration when briefs were given and what criteria was used. These reports were showing positive signs of change, especially in Gauteng. In other areas the results were not so good because there were no senior or junior counsel who met these criteria that could get briefs.

Mr Jeffery said that in October the Department had said that 74% of the briefs went to black practitioners. The total figure given was 3 728. He reminded the Department that this was not merely a numbers game but was to do with development. He suggested that one option would be to give a junior advocate a say in which Senior Counsel should get briefs, so that the Senior Counsel would develop the junior.

Ms Schaefer asked why the State had to brief advocates at all, since attorneys had the right of appearance in the High Court, so if there were sufficiently experienced State Attorneys, private counsel did not need to be retained.

Ms Schafer asked what engagement the Department had with the personnel responsible for the security of the courts. The maintenance of courts was a serious issue of concern, as previously warned to the Departments, and as illustrated clearly by the incident at the Pretoria court this year, where both infrastructure and dockets had been destroyed. She asked if the Department had any risk assessment strategy to determine which courts were the most vulnerable.

Dr De Wee said that the Department was engaging with security companies to provide security for its infrastructure. The South African Police Service (SAPS) had agreed to take over the security of courts adjacent to police stations. This still had to be finalised.

Mr Johnson added that the costing for the maintenance backlog was R1.027 billion. It would have been difficult to get funding for maintenance after having requested extra funding from Treasury for IT and security services.

Ms Schaefer clarified that her question related to whether or not any study had been conducted to determine what courts needed urgent attention.

Mr Johnson replied that the Department had a user asset management plan and the Department had done a conditional assessment of all the courts. The Department could not have foreseen that there would be an urgent need for the maintenance of the Randburg Court.

Ms Schafer pointed out that in maintenance matters there was a simple solution that could be used to reduce backlogs and ensure compliance, which was to have a Writ of Execution issued, on the basis of an affidavit by the person entitled to maintenance, which would then result in the property of the person who failed to pay maintenance being attached. She suggested that more people should be educated about their rights in this regard.

Adv Simon Jiyane, Deputy Director General: Court Services, DOJ & CD, said that the Writ of Execution against the property of a person who was supposed to pay maintenance was being used in the High Court. By the end of December 2010 the Department had finalised 12 702 maintenance cases.

Mr Rudman added that the Minister of Justice had given approval for the South African Law Reform Commission (SALRC) to undertake a project to review the Maintenance Act.

Ms Schafer was also worried about case backlog figures, which did not seem to be coming down.

Ms Schafer asked how many senior management posts had been filled.

Ms Schafer said that another matter of concern to the Committee, as expressed already at the last meeting, was the reduction of dedicated sexual offences courts. These were more effective than the Thuthuzela Care Centers (TCC), and the dedicated sexual offences courts should be increased.

Ms Schafer asked what the Department had done to combat fraud related to the Guardian's Fund.

Mr J Sibanyoni (ANC) suggested that the Department should make use of community radio stations to trace TRC victims and beneficiaries. This medium had proven time and again to be an effective tool.

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Dr De Wee said that the suggestion for the use of community radio would be pursued.

Adv S Holomisa (ANC) said that the Commission on Gender Equality (CGE) was still operating on provisions of the Interim Constitution, which did not match to the provisions in the final Constitution, and asked why the appropriate legislation had not been passed to correct the position.

Adv Holomisa asked what plans the Department had in place to facilitate the implementation of the Traditional Courts Bill, once it was passed by Parliament.

Adv Jiyane said that the state of readiness of the Department on the Traditional Courts Bill would depend on the finalisation of the Bill in Parliament. The Department aimed to align traditional courts with magistrate's courts. The traditional courts would continue to operate under the same infrastructure but there would be a progressive approach to create appropriate circumstances under which they would operate.

Adv Holomisa said that he would imagine that the Department would already have had something to report, as traditional courts were currently operating.

Adv Jiyane said that the traditional courts were operating under non-integrated systems. Resources for the traditional courts would be provided for under the Bill. The courts would be fully recognised and catered for under the new legislation. At the moment there was no mandate for the Department to support traditional courts.

Ms S Shope-Sithole (ANC) commended the Department for its determination in aiming for an unqualified audit report. The Department had to have strong internal controls, corporate governance structures and strong communication structures with the Auditor General (AG). She urged that the Department should not ignore any of the management letters from the AG.

The Director General assured her that the Department would improve its relations with the AG.

Mr Jeffery asked how the new office to support the Chief Justice would be accounting to Parliament, and who would head it.

Adv Jiyane added that the Office of the Chief Justice would be a separate Department, with its own accounting officer. The Department would support this office and ensure that it had separate accounting systems.

Mr Jeffery asked how much had been allocated to implement the Protection of Personal Information Bill, once it was passed.

Mr Johnson responded that R18 million had been put aside for the Protection of Personal Information Bill over the MTEF period.

Mr Jeffery pointed out that the allocations for Constitutional Development were rising quite considerably, and asked whether the Department was communicating with the Chapter 9 institutions so as to avoid duplication.

Mr Rudman said that the Department was busy with the finalisation of the Human Rights Commission Amendment Bill, but had also been instructed to consider which aspects of the report of the ad hoc Committee on the functioning of the Chapter 9 Institutions could be implemented. The CGE Bill had been transferred to the Department of Women, Children and Persons with Disabilities.

The Director General added that the Department had not consulted with any Chapter 9 institutions on constitutional development as yet. Any consultations that had taken place had been broad rather than specific. The business case for Constitutional Development included addressing such issues as racism and xenophobia. This branch would also provide guidance as to the decisions of the Constitutional Court, as well as gathering responses from the public, which would serve as a guide for the Department on its performance.

Mr Jeffery said that this would result in overlaps in functions between the work of the Department and that of the South African Human Rights Commission (SAHRC). One area of overlap would be the promotion of the Bill of Rights. The lack of communication with the SAHRC would result in duplication. The Department should eliminate duplications before the SAHRC appeared before the Committee for its next quarterly report.

Presentation on Estimates of National Expenditure

Mr Johnson said that the expected growth in the Department was 6.3% for the 2011/12 financial year. R85 million and R90 million was allocated for the implementation of new legislation for the 2012/13 and 2013/14 financial years respectively. R500 million would be needed for the construction of high courts in Nelspruit and Limpopo. R100 million and R110 million was set aside for the renewal of IT infrastructure for the 2012/13 and 2013/14 financial years respectively. A project called "The Nation in Dialogue", a Presidential initiative, was allocated R30 million in 2011/12 and R15 million in 2012/13.

Mr Johnson added that there was an increase in personnel costs, some of which were Occupation Specific Dispensation (OSD) related. Additional funding had been allocated to some of the Chapter 9 institutions that fell

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under the Ministry of Justice, such as the Public Protector (PP) and SAHRC. The Department had to cut back on its telecommunications costs as well as on excessive spending, in line with National Treasury's call to reduce expenditure on non-core functions, ineffective policies and low priority activities. There was substantial growth in the Court Services Programme, and the National Prosecuting Authority (NPA) allocations.

Mr Johnson noted that the growth in total budget had mainly been driven by personnel costs. There were also substantial payments made towards backdated OSD payments. More money was spent on the lower courts than higher courts, because there were greater numbers of lower courts, and their spending accounted for 61% of the total programme allocation. Government Motor Transport was reduced, so that there could be funding for other priorities. The Master of the High Court accounted for the biggest expenditure under Programme 3, of State Legal Services. The allocation for Legal Aid South Africa (LASA) went down by R4 million, in order to fund Phase 2 of OSD. The President's Fund had R1.032 billion allocated, but this would only be activated if there was any additional appropriation from Parliament.

He noted that although the average budget growth of the Department was 8%, the average growth of the budget for court services was 12%. The biggest challenge with regards to facilities management was to assess how much should be allocated to the smaller courts, and what amount should be reserved for the bigger courts. The day to day maintenance figure of R27 776 million for the 2011/12 financial year was for the court managers to fix smaller items, such as any broken windows or toilets, immediately.

Mr Johnson outlined the main challenges facing the Department. Firstly, it had to fill all vacant posts and to expand its capacity. 200 new positions would be filled to strengthen courts' administration, there were 90 new positions in the Supply Chain and Third Party Fund programmes, and 65 new posts for maintenance investigators, 130 new posts for intermediaries, 152 new posts for Children's Court clerks, and 111 new posts for Child Justice Court clerks. R40 million would be set aside for candidate attorneys to work for LASA.

The major infrastructure projects were the Limpopo High Court in Polokwane (with an allocation of R417 million) and the Mpumalanga High Court in Nelspruit (which was allocated R407 million). 6 judicial officers and 43 administrators would be appointed during 2011 when the High Court started operations at the interim leased premises in Limpopo. In Nelspruit, another 6 judicial officers and 38 administrators would be appointed in 2011.

Mr Johnson said that in order to turn around the financial management, the Department would have to improve on its governance, personnel, financial and performance management systems and financial training.

Discussion

Mr Jeffery referred to the major infrastructure section and asked where the judicial officers and administrative staff would be accommodated, as the courts in Nelspruit and Polokwane were not complete.

Mr Johnson said that the Department could not conduct planning for the Nelspruit and Mpumalanga courts until the courts had been finalised. Funds had not been put aside for these positions.

Mr Jeffery questioned this response, in light of the statement by Mr Johnson that "6 judicial officers and 43 administrators would be appointed during 2011 when the High Court started operations at the interim leased premises in Limpopo. In Nelspruit another 6 judicial officers and 38 administrators would be appointed in 2011". He asked if there were leased premises in Polokwane.

Mr Johnson said that there were.

Mr Jeffery asked if there were premises leased in Nelspruit as well.

Officials from the Department confirmed that there were.

Mr Jeffery asked why, in this case, it was not mentioned in the presentation, and what those expenditure figures were. He also wanted to know when the Limpopo High Court would be operational.

The Director General replied that the Court was already operational, but a new building was being built.

Mr Jeffery said that the Committee had been informed that matters arising from Limpopo were being dealt with in the Gauteng North High Court.

Adv Jiyane said that there was a circuit court in Gauteng North, and its building provided interim accommodation. A similar measure was being envisaged for Nelspruit, where there would also be a circuit court in operation by June 2011.

M Jeffery said that he was still confused, as the circuit judges would be from Gauteng North, and his query had related to where the 6 new judges and administrators would be housed, and what their functions would be.

The Director General said that this would be clarified in writing. The planning by the Department was being done in preparation for the putting into operation of the Superior Courts Bill.

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Mr Jeffery said that he was concerned with the inaccurate statement in the presentation. There was no mention that this was linked to the Superior Courts Bill. There was no need for a Bill, as a Gauteng South and North courts were created without further legislation. Even if the Superior Courts Bill was passed immediately, there was nowhere to physically house the judicial officers. The Department should not make the statement that he had just quoted, if this was not going to happen in the 2011 year. He expressed his severe disappointment that the quality of information provided to the Committee indicated that the Department was not taking Parliament seriously. It seemed to have been the practice in the past that the Department would attempt to “feed (the Committee) anything and they would swallow it” but he stressed that this should not continue.

Ms Schaefer clarified that it seemed that the Department had been trying to say that it was making provision for these positions and perhaps it was the phrasing used that had created a wrong impression.

Mr Rudman clarified that the Mpumalanga and Limpopo High Courts were established in terms of the Judicial Matters Amendment Bill, which has been approved by Cabinet.

Mr Jeffery asked which Bill had created Gauteng North and South courts.

Mr Rudman said that he would have to check, this but it was a statutory provision.

Mr Jeffery said that he was under the impression the Superior Courts Bill provided for Limpopo and Mpumalanga.

Mr Rudman said that was correct, but they were actually established in terms of the Judicial Matters Amendment Bill.

Mr Jeffery said it would be useful for the Committee to know what the Department was doing in response to the issues raised in the Standing Committee on Public Accounts (SCOPA), whose report was adopted by the House last week.

The Chairperson said that he hoped the Bosasa issue was not part of the SCOPA report.

Mr Jeffery enquired what had replaced the Public/Private Partnership for Third Party Funds.

Ms Schaefer asked why the Public-Private Partnership was scrapped, and how much had been spent on it to date.

Mr Jeffery asked what the Department was doing with the Budget Review and Recommendation Report that had been adopted by the Committee, because one of the issues was the Public-Private Partnership issue.

Mr Johnson replied that the Public-Partnership Programme had been found not to be affordable, and was contrary to the Public Finance Management Act (PFMA) and other regulations. The Department was in a position to prepare a report on the Budget Review and Recommendation Report, as well as the SCOPA resolutions.

Mr Jeffery asked why the municipal and accommodation charges for the Public Protector (PP) and SAHRC were so widely divergent.

Mr Rendani Randela, Director, National Treasury, clarified the discrepancies by explaining that there had been some billing problems with the Department of Public Works (DPW), but instead of sorting these out now, it was decided that the allocations would be made, and that the reconciliation would be done by DPW at a later stage.

Mr Sibanyoni referred to page 5 of the presentation, which mentioned the funding for the PP. He noted that the Chief Executive Officer (CEO) seemed to be earning more than the Deputy Public Protector, and enquired how correction of this would affect the baseline adjustment.

Mr Johnson replied that the Public Protector was a constitutional institution with its own internal structure and accountability lines. The PP negotiated on its own, for funding from National Treasury. The Department simply received the money from National Treasury and transferred it.

The Chairperson asked how soon there would be access to the Sexual Offences Register.

Adv Jiyane said that someone had been appointed for the sexual offences register and work was being done in this regard.

Mr Jeffery referred to the section on job creation and said that it was crucial that there should be time frames, otherwise the figures were meaningless.

Mr Johnson said that the positions were intended to be filled within the 2011 financial year. There were already advertisements that had been placed

Mr Jeffery asked if the Department ran the day to day maintenance of courts, and whether this came from the DPW

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budget, or that of the DOJ &CD.

Adv Holomisa asked for an explanation of the difference between rehabilitation, day-to-day maintenance and upgrading of infrastructure.

Mr Johnson replied that day to day maintenance allowed for the court managers to immediately fix things like broken windows. Rehabilitation was done under the DPW programme, called RAMP, and this intended to return any dilapidated court buildings back to their original position by fixing them. Upgrading of infrastructure was when there was an addition made to a building, such as an IT point.

Mr Jeffery asked where the budget for these projects sat.

Mr Johnson replied that they came from the Department's budget. In some instances DPW would procure service providers, but the DOJ &CD would pay.

Mr Jeffery said that it was disempowering for the Department to have to go via DPW to have matters in courts fixed.

A response was made that DPW was charged with the maintenance of public infrastructure, and approved service providers appeared on their database.

Ms Shope-Sithole requested that the Department should report regularly to the Committee on its job creation initiatives, and also ensure that it complied with the Inter-Governmental Fiscal Relations Act.

The Chairperson said he hoped the Director General had taken note of issues raised by the Committee. He also noted that she would be present at the following day's meeting, as she was the Accounting Officer for the National Prosecuting Authority (NPA)

The meeting was adjourned.

RESPONSE

Aspects for Dr De Wee to respond to / comment on:

A. Positions held and responsibilities of Dr De Wee

[1] A copy of Dr De Wee's resume reflects that he held the following positions:

- a. 01 April 2005 to 31 March 2015 (*note by Dr De Wee; he was given 3 months ext. and left at the end of June 2015*): Chief Operations Officer ("COO"): Department of Justice and Constitutional Development;
- b. 01 August 2008 to March 2011: Acting Chief Executive Officer National Prosecuting Authority ("NPA"); and
- c. 01 October 2011 to 31 March 2013: Acting Secretary General in the Office of the Chief Justice.

[2] Kindly confirm the above and confirm that at various stages Dr De Wee was appointed to perform various functions at other bodies such as the NPA, whilst also performing functions as the COO for the DoJ and CD.

According to my records, I respond as follows:

1. I was appointed the Chief Operations Officer from the 1st April 2005 until 30 June 2015.
2. I was appointed the Acting CEO of the National Prosecuting Authority from the 1st of August 2008 until the 1st of January 2010, during this period I was focused mostly on NPA work.
3. I was appointed the Acting Secretary-General in the Office of the Chief Justice on the 28th October 2011 until 31 March 2013, during this period I was focused mostly on work in the Office of the Chief Justice.
4. There were also periods when I acted as the Head of the Justice College as well as the Chief of Staff in the Minister's Office, during this period there were overlaps with my work as the COO of the Department of Justice and Constitutional Development.

During my tenure as the Acting CEO of the NPA and the Acting Secretary-General in the Office of the Chief Justice, I participated in the Executive Committee meetings of the Department of Justice and Constitutional Development as the coordination of the work of these institutions required such participation.

B. RFB 2008-15: Supply, Installation, Delivery, Commissioning, Support and Maintenance of Integrated Security, awarded to Sondolo IT on 06 August 2008 in the amount of R601 863 308,80:

- [3] The bid was issued on 29 February 2008 and the closing date for bid submissions was 20 March 2008.
- [4] Sixteen bids were evaluated for functionality whereby a minimum threshold of 65% was specified. Only one bidder Sondolo IT, scored higher than the threshold of 65%.
- [5] Dr De Wee, as the Chairperson of the DBEC, requested a legal opinion from DoJ Law Enforcement unit and National Treasury, enquiring whether the tender should be re-advertised or whether the minimum threshold should be lowered from 65% to 50%. These opinions were obtained.
- [6] The DBAC minutes of the meeting dated 24 April 2008, do not refer to the recommendation from National Treasury, which states that *"that the tender be re-advertised with the new benchmark"*, but instead the minutes state:
- a. The advice received was *"To re-advertise and lower threshold from 65% to 50%- but then it will prejudice the company that met the threshold"*
 - b. *The conclusion was to invite a bid for phase one only from the qualifying bidder;*
 - c. *New bids will be invited for phase 2."*

[7] In this regard, kindly indicate:

- a. as to what your understanding of Phase one and Phase two is; and

I do not recall what these phases meant since this took place 14 years ago. The SNG forensic report (attached as Annexure A) relied upon indicate, amongst its many limitations, in page 15 paragraph 4.2.2 that forensic auditors were not provided with the Terms of Reference and are unable to determine what phases 1& 2 meant. I am therefore unable to assist as speculation will not be helpful.

As someone who has neither training nor experience of the security environment, the memo obtained from the Commission's investigators, which seem to have emanated from the office of the Chief Financial Officer at the time, [REDACTED], dated the

17th August 2007 routed (which the route form suggest I did not sign) to and approved by the Director-General (Adv Sam) at the time, suggests, in paragraph 2.2, that the department found it reasonable to reduce reliance on physical security which relied on the deployment of numerous security guards, and make a shift towards increasing the use of technology perhaps to reduce human error and modernize the security of various facilities under the control of the Department of Justice and Constitutional Development at the time.

Why the recommendation from National Treasury was not provided to the DBAC and/or ignored.

I do not recall a discussion or a decision being made to the effect that the recommendation of National Treasury will not be included in the memo. Save to say the National Treasury's advise was not authenticated by a signature, as acknowledged by the SNG report, and it was noted by the DBAC.

It should be stated that both recommendations from Treasury and the State Law Advisors concurred that the threshold can be lowered.

Both opinions were disclosed and presented. The commonalities indicate that the threshold and the principle of fairness were applied in that the seven (7) bidders who made the lowered threshold were given an opportunity to present and a decision was made.

In addition, however, the record of the DBAC minutes of the 24th April 2008 (attached as Annexure B) states in paragraph 7.2 that "Since it was one bidder who met the requirements, the Department requested advise from the National Treasury and the State Law Adviser". It was therefore not concealed from the Departmental Bid Adjudication Committee (DBAC) that the National Treasury was approached for advise. On the contrary, it was disclosed and presented as reflected in the minutes. It even creates the possibility that the written advise from National Treasury was submitted and circulated to DBAC. It is just unfortunate that the Secretariat chose to summarize only the advise from the State Law Advisors.

[8] The DBAC collectively agreed to recommend the contract to Sondolo based on the information that was presented to DBAC by the DBEC.

[9] A letter from Sondolo IT dated 19 June 2008, signed by [REDACTED] that was addressed to "The Chairman Bid Evaluation Committee; Attention Dr K De Wee", states:

Dear Sir

We refer to our meeting held yesterday to clarify certain of the items regarding our bid submission, and take pleasure in confirming our discussions as follows: ...

PHASED APPROACH

- *Phase 1: Commencement 1st August 2008 - 44 High and Provincial as per attached list R197,325,408.83*
- *Phase 2: Commencement 1st February 2009 - 44 Courts nationally R 213,478,876.06*
- *Phase 3: Commencement 1st March 2009 - 39 Courts nationally R 191,059,347.33*
- *Total 127 Courts Completed to specification R 601,863,632.22 ...*

[10] In this regard, kindly indicate:

a. Whether you met Mr Gumede and/ or other representatives from Sondolo IT (Bosasa), prior to the award of the tender, and if so indicate:

i. the reason for and nature of the meeting

ii. whether it was regular/ irregular to meet with prospective bidders before the award; and

iii. whether you met any of the other prospective bidders prior to the award.

I did not meet Mr [REDACTED] officially or unofficially; or any representative of Sondolo IT prior to the award of the tender, and I am therefore unable to respond to any of the questions mentioned above.

[11] It appears that there were incomplete service specifications in the bid document for RFB 2008 15, which exposed DOJ to the financial risk of not completing the work at all 127 court buildings within the awarded contract amount of R601 863 306.80.

[12] After the appointment, additional comprehensive audits were performed at six Pilot Sites by Sondolo IT, at an additional cost to DoJ, although the cost is unknown as these records were

not retained by DoJ & CD.

[13] It appears that the DBAC failed to comply with paragraph 2.9 bullet one of the Code of Conduct for Bid Adjudication Committees, which states, *"a proper and unbiased specification is compiled for the specific requirement"*.

[14] Of the initial 127 court buildings where the work was to be performed:

- a. Seven of the initial court buildings identified where the work was to be performed, were substituted with other court buildings, for which there was no amendment to the scope of work submitted to DBAC for consideration and/ or DG approval; and
- b. Sondolo IT were paid the full contract amount; however, they did not install, commission, support and maintain a comprehensive CCTV alarm and access control system services at 32 court buildings. No approval was obtained from DBAC or the DG for the scope deviations, which amounts to R177 million. The expenditure was signed off by Ms Nelly.

[15] The SNG Report states that *"During consultation with Dr De Wee he informed us that he cannot recall the processes and procedures that transpired at the BEC as the matter dates to 2008."*

[16] In this regard, kindly indicate:

a. Your involvement in the implementation of the work/ project;

The Risk and Security Management Chief Directorate was responsible for the management of security contracts. The Chief Director responsible reported to me and advised me regarding the management of security contracts. Most memos en route to the Director-General came from the Risk Management Chief Directorate via my office to the Director-General for consideration.

b. If you are aware of the incomplete specifications that resulted in additional comprehensive audits being performed at six Pilot Sites by Sondolo IT;

I do not specifically recall these incomplete specifications and what made them to be incomplete. It must be noted that this work was meant to be a new and innovative approach to the modernization of the security of the courts, and like all pioneering initiatives, there could have been unanticipated challenges.

Such unanticipated challenges seems to have been acknowledged by the contractor

and the department, as it is recorded in the Service Level Agreement signed by Mr [REDACTED] on behalf of the Department on the 15th July 2009 (attached as Annexure C) in paragraph 2.3.1 that

“Due to the incomplete specifications in the Bid document, the parties have agreed that the contractor will conduct a comprehensive audit at the Pilot sites to establish the Principal’s security requirements in general. The parties recognize that this will result in additional costs to both parties and in this regard the parties have agreed that the Principal will be liable for the costs of any additional Equipment that maybe required, but that the contractor will forfeit any labor costs relating to the installation of the additional Equipment. A PDR will be completed for each Pilot Site and the Contractor will not proceed with any additional work at the Pilot Sites, unless the PDR has been signed off by both parties”.

c. Why Sondolo IT were paid the full contract amount, if they did not install access control system services at 32 court buildings; and

I did not agree to pay Sondolo IT being fully aware that they did not meet their full obligations in terms of the contract and service level agreement signed as alleged by the Commission.

My understanding, however, is that there were delays in the commencement of the project that were occasioned by numerous factors outlined in paragraph 3.2 titled

“ Programme and Project Execution Phases – Challenges and other Risk Contributing Factors Highlights” of the memo dated the 8th February 2015 (attached as Annexure D). These delays went for as as long as 18 (eighteen months). In addition, there were costs escalations which were negatively affected by foreign currency fluctuations as some of the material used in the security installations was imported. Consequently, because of these factors, security installations could not be done in 127 courts as initially reflected in the contract signed. The fiscal constraints allowed that the installations be done in only 95 courts as reflected in paragraph 3.1.2 of the DOJ&CD memo dated the 8th February 2015, consequently this left 32 courts undone (See Annexure D).

Therefore the 32 courts were not paid due to financial constraints as the project could only cover 95 courts. These 95 courts were the ones that were paid.

-Why no approval was obtained from DBAC or the DG for the scope deviations, which amounts to R177 million;

The amount of R177 million arises from the conclusion reached by the SNG report(attached as Annexure A) in paragraph 4.55 on page 21 of the SNG report (see Annexure A).

This conclusion, however, does not take into account issues raised by Ms Nelly in paragraph 4.53 of the SNG report in page 21; as well as issues raised in paragraph 3.2 of the DOJ& CD memo dated the 8th February 2015 (see attachment D).

The variations concerned were not referred to DBAC as the Service Level Agreement (SLA) (see Annexure C) signed by DOJ&CD and the Contractor (Sondolo PTY Ltd) allowed for a "Change Control Policy" provided for in Schedule 1 of the SLA. This allows for the management of variation order requests between the Contractor and the Principal. To facilitate interactions between the Contractor and the Principal Schedule 2 titled "Contract Governance Structure" creates an Operational Steering Committee which serves as a mechanism for managing issues (including variations) related to the implementation of the contract.

I attach Annexure E as examples of variations that contributed to cost escalations that led to the completion of security installations in 95 courts and not 127 courts as initially agreed, and left 32 courts undone.

C. RFB 2008-15: Appointment of Sondolo IT for the Provision of Corrective and Preventative Maintenance, for a total amount of R373 709 412.00 (including VAT), for a period of 36 months starting from 15 September 2015;

- [17] Subsequent to the installation at 95 court buildings by Sondolo IT in 2013, correspondence reflects that Sondolo IT entered into negotiations with DOJ & CD in respect of the extension of the SLA, including the maintenance of the equipment installed.
- [18] There are differing opinions as to whether the cost of the maintenance was included in the initial contract price of R601 863,632.22 that was accepted by DoJ.
- [19] Project documents defining the scope of the works at various courts, signed by Ms Nelly, Mr Nate and Mr [REDACTED], reflect that Sondolo IT and DoJ accepted that there was a

"36 months defects liability and maintenance period" included in the awarded contract for each court.

[20] The DBAC minutes dated 12 June 2008, state that: *"Maintenance contract in place for full term (only 1 year included in bid, additional 3 years to be negotiated with bidder, but will be for the account of the department; a separate DBAC request will follow to authorize the related expenditure."*

[2i] Notwithstanding the above:

- a. Ms Nelly submitted a memorandum dated 8 February 2015, to the DG, Ms Sally, requesting that R373 million rand be budgeted for, whereas the items specified to be procured included certain services, equipment and installations, which did not form part of the initial contract and are not specific to preventative maintenance; and
- b. The maintenance contract was subsequently 'extended' by Ms Lorraine Lilly, the Acting Chief Operations Officer, who signed a Letter of Award to Sondolo *"for the corrective and preventative maintenance in all the 96 offices to a total amount of R373 709 412.00 (including VAT) for a period of 36 months starting from 15 September 2015"*.

[22] It appears that the extension was irregular as no competitive procurement processes were followed nor any reasons provided for deviating from inviting competitive bids were recorded and approved by the accounting officer as prescribed by section 16A6.4 of the National Treasury Regulations, March 2005.

[23] In this regard, kindly indicate:

a. Your involvement in the negotiations/ discussions regarding the maintenance of the installations at the courts;

I was not involved in the negotiations/discussions regarding the maintenance of the installations at the courts.

b. Your opinion as to whether the cost of the maintenance was included in the initial contract price of R601 863,632.22;

I am neither a Security expert nor trained in management and maintenance of security installations. My comprehension of security maintenance seems to be contained in various clauses of the Service

Level Agreement signed by both the Department of Justice and Constitutional Development and the Contractor (See Annexure C). I draw the attention of the Commission to the following:

In Part 1-Titled Business A Agreement the following sections are relevant to the response to the question posed: Paragraphs 1.2.10; 1.2.18; 1.2.22; and 1.2.23.

In page 6 Paragraph 2.1 Unequivocally states: "The Principal requires the supply, delivery, installation, commissioning, support and maintenance of a comprehensive CCTV alarm and access control system at various nominated court buildings".

In Schedule 4 titled Pricing Schedule, in paragraph 2 under Maintenance Charges, the agreement provides as follows:

2.1 The initial first year's maintenance cycle (Warranty Year) will commence on hand over of each Facility and will be covered by the Contractor in full, with the exception of any Corrective Maintenance to be performed due to misuse and abuse of Equipment.

2.2 In year 2 the contractor will charge a monthly Preventative Maintenance rate per Facility as set out in Annexure F.

2.3 With effect from year 3, the Preventative Maintenance rates referred to in clause 2.2 above will incur an annual increase capped to the prevailing CPIX interest rate (as published by Stats SA).

In Page 7 paragraph 4.2 the duration of the maintenance contract is outlined.

Paragraph 5.3 outlines the contractor's obligations regarding maintenance of the installations.

Paragraph 7.2 outlines how charges will be imposed regarding maintenance.

Paragraph 16 outlines the contractor's responsibilities regarding maintenance during the duration of the contract.

In Schedule 3 Paragraph 2 the obligations of the contractor are further outlined with regard to maintenance.

Despite maintenance being included in the service level agreement as indicated above, maintenance costs were not included in the initial cost price. A letter from Advocate Sam (attached as Annexure GH) who was the Director-General of the Department of Justice and Constitutional Development at the time, to the CEO of the Independent Development Trust at the time, the late Ms [REDACTED], indicates, amongst others, that

"A twelve month warranty and guarantee period will be applicable to buildings after integrated systems have been tested, commissioned and signed off by the state. After one year warranty/guarantee period per building/site is signed off, a three (3) year maintenance contract will commence and these costs are not included in the amounts mentioned as these will depend on the standard fees and the turn around times that will be agreed upon by all parties concerned".

A similar letter was issued to the Director-General of the Department of Public Works(See Annexure G). This suggests to me that maintenance was not included in the initial costs price mentioned above.

c. If you are aware of and your involvement with the memorandum submitted by Ms Nelly dated 8 February 2015 to the DG Ms Sally, requesting that R373 million be budgeted for maintenance as well as other certain services, equipment and installations which did not form part of the initial contract.

As I indicated above, I am not a security expert. The memo (see Annexure D) referred to above came to my office from the Chief Directorate Security and Risk Management, which was part of my line function management. This memo has a direct relationship with the sense conveyed by the previous Director-General, Advocate Simelane in the letters to IDT and DPW referred to in Annexures ~~PG~~ ^{PG} above, which indicated that maintenance was not included in the initial contract price.

It will also be observed that the memorequesting reprioritisation of funds was signed by the Director: Security Management; Chief Director: Risk Management; Acting Chief Director: Facilities Management, and Director: Budgets and Decision Support. I supported the memo on the basis of issues raised particularly in paragraphs 2 and 3 of the memo. The memo was also signed by the Chief Director: Budgets and the CFO, after serving in the DBAC, before consideration by the DG. I was not part of the latter discussions because I had left the Department.

D. Bid no RFB 2010 02: for the appointment of a service provider to render a 24 hour security guarding and special services for a period of 24 months at various offices within nine provinces, awarded to Bosasa Security and others on 14 December 2010;

[24] Bosasa Security (Pty) Ltd was awarded guarding contracts by DoJ & CD, which were referred to as RFB 2010 01B and RFB 2010 02B, for a 24-month period from 01 January 2011 to 31 December 2012.

[25] A Route Form dated 09 December 2010, from the DBEC and DBAC to Ms [REDACTED], the Director

General DoJ & CD, was:

- a. Signed by all parties except for Ms [REDACTED];
- b. Approved by Dr De Wee in his capacity as the Acting Director General of DoJ & CD on 14 December 2010, approving the recommendation.

[26] The memo reflects that the DBEC considered three options of award per Province and the final recommendation was that the services be awarded to six service providers with the following financial implications per month in January 2013:

- Bosasa: R15.9 million
- [REDACTED] R14 million
- [REDACTED] R8.5 million
- [REDACTED] R1.7 million
- [REDACTED] R1.4 million
- [REDACTED] R1.1 million

[27] The contract was subsequently extended on a month to month basis from:

- a. 01 January 2013 to 31 March 2013; (This request was recommended and approved by various parties, including Dr De Wee on 13 December 2012. It was then approved by the then DG for DoJ & CD, Ms N Sally, on 19 December 2012); and
- b. 01 April 2013 on a month to month basis not exceeding six months.

[28] Mr [REDACTED], Chairperson of the DBAC, indicates that the DBEC recommended the new contracts be awarded to three service providers per Province, including Bosasa; however, due to Bosasa's poor performance record on the contract, the DBAC overruled the DBEC's recommendation.

[29] As a result, Bosasa's contract was then terminated per a letter from DoJ & CD dated 16 September 2013, which stated: *"With reference to a letter RFB 2010 02B dated 30 August 2013 from Supply Chain Management in respect of the conclusion of the mentioned contract refers. Last day of the Contract is 30 September 2013"*

[30] In this regard, kindly indicate:

- a. Your involvement in the negotiations/ discussions regarding the recommendation and awarding of the contract in December 2010;

I was not involved in the negotiations and/or discussions regarding the

recommendations of the contract. I was only involved in this contract particularly in my capacity as the Acting Director-General of the Department during this period. I was requested to act in the DG's absence. My role was limited to considering the memo (See Annexure I) presented to me by the Deputy-Director General: Corporate Services at the time, and the Acting Chief Financial Officer. My impression was that, following the advertisement of the tender to allow for transparency and competitive bidding as required by the Public Finance Management Act of 1999 as amended, their recommendations were informed by the deliberations of the Departmental Bid Evaluation and the Bid Adjudication Committees. The outcome of these deliberations were that three options were presented to the Accounting Officer to enable decision-making. Of the three options, the highly recommended option by both the Bid Evaluation and Bid Adjudication Committees was Option 2. According to the memo presented, it was preferred on the basis that:

- 1 The three highest scoring bidders were chosen on the basis of price considerations, which included best value for money and quality of services;
2. The award of the bid to one service provider per region would not address the risk factors identified by the evaluation and adjudication committees;
3. The award of the bid to one service provider will pose high risks in terms of service delivery, labour unrest, litigation, insolvency, etc;
4. The benefits of awarding the bid to more than one service provider will enhance service delivery, productivity, and reduce dependency on the operations of one service provider;
5. The awarding of this bid to more than one service provider per region will assist the department in terms of contract management with regards to supplier performance. In terms of poor performance by one service provider in a region, the department has an option of exploring the services of another service provider within that region without necessarily going through the costly bidding process.

The memo further advised that option 2 was supported by the security and risk management officials from both the Department of Justice and Constitutional Development and the National Prosecuting Authority, following the benchmark exercises conducted in the South African Police Services, and the Departments of Health and Social Development in the North-West and Limpopo provinces respectively. It was further advised that the model or approach proposed proved to be the best in the public sector at the time as it promoted SMMEs while ensuring that government receive quality and value for money security services.

In addition, it was advised that Treasury Regulations 16A9.1(c), which required departments to check the database of restricted suppliers prior to awarding any contract was complied with. This ensured that no recommended bidders or any of its directors are listed as companies or persons prohibited from doing business with the public sector. The memo assured me that all service

providers recommended were checked and National Treasury indicated that these entities are not listed under the restricted register.

Based on the above, and the unsafe and threatening security risks faced by the courts and facilities under the jurisdiction of the Department of Justice and Constitutional Development at the time, I found it reasonable to approve Option 2 as recommended by the Bid Evaluation Committee, Bid Adjudication Committee, the acting Chief Financial Officer and the Deputy Director-General responsible for Corporate Services.

After receiving the memo, I applied my mind and considered all three options and the motivation thereof. As the Acting DG at the time, I concurred with both the Bid Evaluation and Bid Adjudication Committees with regard to Option 2, as, for reasons given above, it made sense and I approved. This is contrary to the narrative that Bosasa was given preferential treatment as compared to other service providers. This simply because the option chosen and approved strove to promote fairness and serve the interests of the Department, as opposed to Options Three (3) which would have favored few companies and in particular Bosasa.

b. Your involvement in the negotiations/ discussions regarding the extension of the contract on a month to month basis as well as the recommendation by the DBEC to further award the renewal of the contract to Bosasa in 2013;

I do not recall being involved in such negotiations. Such matters were routinely initiated and managed by the Security and Risk Chief Directorate who would then inform and advise me regarding the outcome of such deliberations. It should be noted, however, that there have been instances, where practical reality dictates that, pending the finalization of the tender processes, the Department had to consider extending the provision of services to ensure continuity in serving the existing stakeholders. Usually when such extensions are effected, the normal procurement processes will be followed including seeking the approval of the DBAC and the Accounting Officer.

E. Security related services provided by Global Technology Systems (GTS) at Hillside House for the Commission.

■ [REDACTED]
[REDACTED]
[REDACTED]
■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

F. Budget Vote: Briefing by Department of Justice & Constitutional Development - Justice and Correctional Services dated 28 March 2011

[48] With regards to the above we note the following in the 'recording' of the meeting with the Parliamentary Monitoring Group:

Ms [REDACTED] asked the Department to respond to City Press and Rapport media reports that the Department had given a contract to Bosasa in December 2010, to the value of R391 million over twenty-four months, and another for R333 million related to court security, particularly in view of the statement that the SANDF might now be asked to assist in securing courts. She pointed out that Bosasa was being investigated by the Special Investigating Unit (SIU), following allegations of corruption in the awarding of Department of Correctional Services (DSC) tenders to this company. This matter was apparently now with the NPA. She asked why the Department appeared to be awarding contracts to the same company.

Dr Khotso De Wee, Chief Operations Officer, DOJ & CD, answered questions around the Bosasa tenders, and said that this was recently of concern to the Department as well. The contract followed the normal processes of tender advertising, establishment of the bid evaluation committee, who then made recommendations to the bid adjudication committee and selecting a final bidder out of three recommendations. The Department at one stage had considered cancelling the contract. However, it did not do so because this company was not blacklisted, none of its directors had been charged and a number of departments had either renewed or awarded contracts to Bosasa. The Department thus continued with the contract.

[49] In this regard, kindly:

- a. Confirm your response to the Parliamentary Monitoring Group or dispute the 'recording' of your response; and if necessary, elaborate thereon; and

The response seems to be correct.

b. Indicate which contract Dr De Wee is referring to where a contract was awarded selecting a final bidder out of three recommendations.

It seems to me the contract referred to relates to matters addressed in Section D of the Commission's list of Questions and specifically the contract titled *Bid no RFB 2010 02: for the appointment of a service provider to render a 24 hour security guarding and special services for a period of 24 months at various offices within nine provinces, awarded to Bosasa Security and others on 14 December 2010.*

The other contract is not clearly referenced to me so I cannot recall what was Ms [REDACTED] referring to..

c. Indicate what steps you, Dr De Wee, implemented to safeguard any continued contracts or the awarding of new contracts with Bosasa related entities after the release of the SIU report in late 2009, including the Guarding contract in 2013, the Maintenance contract in 2015, as well as the award to GTS in 2018 for work at Hillside House

I do not recall the SIU report being shared with me, and consequently I have not read it. The department simply advised and insisted that relevant prescripts such as the PFMA and relevant treasury regulations must be followed in the department's procurement processes. In this regard, the National Treasury Guidelines of 2004 titled "Supply Chain Management: A Guide for Accounting Officers/ Authorities" , provides amongst others, in paragraph 2.5.3, that:

In dealing with suppliers and potential suppliers, institutions should:

- Preserve the highest standards of honesty, integrity, impartiality and objectivity;
- Be fair, efficient, firm and courteous;
- Achieve the highest professional standards in the awarding of contracts, so as to maximise value for money while adhering to international standards;

- Provide clear specifications for requirements which encourage innovation and refer, where appropriate, to relevant technical and other standards;
- Make available as much information as suppliers need to respond to the bidding process and to define and publicise procurement contact points;
- Manage the bidding process so that genuine competition is preserved and discrimination is avoided;
- Make available the broad criteria intended for the evaluation of bids, to evaluate bids objectively and to notify the outcome promptly;
- Within the bounds of commercial confidentiality, to debrief unsuccessful bidders of the outcome of the bidding process so as to facilitate better performance on future occasions;
- Achieve the highest professional standards in the management of contracts;
- Pay promptly for work done in accordance to standards as set by a legal and binding contract; and
- Respond promptly, courteously and efficiently to suggestions, enquiries and complaints.

If the above-mentioned contracts were blocked on the basis of the SIU report and hearsay alone, without any substantial evidence, there is a risk the above provisions pertaining to impartiality, objectivity, fairness, genuine competition and avoidance of discrimination would have been violated.

G. Cash payments relating to Dr De Wee

[50] Dr De Wee confirms the following properties are registered in his name and is requested to:

- a. Confirm / identify any substantial deposits towards the payments of these properties:

Property	Amount	Purchased	Comments
[REDACTED], Braamfontein	R 835 000	2017/11/06	Used for student accommodation

██████████, King Williams Town	R 960 000	2017/04/18	Rented out
██████████ Park	R 1 210 000	2005/05/01	I live here
██████████, Bloemfontein	R 480 000	1999/08/24	Rented out since 2005

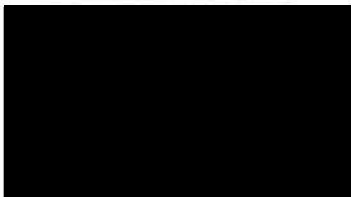
I do confirm that the above mentioned properties belong to my family. The ██████████ in Braamfontein, Johannesburg is financed through a Standard Bank bond paid for by my wife.

The ██████████ Property is fully paid and was funded through our ABSA credit facility.

The ██████████ Park Property in Pretoria was financed and consolidated through the ABSA credit facility.

The ██████████ Park property is financed and consolidated through the ABSA credit facility.

Dr De Wee confirms is requested to confirm he, Dr and Mrs De Wee, have a Joint Facility Account ██████████ as well as the following Current Accounts in the name of Dr De Wee:



I do confirm the following:

Account ██████████ is a joint ABSA Credit Facility Account held jointly with my wife.

Account no: ██████████ is my ABSA Private Bank Cheque account.

Account no: ██████████ is a 12 month fixed deposit account in my name.

Account No: ██████████ I checked with the bank on the 9th March 2021 and it was unable to confirm the account is in our name (Chatted to ██████████)

[51] Dr De Wee is requested to confirm the following payments into his current account ██████████ and indicate the source of the cash.

Date	Branch	Cash Amount	Balance prior to Deposit
2002			

Date	Branch	Cash Amount	Balance prior to Deposit
17/04/2002	Brandwag	26 000.00	(3 731.56)
2007			
6/10/2007	Woodlands	1 700.00	(1 218.72)
2008			
13/03/2008	Woodlands	2 800.00	(4 468.48)
11/08/2008	Brooklyn	5 000.00	(12 728.44)
5/10/2008	Menlyn	10 000.00	(15 131.19)
6/10/2008	Pretoria	6 000.00	(5 131.19)
6/11/2008	Alkantrant	2 500.00	(946.79)
2010			
9/05/2010	Menlyn	3 000.00	735.18
7/10/2010	Moreleta Park	5 000.00	1 090.64
2011			
7/01/2011	Woodlands	4 000.00	(500.00)
29/01/2011	Woodlands	6 000.00	(500.00)
11/12/2011	Southdowns	6 000.00	(692.37)
2014			
28/02/2014	Brooklyn	4 400.00	33 064.17
2/09/2014	Woodlands	4 400.00	(6 960.52)
7/09/2014	Menlyn	5 000.00	(2 714.02)
21/12/2014	Menlyn	7 000.00	38 190.80
31/12/2014	Woodlands	5 000.00	42 184.67
2015			
21/01/2015	Centurion	7 000.00	(7 589.91)
3/03/2015	Menlyn	9 000.00	(11 578.86)
23/03/2015	Woodlands	5 000.00	49 849.09
23/08/2015	Menlyn	20 000.00	83 540.54
24/08/2015	Killarney	20 000.00	103 468.44
The following payments were made to the Joint facility Account			
24/08/2015	Private Assist Account	(30 000.00)	
24/08/2015	PTA RASC	(10 000.00)	
17/09/2015	Menlyn	5 000.00	88.04
1/11/2015	Menlyn	30 000.00	18 737.75

I have considered the above table of payments into my current account (405 080 2131) and noted that these transactions span over a period of 20 years. They include the period before I joined Department of Justice and after I left the services of Government. The transactions range from R1 700 to R30 000, all inclusive amounts to some R164 800,00 over almost twenty years. It should be noted that, on average, it was three transactions per year which I am made to remember the sources thereof.

In the joint facility account, there is a figure of R30 000,00 reflected in brackets dated the 24th August 2015. This was a transfer from my cheque account, and not a cash deposit as reflected in the joint facility account statement no.122. The second amount of R10 000,00 reflected in brackets dated the 24th August 2015. There is no such cash amount deposited in my joint facility account. I noted, however, that it was a transfer from my cheque account into card number 78769021396089.

The amount of R5 000,00 dated the 17th September 2015 could not be traced on any of the statements provided.

The R30 000,00 amount dated the 1st November 2015 as reflected in statement no. 125 of my joint facility account is a regular stop order from my cheque account and not a cash deposit.

I am subjecting myself to this investigation and willing to cooperate with the Commission but a reasonable consideration should be made that it is highly impossible to remember details of each transaction that span over 20 years that were not happening every day or every month for that matter.

In 2005, my wife and I obtained a credit facility of R2.5m from ABSA which was a source of finance for our properties and other needs. Over the years when we had surplus funds, we deposited funds into our joint facility to reduce our debt, but also to build up a surplus for utilization in times of need as this was a revolving credit facility. It will also be noted that whenever my cheque account was overdrawn, the joint facility was often used to augment the shortfall in my cheque account.

There were times when I borrowed money from my wife and sisters mostly when I was overdrawn to cover my shortfalls in my cheque account.

The amounts in question cannot be attributed to one source, it will also be naïve for me to think that I remember precisely activities that took place over 20 years.

Below are some of the sources:

- 1) Selling of items (Motor Vehicle, Furniture and old clothes and catering equipment);
- 2) Rental from my properties and food truck;
- 3) My Wife's Stokvel proceeds;
- 4) Funds from functions and trips we organized on behalf of the family and friends where we incurred the costs and were reimbursed with cash(For example, Botswana Wedding late in 2014 and leisure Trip to Swaziland in early 2015).
- 5) Elder sister's funds from the proceeds of her house and furniture late in 2015.
- 6) Miscellaneous (lotto winnings, casino winning, donations for funerals)

My late elder sister took a voluntary severance package, and had personal challenges. When her retirement package funds dwindled, she sold her property, and furniture. As she was unmarried and

childless, she trusted me to take some of the cash to manage it on her behalf. These are the bulk of the funds deposited.

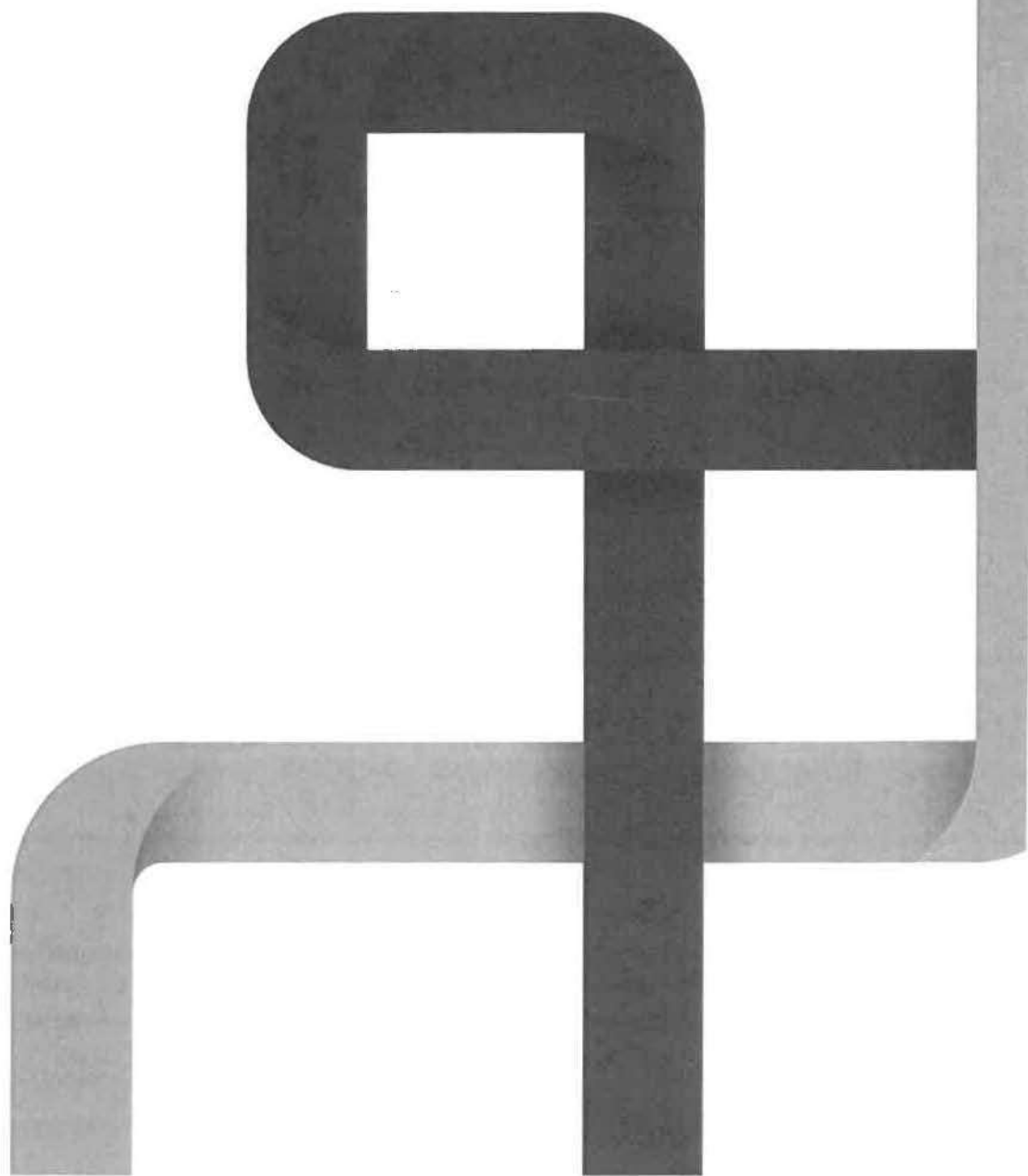
I want to reiterate that I neither received money nor gifts from BOSASA and associated companies.

Annexure "A"



**REPORT: FORENSIC INVESTIGATION ON BEHALF OF
DEPARTMENT OF JUSTICE AND CONSTITUTIONAL
DEVELOPMENT (DOJ & CD) INTO THE PROCUREMENT OF
SECURITY RELATED SERVICES IN THE DEPARTMENT**

FEBRUARY 2020





██████████
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0001

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27 February 2020

Dear ██████████

REPORT: FORENSIC INVESTIGATION ON BEHALF OF THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT ("DOJ& CD") INTO THE PROCUREMENT OF SECURITY RELATED SERVICES IN THE DEPARTMENT

Attached hereto please find our report in respect of our forensic investigation into the above-mentioned matter.

Our report is set out under the following headings:

1. Background and mandate;
2. Scope and limitations;
3. Procedures performed;
4. Findings; and conclusions;
5. Outstanding matters;
6. Interaction with Mr **Nate**; and
7. Recommendations.

Should you require further information, please do not hesitate to contact ██████████ on details stated below.

Yours faithfully,

██████████
Director and Head: Forensics
██████████
██████████



Victor Sekese [Chief Executive]

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GLOSSARY OF TERMS AND ABBREVIATIONS

Throughout this document, unless otherwise stated, the words in the first column have the meanings stated opposite them in the second column.

TERMS

TERMS	DESCRIPTION
ADV	Advocate
BEC	Bid Evaluation Committee
BSC	Bid Specifications Committee
CCTV	Closed Circuit Television
DBAC	Departmental Bid Adjudication Committee
DCJ	Deputy Chief Justice
DDG	Deputy Director General
DG	Director General
DOJ	Department of Justice & Constitutional Development
DPW	Department of Public Works
FIFA	Federal International Football Association
GTS	Global Technology System (Pty) Ltd
IT	Information Technology
JCFI	Judicial Commission of Inquiry Financial Instructions
NSI	National Security Infrastructure
NT	National Treasury
PDR	Project Definition Report
PO	Purchase Order
SAPS	South Africa Police Services
SCM	Supply Chain Management
SLA	Service Level Agreement
SNG Grant Thornton	SizweNtsalubaGobodo Grant Thornton Advisory Services (Pty) Ltd
SONDOLO	Sondolo IT Pty (Ltd)
TBVC	Transkei Bophuthatswana Vaal Ciskei
TI	Tenant Installations
TOR	Terms of Reference
VO	Variations Order
VAT	Value Added Tax
Zondo Commission	Commission of Inquiry into State Capture

INDIVIDUALS

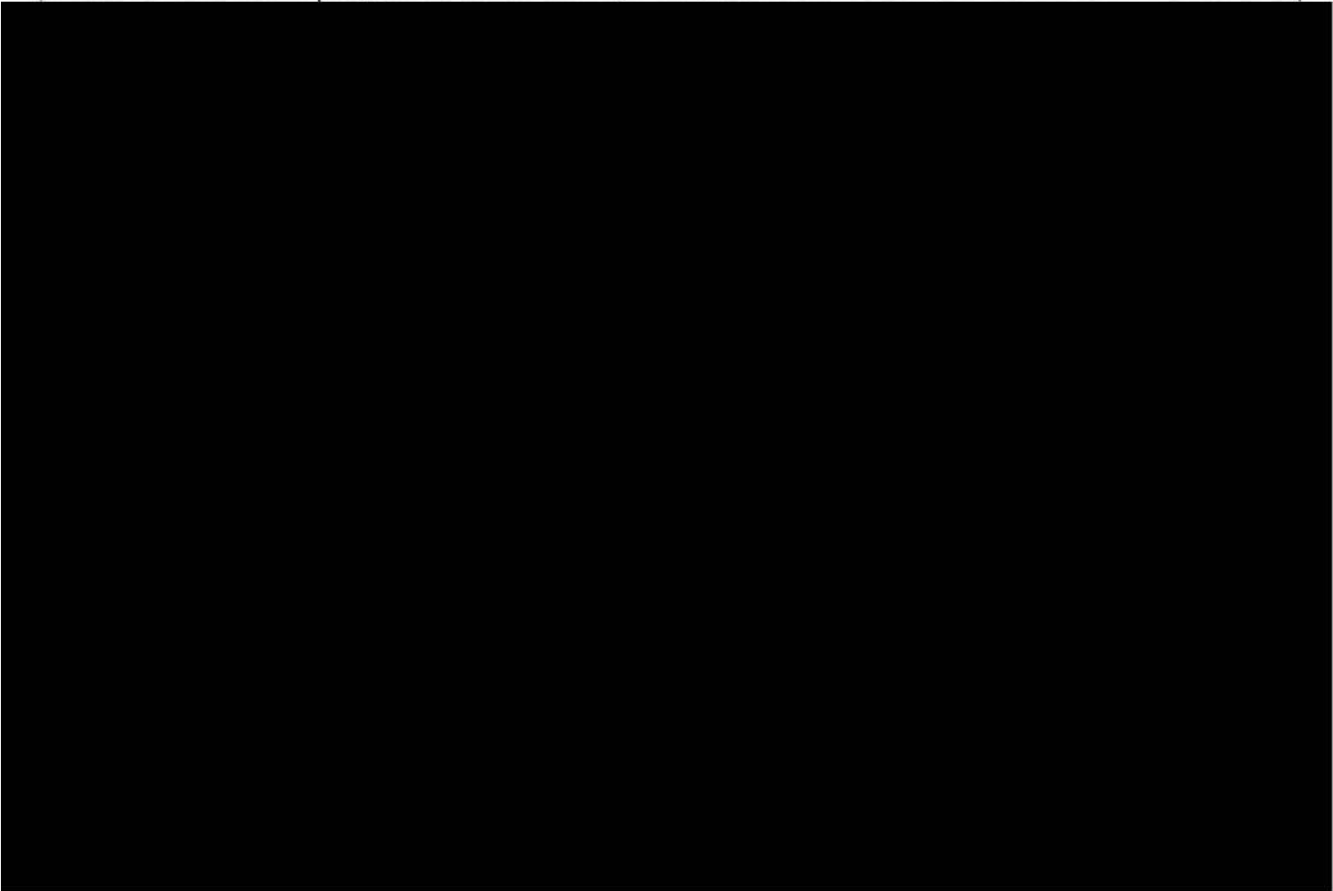
Individual	Description
Dr De Wee	Dr Khotso De Wee: Secretary of the Commission of State Capture (2018); Chairperson: Bid Evaluation Committee, DOJ (2008); and Chief Operations Officer, DOJ (2008).

Individual	Description
[REDACTED]	
Ms Nyubuse	Ms Nelly – Chief Director: Risk and Security Management, DOJ
[REDACTED]	
Ms.illy	Ms .illy – Chief Financial Officer, DOJ
[REDACTED]	
Adv Sally	Adv Sally – Director General, DOJ (2015)
[REDACTED]	

LIST OF ANNEXURES

Reference in report	Definition
Annexure 1A	Copy of SNG Grant Thornton proposal dated 6 December 2018
Annexure 1B	Copy of a letter of appointment signed by Mr [REDACTED] dated, 5 February 2019
Annexure 2A	Copy of an affidavit signed by Ms [REDACTED], dated 23 August 2019
Annexure 3	Copy of request for proposal RFB2007 03 issued on 14 May 2007 with a closing date of 15 June 2007
Annexure 4	Copy of the 2007 bid register
Annexure 5	Copy of request for proposal RFP 2007 3B
Annexure 6	Copy of bid register dated 2008
Annexure 7	Copy of an internal memo respectively signed and supported by Dr De Wee dated 24 April 2008 and approved by the Director General on 26 July 2008
Annexure 8	Copy an unsigned internal memo from Dr De Wee and addressed to Ms [REDACTED] dated 15 April 2008
Annexure 9	Copy an undated and unsigned internal memo from Ms [REDACTED] addressed to Dr De Wee
Annexure 10	Copy of an unsigned letter from [REDACTED] addressed to Secretary of the Treasury dated 16 April 2008
Annexure 11	Copy of an unsigned letter from [REDACTED] addressed to [REDACTED] dated 16 April 2008
Annexure 12	Copy of DBAC minutes dated 24 April 2008
Annexure 13	Copy of an internal memo respectively supported and recommended by Ms [REDACTED] and Dr De Wee on 11 June 2008 addressed to DBAC dated 10 June 2008
Annexure 14	Copy of the DBAC minutes dated 12 June 2008
Annexure 15	Copy of Director-General Memo respectively compiled by [REDACTED] and recommended by Nelly and not approved by Sam on 18 June 2009
Annexure 16A	Copy of Service Level Agreement signed on 15 July 2009 respectively by Mr [REDACTED] (on behalf of DOJ) and Mr [REDACTED] (on behalf of Sondolo)
Annexure 16B	Copy of an IDT programme progress report dated 31 July 2013,
Annexure 17	Copy of Code of Conduct for Bid Adjudication Committees

Reference in report	Definition
Annexure 18	Copy of Schedule 3 of the of Service Level Agreement signed on 15 July 2009 respectively by Mr [REDACTED] (on behalf of DOJ) and Mr [REDACTED] (on behalf of Sondolo)
Annexure 19	Copy of Annexure A of the of Service Level Agreement signed on 15 July 2009 respectively by Mr [REDACTED] (on behalf of DOJ) and Mr [REDACTED] (on behalf of Sondolo)
Annexure 20	Copy of Annexure F of the of Service Level Agreement signed on 15 July 2009 respectively by Mr [REDACTED] (on behalf of DOJ) and Mr [REDACTED] (on behalf of Sondolo)
Annexure 21	Copy of Schedule 4 of the of Service Level Agreement signed on 15 July 2009 respectively by Mr [REDACTED] (on behalf of DOJ) and Mr [REDACTED] (on behalf of Sondolo)
Annexure 22A	Copy of a letter dated 9 July 2009 with the subject "RFB 2008 15: NATIONAL SECURITY INFRASTRUCTURE FOR THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT"
Annexure 22B	Copy of internal memorandum from Ms Nelly addressed to Ms Sally dated 8 February 2015
Annexure 23	Copy of Director Memorandum from Ms Nelly addressed to Ms Sally dated 8 September 2015
Annexure 24	Copy of letter signed by Ms Lilly and addressed to Mr Seleka dated 23 September 2015
Annexure 25	Copy of SBD 7.2 form titled "Contract Form- Rendering of Services"
Annexure 26	Copy of BAS reports
Annexure 27	Copy of a letter dated 8 August 2018 signed on 13 August 2018 by Ms Lilly as
Annexure 28	Copy of section 84 (2) of Constitution of Republic of South Africa No 108 of 1996
Annexure 29	Copy of The Commission Act No 8 of 1947



Reference in report	Definition

1. BACKGROUND AND MANDATE

- 1.1 We understand that the Department of Justice and Constitutional Development ("DOJ") requires an external forensic investigator to investigate the procurement of security related services in the Department within a period of three (3) months. You require the investigation to concentrate on the following:
- a) The procurement processes of Security Services (Guarding Services) for Six (06) tenders with the first tender awarded in 2006 and the last tender awarded in 2016;
 - b) The procurement processes of Cash in Transit Services for Six (06) tenders with the first tender awarded in 2006 and the last tender awarded in 2018;
 - c) The procurement processes of a service provider during 2009 for the supply, delivery, installation, commissioning, support and maintenance of a comprehensive CCTV alarm and access control system at various nominated court buildings; and
 - d) The deployment of security officers and equipment as well as the payment of such services. How decisions are made on how many security officers are deployed and where equipment is deployed and whether payment for this correlate with these decisions.

- 1.2 Based on our proposal (**Annexure 1A**) dated 6 December 2018, and the letter of appointment (**Annexure 1B**) signed by Mr [REDACTED] dated, 5 February 2019, the DOJ requested us to conduct a forensic investigation to establish the following:
- a) Examine whether the prescribed procurement processes were followed which would include evaluating whether procurement meetings were properly convened and decisions minuted;
 - b) Evaluate whether the required policies, standards and regulations were followed for financial transactions, asset management and facility management as it related to the audit;
 - c) Examine and evaluate selection process, interaction with and supervision of service providers;
 - d) Examine the proficiency of service providers, as well as the screening process and diligence with the selection;
 - e) Investigate whether there is/were any unsound relationships the DOJ and the security service providers; and
 - f) Examine whether prescribed disciplinary processes were followed which include the investigations against the DOJ&CD officials.
- 1.3 This report will only address the RFB 2008 15 equipment tender and security for the commission

2. SCOPE AND LIMITATIONS

- 2.1 We were not required to, and therefore did not undertake an audit in terms of the International Standards on Auditing. The scope of work was limited to a review of the documentation and information provided to us during the course of our fieldwork. We did not authenticate the relevant records and documentation provided to us.
- 2.2 The purpose of our investigation was to consider and review the available documents and other relevant information obtained during our fieldwork and ultimately to prepare a report on the factual findings in relation thereto.
- 2.3 We attempted to include information relevant to the execution of our mandate. However, it is possible that documents and information exist which were not made available to us or that was unable to locate. Any documents or information brought to our attention subsequent to the date of our fieldwork, which could affect our findings, may require our findings to be adjusted and qualified accordingly.
- 2.4 This report is neither designed nor intended to provide legal advice and/or a legal opinion and should not, and cannot, be so construed.
- 2.5 This report was prepared solely for the purposes of reporting on our findings to DOJ. No part of this final report may be quoted, referred to or disclosed in whole or in part, to any other party, without our prior written consent.
- 2.6 In order to execute our mandate and examine whether the prescribed procurement processes were complied with by the DOJ, the Supply Chain Management (SCM) unit were unable to provide us with

critical documents. It should be noted that the inability to obtain and review the information requested from the SCM unit directly impacted on the procedures we had to perform.

- 2.7 The current SCM Director, Ms [REDACTED] informed us that the filing of bid documents was not adequately maintained, hence the challenge by the DOJ to provide our investigation with information as requested. Ms [REDACTED] also stated this in an affidavit (Annexure 2A). Ms [REDACTED] furthermore informed us that bid documents are kept in a vault under the direct control of Mr [REDACTED]
- 2.8 During consultation with Mr [REDACTED] he informed us that, he was not employed at the DOJ at the time when the procurement processes for tender RFB2008 15 were managed by the SCM unit. He also informed us that the vault keys were under the management of the bid office which he was responsible for, and that all bid documents were recorded and kept safe while under his control, as bid documents were always available when requested by either the Auditor-General or any other unit within DOJ. Mr [REDACTED] furthermore informed us that he was removed from the SCM unit during April 2015 until July 2016, and upon his return he found the vault keys to be with Mr [REDACTED]. Mr [REDACTED] also found that certain bid documents were either removed, destroyed or erased from the bid files.
- 2.9 We were not provided with the following information in respect of the equipment tender RFB2008- 15:
- The needs assessment report as prepared by GM Consortium which emanated from tender RFP 2007 3B;
 - Terms of Reference (TOR) as advertised and issued to the prospective service providers;
 - Appointment letters of Bid Specification Committee (BSC) and Bid Evaluation Committee members
 - Minutes of all BSC meetings;
 - SCM submission requesting for the advertisement of a close tender and the subsequent approval by the Department Bid Adjudication Committee (DBAC) thereof;
 - Minutes of all meeting held with the nominated service provider to participate in the close tender;
 - Minutes of all BEC meetings;
 - Evaluation score sheets of all BEC members for tender RFB2008 15; and
 - A copy of the tender advertisement and published award in the tender bulletin from the National Treasury website "<http://www.gpwonline.co.za/Gazettes/Pages/Published-Tender-Bulletin.aspx?p=17>" as the last tender bulletin is this website is dated 01 June 2012.

Persons not available for interviewing

- 2.10 We met Mr Nate on two (2) occasions and during our last interview Mr Nate and his Attorney informed us that the interview cannot continue because Mr Nate was not provided with source documents prior to the interview. Details regarding our interaction with Mr Nate is set out in the section titled "INTERACTION WITH [REDACTED] Nate" further on below.
- 2.11 A meeting was arranged by the DOJ Forensic Audit unit with Mr [REDACTED], who declined the meeting invitation and informed that the DOJ must consult his Attorneys.

3. PROCEDURES PERFORMED

3.1 We consulted with the following officials for purposes of the review:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- d) Ms Nelly: Chief Director: Risk and Security Management, DOJ;
- [REDACTED]
- f) Ms Lilly: Chief Financial Officer, DOJ
- [REDACTED]

3.2 We obtained and reviewed copies of the following legislative prescripts and policies/procedures applicable to the review:

- a) Constitution of Republic of South Africa (Act 108 of 1996);
- b) Undated Judicial Commission of Inquiry Financial Instructions;
- c) National Treasury Regulations;
- d) DOJ Supply Chain Management policy;
- e) Preferential Procurement Policy Framework Act (Act 5 of 2000); and
- f) Supply Chain Management Regulation 27636 of 2005.

4. FINDINGS

4.1 Our findings are set out under the following sub-headings:

- A. Supply, Installation, Delivery, Commissioning, Support and Maintenance of Integrated security services for tender RFB2008-15; and
- B. Security services and equipment provided at the Zondo Commission.

A. SUPPLY, INSTALLATION, DELIVERY, COMMISSIONING, SUPPORT AND MAINTENANCE OF INTEGRATED SECURITY RFB 2008-15

4.2 We were required to investigate the procurement processes undertaken by the DOJ in respect of tender number "RFB 2008-15: Supply, Installation, Delivery, Commissioning, Support and Maintenance of Integrated Security". We also had to determine the deployment of security goods and services and, how these decisions were made and whether payment correlate with these decisions.

4.3 Our investigation focuses on whether proper procurement processes were followed in the appointment of Sondolo IT Pty (Ltd) (Sondolo). We were guided by National Treasury Regulations as the DOJ did not have a Supply Chain Management (SCM) policy at that stage.

A1: Procurement processes undertaken for tender RFB2008 15

- 4.4 We reviewed a copy of a request for proposal RFB2007 03 (**Annexure 3**) that was issued on 14 May 2007 with a closing date of 15 June 2007. We noted that the purpose of the RFP 2007 03 (**Annexure 3**) seeks the services of an electronic engineering consultancy team for the generation of the security requirements for all the office(s)/buildings of DOJ nationally as well as the writing of the specifications for bid purposes

- 4.5 According to paragraph 3 of RFP2007 03 (**Annexure 3**) under the heading "scope of work/terms of reference" the following is stated:

- a) *"To investigate and to perform site risk assessment for each of the offices nation-wide and to table a security plan for each of the offices/buildings.*
- b) *To generate the specifications for each of the security sub system into a fully integrated security system. These sub systems will include the following:*
 - *Integrated Sub systems and components controlled from central premises such as a central control room; and*
 - *Main vehicle and pedestrian entrance- a system of gates and booms with access control.*
 - *Monitoring and surveillance at delivery entrance/exit- i.e. Offload areas for SAPS and Correctional Services.*
 - *Motorised gates with access control for staff and manual supervisor control for deliveries*
 - *Access control to buildings- All people coming to premises will be scanned for metals and records of presence of metal shall be captured kept by the system.*
 - *Access control at offices' reception areas-all personnel and visitors to enter through the main reception after being scanned by metal detectors and x-ray machine for baggage.*
 - *Intruder alarm system- an intruder alarm system with passive infra-red detectors in strategic locations only*
 - *Camera surveillance system-a comprehensive surveillance system to monitor the perimeter fence, access to the premises and buildings, strategic areas inside the buildings and emergency exists. The system to include motion detection, alarm detection and time-lapse recording*
 - *Fire detection and control-fire detection to comply with National Building and Fire Regulations. For computer rooms and sensitive storage areas fire extinguishing system shall be provided*
 - *Emergency communication system- a secure communication system linked to the main control room to be used for all emergency communication as well as evacuation*
 - *X-ray scanning-parcels and packages delivered or brought to the premises shall be X-rayed (including handbags and luggage) at the main building entrance*
 - *Illumination-suitable illumination to allow 24-hour operation of the system shall be provided*
 - *The system should enable capturing and storing of critical; data on incidents*

- c) *To generate the specification for the national control room as well as the method of operation of this control room.*
 - d) *To generate a tender document inclusive of the bill of quantities for each of the offices.*
 - e) *To regulate the bid process*
 - f) *To do recommendation of the bid*
 - g) *To perform the project management for the security installations on each of the offices.*
 - h) *The successful bidders must demonstrate a clear understanding of what is happening in other justice clusters i.e. South African Police services and Correctional Services and take into cogniscent that the Department would like to integrate systems where possible".*
- 4.6 We reviewed a copy of the 2007 bid register (**Annexure 4**) and noted that RFP 2007 03 was advertised as a closed tender, we also noted from the 2007 bid register that the tender was cancelled, and the reasons thereof were stated, "Cancelled. DG would like an open tender process".
- 4.7 Subsequently to the above cancellation we reviewed a copy of request for proposal RFP2007 3B (**Annexure 5**) that was issued on 6 July 2007 with a closing date of 20 July 2007, with the title "Provision of a concept of an Integrated Security Solution for all the buildings/premises (court buildings, court rooms and offices) and Security Risk Assessment thereof".
- 4.8 During our consultation with Mr [REDACTED], he informed us that the design philosophy of RFB 2007 3B was to make provision for a comprehensive, redundancy and modularity to ensure high levels of reliability, integrated security system with high levels of back up while at the same time being flexible and upgradeable to adapt to changing requirements.
- 4.9 Upon further reviewed of the 2007 bid register (**Annexure 4**) and noted that GM Consortium was appointed for the amount of R2 950 000.00 on RFP2007 3B as consultants to conduct inspections and security assessments as well as to provide a design plan for the integrated security systems as buildings nationally. it is our understanding that a security risk assessment was conducted by GM Consortium to inform the needs analysis of RFB2008 15. GM Consortium generated the specifications and bid (tender) documentation for the entire security infrastructure of its sites/offices countrywide.
- 4.10 We reviewed a copy of the 2008 bid register (**Annexure 6**) as provided to by the SCM unit and noted that RFB 2008-15 was advertised as a closed tender. The closing date of the tender was 2 June 2008, the evaluation of the tender was concluded by the Bid Evaluation Committee (BEC) on 21 August 2008, and the tender was awarded to SONDOLO IT Pty (Ltd) (Sondolo).
- 4.11 We were not able to obtain a copy of the tender advertisement and published award in the tender bulletin from the National Treasury website "<http://www.gpwonline.co.za/Gazettes/Pages/Published-Tender-Bulletin.aspx?p=17>" as the last tender bulletin on this website is dated 01 June 2012.

- 4.12 We were not provided with the following documents as requested from the SCM unit in respect of tender RFB2008-15:
- The needs assessment report as prepared by GM Consortium;
 - Terms of Reference (TOR) as advertised and issued to the prospective service providers;
 - Appointment letters of Bid Specification Committee (BSC) and BEC members
 - Minutes of all BSC and BEC meetings;
 - Evaluation score sheets of all BEC members;
 - SCM submission requesting for the advertisement of a close tender and the subsequent approval by the Department Bid Adjudication Committee (DBAC) thereof; and
 - Minutes of all meeting held with the nominated service provider to participate in the close tender.
- 4.13 We reviewed a copy of an internal memo (**Annexure 7**) signed 23 April 2008 by [REDACTED] as Project Manager, with the subject *"Pre-qualification for the Supply, Installation, Commissioning and Maintenance of a National Security Infrastructure for the Department of Justice and Constitutional Development"* respectively signed and supported by Dr De Wee (Chairperson of the BEC and Chief Operations Officer) dated 24 April 2008 and approved by the Director General on 26 July 2008. We noted the purpose of the memorandum was to obtain approval from DBAC to proceed to phase one of the National Security Infrastructure (NSI) process.
- 4.14 We noted that in paragraph 2 of the internal memorandum (**Annexure 7**) under the heading, *"Discussion/Motivation/Background"* the following processes were followed:
- A bid was issued on 29 February 2008 and closed on 20 March 2008;
 - 18 Bid proposals were received by DOJ and no late bids were registered;
 - After the pre-evaluation phase two (2) bidders were disqualified:
 - [REDACTED] Protection Services [REDACTED] Technologies/JV)- no documentation was received but only an objection letter; and
 - [REDACTED] Security Services- a copy of a tax certificate was submitted instead of an original.
 - Sixteen (16) bids were evaluated for functionality whereby a minimum threshold of 65% was specified; four (4) bidders scored above 50% and the remaining eleven (11) bidders scored less than 50% and only one (1) bidder (*"Sondololo"*) scored 79.36% which is higher than the threshold of 65%; and
 - A legal opinion was requested from DOJ Law Enforcement unit and National Treasury to lower the minimum threshold score of 65% to 50%.
- 4.15 We reviewed a copy an unsigned internal memo (**Annexure 8**) dated 15 April 2008, from Dr De Wee as Chief Operation Officer, DOJ addressed to Ms [REDACTED] Director: Law Enforcement; with the subject *"Pre-qualification for the Supply, Installation, Commissioning and Maintenance of a National Security Infrastructure"*. The purpose of the memo was to request Ms [REDACTED] to furnish

Dr De Wee with a legal opinion regarding the adjustment of the qualifying percentage from 65% to 50%.

- 4.16 In response to the above, we noted a copy an undated and unsigned internal memo (**Annexure 9**) from Ms T [REDACTED] addressed to Dr De Wee, with the subject "PRE-QUALIFICATION FOR THE SUPPLY, INSTALLATION, COMMISSIONING AND MAINTENANCE OF A NATIONAL SECURITY INFRASTRUCTURE" and the following advice regarding the opinion requested was stated, "3. I am of the view that it would not be fair and just to change the pre-qualification benchmark at this stage. It will in fact prejudice the bidder who did not qualify and give him grounds to take up issue with us if we change the qualification now.

4 I am further of the opinion that it would compromise the process. The tender should either be withdrawn, and the process started afresh, alternatively the bidder should be allowed to enter the next face in respect of pricing. If possible, it would be wise not to let him know at this stage that he is the only bidder."

- 4.17 Subsequent to the above, we noted an unsigned letter (**Annexure 10**) from Ms [REDACTED] as Acting Director: SCM addressed to the Secretary of the Treasury, dated 16 April 2008, with the subject "Pre-qualification for the Supply, Installation, Commissioning and Maintenance of a National Security Infrastructure for the Department of Justice and Constitutional Development". The purpose of the memo was to request National Treasury to furnish the department with an opinion regarding the adjustment of the qualifying percentage.

- 4.18 In addition to the above, we reviewed an unsigned letter (**Annexure 11**) from [REDACTED], Chief Director: Norms and Standards, National Treasury addressed to Mr Bedford dated 16 April 2008 and the following advice regarding the opinion requested was stated, "When the bid was advertised with a criterion of 65% pre-qualification bench mark, there might have been potential suppliers who refrained from submitting a bid due to this apparent high qualification score. If, at this stage, you should approach all bidders who submitted bids with a request to indicate whether they should have any objection to lower the pre-scribed threshold to 50% with the aim to promote competitive bidding, the potential supplier who did not submit a bid due to the high qualification criteria, may claim that the system has become unfair.

The recommendation therefore is that the bid should be re-advertised with the new benchmark. With the approval of the Accounting Officer, this advertisement period may be reduced to say 10 working days. If it is only the one figure that is amended, you may request the bidders who already submitted bids to indicate whether they are prepared just to extend the validity of their bids under the same conditions, subject to the change of the benchmark figure only".

- 4.19 We noted that paragraph 2 (h) of the internal memorandum (**Annexure 7**) directs DBAC to the responses that the DOJ received from the DOJ Law Enforcement unit (**Annexure 8**) and National Treasury (**Annexure 11**). However, paragraph 4 (a) of the internal memorandum (**Annexure 7**) indicates that the BEC decided that the benchmark stay at 65%.

- 4.20 It is our assertion that DOJ did not consider the recommendation as provided by National Treasury (**Annexure 11**), that the tender be re-advertised with the new benchmark.
- 4.21 Upon review of the minutes of the DBAC meeting (**Annexure 12**) dated 24 April 2008, we noted that paragraph 7.2 under the item *"Pre-qualification for the Supply, Installation, Commissioning and Maintenance of a National Security Infrastructure for the Department of Justice and Constitutional Development"* states the following:
- *"Approved"*
 - *A consultant was appointed to draft the specification and bid was advertised.*
 - *18 bids were received and based on the benchmark of 65%, only one bidder qualified.*
 - *DBAC raised a concern that it was not good practice for the department to award a bid to 1 bidder.*
 - *Since it was one bidder who met the requirements, the department requested advise(sic) from the National Treasury and the State Law Adviser.*
 - *The advise(sic) obtained was:*
 - *To re-advertise and lower threshold from 65% to 50%- but then it will prejudice the company that met the threshold.*
 - *The conclusion was to invite a bid for phase one only from the qualifying bidder.*
 - *New bids will be invited for phase 2".*
- The DBAC minutes does not refer to the recommendation from National Treasury.
- 4.22 In view of the fact that we were not provided with the TOR we are unable to determine what phase one (1) and phase two (2) is as referred to by DBAC.
- 4.23 During consultation with Mr [REDACTED], he informed us that he was appointed as Acting Chief Financial Officer during June 2008 for 30 days and by virtue of his acting as CFO he was the Chairperson of DBAC, he informed us that he cannot recall what phase 1 and 2 of the NSI process entailed but will search for records regarding this matter. At the time of preparing our report Mr [REDACTED] was not able to provide us with any documents to clarify the NSI phase 1 and phase 2 processes.
- 4.24 We reviewed an internal memo (**Annexure 13**) dated 10 June 2008 from Ms [REDACTED], addressed to DBAC with the subject *"AWARDING OF A SUPPLY, INSTALLATION, COMMISSIONING AND MAINTENANCE OF A NATIONAL SECURITY INFRASTRUCTURE TENDER FOR 127 COURTS COUNTRYWIDE:DIRECTORATE: SECURITY MANAGEMENT"* which was respectively supported and recommended by Ms [REDACTED] *"Level 1 Delegate"*, Director: Security Management and Dr De Wee *"Level 2 Delegate"* on 11 June 2008, the purpose of the memorandum is to obtain DBAC approval to proceed with the appointment of the recommended bidder.

- 4.25 According to paragraph 2.5 of the internal memo (**Annexure 13**) the BEC were made up of the officials:

Table 1: Summary of BEC members for RFB2008 15

No	Evaluation Committee members	Capacity
1	Dr K De Wee	Chairperson
2		Member
3		Service Provider
4		Member
5		Member
6		Member

- 4.26 During consultation with Dr De Wee he informed us that he cannot recall the processes and procedures that transpired at the BEC as the matter dates to 2008.

- 4.27 We further reviewed a copy of the DBAC minutes (**Annexure 14**) dated 12 June 2008 and we noted that paragraph 9.1 under the item "Awarding of a Supply, Installation, Commission and Maintenance of a National Security Tender for 127 Courts Countrywide: Directorate: Security Management states the following:

- ✓ "Further negotiations with bidder approved
- ✓ Bid recommended by DBAC on condition:
 - Maintenance contract in place for full term (only 1 year included in bid, additional 3 years to be negotiated with bidder, but will be for the account of the department; a separate DBAC request will follow to authorize the related expenditure
 - Records on how often they had to repair and maintain the Rapid machine, to support the statement on the memo of poor performance
 - The recommendation to the DG will be made directly once all required information have been received (following negotiations) due to the urgency of the matter".

- 4.28 Mr [REDACTED] informed us that the internal memo (**Annexure 13**) was submitted to DBAC by the BEC the DBAC collectively agreed to recommend the contract to Sondolo based on the information that was presented to DBAC by the BEC.

- 4.29 Mr [REDACTED] also informed us that when he was the Director for Budgeting in 2008, the DG requested that funding be reprioritised for the NSI project. During that point in time the DOJ had huge under expenditure in their budget vote and funds could be reprioritised over a three (3) year period. It was always the understanding of the DOJ that the deployment of security technology could reduce the number of security guards deployed and this could curb the raising cost escalation of security guards.

- 4.30 We were not provided with the minutes of the negotiations processes (as recommended by DBAC) when the pricing terms of tender RFB2008 15 was concluded between the DOJ and Sondolo and is

therefore unable to understand the negotiation terms. We noted that Sondolo was awarded the same contract amount R601 863 306.80 as recorded in their tender documents. The SCM unit failed to maintain and keep full records of the negotiations between DBAC and Sondolo regarding the financial affairs of the DOJ.

- 4.31 From the above DBAC minutes (**Annexure 14**), we noted that Ms [REDACTED] was an Evaluation Committee member as indicated in the internal memo (**Annexure 13**) dated 10 June 2008 and she also approved the said internal memo which she signed on 12 June 2008 as a DBAC member. Ms [REDACTED] therefore contravened section 4.5.2 of the Code of conduct for Bid Adjudication Committee members which states, "*Members of the Bid Evaluation Committee may present their recommendations/report to the Bid Adjudication Committee and clarify any issues but shall not have any voting powers.*"

Conclusions

- 4.32 We are unable to determine whether the procurement processes followed by the BEC was fair as we were not provided with any procurement documents that informs the bid specifications and evaluation processes and procedures undertaken by the BSC and BEC.
- 4.33 The lack of the SCM unit to maintain full and proper records of the entire procurement processes has limited our ability to perform a complete review of the specifications, evaluation, negotiation and adjudication of tender RFB2008 15. The SCM unit needs to be improved its document management system.
- 4.34 The DOJ appointed a GM Consortium to conduct a security risk assessment on which the specifications of RFB2008 15 were based, it raises the question whether the DOJ advertised all the aspects indicated in the security risk assessment reports from GM Consortium or whether GM Consortium did not provide DOJ with a comprehensive security risk assessment report. It should be noted that we were not provided with the security risk assessment reports of GM Consortium to determine compliance. This matter requires further investigation.

A2: Service Level Agreement entered between DOJ and Sondolo

- 4.35 We reviewed a Director-General (DG) Memo (**Annexure 15**) with the subject "RFB 2008 15: NATIONAL SECURITY INFRASTRUCTURE FOR THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT (SERVICE LEVEL AGREEMENT)" respectively compiled by Ms [REDACTED], Assistant Director: Risk Management and recommended by Ms Nelly, Chief Director: Risk and Security Management and approved by Adv Sam on 18 June 2009. The purpose of the memo was to seek the approval from the DG to delegate the signing powers of the Service Level Agreement (SLA) for RFB 2008 15 and the delegated signatory powers were assigned to Mr [REDACTED], Deputy Director General: Corporate Service, DOJ.

- 4.36 According to paragraph 2.1 of the Director-General Memo (**Annexure 15**) the following was stated *"The tender was awarded for supply installation and maintenance of a National Security Infrastructure to Sondolo IT Solutions in the month of June 2008.*
- 4.37 According to paragraph 2.2 of the Director-General Memo (**Annexure 15**) the following was stated *"The Department was presented by Adv [REDACTED], State Advisory Services and Mr [REDACTED] from Supply Chain Management in the whole process of discussions and finalizing the Service Level Agreement (SLA). They have vetted the SLA concluded between the two captioned parties and indicated their satisfaction in the content of the SLA between the parties.*
- 4.38 We were not provided with the draft SLA and subsequent amendment(s) thereof as vetted by Adv [REDACTED] and Mr [REDACTED] however, we noted that paragraph 2.3.1 of the SLA (**Annexure 16A**) states, *"Due to the incomplete Service specifications in the Bid document, the Parties have agreed that the Contractor will conduct a comprehensive audit at the Pilot Sites to establish the Principal's security requirements in general. The parties recognise that this will result in additional cost to both parties and in this regard the parties have agreed that the Principal will be liable for the cost of any additional Equipment that may be required, but that the Contractor will forfeit any labour cost relating to the installation of the additional Equipment"*. It is our assertion that a vetted agreement/contract should comprise of clear specifications and deliverables thus due to the incomplete service specifications in the bid document of RFB2008 15 this exposed DOJ to huge financial risks of completing the NSI process at all 127 court buildings within the awarded contract amount of R601 863 306.80.
- 4.39 We reviewed the SLA (**Annexure 16A**) signed on 15 July 2009 by Mr [REDACTED] as the duly authorised representative on behalf of the DOJ and Mr [REDACTED] (Director) as the duly authorised representative on behalf of Sondolo.
- 4.40 According to paragraph 2.1 of the SLA (**Annexure 16A**) the DOJ required the supply, delivery, installation, commissioning support and maintenance of a comprehensive CCTV alarm and access control system at various nominated court buildings.
- 4.41 According to paragraph 2.2 of the SLA (**Annexure 16A**), Sondolo was awarded the tender RFB 2008-15 for the amount of R601 863 306.80 in respect of 127 court buildings referred to as "facilities".
- 4.42 We noted from the SLA that the bid specification document was incomplete and that Sondolo will conduct a comprehensive audit to establish the general security requirements which will result into additional cost, this is stated in paragraph 2.3.1 of the SLA (**Annexure 16A**). We found that the DBAC failed to comply with paragraph 2.9 bullet one (1) of the Code of Conduct for Bid Adjudication Committees (**Annexure 17**) which states, *"a proper and unbiased specification is compiled for the specific requirement"*

- 4.43 We reviewed Schedule 3 of the SLA (**Annexure 18**) with the heading “*Service Definition and Service Levels*” and noted that paragraph 1.5 stipulates that the overall project plan is dependent on the allocation by National Treasury of the required budgets for the different phases of the project.
- 4.44 According to paragraph 2.3 (**Annexure 16A**) of the SLA six (6) court buildings (Pretoria High Court, Johannesburg High Court, Johannesburg Magistrate Court, Kempton Park Magistrate Court, Pretoria Magistrate Court and Pretoria North Magistrate Court) were identified as the pilot sites where the comprehensive security requirements audit was to be performed by Sondolo.
- 4.45 It is our understanding that the outcome of the comprehensive audit conducted by Sondolo at the six (6) pilot sites had to identify the complete solution that would be rolled out at the remaining 121 court buildings, this is according to paragraph 2.3.2 (**Annexure 16A**) of the SLA which states, “*The purpose of the Pilot Sites is to identify a complete solution to be adopted and used during the roll out of the remaining Facilities*”. We were not provided with the audit outcomes that defines the complete solution for the remaining 121 court buildings. Ms **Nelly** was not able to provide us with any information regarding the management of the remaining 121 court buildings and what the cost implications was for the pilot court buildings. We found that Ms **Nelly** failed to ensure that a system of financial management and internal control was carried out within her area of responsibility.
- 4.46 During consultation with Mr **Nate**, he informed us that the DOJ appointed IDT to administer and manage the NSI project as the DOJ did not have the internal capacity to do so and IDT was overall responsible for the implementation and management of the NSI project.
- 4.47 During our consultation with Ms **Nelly** she informed us that the signing of the SLA took more that eighteen (18) months due to internal frustrations and limited co-operation from amongst other stakeholder such as the Department of Public Works (DPW) and the South African Police Services (SAPS). She informed us that after signing the SLA during the approach planning meeting it was decided that a risk assessment was to be conducted because of the time that has lapsed between the award of the tender and the signing of the SLA.
- 4.48 Ms **Nelly** further informed us that for each of the 127 facilities Sondolo had to conduct a site-specific survey in order to draft the Project Definition Report (PDR) and the following challenges were noted during the implementation of the National Security Infrastructure Programme (NSI):
- a) There were several facilities where the building plans could not be supplied by DPW as some of them belonged to the Transkei Bophuthatswana Vaal Ciskei (TBVC) states;
 - b) Some of the material that was originally specified would no longer suit the building design either due to new infrastructural changes or tenant installations or aging infrastructure;
 - c) In some offices there were new risks that emerged due to new crime trends or new municipal boundaries that led to community protests;
 - d) There were offices that were built on rocky areas which were not initially indicated as such which would then affect the design and fence in terms of costs and materials thereof;

- e) Some building was declared heritage buildings, and these would require other processes, special applications and materials from various Heritage Councils throughout the country;
 - f) Some of the doors where security magnetic locks were to be installed were not high security doors to carry magnetic equipment; and
 - g) The Federal International Football Association (FIFA) 2010 offices were to be prioritised in terms of the basic safety and security infrastructure needs in line with the Presidential agreements with the International community.
- 4.49 Furthermore, Ms Nelly informed us that Sondolo only commissioned 95 court buildings from the initial allocation of 127 court buildings. Ms Nelly informed us that the reason for Sondolo to have commissioned only 95 court buildings was due to the implementation of the change control policy which the SLA makes provision for, according to paragraph 2.2 of SLA (Annexure 16A) states “...the Parties agree that negotiation may take place in terms of the Change Control Policy with regards to either the Bid Price, the number of Facilities or the specifications”.
- 4.50 Pursuant to the above, Ms Nelly informed us that at all 95 court buildings the change control policy was applied, which required additional work and extension of scope that was recorded in the Project Definition Report (PDR) and the changes/variations had a direct financial implication on the contract amount. The financial implication of the change control policy was approved by the project Steering Committee. We found no evidence that the Steering Committee requested approval of the additional work and the impact of the financial implications to the DBAC or DG for approval.
- 4.51 We reviewed an IDT programme progress report (Annexure 16B) dated 31 July 2013, according to paragraph 6 of the IDT programme progress report 95 court buildings were handed over to the DOJ during the following financial years by Sondolo:
- a) 1 April 2011 to 31 March 2012 financial year- 57 court buildings;
 - b) 1 April 2012 to 31 March 2013 financial year- 25 court buildings; and
 - c) 1 April 2013 to 31 July 2013 – 13 court buildings.
- 4.52 We compared the initial 127 court buildings against the IDT programme progress report (Annexure 16B) and noted that seven (7) court buildings were substituted of which no amendment to the scope of work was submitted to DBAC for consideration and DG approval. Ms Nelly informed us that the amendments were reported to the Parliament Portfolio Committee, DOJ Executive of which the respective documents she will provide us with. (At the time of preparing this report the information as promised by Ms Nelly was not yet received by us

Table 2: Summary of court buildings handed over to DOJ during as at 31 July 2013

No	Province	Number of sites identified	Number of sites handed over	Substituted court buildings
1	Eastern Cape	14	11	3
2	Free state	14	11	
3	Gauteng	15	11	1
4	Kwazulu-Natal	14	11	1

No	Province	Number of sites identified	Number of sites handed over	Substituted court buildings
5	Limpopo	14	11	
6	Mpumalanga	14	12	
7	Northern Cape	14	11	
8	North West	14	8	1
9	Western Cape	14	9	1
TOTAL		127	95	7

- 4.53 Sondolo did not render the supply, deliver, install, commission, support and maintenance of a comprehensive CCTV alarm and access control system services at 32 court buildings. Ms **Nelly** informed us that the inability by Sondolo to provide the required services at the 32 court buildings was due to budgetary constraints which resulted from the change in scope and increase in site costs at all 95 court buildings where the NSI project was implemented.
- 4.54 We noted from the IDT programme project report under item 7, under the sub-heading "NOTES" the following under paragraph one (1) which states, "Security Installation: the IDT has submitted tranches requeste(sic) for Security Installation for the overall amount of R601 863 632.22. However the monies that have been transferred by DoJCD under NSI Programme is R567 649 108.29. Currently the overall total expenditure is R556 904 091.57".
- 4.55 We analysed the overall security installation cost as reported in the IDT programme progress report (**Annexure 16B**) against the initial site cost allocation, we established that the cost of the 32 (127-95=32) court buildings where no service were delivered amounts to R177 million, this implies that the actual cost overruns of the additional work performed by Sondolo amounted to R177 million. The DOJ therefore incurred unauthorised expenditure as no approval was obtained from DBAC or the DG for the scope deviations which amounts to R177 million. Ms **Nelly** contravened section 45 (c) which states "must take effective and appropriate steps to prevent, within that official's area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure..."
- Conclusions
- 4.56 Sondolo was awarded the tender RFB 2008 15 for the supply, delivery, installation, commissioning support and maintenance of a comprehensive CCTV alarm and access control system at 127 court buildings in the amount of R 601 863 306.80.
- 4.57 The SLA was duly was vetted by DOJ officials from State Advisory Services and SCM which lacked clear specifications and deliverables which exposed DOJ to huge financial risks.
- 4.58 Ms **Nelly** did not provide us with any information regarding the management of the 95 court buildings and what the cost implications was for the pilot court buildings. Ms **Nelly** failed to ensure that a system of financial management and internal control was carried out within her area of responsibility.

- 4.59 The SLA does not stipulate the duration of the contract; however, it is very specific in respect of the 127 court buildings where the required goods and services had to be implemented. We were not provided with evidence that indicates why the services were only rendered at 95 court building and when these respective sites were commissioned.
- 4.60 The DBAC failed to ensure that a proper and unbiased specifications were compiled when the specifications were advertised. The SLA clearly states that the specifications were incomplete, and this resulted in additional cost for the DOJ.
- 4.61 Ms **Nelly** did not escalate the cost of the additional work which amounted to R177 million to the DBAC and the DG, therefore she contravened section 45 (c) of the PFMA which states *"must take effective and appropriate steps to prevent, within that official's area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure"*.

A3: Maintenance contract

- 4.62 According to paragraph 4 of the SLA (**Annexure 16A**) the duration of the contract is based on two separate processes which are the *"Installation Duration"* and *"Maintenance Duration"*:
- The installation duration is based on the period as described by the Project Definition Report (PDR) per court building in respect of the installation and commissioning of the equipment.
 - The Maintenance duration is for a period of 36 (thirty-six) months per court building after the initial contractual warrantee period of 12 (twelve) months.
- 4.63 The duration of the contract is limited to 127 court buildings only for the supply, delivery, installation, commissioning of a comprehensive CCTV alarm and access control system, of which the duration of these deliverables are based on the PDR per court building. The maintenance aspects of the contract commence after commissioning of the building of which the initial 12 months are covered by way of a warranty followed by a 36-month maintenance period. Our understanding is therefore based on the following example; if a court building is commissioned on 1 April 2010, the warranty period will therefore end 31 March 2011 (after 12 months) and the remaining maintenance will commence over the following 36 months from, 1 April 2011 to 31 March 2012; 1 April 2012 to 31 March 2013 and 1 April 2013 to 31 March 2014.
- 4.64 We noted the following from Schedule 3 (**Annexure 18**) of the SLA under the heading *"Maintenance"* of which paragraph 2.3 states *"Scheduled Preventative Maintenance visits will be made at least once a month, subsequent to the completed installation and hand-over of the Facilities"*. We therefore understand that this maintenance period will be during initial 12 months warranty period followed by the 36-month preventative maintenance period. We also noted that Schedule 3 of the SLA paragraph 2.5 states, *"Corrective Maintenance will be outside the normal maintenance program and will be charged at a material plus labour rate, which will be quoted to the principal, by the Contractor, in writing, and will only be performed on receipt of an official Purchase Order by the Principal. On receipt of such Purchase Order, such maintenance will take precedence over other Preventative Maintenance"*

schedules". It is our understanding that work that does not form part of the SLA, will not be undertaken unless a Purchase Order (PO) is received by Sondolo.

- 4.65 We reviewed Annexure A (**Annexure 19**) and Annexure F (**Annexure 20**) of the SLA which provides the cost breakdown of the following 127 court buildings per province:

Table 3: Summary of 127 court building and second years' maintenance cost

Province	Number of Court buildings	Sondolo Financial Proposal (R)	Second years maintenance cost (R)
Eastern Cape	14	73,762,516.13	1,620,460.20
Free State	14	64,723,427.70	1,620,460.20
Gauteng	15	76,301,040.66	1,736,207.40
Kwazulu-Natal	14	63,330,705.89	1,620,460.20
Limpopo	14	71,588,746.39	1,620,460.20
Mpumalanga	14	73,884,329.97	1,620,460.20
North West	14	59,319,021.39	1,620,460.20
Northern Cape	14	60,696,535.29	1,620,460.20
Western Cape	14	58,257,308.80	1,620,460.20
TOTAL	127	601,863,632.22	14,699,889.00

- 4.66 We reviewed Schedule 4 of the SLA (**Annexure 21**) and noted the following under the "sub-heading *"Maintenance Charges"* which states, "2.1 The initial first year's maintenance cycle (Warranty Year) will commence on hand over of each Facility and will be covered by the Contractor in full, with the exception of any Corrective Maintenance to be performed due to misuse and abuse of Equipment. 2.2 In year 2 the Contractor will charge a monthly Preventative Maintenance rate per Facility as set out in Annexure F. 2.3 With effect from year 3, the Preventative Maintenance rates referred to in clause 2.2 above will incur an annual increase capped to the prevailing CPIX interest rate (as published by Stats SA)". It is our understanding that the preventative maintenance cost which covers a 36-month period was therefore included into the overall contract value of R601 863 308.80 by Sondolo.

- 4.67 We reviewed a letter (**Annexure 22A**) with the subject "RFB 2008 15: NATIONAL SECURITY INFRASTRUCTURE FOR THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT" addressed to Ms [REDACTED] Chief Executive Officer, Independent Development Trust and signed by Adv Sam on 9 July 2009 and we noted the scope of work and terms of reference assigned to GM Consortium were as follows:

- "To investigate and to perform site risk assessments for each of the offices nationwide and to table a security plan for each office.
- To generate the specifications for each of the security sub systems into a fully integrated security system. These sub systems included the following:
 - Access control, CCTV, asset tracking (both passive and active), smoke detection, evacuation system, Integrated Building Management system, electronic log book, event

logging system, security control room at the premises and a National Control Room link to the DOJ&CD headquarters.

- To generate the specifications for the national control room as well as the method of operation of this control room.
- To generate a tender document inclusive of the bills of quantities for each office.
- To regulate the tender process; and
- Recommendation of tenders.

4.68 According to paragraph 3 of the letter (**Annexure 22A**) the following is stated "Sondolo IT (PTY) Ltd (here after Sondolo) was awarded the contract, RFB 2008 15 for the supply, installation and maintenance of an integrated security solution for the identified 127 sites/buildings of the Department to the amount of R 601 million. The plan was that, the roll out of this service should be over a period of three (3) financial years which should have commenced in 2008/2009 financial year for the pilot sites. The amount was supposed to be divided over the 2008/2009, 2009/2010 and 2010/2011 financial years based on the project deliverables. The implementation of the project was delayed due to circumstances beyond our control. The project should now commence in 2009/2010 financial year with your assistance starting with the identified pilot sites. A twelve (12) month warranty/guarantee period will be applicable to buildings after integrated systems have been tested, commissioned and signed off by the State. After one-year warranty/guarantee period per building/site is signed off, a three (3) year maintenance contract will commence and these costs are not included in the amounts mentioned as these will depend on the standards fees and the turnaround times that will be agreed upon by all parties concerned." We note that Adv Sam presented contrary information in respect of the three (3) year maintenance contract from what the SLA states to IDT. It is our view that IDT had to acquaint themselves with the terms and condition of the SLA being the appointed project management agency. It is our assertion that the terms and conditions as stated in the SLA supersedes any correspondence.

4.69 Ms Nelly and Ms [REDACTED] informed us that the project managers responsible for the NSI project from IDT are no longer employed at IDT.

4.70 It is our understanding that the 36 months maintenance contract is inclusive of the R601 863 308.80 contract award amount to Sondolo. This is further demonstrated under Schedule 4 paragraph 2 of the SLA wherein the monthly preventative maintenance rates per facility were costed. The breakdown of the preventative maintenance costs over a 36-month period according to our computation as outlined in the SLA (**Annexure 16A**) Annexure F (**Annexure 20**) is provided in the table below:

Table 4: Summary of maintenance costs over 36 months as per SLA schedules

NO	PROVINCE	SITES	SONDOLO COST 2ND YEAR (2011) ANNUAL MAINTENANCE COST (R)	SNG GRANT THORNTON COMPUTATION 3RD YEAR (2012) ANNUAL MAINTENANCE COST (R) – CPIX AT 5.6%	SNG GRANT THORNTON COMPUTATION 4TH YEAR (2013) ANNUAL MAINTENANCE COST (R) – CPIX AT 5.7%	SNG GRANT THORNTON COMPUTATION TOTAL MAINTENANCE COST OVER 36 MONTHS (2011-2013) (R)
1	Eastern Cape	14	1,620,460.20	1,711,205.97	1,808,744.71	5,140,410.88
2	Free State	14	1,620,460.20	1,711,205.97	1,808,744.71	5,140,410.88
3	Gauteng	15	1,736,207.40	1,833,435.01	1,937,940.81	5,507,583.22
4	Kwazulu-Natal	14	1,620,460.20	1,711,205.97	1,808,744.71	5,140,410.88
5	Limpopo	14	1,620,460.20	1,711,205.97	1,808,744.71	5,140,410.88
6	Mpumalanga	14	1,620,460.20	1,711,205.97	1,808,744.71	5,140,410.88
7	North West	14	1,620,460.20	1,711,205.97	1,808,744.71	5,140,410.88
8	Northern Cape	14	1,620,460.20	1,711,205.97	1,808,744.71	5,140,410.88
9	Western Cape	14	1,620,460.20	1,711,205.97	1,808,744.71	5,140,410.88
TOTAL			14,699,889.00	15,523,082.78	16,407,898.50	46,630,870.29

4.71 We furthermore noted under paragraph 9 of page 3 (**Annexure 22A**) that the following objectives and operations in respect of NSI were required from IDT:

- *"IDT be involved in all aspects of this project and professional services;*
- *Communicate with all relevant stakeholders for the success of the project including DPW;*
- *Assist with access to sites, water supply and electricity supply;*
- *Provide the necessary approval for fencing on sites;*
- *Assist with storage facilities for equipment;*
- *Assist with the building of control room(s) where necessary;*
- *Ensure compliance with all relevant legislation;*
- *IDT commitment adherence to project timeframes;*
- *Signing off- 1st delivery and final delivery certificates;*
- *Assist with management of warranties and maintenance;*
- *Provide with all professional assistance required;*
- *A senior contact person".*

4.72 Upon review of the financial proposal (**Annexure 19**) from Sondolo, with the subject "*Sondolo Request for Bid: RFB 2008 15: Supply, Installation & Maintenance of an Integrated Security Solution for the Identified High- Risk Offices/Courts*". We noted from the index under the heading "*Tender Price*" a letter (**Annexure 20**) dated 27 May 2008, addressed to the Chairman of the BEC signed by Mr [REDACTED], Director: Sondolo, the following four (4) bullets under the sub- heading "*OPTIONS- FINANCIAL MODELS*":

- *"We have submitted a full pricing model for all nominated 127 Priority sites, with a comprehensive breakdown of our recommended products; this is for a fully comprehensive service and installation of all the nominated sites, as per the specifications submitted, and inclusive of all guarantees.*
- *This pricing will give DoJ& CD and indication as to the proposed costing per site they could expect, but it must also be said that each site will have its own individual requirements, both on an installation and maintenance and a civil requirements side, with the exception of any potential changes that would apply specifically to the heritage sites which will have to be identified and handled separately, in case additional specialized work is required.*
- *In addition to this submission, we have included a proposed draft Service Level Agreement for the installation, preventative and reactive maintenance terms and conditions for the full 36-month period of the contract.*
- *We have included in our pricing model the costs for the software management system, including the licence fees per site and the training costs for the relevant personnel per site*

4.73 We furthermore noted from the letter (**Annexure 20**) dated 27 May 2008, that an attach priced schedule (**Annexure 21**) per court building per province/region comprised of the following site cost amounts, as indicated in the table below:

Table 5: Summary of 127 court building site costs

Province	Number of Court buildings	Sondolo Financial Proposal (R)
Eastern Cape	14	73,762,516.13
Free State	14	64,723,427.70
Gauteng	15	76,301,040.66
Kwazulu-Natal	14	63,330,705.89
Limpopo	14	71,588,746.39
Mpumalanga	14	73,884,329.97
North West	14	59,319,021.39
Northern Cape	14	60,696,535.29
Western Cape	14	58,257,308.80
TOTAL	127	601,863,632.22

A4: Provision of preventative and corrective maintenance services for RFB2008 15

4.74 We reviewed an internal memorandum (Annexure 22B) dated 8 February 2015 from Ms Nelly, addressed to Ms Sally, with the subject matter "" REQUEST FOR FUNDING FOR SERVICE, MAINTENANCE AND SUPPORT FOR NATIONAL SECURITY INFRASTARUCTURE (NSI) IN 95 OFFICES, THE NATIONAL CONTROL ROOM AND SUMMARY OF BUSINESS CASE". We noted the following recommendations as stated in paragraph 6, "It is recommended that the Chief Financial Officer and the Director-General:

6.1 Takes note of the report in terms of the project and provides necessary support and guidance in terms of the full maintenance plan in order to maximise the returns on the security investment.

6.2 Reprioritise funding in the Department to support preventative and corrective maintenance of the existing infrastructure for the next 36 months of the contract (R373 709 412.00 VAT inclusive over the MTEF period)".

4.75 We also noted from paragraph 5.2 of the internal memorandum (Annexure 22B) which provides a breakdown of the total price structure of the R373 709 412.00 as indicated in the table below:

Table 6: Summary of total price structure of R373 709 412.00

Description summary	Amount (R)
Current fault stock (Camera, access gates, control room, conduit pipes, equipment air cons, servers, etc.) at various offices	19 749 816.00
Telkom costs for VPN, VOIP, APN installations, Regional/National Control setup and maintenance	33 114 971.00
Disaster recovery site setup and maintenance	9 815 632.90
Surveillance technicians and related costs	133 567 533.84
Other equipment related costs and support	177 461 458.26
TOTAL	373 709 412.00

- 4.76 We furthermore noted the following hand-written comments from the internal memorandum (Annexure 22) from Ms Sally, dated 26 March 2015, "Before I approve or not please clarify the following:
I do not understand the memo. Was the tender issued for the services indicated herein? How much services were rendered i.e. Total tender-Total installations +maintenance. What is the balance? Is the amount in 6.2 the total tender as at the date of approval or inclusive of escalations(sic)? What were the escalation amounts. Was the infrastructure procured as per 3.3.8-where is it kept & what is its value? Is the project to be approved by DBAC so why has this not happened. The history of this memo clouds the important strategic information which could help to make decisions. Where did this budget come from?"
- 4.77 We reviewed an incomplete (page 2 missing) Director Memorandum (Annexure 23) dated 8 September 2015 (five (5) months after Ms Sally's comments from Ms Nelly addressed to Ms Sally) with the subject "CLARITY ON ISSUES PERTAINING REPAIRS AND MAINTENANCE OF SECURITY SYSTEMS COUNTRY WIDE". We noted the following recommendations as stated in paragraph 3, "It is recommended that the Director-General approves:
3.1 The changes in security operations envisaged through maintenance contract.
3.2 The reprioritised funding in the Department to support preventative and corrective maintenance of the existing infrastructure for the next 36 months of the contract (R373 709 412.00 VAT inclusive over the MTEF period of 3 years) of which R264 million has already been made available and R111m need to be secured in future years". We noted that the memorandum was approved and signed by Ms Sally on 11 September 2015, however, the response relating to DBAC is not provided for in the letter.
- 4.78 We reviewed a letter (Annexure 24) addressed to Sondolo for attention of Mr [REDACTED], signed by Ms [REDACTED] Lilly (Ms Lilly) as Acting Chief Operations Officer, dated 23 September 2015, with the subject "PROVISION OF CORRECTIVE AND PREVENTATIVE MAINTENANCE PER RFB2008 15: TO THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT FOR 36 MONTHS". We noted that a maintenance contract for 36 months at the 95 court buildings to the value of R373 709 412.00 was granted to Sondolo, paragraph two (2) of the letter states, "The Department has pleasure of informing you that an approval for funding has been granted for your entity to start with the corrective and preventative maintenance in all the 96 offices in which the infrastructure was installed. Your entity shall provide all the related services per SLA in order to fulfil above mentioned objective to a total amount of R373 709 412.00 (including VAT) for a period of 36 months from 15 September 2015".
- 4.79 We reviewed a SBD 7.2 form (Annexure 25) titled "Contract Form- Rendering of Services" signed by Mr Angelo Agrizzi in the capacity as Group Chief Operations Officer on behalf of Sondolo on 29 September 2015. In light of the fact that corrective and preventative maintenance of RFB 2008 15 was granted, we noted that Sondolo accepted to render the services of corrective and preventative maintenance as declared in the SBD 7.2 form (Annexure 25), however, we did not obtain copies of

the documents as referred to in paragraph 2 (i) (**Annexure 25**) of the bid specification of tender RFB 2008 15.

- 4.80 During consultation with Ms **Nelly**, we informed her that our understanding of the Director Memorandum (**Annexure 23**) was to request the reprioritisation of funds and not to seek approval for the appointment or extension of the NSI services to Sondolo. In response Ms **Nelly** informed us that it is her understanding that the approval of the Director Memorandum (**Annexure 23**) by Ms **Sally** was for the extension of maintenance services to Sondolo.
- 4.81 We also questioned Ms **Nelly** why the R373 million rand includes other services which did not form part of the initial contract and why her office did not recommend that the services be acquired by means of an open tender. Ms **Nelly** was non-responsive to the questions presented to her.
- 4.82 We found no evidence that any competitive procurement processes were followed or that reasons for deviating from inviting competitive bids were recorded and approved by the accounting officer as prescribed by section 16A6.4 of the National Treasury Regulations, March 2005, when the DOJ issued Sondolo with the preventative and corrective maintenance services contract at 95 offices in which infrastructure was installed.
- 4.83 During consultation with Ms **Lilly**, she informed us of the following:
- That no competitive procurement process was followed by the DOJ when the preventative and corrective maintenance services to the amount of R373 709 412.00, was granted to Sondolo;
 - She was informed by Ms **Nelly** that no maintenance services were undertaken at the 95 court buildings where the NSI programme was commissioned;
 - When she recommended to support the reprioritisation of funding of R373 709 412.00, she was informed that preventative and corrective maintenance did not form part of the initial contract amount of R601 million; and
 - She was only provided with the SLA and no other source documents were presented to her that advised her on the deliverables of the Sondolo contract.
- 4.84 In order to determine when the maintenance contract commenced, we reviewed the letter signed by Ms **Lilly**, which states that the maintenance phase started on 15 September 2015, this therefore contradicts paragraph 4.2 of the SLA (**Annexure 16A**) which states "*The Maintenance Contract will endure for a further period of 36 (thirty six) months per Facility after the initial contractual warranty period of 12 (twelve) months*". Paragraph 4.58 bullet one (1) of our report refers to the bid proposal from Sondolo that indicates "*We have submitted a full pricing model for all nominated 127 Priority sites, with a comprehensive breakdown of our recommended products; this is for a fully comprehensive service and installation of all the nominated sites, as per the specifications submitted, and inclusive of all guarantees*", we therefore find that Ms **Lilly** did not ensure that a system of financial management and internal control was established within her area of responsibility prior to signing the appointment letter to Sondolo in the amount of R373 709 412.00 .

- 4.85 When we questioned Ms **Lilly** why she signed the letter to Sondolo in the amount of R373 709 412.00 for preventative and corrective maintenance for the period of 36 months, without following due processes as prescribed by section 16A6.4 of the National Treasury Regulation, she conceded to the non-compliance of the required processes. She also agreed that she did not have the delegated authority to approve the contract amount of R373 709 412.00. Ms **Lilly** therefore committed an act of financial misconduct, according to the PFMA, Chapter 10, section 83 (1) (b) in that she wilfully or negligently permitted an irregular expenditure in the amount of R373 709 412.00 by signing the letter for preventative and corrective maintenance services to Sondolo and not complying to any procurement processes.
- 4.86 We analysed the BAS reports (**Annexure 26**) in respect of payments processed to Sondolo for the preventative and corrective maintenance services for the 36 months from 15 September 2015 until 14 September 2018 for the contractual amount of R373 709 412.00, a breakdown of the payments are provided in the table below:

Table 7: Summary of BAS payments processed to Sondolo for the preventative and corrective maintenance services

Financial year	Amount paid to Sondolo (R)
15 September 2015 – 31 March 2016	31 434 699.75
1 April 2016 – 31 March 2017	151 673 670.42
1 April 2017 – 31 March 2018	94 129 387.34
1 April 2018 – 15 September 2018	41 514 224.96
Total claims paid as at 14 September 2018	318 751 982.47
Expenditure paid after contract expired until 5 March 2019	79 741 290.90
Total expenditure as at 5 March 2019	398 493 273.37
Less contract value	373 709 412.00
Over expenditure paid to Sondolo as at 5 March 2019	24 783 861.37

- 4.87 Ms [REDACTED] informed us that the only contract that DOJ has with Sondolo is in respect of the security infrastructure services.
- 4.88 It should be noted that our analysis is only until 5 March 2019, which may exclude other payment processed to Sondolo thereafter. We noted the following in respect of the BAS (**Annexure 26**) payment reports:
- According to the BAS reports DOJ paid Sondolo R97 888.97 during the period 19 July 2013 until 14 September 2015, prior to provision of the letter issued to Sondolo for the preventative and corrective maintenance services. We were not provided with the invoices to verify these payments; and
 - We noted that there was a cost saving in the amount of R54 957 429.53 as at the expiry date of the preventative and corrective maintenance services of 14 September 2018;
- 4.89 During consultation with Ms **Nelly** she reminded us that Mr **Nate** is the Acting Director Security Management and he reports to her on security related matters. Ms **Nelly** also informed us that

SCM unit has a duty to issue notice of expiry date in relation to tenders and in this regard no notice of the expiry or natural termination of the preventative and corrective maintenance services for RFB2008 15 was issued to the end user department. We reviewed a letter (**Annexure 27**) dated 8 August 2018, signed 13 August 2018 by Ms **Lilly** as CFO, which is addressed to the Acting Head of Branch Mr [REDACTED] with the subject "NOTICE OF NATURAL TERMINATION OR EXPIRY RELATING TO BRANCH CONTRACTS". We noted from paragraph 1.6 of the letter (**Annexure 27**) which states, "Given the fiscal budgetary constraints and cost containment measures, please reprioritise and provide a detailed action plan for services that will still be required by the Department, post expiry date. This action plan must be linked to the status on the execution of procurement initiatives as contained in the procurement plan, from an end user perspective". The CFO mitigated the potential risk to avoid the DOJ from incurring irregular expenditure in respect of the preventative and corrective maintenance services by requesting the end user to provide a detailed action for services that will still be required by DOJ post expiry date on contract. We were not provided with any evidence that the end user (Ms **Nelly**) provided the said detailed action plan as she informed us that no notice was issued regarding the natural termination of the preventative and corrective maintenance services of RFB2008 15. We found no evidence that Ms **Nelly** and/or Mr **Nate** sought approval for deviation of the maintenance contract of Sondolo for the period beyond 14 September 2018. Ms **Nelly** and or Mr **Nate** contravened section 8.5 of the National Treasury SCM Instruction note 3 of 2016/17 which states, "Any other deviation will be allowed in exceptional cases subject to the prior written approval from the relevant treasury".

- 4.90 Ms **Nelly** and/or Mr **Nate** failure to obtain approval for the appointment of Sondolo beyond 14 September 2018 resulted in the DOJ incurring irregular expenditure in the amount of R24 783 861.37 due to over expenditure from the initial amount of R373 709 412.00 in respect of preventative and corrective maintenance services.
- 4.91 Ms **Nelly** and or Mr **Nate** therefore failed to ensure that the system of financial management and internal controls were established within her area of responsibility by not mitigating the extension of Sondolo services beyond 14 September 2018.

Conclusions

- 4.92 We were not provided with evidence that indicates when the 95 court buildings were handed over to the DOJ in order to determine when the 12-month warranty period commenced and thus determine when the 36-month maintenance period had to start.
- 4.93 Ms **Lilly** did not have the delegated authority for the approval of the corrective and preventative maintenance contract to Sondolo for the amount of R373 709 412.00, and therefore contravened the DOJ's delegation of authority.
- 4.94 Ms **Lilly** committed an act of financial misconduct, according to the PFMA, Chapter 10, section 83 (1) (b) in that she wilfully or negligently permitted an irregular expenditure in the amount of R24 783 861.37.

4.95 Ms Lilly failed to apply fair, competitive and transparent procurement processes by not advertising through a competitive bidding process the provision of preventative and corrective maintenance services.

4.96 From the amount of R373 709 412.00 that was allocated for preventative and corrective maintenance services only an amount of R177 461 458.26 was budgeted for maintenance related services by Sondolo.

4.97 Our computation in respect of maintenance services indicates that the preventative maintenance services of 36 months amounted to an estimated value of R46 630 870.29 in respect of all 127 court buildings, which is far less (R177 461 458.29) than what the DOJ incurred during 15 September 2015 to 14 September 2018 in respect of the maintenance cost undertaken.

4.98 Ms Nelly and/or Mr Nate failed to seek approval for deviation of the maintenance contract of Sondolo for the period beyond 14 September 2018, in contravention of section 8.5 of the National Treasury SCM Instruction note 3 of 2016/17 which states, "Any other deviation will be allowed in exceptional cases subject to the prior written approval from the relevant treasury".

4.99 Ms Nelly and/or Mr Nate failed to take effective and appropriate steps to prevent the DOJ incurring irregular expenditure in the amount of R24 783 861.37 due to over expenditure from the initial R373 709 412.00 in respect of preventative and corrective maintenance services.

B. SECURITY SERVICES PROVIDED AT THE STATE CAPTURE COMMISSION

[illegible]

5. OUTSTANDING ISSUES

- 5.1 Ms Nelly must still provide us with the submissions and reports, set out below, from Security Management division said to have been submitted regarding the NSI programme:
- a) Presentations/submissions made by Security Management to CFO (Ms [REDACTED]), COO (Dr De Wee) & DBAC (Chairperson-[REDACTED]) regarding the substitution of court sites (127 facilities) and approvals received in that respect;
 - b) Submissions made by Security Management in 2011 on request of additional funding for the accumulated costs in respect of NSI programme;
 - c) Reports and Minutes of Parliament Portfolio Committee meetings with DOJ on the NIS Programme;
 - d) Submissions made by Security Management on clarity regarding the request for additional funding for NSI programme as early as in 2012;
 - e) Submissions/correspondence made by Security Management regarding the lack of funding to cover the costs of maintenance for the NSI programme as early as in 2014; and
 - f) Submissions/reports submitted by the late Ms [REDACTED]

6. INTERACTION WITH [REDACTED] Nate

6.1 On 14 June 2019, we forwarded an email to Mr [REDACTED], who had to arrange an interview with Mr [REDACTED] Nate, because Mr Nate was placed on suspension by the DOJ and the only contact between Mr Nate was through Mr [REDACTED].

6.2 We noted subsequent correspondence emails and letters between the DOJ officials and Mr Nate and Mr Nate's Attorneys, wherein certain matters had to be clarified prior to meeting with us. We met with Mr Nate on two (2) occasions, 28 August 2019, a follow up interview was scheduled for 27 September 2019. The meeting of 27 September 2019 did not convene due to urgent work-related matters that Mr Nate had to attend, the next meeting was scheduled and set on 11 October 2019. The following concerns were raised by Mr [REDACTED] Nate and or his Attorney, during our

6.4 consultation on 11 October 2019:

- a) Mr Nate was not provided with any document that formed the basis for the interview, which becomes unfair to expect that he responds to questions;
- b) The interview directed questions to him on documents which he has never seen before;
- c) He be afforded the opportunity to be provided with the relevant source documents that the interview requests information from;
- d) When he is provided with the relevant source documents it will enable him to prepare thoroughly and respond to questions that may arise from the relevant source documents; and
- e) The interview has serious implications that will impact on Mr Nate's work livelihood.

6.5 On 11 October 2019, we forwarded an email to Mr [REDACTED], and informed him of the concerns raised by Mr Nate. We recommend that the DOJ consider the request and allow us to present Mr Nate with the relevant source documents and background information/ questions that refers to the documents, where after a meeting be scheduled within five (5) working days after receipt of the relevant source documents.

6.6 Mr [REDACTED], telephonically informed Mr [REDACTED], that it is not a standard practice that employees are presented with source documents during the interview phase of investigations by the DOJ, and he will provide us with feedback after consulting with his principles. Mr [REDACTED] however, informed us to prepare our close out report based on the advice he received after consultation with his principles.

6.7 We therefore did not proceed with a follow up interview with Mr Nate.

7. RECOMMENDATIONS

7.1 In the absence of being provided with the required BSC, BEC and DBAC resolutions we are unable to determine whether fair and transparent procurement procedures were undertaken by the DOJ in respect of RFB2008 15.

7.2 We recommend that the SCM unit maintain and keep proper records of all procurement documents for the required timeframes as stated within the Archive Act, and any person who removes, destroys, damages or erase records should be held liable in terms of section 16 of the National Archives of South Africa Act, 43 of 1996.

7.3 In the event the DOJ experience similar instances where the SLA lacked clear specifications and deliverables, as with tender RFB2008 15 we recommend the following:

- a) Consider cancelling the tender;
- b) Review the causes justifying the lack of clear specifications;
- c) Revising the specific conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids; and
- d) New bids may be invited from the initially pre-qualified firms, with the agreement of the accounting officer/authority.

7.4 We recommended that the DOJ in conjunction with its legal counsel/ advisors, consider taking corrective action in respect of the following DOJ officials:

- a) Mr Nelly in that she:
 - i. failed to ensure that a system of internal control was carried out within her area of responsibility, as she did not inform DBAC and/or the accounting officer of the cost implications of the 95 court buildings;
 - ii. failed to ensure that a system of financial management was carried out within her area of responsibility, as she did not escalate the cost of the additional work which amounted to R177 million to the DBAC and the DG;
 - iii. failed within her area of responsibility to obtain approval from DBAC for the extension of the maintenance services provided by Sondolo beyond the contract expiry date of 14 September 2018;
 - iv. failed to take effective and appropriate steps to prevent the DOJ incurring irregular expenditure in the amount of R24 783 861.37 due to over expenditure in respect of the maintenance contract awarded to Sondolo;

■

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

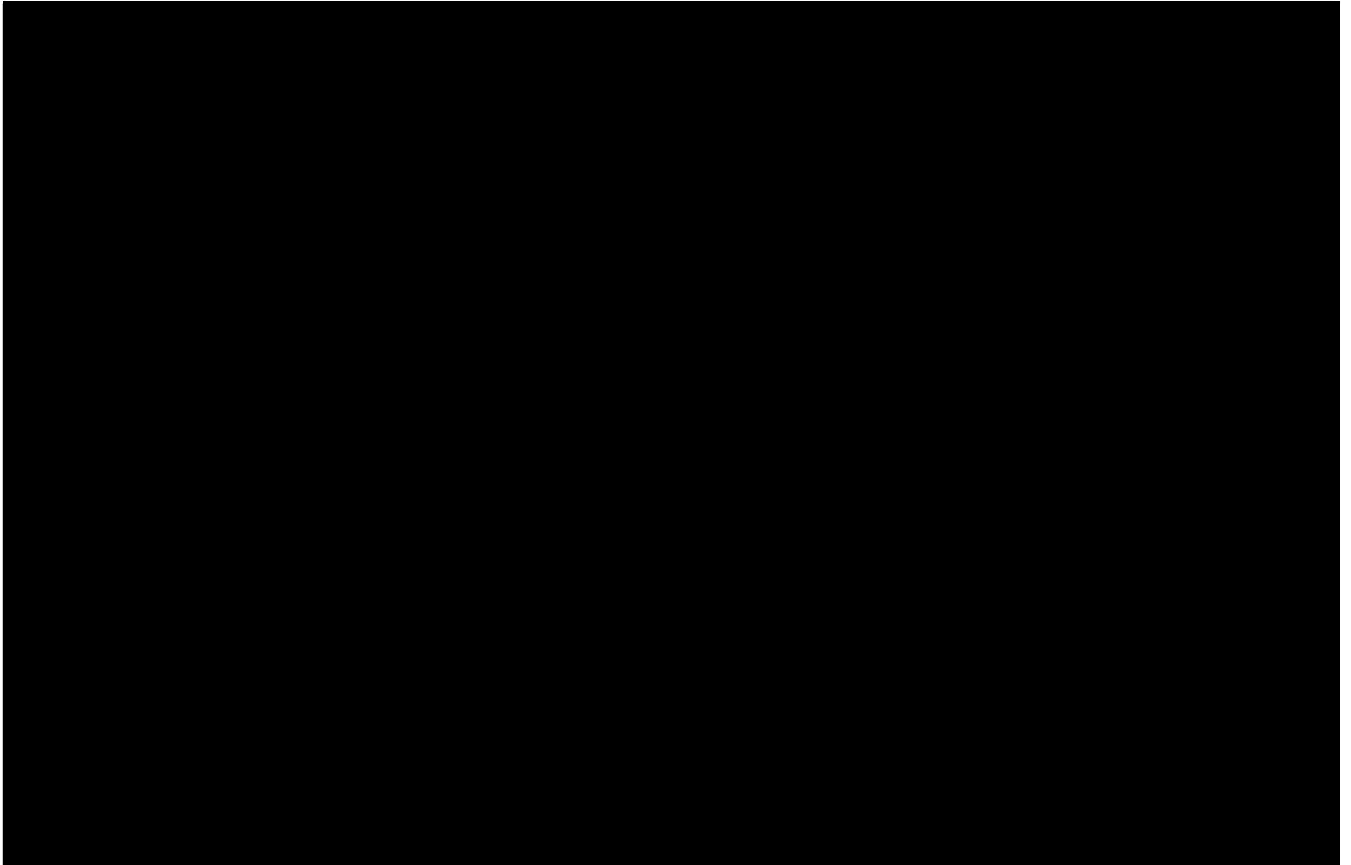
- b) Mr **Nate** in that he:
- i. failed within his area of responsibility to obtain approval from DBAC for the extension of the maintenance services provided by Sondolo beyond the contract expiry date of 14 September 2018;
 - ii. failed to take effective and appropriate steps to prevent the DOJ incurring irregular expenditure in the amount of R24 783 861.37 due to over expenditure in respect of the maintenance contract awarded to Sondolo;

[REDACTED]

- c) Mr **Lilly** in that she:
- i. the CFO did not have the delegated authority for the approval of the corrective and preventative maintenance contract to Sondolo for the amount of R373 709 412.00, and therefore contravened the DOJ's delegation of authority; and
 - ii. committed an act of financial misconduct, according to the PFMA, Chapter 10, section 83 (1) (b) in that she wilfully or negligently permitted an irregular expenditure in the amount of R373 709 412.00 by signing the letter for preventative and corrective maintenance services to Sondolo and not complying to any procurement processes.

[REDACTED]

- 7.5 In view of the fact that the DOJ does not have any authority over Dr De Wee, we recommend that Mr Madonsela consider referring the following recommendations to the DCJ of the Zondo Commission to consider taking corrective action against Dr De Wee, for the following:





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Annexure "B"



the doj & cd


Department
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

FORENSIC AUDIT UNIT

**FORENSIC INVESTIGATION ON
BEHALF OF THE DEPARTMENT
OF JUSTICE AND
CONSTITUTIONAL
DEVELOPMENT ("DOJ&CD")
INTO THE PROCUREMENT OF
SECURITY RELATED SERVICES
IN THE DEAPRTMENT
(FILE 01 OF 02)**



ANNEXURE 12

DEPARTMENTAL BID ADJUDICATION COMMITTEE		DATE: 24 APRIL 2008		
SECRETARY: P [REDACTED]		MINUTES		
Approved [Signature] DEAC Chairperson		<div>the doj & cd Department: Justice and Constitutional Development REPUBLIC OF SOUTH AFRICA</div>		
No.	ITEM	REMARKS	RESPONSIBILITY	DUE DATE
1.	WELCOME	Chairperson welcomed everybody	Johan	
2.	ATTENDANCE	[REDACTED]		
	APOLOGIES	[REDACTED]		
3.	INVITED GUESTS	[REDACTED]		
4.	CONFIRMATION OF AGENDA	The agenda was confirmed.		

5.	CONSIDERATION OF THE MINUTES OF THE MEETING HELD ON 17 April 2008			
6.	MATTERS CIRCULATED BY HAND Approval for vacant posts in the media	<ul style="list-style-type: none">• Approved.		
7.	INVITED QUESTS			
7.1	<div>██████████</div> RFB 2007 19 Asset scanners	<ul style="list-style-type: none">• Not Approved• DBAC agreed the contract with ██████████ should be cancelled and necessary non-performance procedures must be followed.• The tender should be re-advertised .• The specification should be presented to the DBAC as the previous specification did not indicate whether they were including both training, maintenance guarantee of the scanners.	██████████ SCM	

7.2	<p>██████████.</p> <p>Pre-Qualification for the Supply Commissioning and Maintenance of a national security infrastructure for the Department of Justice and Constitutional Development.</p>	<ul style="list-style-type: none">• Approved• A consultant was appointed to draft the specification and a bid was advertised.• 18 Bids were received and based on the benchmark of 65%, only one bidder qualified.• DBAC raised a concern that it was not good practice for the department to award a bid to 1 bidder.• Since it was one bidder who met the requirements, the department requested advise from the National Treasury and the State Law Adviser.• The advise obtained was:<ul style="list-style-type: none">➢ To re-advertise and lower threshold from 65% to 50%- but then it will prejudice the company that met the threshold.➢ The conclusion was to invite a bid for phase one only from the qualifying bidder.➢ New bids will be invited for phase 2.		
8	<p>MATTERS ARISING FROM THE MINUTES</p>			
8.1	<p>Cash in Transit (CFT): Bid Specification Committee Chief Directorate: Risk Management:</p>	<ul style="list-style-type: none">• Approved• The Specification and Evaluation Committees were presented and approved by the DBAC	██████████	

8.2	Directorate: Security. Bid Specification Committee: Chief Directorate: Risk Management: Directorate: Security.	<ul style="list-style-type: none">• Availability of funds was confirmed.		
		<ul style="list-style-type: none">• Approved• The Specification and Evaluation Committees were presented and approved by the DBAC• Availability of funds was confirmed.		
9	ITEMS FOR DISCUSSIONS	<ul style="list-style-type: none">•		
9.1.	Request for DBAC to approve Roll-Out of Human Rights Education Program.-R5 416,990,88	<ul style="list-style-type: none">• Not Approved.• It was discussed that newspapers should not be hand picked as it is risky and it will violate the procurement process.• It was concluded to go out on tender.• None		
10.	AWARDING OF BIDS			
11.	DIRECTOR-GENERAL APPROVAL	<ul style="list-style-type: none">• None		
12.	CLOSURE	The meeting was adjourned at 10:50		

13.	DATE OF THE NEXT MEEETING.	08 May 2008		
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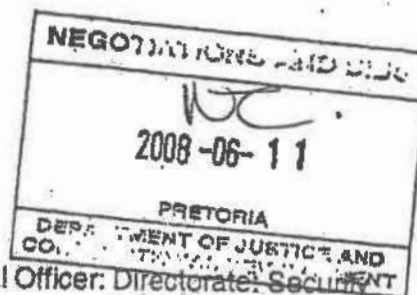
ANNEXURE 13



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

BRANCH: Office of the Chief Operational Officer: Directorate: Security Management
Tel: (012) 315 8545 Fax: 086 656 9535



INTERNAL MEMO

DATE:	10 June 2008	FILE NR:	1/3/2 (NCC) 1/3/5/1 2008/2009 Budget (NCC) 1/3/5/1 2009/2010 Budget (NCC)
TO:	Departmental Bid Adjudication Committee (DBAC)	FROM:	Ms [REDACTED]
CC:			

SUBJECT:	AWARDING OF A SUPPLY, INSTALLATION, COMMISSIONING AND MAINTENANCE OF A NATIONAL SECURITY INFRASTRUCTURE TENDER FOR 127 COURTS COUNTRYWIDE: DIRECTORATE: SECURITY MANAGEMENT
----------	---

1. PURPOSE

- 1.1 The purpose this memorandum is to get DBAC approval to proceed with the appointment of the recommended bidder.

BACKGROUND

- 2.1 The bid was issued on 29 February 2008 and closed on 20 March 2008. Pre-qualification was done and one bidder was recommended, see memo dated 23 April 2008 attached.
- 2.2 The successful bidder was invited to a meeting where a detailed specification was submitted to them. The representative from [REDACTED] Consortium, Mr [REDACTED] briefed the bidder about the specification.
- 2.3 The evaluation committee evaluated bid documents on the 5th June 2008. The criterion used for this phase was the price. The tender was 90/10. The committee came to the conclusion that the recommended bidder's price is fair and market related, see Annexure F attached.

2.4 The bidder has quoted the department using Rapid scan X-ray machines. These machines are not acceptable to DOJ& CD due to previous poor performance. The department will like to use Smith Hyman X-ray machines because of their good performance.

2.5 The following are Evaluation Committee members

EVALUATION COMMITTEE MEMBERS.	
Name	
DR K De Wee (Chairperson)	



3. RECOMMENDATION

- 3.1 It is recommended that Sondololo (Pty) Ltd be appointed as the service provider to supply, install and maintain National Security Infrastructure for 127 courts countrywide, for the amount of R601 883 632.22
- 3.2 That the DBAC approve to negotiate with the supplier:
- (a) Rapid scan X – ray machines be replaced with Smith Hyman.
 - (b) That the installation be done within the financial year 2008/9 and 2009/10
- 3.3 That the Recommendation memorandum to the Director- General be send direct after the negotiations

4. FINANCIAL IMPLICATION

Funds are available for the execution of this project.

Supported and recommended by: **Level 1 Delegate**


Ms. [redacted]
Director, Security Management

Date: 11/06/08

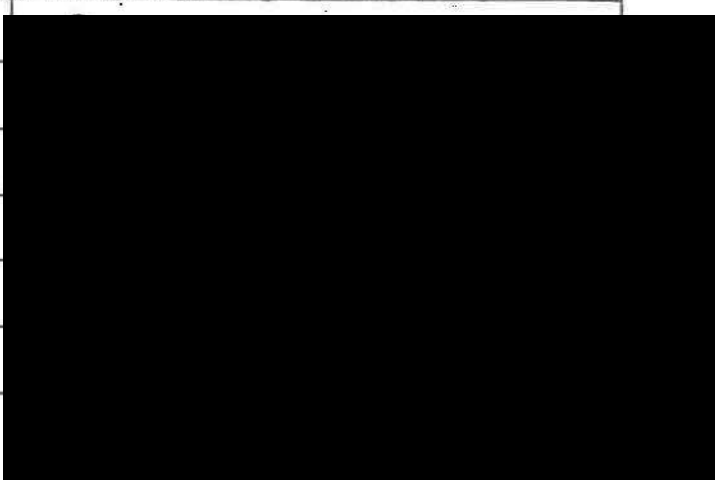
Supported and recommended by: **Level 2 Delegate**


Dr. K. De Wee
Chief Operation Officer

Date: 11/06/08


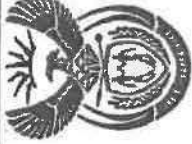
RECOMMENDATION IN PAR 3

APPROVED/NOT APPROVED

DEPARTMENTAL BID ADJUDICATION COMMITTEE APPLICATION APPROVED/ NOT APPROVED	
MEMBER	
MEMBER	
MEMBER	
MEMBER	
MEMBER	
CHAIRPERSON	



ANNEXURE 14

DEPARTMENTAL BID ADJUDICATION COMMITTEE		DATE: 12 June 2008		
<div>SECRETARY: N [REDACTED]</div> <div>Approved:  DEAC: Chairperson</div>		<div> the doj & cd Department: Justice and Constitutional Development REPUBLIC OF SOUTH AFRICA</div>	MINUTES	
No.	ITEM	REMARKS	RESPONSIBILITY	DUE DATE
1.	WELCOME	Chairperson welcomed everybody	[REDACTED]	
2.	ATTENDANCE	[REDACTED]		
	APOLOGIES	[REDACTED]		
3.	INVITED GUESTS	[REDACTED]		
4.	CONFIRMATION OF AGENDA	The agenda was confirmed.		
5.	CONSIDERATION OF THE MINUTES OF THE MEETING	<ul style="list-style-type: none">Minutes to be considered in the next meeting.		

	HELD ON 12 June 2008				
6.	MATTERS CIRCULATED BY HAND	• None			
8	ITEMS FOR DISCUSSION				
8.1	Request for approval acquiring print adverts for request of public input on the Criminal Justice Systems	<ul style="list-style-type: none"> Approved: <ul style="list-style-type: none"> ↓ [REDACTED] ↓ [REDACTED] ↓ [REDACTED] ↓ [REDACTED] 	Victim Support and Specialized Services		
9	AWARDING OF BIDS	• None			
9.1	Awarding of a Supply, Installation Commission and Maintenance of a National Security Infrastructure Tender for 127 Courts Countrywide: Directorate: Security Management	<ul style="list-style-type: none"> ✓ Further negotiations with bidder approved ✓ Bid recommended by DBAC on condition: <ul style="list-style-type: none"> ➤ Maintenance contract in place for full term (only 1 year included in bid, additional 3 years to be negotiated with bidder, but will be for the account of the department; a separate DBAC request will follow to authorize the related expenditure ➤ Records on how often they had to repair and maintain the Rapid machine, to support the statement on the memo of poor performance ➤ The recommendation to the DG will be made directly once all required information have been received (following 	Security [REDACTED]		

		negotiations) due to the urgency of the matter		
10	DIRECTOR-GENERAL APPROVALS	<ul style="list-style-type: none">• None		
11	CLOSURE	<ul style="list-style-type: none">• The meeting was adjourned at 10:05 am		
12	DATE OF THE NEXT MEETING.	<ul style="list-style-type: none">• 19 June 2008		



ANNEXURE 15

**the doj & cd**

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

BRANCH: CHIEF DIRECTORATE: RISK MANAGEMENT

Tel: 0123151747

Fax: 0123206522

Doc Ref/Nr: 1/3/2; 1/3/5/1

DIRECTOR-GENERAL: MEMO

DATE:	30 JUNE 2009	FILE NR:	1/3/2 (KCM)
TO:	Adv M Sam Director-General	FROM:	Ms K [REDACTED] Director: Secur Management
CC:	Via Ms N M Nelly Chief Director: Risk Management		

SUBJECT:	RFB 2008 15: NATIONAL SECURITY INFRASTRUCTURE FOR THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT (SERVICE LEVEL AGREEMENT)
----------	--

1. PURPOSE

- 1.1 The purpose of this memorandum is to seek approval from the Director-General to delegate the signing powers of the Service Level Agreement (SLA) for the RFB 2008 15 on the National Security Infrastructure for the Department of Justice and Constitutional Development.

2. DISCUSSIONS/ BACKGROUND

- 2.1 The tender was awarded for supply, installation and maintenance of a National Security Infrastructure to Sondolo IT Solutions in the month of June 2008.
- 2.2 The Department was represented by Adv [REDACTED], State Advisory Services and Mr [REDACTED] from Supply Chain Management in the whole process of discussions and finalizing the Service Level Agreement (SLA). They have vetted the SLA concluded between the two captioned parties and indicated their satisfaction in the content of the SLA between the parties.

[Annexure A]

3. RECOMMENDATION

- 3.1 In light of the strategic nature of the contract and the amount involved, it is recommended that the DDG: Corporate Services be delegated to sign the Sondolo IT Solutions service level agreement on behalf of the Department.

Compiled by


MS [REDACTED]

ASSISTANT DIRECTOR: RISK MANAGEMENT

30/6/09
DATE

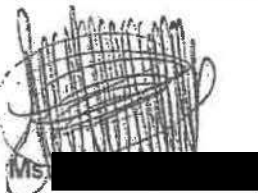
SUPPORTED/ NOT-SUPPORTED


[REDACTED]

DIRECTOR: SECURITY MANAGEMENT

30/6/09
DATE

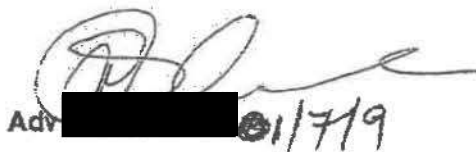
RECOMMENDED/NOT RECOMMENDED


MS [REDACTED]

CHIEF DIRECTOR: RISK MANAGEMENT

30/6/2009
DATE

PARA 3.1 APPROVED/NOT APPROVED:


Adv [REDACTED] 01/7/9

DIRECTOR-GENERAL: DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

DATE: _____

A

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**the doj & cd**

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

Private Bag x81, PRETORIA, 0001 • Momentum Centre, 329 Pretorius Street, c/o Pretorius & Prinsloo Streets, PRETORIA •
Tel: +27 12 357 8898 • Fax: +27 12 357 8525

BRANCH: STATE ADVISORY SERVICES

Ref: 1/3/2 (MIS)

Date: 10 June 2009

Adv M **Sam**
Director-General
Justice and Constitutional Development
Private Bag X81
PRETORIA
0001

Dear Director-General

RFB 2008 15: NATIONAL SECURITY INFRASTRUCTURE FOR THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

1. The contract relating to Sondolo IT Solutions as the competitive bidder is enclosed for your attention.
2. We have some problems with the Department of Public Works, however, this can be resolved by your intervention. I will provide details during our meeting.
3. We advise that the draft service level agreement between DoJ&CD and Sondolo IT have been perused and we are of opinion that it is in order for parties to sign. There were amendments that were made since the first draft.
4. Sondolo IT Solutions are ready to roll out the five pilot sites once the contract has been finalised.
5. It is recommended that the Director-General permit myself and Ms **Nelly** to take him through the contract if necessary.

Adv [REDACTED]
STATE ADVISORY SERVICES
DEPARTMENT JUSTICE AND CONSTITUTIONAL DEVELOPMENT

Annexure "C"



SERVICE LEVEL AGREEMENT

Between

**THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA THROUGH THE
DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

("The Principal")

Physical Address	329 Pretorius Street, Tshwane 0001		
Postal Address	PRIVATE BAG X 81, PRETORIA, 0001		
Fax No.	A		
Signed at	PRETORIA	Date	15 July 2009
Name	[REDACTED]		who warrants that they are duly authorised to sign
Designation	DOJ: CORPORATE SERVICES		

and

SONDOLO IT (PROPRIETARY) LIMITED

("The Contractor")

Registration number	2005/000500/07		
Physical Address	Mogale Business Park, 1 Windsor Road, Luipaardville, Mogale City		
Postal Address	Private Bag 2002, Krugersdorp, 1740		
Fax No.	011-660 8097		
Signed at	PRETORIA	Date	15 July 2009
Name	Johannes Gumede		who warrants that they are duly authorised to sign
Designation	Director		

This Agreement comprises the Agreement and Schedules attached hereto.

PART 1 – BUSINESS A**AGREEMENT****1. DEFINITIONS AND RULES OF INTERPRETATION****1.1. *Rules of Interpretation.* In this Agreement :-**

- 1.1.1 clause headings are for the purposes of convenience and reference only and shall not be used in the interpretation of, nor modify nor amplify any of the provisions of this Agreement;
- 1.1.2 a reference to:-
 - 1.1.2.1 any particular gender shall include the other gender;
 - 1.1.2.2 the singular shall include the plural and vice versa;
 - 1.1.2.3 a natural person shall include corporate or unincorporated created entities and vice versa;
- 1.1.3 all of the schedules and/or Annexures are incorporated herein and shall have the same force and effect as if they were set out in the body of this Agreement;
- 1.1.4 words and/or expressions defined in this Agreement shall bear the same meanings in any schedules and/or annexes hereto which do not contain their own defined words and/or expressions;
- 1.1.5 where a period consisting of a number of days is prescribed, it shall be determined by excluding the first and including the last day;
- 1.1.6 where the day upon or by which any act is required to be performed is a Saturday, Sunday or public holiday in the territory where performance is due, the Parties shall be deemed to have intended such act to be performed upon or by the first day thereafter which is not a Saturday, Sunday or public holiday;
- 1.1.7 where an expression has been defined and such definition contains a provision conferring rights or imposing obligations on any Party, effect shall be given to that provision as if it were a substantive provision contained in the body of this Agreement;



- 1.1.8 if figures are referred to in numerals and words, the words shall prevail in the event of any conflict between the two;
- 1.1.9 words and/or expressions defined in any particular clause in the body of this Agreement shall, unless the application of such word and/or expression is specifically limited to that clause, bear the meaning so assigned to it throughout this Agreement;
- 1.1.10 the terms "holding" and "subsidiary" in relation to any company shall bear the meanings assigned to them in the Companies Act, as amended;
- 1.1.11 the *contra proferentem* rule shall not apply and accordingly, none of the provisions hereof shall be construed against or interpreted to the disadvantage of the Party responsible for the drafting or preparation of such provision;
- 1.1.12 where a Party to the Agreement is subject to the law of another jurisdiction a phrase that is used in the applicable jurisdiction such as, for example, liquidation, shall bear the same meaning as a phrase with an analogous meaning used in the foreign jurisdiction, such as, for example, bankruptcy;
- 1.1.13 the *eiusdem generis* rule shall not apply, and whenever a provision is followed by the words "including", "includes", "include", "including without limitation" and specific examples, such examples shall not be construed so as to limit the ambit of the provision concerned;
- 1.1.14 a reference to any statutory enactment shall be construed as a reference to that enactment as at the Signature Date and as amended or re-enacted from time to time thereafter;
- 1.1.15 unless specifically provided to the contrary, all amounts referred to in this Agreement are inclusive of value added tax;
- 1.1.16 the expiration or termination of this Agreement shall not affect such of its provisions as expressly provide that they will continue to apply after such expiration or termination or which of necessity must continue to apply after such expiration or termination;
- 1.1.17 any communication which is required to be "in writing" shall include a communication which is written or produced by any substitute for writing or which is partly written and partly so produced, and shall include printing, typewriting, lithography, facsimile or electronic mail or any form of electronic communication or other process or partly one and partly another.



1.1.16 In the event of a conflict of terms, terms that are more favourable to the Principal will apply unless expressly provided for otherwise in this Agreement.

1.2. **Meanings of expressions and words.** In this Agreement the following expressions and words have the meanings assigned to them below and derivative expressions and words will have a corresponding meaning:-

1.2.1. "Abuse" means conduct in respect of equipment which does not constitute normal prudent use or operation of such equipment, which causes physical damage to such equipment by a site, as determined in accordance with clause 8.3;

1.2.2. "Agreement" means this Agreement, including all schedules and annexes, the Tender Document submitted by the Contractor in terms of RFB 2008 15 and with amendments thereto executed by the parties in accordance with the Change Control Policy;

1.2.3. "Bid" means the Tender (RFB 2008 15) issued by the Principal in respect of the Services;

1.2.4. "Bid Price" means the ceiling price awarded to the Contractor

1.2.5. "Business Day" means any day in the RSA which is not a Saturday, Sunday or official public holiday within the meaning of the Public Holidays Act, 1994. All references in this Agreement to days shall be deemed to be to calendar days, unless specifically stipulated as being Business Days;

1.2.6. "Change Control Policy" means the policy set out in Schedule 1 - Change Control Policy;

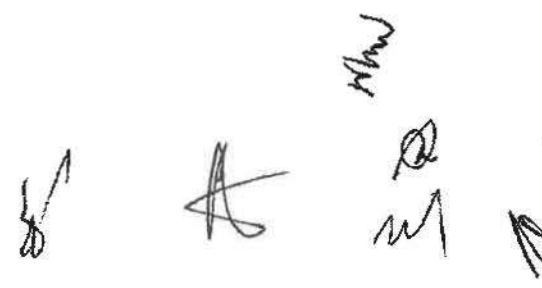
1.2.7. "Contractor Project Leader" means a Contractor representative appointed as such in terms of Schedule 2 - Contract Governance Structure to fulfil the functions set out therein;

1.2.8. "Contractor" means Sondolo IT (Pty)Ltd, Registration Number 2005/000500/07, a limited liability company duly incorporated in accordance with the laws of the Republic of South Africa,

1.2.9. "contractor" means all personnel under the auspices of the Contractor.

1.2.10. "Corrective Maintenance", means all maintenance work to be performed by the Contractor, outside the generally accepted principles of warranty and preventative maintenance are concerned. This includes, but is not limited to, repairs needed to be done on equipment that have been damaged by misuse, abuse and force majeure, whichever is evident;

1.2.11. "Commencement Date" means date of the Signature Date;



- 1.2.12. "Commissioning" means the signoff by both parties of the relevant Facility of delivery of service.
- 1.2.13. "Effective Date" means the date of the commissioning of the relevant Facility.
- 1.2.14. "Equipment" means all hardware that will be installed by the Contractor as part of the Services in accordance with the provisions of this Agreement;
- 1.2.15. "Facilities" means the nominated court buildings listed in Annexure A at which the services will be provided by the Contractor in terms of this Agreement;
- 1.2.16. "Facility Project Manager" means the person who is authorised and delegated by the Principal to act as such;
- 1.2.17. "IT System" means the computer and peripheral devices, hardware, firmware, operating system software and equipment to be utilised by the Contractor in the performance of its obligations under this Agreement, as more fully set out in Annexure B;
- 1.2.18. "Maintenance Contract" means the maintenance of equipment pursuant to this Agreement on the terms and conditions set out in **Schedule 3 – Service Definition and Service Levels**, as amended by the Contractor and approved by the Principal in writing, which approval shall not be unreasonably withheld;
- 1.2.19. "Personnel" means any employee, agent, consultant or sub-contractor of the parties;
- 1.2.20. "Prime Rate" means the prime rate of interest (percent, per annum) from time to time charged by First National Bank Limited to its corporate clients in the private sector, as certified by any manager of such bank, whose appointment and authority it shall not be necessary to prove, calculated daily and compounded monthly in arrears;
- 1.2.21. "PDR" means Project Definition Report. This document depicts a full breakdown of the project by Facility, from site establishment all the way through to site commissioning as per Annexure C ;
- 1.2.22. "Preventative Maintenance" means the monthly maintenance program that will be performed on the Equipment by the Contractor's technicians to ensure that the Equipment is continuously operational to the satisfaction of the Principal;
- 1.2.23. "Preventative Maintenance rates" means the monthly rates charged per Facility to perform Preventative Maintenance, as more fully set out in Annexure F;
- 1.2.24. "Principal" means The Government of the Republic of South Africa Through The Department of Justice and Constitutional Development;
- 1.2.25. "Principal's Data" means collectively:-



- 1.2.25.1. data provided by the Principal or any third party to the Contractor, or otherwise received or collected by the Contractor, relating to the Principal, any facility in respect of this Agreement; and
- 1.2.25.2. data specific to the Services and maintenance which the Contractor generates, processes, or supplies to the Principal in the performance of the Services;
- 1.2.26. **"Principal Project Leader" ("PPL")** means the representative appointed by the Principal in terms of **Schedule 2 – Contract Governance Structure** to fulfil the functions set out therein;
- 1.2.27. **"Third Party Stakeholders"** refers to all third party stakeholders, with specific reference to owners and custodians of the Facilities, i.e the National Department of Public Works ("DPW"), the respective Provincial Heritage Authorities ("SAHRA") and the local authorities dealing with the plans of specific Facilities;
- 1.2.28. **"RSA"** means the Republic of South Africa;
- 1.2.29. **"Service Levels"** means the stipulated criteria applicable, if any, to the Services, as set out in **Schedule 3 – Service Definition and Service Levels**;
- 1.2.30. **"Services"** means the services to be provided by the Contractor to the Principal at the Facilities, as specified in **Schedule 3 – Service Definition and Service Levels**;
- 1.2.31. **"Signature Date"** means the date of signature of this Agreement by the party signing last;
- 1.2.32. **"Site Establishment"** means the process which is followed to ensure a rapid and efficient establishment of the site in terms whereof (i) maximum security is provided to the Facility, the Contractor's materials, the Principal's stock and Equipment and the workings at the Facility; (ii) the public and the environment is protected from the workings at the Facility; (iii) the maximum possible benefit is provided to the Facility during the installation of the Equipment by establishing an on-site office and other necessary facilities; (iv) proper management control procedures are put in place to ensure the successful completion of the Services at the Facility;
- 1.2.33. **"SLA"** means this Service Level Agreement entered into by the Contractor with the Principal.
- 1.2.34. **"Pilot sites"** means the Facilities listed in clause 2 below, at which a comprehensive audit will be done to establish those security requirements that have not been covered in the Bid and that have not been quoted for by the Contractor, but are necessary to ensure that the Contractor delivers an economic, effective and efficient service to the Principal.

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2. BACKGROUND

It is recorded for purposes of clarifying the operative provisions of this Agreement that it is being entered into under the following circumstances:-

2.1 The Principal requires the supply, delivery, installation, commissioning, support and maintenance of a comprehensive CCTV alarm and access control system at various nominated court buildings ("the Facilities").

2.2 The Bid was awarded to the Contractor in the amount of R601 863 308.80 in respect of 127 Facilities, however, in order for the Principal and the Contractor to ensure an economic, effective and efficient service is rendered, the Parties agree that negotiation may take place in terms of the Change Control Policy with regards to either the Bid Price, the number of Facilities or the specifications of the Services.

2.3 The following Facilities /sites have been identified as the Pilot Sites for this project:

Magistrate Court: Johannesburg

Magistrate Court: Kempton Park

Magistrate Court: Pretoria

Magistrate Court: Pretoria North

High Court: Johannesburg

High Court: Pretoria.

2.3.1 Due to the incomplete Service specifications in the Bid document, the Parties have agreed that the Contractor will conduct a comprehensive audit at the Pilot Sites to establish the Principal's security requirements in general. The parties recognise that this will result in additional costs to both parties and in this regard the parties have agreed that the Principal will be liable for the costs of any additional Equipment that may be required, but that the Contractor will forfeit any labour costs relating to the installation of the additional Equipment. A PDR will be completed for each Pilot Site and the Contractor will not proceed with any additional work at the Pilot Sites, unless the PDR has been signed off by both parties.

2.3.2 The purpose of the Pilot Sites is to identify a complete solution to be adopted and used during the roll out of the remaining Facilities.

2.4 Based on representations contained within the Bid, as well as representations made by the Contractor during correspondence, presentations and discussions between the Contractor and the Principal prior to the Commencement Date and in reliance upon the expertise of the Contractor in the provision of this service, the Principal wishes to engage the Contractor to provide the Services to the Principal.

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2.5 The parties wish to record the terms and conditions on which the Contractor shall provide this Service to the Principal for the duration of this Agreement.

3. APPOINTMENT

The Principal hereby appoints the Contractor, who accepts such appointment, to provide the Services in terms of this Agreement.

4. DURATION

4.1. **Installation Duration.** This Agreement shall commence on the Commencement Date and, subject to the rights of termination stipulated herein, shall endure for a period as described by the Project Definition Report (Annexure C) per Facility in respect of the installation and commissioning of the Equipment.

4.2. **Maintenance Duration.** The Maintenance Contract will endure for a further period of 36 (thirty six) months per Facility after the initial contractual warranty period of 12 (twelve) months.

5. THE SERVICES

5.1. **Provision of Services.** During the currency of this Agreement, the Contractor shall provide the Services set out in Schedule 3 – Service Definition and Service Levels to the Principal at the Facilities in accordance with:-

5.1.1. the Service Levels;

5.1.2. the terms of this Agreement.

5.2. **The Services.** The Contractor acknowledges that the Principal's Alarm, CCTV monitoring and Access Control system, whilst being part of its non-core business, nevertheless constitutes an integral part of the operational structure of the Principal, and the effective management is vital to the achievement of the Principal's business objectives. Accordingly, the Contractor undertakes to:-

5.2.1. perform the Services at all times during this Agreement in accordance with the Principal's business objectives and in terms of the Bid and abide by the Principal's General Conditions of Contract;

5.2.2. obtain an in-depth knowledge of the Principal's changing business environment during the term of the Agreement and to utilise such knowledge in performing its obligations to the Principal under this Agreement.

5.3. **Contractor's obligations.** The obligations of the Contractor referred to in this Agreement shall include, without limitation:-

5.3.1. refraining from acting in such a manner, or failing to act, which itself amounts to or otherwise assists a Facility to circumvent compliance with any of the conditions and

requirements of the Policy in respect of maintenance and the administration of the Access Control system;

5.3.2. procuring the maintenance and servicing of the Equipment at the Facilities on a regular basis according to manufacturer's specifications during the currency of this Agreement;

5.3.3. informing the relevant Facility by written notice no less than 1 (one) week before the date on which the Equipment at the Facility, on written instruction from the Principal's representative at the specific Facility, is to be serviced;

5.3.4. the provision of all information and reports set out in **Schedule 3 – Service Definition and Service Levels**;

5.3.5. the design, development, establishment, operation, customisation and maintenance of the IT System;

5.3.6. the provision of all services to the Principal and the fulfilment in full of all the Contractor's obligations to the Principal under this Agreement within the time periods stipulated in this Agreement; and

5.3.7. all other Services set out in **Schedule 3 – Service Definition and Service Levels**, as amended by the parties in accordance with the Change Control Schedule from time to time.

5.4. **Change in scope of services.** Should any party wish to propose any change to the scope or nature of Services, such party shall adhere to the Change Control Policy.

5.5. **Changes only effective once signed off by both parties.** Any changes proposed by the parties in terms of clause 5.4 will only become effective once signed off by both parties, pending which, both parties shall continue to perform their respective obligations in terms of this Agreement.

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6. SERVICE LEVELS

6.1. **Undertaking to achieve Service Levels.** The Contractor undertakes that in providing the Services to the Principal, it will achieve the Service Levels set out in **Schedule 3 – Service Definition and Service Levels**.

6.2. **Obligations upon failure to meet Service Levels.** Should the Contractor at any time fail to meet the Service Levels due to its default, the Contractor will, without prejudice to the Principal's other rights and remedies:-

6.2.1. provide all such additional resources as may be necessary to perform the Services in accordance with the Service Levels as soon as possible thereafter and at no additional cost to the Principal; and

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- 6.2.2. at the request of the Principal, promptly remedy any default or re-perform any non-conforming Service at no additional charge to the Principal.

7. FINANCIAL MATTERS

- 7.1. **Consideration.** As consideration for the provision of Services pursuant to this Agreement, the Contractor shall be remunerated on the basis set out in **Schedule 4 – Pricing Schedule**.

- 7.2. **Additional charges.** The Contractor shall not be entitled to claim for any additional payment exceeding the charges relating to maintenance, licence and communication (Virtual Private Network) on the grounds of any misunderstanding or misinterpretation in respect of the Services, nor will the Contractor be released from any risk or obligations imposed on or undertaken by the Contractor on any such grounds or on the grounds that it could not have foreseen any matter which might affect, or have affected, the price or its performance or any part thereof in terms of this Agreement.

8. EXCLUDED CAUSES

- 8.1. The Principal shall be responsible for all costs incurred in respect of misuse and/or abuse of the Equipment.
- 8.2. **Abuse.** The Contractor shall monitor Equipment abuse, including, without limitation to, the investigation of such abuse, as well as the provision of reports to the Principal on a regular basis in respect of such investigation and appropriate recommendations in respect of action to be taken by the Principal and the Contractor in respect of such abuse.
- 8.3. **Determination of Abuse.** The Contractor shall inform the respective Facility's Project Manager of any incident of suspected abuse. The Contractor shall provide a detailed report of the suspected abuse and forward it to the Principal. The Principal will consider the report and all other relevant evidence and decide whether the Equipment was damaged through abuse or dispute the Contractor's claim. If no agreement is reached then the dispute will be resolved in accordance with the Dispute Resolution procedures as set out Schedule 5 Clause 1.3.

9. MANAGEMENT INFORMATION SYSTEMS (MIS)

- 9.1. **Provision of MIS.** The Contractor shall provide accurate information to the Principal in order to enable the Principal to monitor and manage the system and other requirements. Accordingly the Contractor shall have, and maintain, a system that allows the Principal access to retrieve accurate and relevant management information from the Contractor within 24 (twenty four) hours of the occurrence giving rise to the

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information. Training, as more fully set out in Schedule 3, will be provided to the Principal on how to operate the systems and access the information.

- 9.2. **Scalable and flexible systems.** The Contractor's management information systems shall be compatible with the Building Management System ("BMS") of the Principal; provided that the BMS is commercially available and is not a closed system which cannot be integrated with the MIS. The Contractor endeavours to ensure that the MIS shall throughout the currency of this Agreement possess the scalability and flexibility to accommodate the Principal's changing business requirements.
- 9.3. **System enhancement.** The Contractor shall constantly seek to enhance the systems and shall evaluate any relevant new technology designed to better enhance the system. The Principal shall be consulted before any significant changes to the systems are effected.
- 9.4. **Management Reports.** The Contractor shall furnish the Principal with the reports set out in Schedule 3 – Service Definition and Service Levels on the terms and in the format stipulated therein.
- 9.5. **Principal's rights in respect of the IT System.** Upon signature of this Agreement the Contractor undertakes to lodge a copy of the source code of the software on magnetic medium with the Principal. The source code, together with the IT System, that will be maintained and updated by the Contractor during the contract period, will be transferred to the Principal upon termination of the Agreement. Upon transfer of ownership of the source code and the IT System to the Principal, the Principal will become liable for any further maintenance and upgrades to the IT System.
- 9.6. **Details of IT System.** Details of the IT System are more fully set out in Annexure B hereto.

10. CONTRACTOR'S PERSONNEL

- 10.1. **Contractor Personnel.** The Contractor's Personnel providing the Services may be absent for short periods of time for reasons including annual leave and training. The Contractor undertakes to avoid any disruption of the Services because of such circumstances.
- 10.2. **Replacement of Personnel.** The Contractor may substitute Personnel at its discretion and will give reasonable notice to the Principal of such substitution and will provide replacement Personnel of equivalent ability. Without derogating from the foregoing, should the Contractor replace a Contractor Project Leader for any reason whatsoever, it shall ensure, to the greatest extent possible, that a suitable period of handover and overlap, being not less than 30 (thirty) days, takes place between the new and the

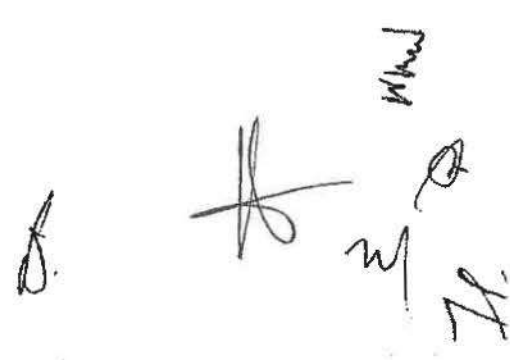


incumbent Contractor Project Leader.. The costs of such handover period shall be borne by the Contractor.

- 10.3. ***The Contractor to adhere to security procedures of the Principal.*** The Contractor's Personnel shall at all times when on the Principal's premises adhere to the standard health, safety and security procedures and guidelines applicable to the Principal's Personnel, as varied and conveyed by the Principal to the Contractor from time to time. Should the Principal at any time have reason to believe that any of the Contractor's Personnel is failing to comply with such standard health, safety and security procedures and guidelines, the Principal may deny such person access to any or all of the Principal's premises or systems and require the Contractor to replace such person without delay.

11. DATA

- 11.1. ***Ownership.*** Ownership in all the Principal's Data, whether under its control or not, shall continue to vest in the Principal and the Contractor shall not obtain any proprietary rights in such data. Without derogating from the foregoing, the database containing the up to date information in respect of all the Equipment, including all back-up copies of such data, shall vest in the Principal.
- 11.2. ***Data may only be used in performance of the Services.*** The Principal's Data in the possession of the Contractor, or to which the Contractor may have access during the currency of this Agreement, may not be used by the Contractor for any purposes whatsoever other than as may be specifically required to enable the Contractor to comply with its obligations in terms of this Agreement.
- 11.3. ***Preservation of integrity of data.*** Both parties shall take reasonable precautions (having regard to the nature of their obligations in terms of this Agreement), to preserve the integrity of the Principal's Data and to prevent any unauthorised access, corruption or loss of such data
- 11.4. ***Preservation of Video Footage.*** Video footage will be available for a period of 14 (fourteen) consecutive days, including weekends and public holidays. Video footage can be stored for periods longer than 14 consecutive days, but should the Principal require this there will be a cost implication.
- 11.5. ***Return of data.*** Upon termination of this Agreement, the Contractor shall provide such data and database to the Principal, in an Open Standards Compliant *database* format, within 7 (seven) days of such termination.

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12. GOVERNANCE STRUCTURES

In order to facilitate the smooth and effective management of the relationship, the parties will implement and adhere to the contract governance structures set out in **Schedule 2 – Contract Governance Structure** as amended from time to time.

13. CONTRACTOR'S WARRANTIES

13.1. *Competition issues.* The Contractor warrants that:-

- 13.1.1. it has not contravened any provision of the Competition Act, 1998 (Act No. 89 of 1998) ("the Competition Act") with regard to the submission of its Bid;
- 13.1.2. to its knowledge the transaction contemplated in this Agreement does not contravene any provision of the Competition Act or require any consents or approvals from the Competition Authorities contemplated in the Competition Act;
- 13.1.3. it has disclosed all correspondence, if any, between itself and the Competition Authorities in respect of the transaction contemplated by this Agreement.

13.2. *Labour issues.* The Contractor warrants that:-

- 13.2.1 it has full knowledge of all relevant statutory, collective and other stipulations applicable to the relationship with its contractors and its relationship with the Principal. This includes, but is not limited to, the Labour Relations Act 1995 (Act No. 66 of 1995), the Basic Conditions of Employment Act, 1997 (Act No.75 of 1977), the Employment Equity Act, 1998 (Act No. 55 of 1998) and any other applicable employment legislation currently in force or which may come into force during the currency of this Agreement;
- 13.2.2 it is not and will not in future be in contravention of any of the provisions of any such legislation and in the event of such contravention, the Contractor shall immediately take all steps to remedy such contravention. If the Principal advises the Contractor of any contravention of such legislation in writing, the Contractor shall, within 10 (ten) days after receipt of such notice, take all steps necessary to remedy such contravention and shall keep the Principal informed regarding the steps taken and the implementation and the result thereof;
- 13.2.3 it is conversant with section 198(4) of the Labour Relations Act and warrants further that any contractor supplied by the Contractor shall be an independent contractor as defined in the Labour Relations Act and the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) and will render the Services as such. The Contractor hereby indemnifies and holds the Principal harmless against any claim or action whatsoever in terms of section 198(4) of the Labour Relations Act, instituted



against the Principal by a contractor of the Contractor. In the event that the Contractor or any of its contractors rendering the Services to the Principal, become involved in arbitration or other proceedings falling under a collective agreement under a bargaining council, then the Contractor shall immediately inform the Principal thereof and on request supply the Principal with a copy of any award made pursuant to such proceedings or agreement and any documentation that the Principal may request in respect thereof.

- 13.3. ***The Contractor is qualified to provide the Services.*** The Contractor warrants that it possesses the requisite knowledge, skill and experience to provide the Services.

14. OBLIGATIONS OF CONTRACTOR

- 14.1. ***Problem and Negative Trend Identification.*** Should the Contractor encounter any problem or identify any trend in relation to the Services or any component thereof, which could cause, or which indicates the likely occurrence of, a disruption to the Principal's business or the availability of the Services, it must report such matter to the Principal in writing without delay. Thereafter, the parties will agree on corrective measures to be taken to address or pre-empt the problem, as the case may be, in accordance with the Change Control Policy, if necessary.

- 14.2. ***Items required for the Services.*** Save as provided otherwise, the Contractor shall supply all items required for the provision of the Services. Ownership and safe keeping of the items required for the service will transfer from the Contractor to the Principal upon signoff of the respective Facility.

- 14.3. ***Suitably Qualified Personnel.*** The Contractor shall employ suitably qualified and trained Personnel to provide the Services to the Principal in terms of this Agreement.

15. OBLIGATIONS OF THE PRINCIPAL

- 15.1. The Principal shall ensure that any party over which it has direct control, as well as all Third Party Stakeholders, perform their duties and functions referred to in this Agreement in a manner which enables the Contractor to comply with its obligation to provide the Services.

- 15.2. The Principal shall provide the required storage area or storage space, as close as possible to the respective Facility, to store the Equipment required for the Service until signoff of the respective Facility.

- 15.3. The Principal, where practically possible, shall advise the Contractor of any occurrence or event which may possibly disrupt the Contractor's ability to deliver the Service.

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16. PROVISION OF ADVICE

The Contractor shall at all times during the period of this Agreement provide maintenance and administrative advice, information and assistance to the Principal that is necessary to render the Services in the most efficient manner.

17. REVIEW OF THE SERVICES

It is fundamental to the success of this Agreement and the parties' ongoing relationship that this Agreement reflects and continues to reflect the parties' prevailing business imperatives and capabilities. Consequently the parties agree that for the purposes of reviewing the Services provided, or any other matter arising out of this Agreement, they will, at a minimum, formally meet as a Steering Committee within 30 (thirty) days prior to the anniversary of the Commencement Date each year during the currency of this Agreement, provided that any and all such changes agreed at such meetings shall be executed in accordance with the Change Control Policy.

18. ACCOUNTING REQUIREMENTS AND INSPECTION

18.1. *Requirements.* The Contractor shall :-

- 18.1.1. operate a proper and efficient accounting system and maintain books of account and other records in the English language adequate to reflect truly and fairly, and in conformity with generally accepted accounting practice consistently applied, the financial position and state of affairs of the Contractor;
- 18.1.2. keep all accounting records drawn up for a period of at least 3 (three) years after termination or expiry of this Agreement in hard copy and electronic format;
- 18.1.3. keep all its books and records at all times within the RSA and for the time periods stipulated in all applicable laws.

18.2. *Exclusions.* Notwithstanding the provisions of clause 18.1, the Principal shall not be entitled to access the financial statements and balance sheet of the Contractor, provided that should the Principal require to inspect such excluded records, it may request the Contractor's auditors, or the forensic services division of any auditing firm of international standing and repute, to scrutinise such records to determine the existence of any irregularity suspected by the Principal, provided that any party other than the Contractor's auditors shall be obliged to maintain the confidentiality of the aforementioned excluded records.

18.3. *Access.* The Contractor shall, in order to enable the Principal to determine whether the provisions of this Agreement are being complied with:

- 18.3.1. provide the Principal with such information as it may reasonably require;

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- 18.3.2. allow the Principal to inspect and take copies of any documents of the Contractor relating to the Services, including all data, information, procedures, event logs, transaction logs, audit trails, books, records, contracts and correspondence;
- 18.3.3. allow the Principal or its authorised representatives to conduct interviews with any of the Contractor's employees or auditors, subject to reasonable notice being given to the Contractor;

in so far as such information, media or personnel are concerned with the administration and provision of Services.

18.4. The Contractor to provide reasonable assistance. Where:-

- 18.4.1. any information required for the inspection in terms of this clause 18 is kept by means of a computer, the Contractor shall give the Principal such reasonable assistance as it requires to facilitate inspection and the taking of copies of the information in a visible and legible form or to inspect and check the operation of any computer and any associated apparatus or material that is or has been in use in connection with the keeping of the information;
- 18.4.2. the Contractor is required to provide information or allow the Principal to inspect or take copies of any items of any description, in relation to this agreement. The Contractor shall provide the information or, as the case may be, allow the Principal to inspect and take copies of the items.

18.5. Information to be provided in specified form. Any information required to be provided to the Principal pursuant to this clause 18 shall be provided by the Contractor in such form (including a form otherwise than in writing) as the Principal may reasonably specify.

18.6. The Contractor to allow access to premises. Where, pursuant to any provision contained in this clause 18, the Contractor is required to allow the Principal to inspect or take copies of any item of any description in relation to this agreement, the Contractor shall allow the Principal, or its authorised representatives such access to any premises of the Contractor as is necessary to enable the Principal to inspect or take copies of the items.

18.7. The Principal's rights where it suspects unlawful activity by the Contractor. Notwithstanding the foregoing, but subject to the limitation contained in clauses 18.3, should the Principal reasonably suspect any fraudulent or other unlawful activity by the Contractor or its Personnel, the Principal, its inspectors or other authorised agents shall have the right of immediate access to all the records and premises of the Contractor and the Contractor agrees to provide reasonable assistance at all times during the currency of this Agreement or at any time thereafter. For the avoidance of doubt, the Contractor shall only be repaid its reasonable expenses incurred in giving assistance

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pursuant to this clause 18.7 if the result of such investigation reveals no fraudulent or other unlawful activity by Contractor or its Personnel.

18.8. **Cost of inspection and minimum interference.** The inspection contemplated in this clause 18 will be conducted:-

- 18.8.1. during the Contractor's business hours which shall be 08h00 to 17h00 on Business Days;
- 18.8.2. with the minimum of interference in the provision of the Services and the Contractor's other operations;
- 18.8.3. at the Principal's cost.

19. INSURANCE

- 19.1 The Contractor shall for the duration of this Agreement have and maintain in force sufficient insurance to cover both its obligations and liabilities under this Agreement and its business. A copy of the Contractor's insurance policy is attached hereto as Annexure C. The Contractor shall however, not be liable for any claims on the Equipment, on sign-off of each individual Facility, except for the purpose of maintaining the equipment in a workable state.
- 19.2 The Contractor has made provision for a R10 million Public Liability Insurance, as well as a R10 million Full Risks Contractors Liability Insurance, which will cover all related risks insofar as the installation and repair and maintenance phases of the contract are concerned.
- 19.3 The Contractor will not be held liable for any non-disclosure, on behalf of the Principal, in so far as the buildings and facilities are concerned, which may result in damage being caused to the Equipment.
- 19.4 Neither the failure to comply nor full compliance with the insurance provisions of this Agreement shall limit or relieve the Contractor of its liabilities and obligations under this Agreement.

20. CONFIDENTIAL INFORMATION

- 20.1. **Confidentiality obligation.** Each party ("the receiving party") must treat and hold as confidential all information, which they may receive from the other party ("the disclosing party") or which becomes known to them concerning the disclosing party during the currency of this Agreement.
- 20.2. **Nature of the confidential information.** The confidential information of the disclosing party shall, without limitation, include:-



- 20.2.1. all software and associated material and documentation, including information contained therein;
- 20.2.2. all information relating to :-
 - 20.2.2.1. the disclosing party's past, present and future research and development;
 - 20.2.2.2. the disclosing party's business activities, products, services, customers and clients, as well as its technical knowledge and trade secrets;
 - 20.2.2.3. the terms and conditions of this Agreement;
 - 20.2.2.4. the Principal's Data.
- 20.3. ***The receiving party's obligations with regard to confidential information.*** The receiving party agrees that in order to protect the proprietary interests of the disclosing party in its confidential information:-
 - 20.3.1. it will only make the confidential information available to those of its Personnel who are actively involved in the execution of this Agreement;
 - 20.3.2. it will initiate internal security procedures reasonably acceptable to the disclosing party to prevent unauthorised disclosure and will take all practical steps to impress upon those Personnel who need to be given access to confidential information, the confidential nature thereof;
 - 20.3.3. subject to the right to make the confidential information available to their Personnel under clause 20.3.1 above, they will not at any time, whether during this Agreement or thereafter, either use any confidential information of the disclosing party or directly or indirectly disclose any confidential information of the disclosing party to third parties;
 - 20.3.4. all written instructions, drawings, notes, memoranda and records of whatever nature relating to the confidential information of the disclosing party which have or will come into the possession of the receiving party and its Personnel, will be, and will at all times remain, the sole and absolute property of such party and shall be promptly handed over to such party when no longer required for the purposes of this Agreement.
- 20.4. ***Obligations in respect of confidential information upon termination.*** Within 7 (seven) Days upon termination or expiry of this Agreement, the receiving party will deliver to the disclosing party all originals and copies of the disclosing party's confidential information in its possession.
- 20.5. ***Information which will not constitute confidential information.*** The foregoing obligations shall not apply to any information which:-
 - 20.5.1. is lawfully in the public domain at the time of disclosure;

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- 20.5.2. subsequently and lawfully becomes part of the public domain by publication or otherwise;
 - 20.5.3. subsequently becomes available to the receiving party from a source other than the disclosing party, which source is lawfully entitled without any restriction on disclosure to disclose such confidential information; or
 - 20.5.4. is disclosed pursuant to a requirement or request by operation of law, regulation or court order.
- 20.6. **Disclosure to professional advisors.** Nothing in this clause shall preclude the parties from disclosing the confidential information to their professional advisors in the *bona fide* course of seeking business and professional advice.

21. INTELLECTUAL PROPERTY RIGHTS

- 21.1. **Third Party Intellectual Property Rights.** The Contractor warrants that no aspect of the Services provided in terms hereof will infringe any patent, design, copyright, trade secret or other proprietary right of any third party ("third party proprietary rights"), and the Contractor shall, at its cost, defend the Principal against any claim that the Services infringe any such third party proprietary rights, provided that the Principal gives prompt notice to the Contractor of such claim and the Contractor controls the defence in consultation with the Principal thereof. The Contractor further indemnifies the Principal against, and undertakes that it will pay all costs, damages and attorney fees, if any, finally awarded against the Principal in any action which is attributable to such claim and will reimburse the Principal with all costs reasonably incurred by the Principal in connection with any such action.
- 21.2. **Process in the event of a claim.** Should any claim be made against the Principal by any person in terms of clause 21.1, the Principal's legal representative shall give the Contractor written notice thereof within 10 (ten) days of becoming aware of such claim to enable the Contractor to take steps to contest it.
- 21.3. **Infringement of Third Party rights.** Should any third party succeed in its claim for the infringement of any third party proprietary rights, the Contractor shall, at its discretion and within 30 (thirty) days of the Services having been found to infringe:-
- 21.3.1. obtain for the Principal the right to continue using the subject of infringement or the parts thereof which constitute the infringement; or
 - 21.3.2. replace the subject of infringement or the parts thereof which constitute the infringement with another product or service which does not infringe and which is materially similar to the subject of infringement; or



- 21.3.3. alter the subject of infringement in such a way as to render it non-infringing while still in all respects operating in substantially the same manner as the subject of infringement; or
- 21.3.4. withdraw the subject of infringement.

22. DISPUTE RESOLUTION

The parties accept that disputes may arise between them during the course of this Agreement. Any dispute which cannot be resolved between the respective Service Managers of the Parties shall be dealt with in accordance with the provisions of Schedule 5 - Dispute Resolution.

23. PRINCIPAL DEFAULT

- 23.1. **Event of default.** Should the Principal commit any material breach of this Agreement and fail to remedy such breach within 30 (thirty) days of receipt of written notice from the Contractor calling upon it to do so, the Contractor may, without prejudice to any of its other rights in terms of this Agreement or at law, terminate this Agreement forthwith on written notice to the Principal.
- 23.2. **Content of notice.** The termination notice contemplated in clause 23.1 must specify the type of breach which has occurred that entitles the Contractor to terminate this Agreement.

24. CONTRACTOR BREACH

24.1. Definition:-

For the purposes of this clause 24, a "Persistent Failure" means any failure by the Contractor to provide the Services or achieve the service Levels ("Service Failure") which has continued or occurred more than twice within a 3 (three) month period after a final warning notice in terms of clause 24.1.2 is served on Contractor. Thus:-

- 24.1.1. if any Service Failure has occurred more than twice then the Principal may give a formal warning notice to the Contractor, specifying:
- 24.1.1.1. that it is a formal warning notice;
- 24.1.1.2. reasonable details of the Service Failure; and
- 24.1.1.3. that if such Service Failure recurs or continues, it may result in a termination of this Agreement;
- 24.1.1.4. A request for the contractor to indicate the steps to be taken to remedy the service failure.



- 24.1.2. If within 30 (thirty) days or any other period mutually agreed to by the parties, of service of such warning notice, the Service Failure specified occurs again, then the Principal may serve a final warning notice on the Contractor stating that if such Service Failure recurs within 6 (six) months of the date of service of such final warning notice, the Agreement may be terminated.

24.2. Breach. Should:

- 24.2.1. The Contractor be in material breach of its obligations in terms of this Agreement and fail to remedy such breach within 30 (thirty) days of being notified thereof by the Principal in writing;
- 24.2.2. The Contractor commit a Persistent Breach;
- 24.2.3. a court make an order that the Contractor be wound up or a resolution for a voluntary winding-up of Contractor is passed;
- 24.2.4. any receiver or manager in respect of the Contractor be appointed or possession is taken by or on behalf of any creditor of any property that is the subject of a charge;
- 24.2.5. any voluntary arrangement be made for a composition of debts or a scheme of arrangement be approved under the Insolvency Act 1986 or the Companies Act 1973 in respect of the Contractor; or
- 24.2.6. an administration order be made in respect of the Contractor;
- the Principal may, without prejudice to any of its other rights in terms of this Agreement or at law, terminate this Agreement forthwith on written notice to the Contractor.

25. FORCE MAJEURE

- 25.1. **Liability for failure to fulfil a party's obligations.** Neither party shall be liable for any failure to fulfil its obligations under this Agreement if such failure is caused by force majeure.
- 25.2. **Definition.** For the purposes of this clause "force majeure" shall mean any event beyond the reasonable control of a party, including:-
- 25.2.1.1. war, riots, civil or military insurrection or any political or civil disturbance;
- 25.2.1.2. natural disasters such as earthquakes, fire, storms or floods; or
- 25.2.1.3. any government restrictions; or
- 25.2.1.4. other acts of God; which directly causes a party to be unable to comply with all or a material part of its obligations under this Agreement, provided that:-
- 25.2.2. a labour dispute, strike or lockout which could be resolved by the affected party acceding to the demands made of it shall not be deemed to be an event of force majeure; and

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25.2.3. the inability to meet any payment because of a lack of funds shall in no circumstances be treated as an event of force majeure.

25.3. **Provisions relating to Contractor.** Should the Contractor be unable to provide any Services for a period in excess of 21 (twenty one) days as a result of force majeure as contemplated in this clause 25, the Principal shall be entitled to acquire the affected Services from alternative Principals for the period of Contractor's inability.

25.4. **Right to cancel the Agreement.** Should either party be unable to fulfil a material part of its obligations under this Agreement for a period in excess of 60 (sixty) days due to circumstances beyond its reasonable control, as recorded in clause 25.1, the other party may:-

25.4.1. to the extent that such inability relates to the entire Agreement, cancel the entire Agreement forthwith by written notice.

25.5. **No damages payable.** Should this agreement be terminated in accordance with the provisions of clause 25.3, the party affected by force majeure shall not be liable for any damages arising out of such termination.

26. NOTICES AND DOMICILIUM

26.1. **Addresses.** The parties select as their respective *domicilia citandi et executandi* and for the purposes of giving or sending any notice provided for or required in terms the Agreement, the addresses set out on the face of this Agreement, or such other address or telefax number as may be substituted by notice given as herein required.

26.2. **Notices.** Any notice addressed to a party at its physical or postal address shall be sent by prepaid registered post, or delivered by hand, or sent by telefax.

26.3. **Deemed Receipt.** Any notice shall be deemed to have been received:-

26.3.1. if posted by prepaid registered post, 7 (seven) days after the date of posting thereof,

26.3.2. if hand delivered, on the day of delivery,

26.3.3. if sent by telefax, on the date and time of sending of such telefax, as evidenced by a fax confirmation printout, provided that such notice shall be confirmed by prepaid registered post on the date of dispatch of such telefax, or, should no postal facilities be available on that date, on the next business day.

26.4. The parties record that, whilst they may correspond via e-mail during the currency of this Agreement for operational reasons, no formal notice required in terms of this Agreement, nor any amendment or variation to this Agreement may be given or concluded via e-mail.

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27. INDEPENDENT STATUS

- 27.1. **No Partnership.** Nothing in this Agreement shall be construed as creating a partnership between the parties and neither party shall have any authority to incur any liability on behalf of the other or to pledge the credit of the other party.
- 27.2. **Good Faith.** The parties shall at all times owe each other a duty of good faith in their dealings with one another.

28. ASSIGNMENT AND SUB-CONTRACTING

- 28.1. **Restriction on assignment or transfer of this Agreement.** Neither party shall be entitled to assign or otherwise transfer the benefit or burden of all or any part of this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.
- 28.2. **The right to sub-contract.** Contractor may sub-contract any of its obligations in terms of this Agreement to a third party, provided that:-
- 28.2.1. such sub-contracting shall not absolve Contractor from responsibility for achieving the Service Levels or complying with its obligations in terms of this Agreement and Contractor hereby indemnifies and holds the Principal harmless against any loss, harm or damage which the Principal may suffer as a result of such sub-contracting.
- 28.2.2. Contractor shall at all times remain the sole point of contact for the Principal in respect of the acquisition of services by the Principal.

29. LIMITATION OF LIABILITY

- 29.1 Under no circumstances shall either party be liable for any indirect, consequential or like damages which may arise pursuant to this Agreement.
- 29.2 The Contractor hereby indemnifies and holds harmless the Principal for any losses and damages whatsoever, caused to the property of the Contractor, its employees or agents, including death and bodily injury, incurred at the various facilities requiring the services of the contractor to execute its contractual obligations in this Agreement, unless such losses or damages are caused by the wilful misconduct or gross negligence of the Principal.

30. PENALTIES

- 30.1. Subject to Clause 25, if the Contractor fails to deliver any or all of the goods or to perform the services within the period(s) specified in this Agreement, the Principal shall, without prejudice to any other rights and remedies, have certain recourse actions against the Contractor.
- 30.1.1. The Contractor shall together with each individual Facility Project Manager agree and sign off a PDR (Project Definition Report). The PDR will stipulate the services

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that have to be performed at the Facility, the conditions under which the work will be carried out and the agreed timelines within which the work will be commissioned and the Facility handed over to the Principal Site Project Manager. Each PDR will be attached to this Agreement as an annexure and numbered according to the Facility Codes (Refer Annexure A).

- 30.1.2. The Contractor shall not be liable for any penalties imposed by the Principal should any of the pre-agreed conditions of work in a signed off PDR not be forthcoming from the Principal and its on-site representative, i.e where information is usually gleaned from detailed site plans (i.e. internal water and electrical piping), Heritage Site authorisation required to continue work, time delays due to Court operations.
- 30.1.3. The Principal will be liable for down-time and site re-establishment costs should the aforesaid delays exceed 5 (five) Business days at any single Facility.
- 30.2. Subject to clause 30.4, penalties imposed by the Principal for non-delivery of service and/or specific items shall be calculated by Facility by product as set out in Annexure E, based on working hours (for stock items) and business days (for working hours (i.e labour). A penalty will only be imposed beyond the threshold of 24 (twenty four) working hours.
- 30.3. The threshold of 24 (twenty four) working hours referred to in clause 30.2 shall not apply to the following stock items for reasons relating to logistical issues: X-Ray Units where a threshold of 40 (forty) working hours will apply, Walk Through Metal Detector units where a threshold of 40 (forty) working hours will apply and high security fences where a threshold of 72 (seventy two) working hours will apply.
- 30.4. Penalties will be deducted from any monies due or to become due to the Contractor .

31. GENERAL

- 31.1. **No Variation.** No variation or consensual cancellation of this Agreement and no addition to this Agreement shall be of any force or effect unless reduced to writing and signed by the parties or their duly authorised representatives, whether in terms of the Change Control Policy or otherwise.
- 31.2. **Waiver.** No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose unless expressed in writing and signed by the party hereto giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

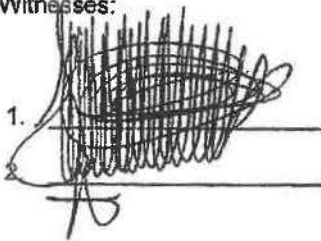
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- 31.3. **Severability.** Should any of the terms and conditions of this Agreement be held to be invalid, unlawful or unenforceable, such terms and conditions will be severable from the remaining terms and conditions which will continue to be valid and enforceable. If any term or condition held to be invalid is capable of amendment to render it valid, the parties agree to negotiate an amendment to remove the invalidity.
- 31.4. **Applicable Law.** This Agreement will be governed by and construed in accordance with the law of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with such law.
- 31.5. **Jurisdiction.** Subject to clause 22, the parties hereto hereby consent and submit to the jurisdiction of such High Court of South Africa, or division thereof, which has its seat in Johannesburg, in any dispute arising from or in connection with this Agreement.
- 31.6. **Survival.** Notwithstanding termination of this Agreement, any clause which, from the context, contemplates ongoing rights and obligations of the parties, shall survive such termination and continue to be of full force and effect.
- 31.7. **Counterparts.** In the event that the Parties do not sign the same document, then this Agreement may be executed by each Party signing a counterpart, which counterparts together shall constitute one and the same agreement.

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Signed at TSHWANE on this 15 day of July 2009

As Witnesses:

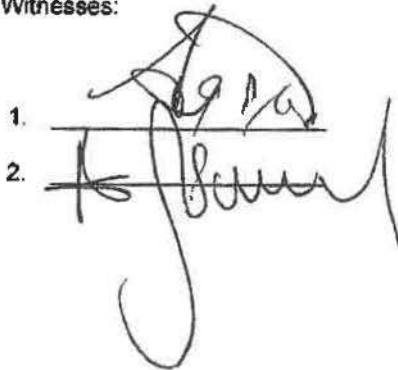
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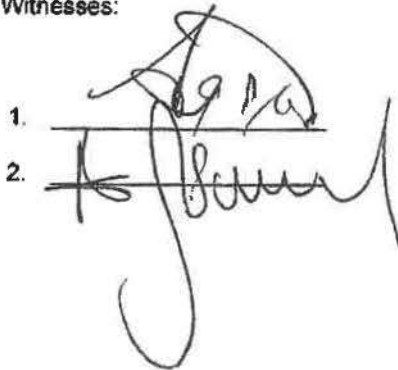


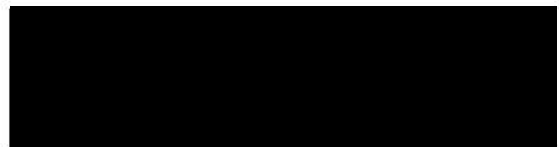
For and on behalf of THE
GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA
THROUGH THE DEPARTMENT OF
JUSTICE AND CONSTITUTIONAL
DEVELOPMENT

Signed at TSHWANE on this 15 day of July 2009

As Witnesses:

1. 

2. 



For and on behalf of SONDOLO IT
(PROPRIETARY) LIMITED



Schedule 1 - Change Control Policy

- 1.1. If the Principal and/or Contractor require any amendment, alteration or addition to the provisions of **Schedule 3 – Service Definition and Service Levels**, or any provision relating to service levels, or the nature of the Equipment that will be installed, it shall inform the other party of such request by written notice. The notice shall set out full particulars of such proposed amendment, alteration or addition.
- 1.2. This process shall be followed by the Contractor and/or Principal for any variation order requests.
- 1.3. The Contractor and/or the Principal shall, within 30 (thirty) days of receipt of the notice, submit a written notice to the Principal and/or the Contractor ("**Change Note**"), which notice shall set out the following:-
 - 1.3.1. the title of the change;
 - 1.3.2. the originator and date of the request for change;
 - 1.3.3. the reason for the change;
 - 1.3.4. full details of the proposed change, including any specifications;
 - 1.3.5. the impact on the price structure, if any;
 - 1.3.6. a timetable for the implementation of the change, together with any proposals for acceptance of the change;
 - 1.3.7. a schedule of payments, if appropriate;
 - 1.3.8. details of the likely impact, if any, of the change on other aspects of the services, including without being limited to:
 - 1.3.8.1. the human resources to be made available;
 - 1.3.8.2. the amounts payable, if any, by the Principal in respect of such change;
 - 1.3.8.3. the payment profiles;
 - 1.3.8.4. documentation and training to be provided by Contractor as a result of such change;
 - 1.3.8.5. service levels and working arrangements;
 - 1.3.8.6. any other contractual issues;
 - 1.3.8.7. the date of expiry of validity of the Change Note.
- 1.4. The Principal and/or the Contractor shall, within a period of 14 (fourteen) days from the date of receipt by it of the Change Note, evaluate the Change Note and may by written notice to the Contractor and/or the Principal-



- 1.4.1.1. request further information from the Contractor and/or the Principal and extend the time period within which to evaluate the Change Note;
 - 1.4.1.2. approve the Change Note with or without modification (provided that any modification is approved by Contractor and/or the Principal;
 - 1.4.1.3. reject the Change Note.
- 1.5. If the Principal approves the Change Note, two copies of the Change Note shall be signed by a duly authorised representative of each of the parties. A Change Note signed by both parties shall constitute an amendment to this Agreement. Each of the parties shall be required to maintain a file in chronological order of all amendments after the signature date.
- 1.6. The Contractor shall be entitled to recommend to the Principal any amendment, alteration or addition to the services or Equipment by written notice, which notice shall be in the form of a Change Note, setting out all the information referred to in 1.3. The Principal shall evaluate the Change Note on the same terms and conditions *mutatis mutandis*.
- 1.7. Neither the Principal nor the Contractor shall unreasonably withhold its consent to any Change Note, provided that neither party shall be obliged to consent to any Change Note increasing the price or requiring the other party to incur any expenditure not provided for in this Agreement.
- 1.8. Until both parties have agreed to and signed a Change Note, the obligations of the Contractor to the Principal in terms of this Agreement shall not be affected and the Contractor shall continue to provide the services and fulfil all of its obligations to the Principal in terms of this Agreement in full, unless otherwise agreed by the parties in writing.
- 1.9. Any discussions between the parties in connection with a request by the Principal or a recommendation by the Contractor shall be without prejudice to the rights of each party under this Agreement.
- 1.10. Any costs or expenditure incurred by the Contractor, its agents or sub-contractors that have not been authorised in advance by the Principal for a change in the services pursuant to this Schedule shall be for the sole account of the Contractor.

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Schedule 2 – Contract Governance Structure

1. OPERATIONAL STEERING COMMITTEE

- 1.1. **Steering Committee.** Management of the Services and the relationship between the Parties shall vest in a Steering Committee to be constituted in accordance with the provisions of clause 1.3, within 14 (fourteen) days of the Signature Date, or such longer period as the parties may agree in writing.
- 1.2. **Functions.** The functions of the Steering Committee shall be:
- 1.2.1. to provide a means for the joint review of issues relating to all day-to-day aspects of the performance of Services pursuant to this Agreement;
 - 1.2.2. to provide a forum for joint strategic discussion, and possible variations of this Agreement to reflect more efficient performance of this Agreement;
 - 1.2.3. to provide a means of agreeing Change Proposals; and
 - 1.2.4. in certain circumstances, pursuant to the Dispute Resolution Procedure, to provide a means of resolving disputes or disagreements between the parties.
- 1.3. **Constitution of Steering Committee.** The Steering Committee shall be constituted and shall function in accordance with the following provisions -
- 1.3.1. the Steering Committee shall comprise the representatives of the parties set out below. Such representatives shall be authorised to make decisions at Steering Committee meetings on behalf of the respective parties;
 - 1.3.2. the chairperson of the Steering Committee shall be the Principal Project Leader (PPL);
 - 1.3.3. any appointment, removal or replacement of representatives by a party shall be by written notice to the other party and shall be effective as soon as such notice is received by the other party;
 - 1.3.4. the Steering Committee may from time to time co-opt additional persons to sit on the Steering Committee, whether in a voting or monitoring capacity;
 - 1.3.5. subject to the provisions of this Agreement, the members of the Steering Committee may adopt such procedures and practices for the conduct of the activities of the Steering Committee as they consider appropriate from time to time;
 - 1.3.6. the Steering Committee shall meet on at least a monthly basis during the currency of this agreement and, in addition, the Steering Committee shall meet upon the request on reasonable notice of any party or to conduct other ad hoc function contemplated in this Agreement. The time and place for meetings shall be determined by the Steering Committee.
 - 1.3.7. duly appointed alternate representatives shall be entitled to attend meetings of the Steering Committee and shall have the right to speak thereat but no alternate shall be entitled to vote if his principal is present at that meeting.



- 1.3.8. a quorum for a meeting of the Steering Committee shall be one representative of each of the parties.
- 1.3.9. each member of the Steering Committee shall be entitled to one vote.
- 1.3.10. all recommendations, agreements and other decisions of the Steering Committee must be reached by way of consensus.
- 1.3.11. where the Steering Committee decides it is appropriate, meetings may also be held by telephone or another form of telecommunication, by which each participant can hear and speak to all other participants at the same time.
- 1.4. **Status of Decisions.** No decision of the Steering Committee shall have the effect of amending the terms of this Agreement and should any decision be taken which requires the amendment of this Agreement, such amendment shall be effected in terms of the Change Control Policy.
- 1.5. **Task Groups.** The Steering Committee may appoint task groups as and when required to investigate and research operational and strategic matters relating to the equipment and any other matter arising out of or in connection with this Agreement.
- 1.6. **Minutes of Meetings.** All business transacted at meetings of the Steering Committee shall be recorded and signed by a member of the Steering Committee representing each of the parties and the minutes so kept shall be circulated to the members of the Steering Committee within 7 (seven) days of each meeting. Such minute book shall at all times be available for inspection by the members of the Steering Committee or their duly authorised agents who shall be entitled to take copies thereof or to make extracts there from.

2. PROJECT LEADERS

- 2.1. **Appointment.** As soon as possible after the Commencement Date, the Contractor and the Principal shall each appoint a project leader to be responsible for the overall delivery of services by Contractor to the Principal.
- 2.2. **Authority.** Each party's project leader shall be authorised to manage this Agreement on behalf of the party making the appointment and the Parties will procure that their project leaders have the necessary skill, expertise and experience to carry out such responsibility. Unless otherwise specifically provided in this Agreement or agreed to in writing by a party, such party's project leader will be entitled to make operational decisions concerning the provision of the Services but shall not be authorised to bind or commit it to any amendments to this Agreement.
- 2.3. **Liaison.** All communications concerning the performance of this Agreement shall, unless otherwise agreed to between the Parties, take place between the parties' project leaders.

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STEERING COMMITTEE REPRESENTATIVES

1. Principal Project Leader;
2. Principal Representative
3. Principal Expert (when necessary)
4. Department of Public Works Regional Representatives. A National Representative of the Department of Public Works will only participate on an ad hoc basis
5. Contractor Project Leader
6. Contractor Technical Co-ordinator
8. Contractor Financial Advisor
9. Contractor Operations Co-ordinator

The full compliment of the Steering Committee will be appointed on the Commencement Date of the Agreement and may be updated from time to time.

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Schedule 3 – Service Definition and Service Levels

1. ROLL-OUT, INSTALLATION AND COMMISSIONING

- 1.1 The Contractor shall provide a full technical and equipment specification for each Facility, on site establishment.
- 1.2 The Contractor shall, together with a representative of the Principal at each Facility, agree and sign off on the Project Definition Report ("PDR") which will depict the specific timelines within which the work at each Facility will be completed.
- 1.3 An example of a detailed Project Definition Report is set out in Annexure D. This report will be a full breakdown of the project from site establishment through to site commissioning.
- 1.4 The "PDR" document, on final acceptance and signature of both parties, will be regarded as the recognised project process for the installation phase as well as the final Bill Of Materials to be installed on each specific Facility.
- 1.5 An "Overall Project Plan" will be signed by both parties to ensure a full understanding of and compliance to the Agreement and will list the Principal's Facilities as well as the proposed order of works to be commissioned by the Contractor. The Overall Project Plan will be dependant on the allocation by National Treasury of required budgets for the different phases of the project.
- 1.6 Each Facility will receive an individual Purchase order.
- 1.7 All legal issues surrounding the works to be performed at the Facilities and their respective statuses (Heritage sites, Local Authority Ordinances, ownership authority to perform work), shall be addressed and authorised by the Principal and the relevant Third Party Stakeholder, prior to any work been performed by the Contractor at the said Facility.
- 1.8 It is the Principal's responsibility to approach the relative authority and together with the Contractor, both parties will acquire all permissions and detailed plans for all the Facilities, prior to any planning and/or work being carried out by the Contractor at those Facilities.
- 1.9 In the event that Minor Civil Works is required to be done as a result of the installation of the Equipment at a Facility, such Minor Civil Works will be for the account of the Contractor. Any civil works commensurate with the Project which falls outside the definition of Minor Civil Works will be for the account of the Principal and will be charged by the Contractor at market related costs agreed to by the Principal and the Contractor. Minor Civil Works shall, for purposes of this Agreement, mean any minor construction work up to a maximum amount of R5 000.00 (five thousand rand) per Facility.

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2. MAINTENANCE

- 2.1. The Contractor shall maintain the CCTV, Alarm and access control equipment at the Facilities on behalf of the Principal.
- 2.2. In this regard the Contractor shall, on written request from the Principal Project Leader as well as the relevant Facility Service/Maintenance Officers, submit maintenance schedules electronically as well as by hand.
- 2.3. Scheduled Preventative Maintenance visits will be made at least once a month, subsequent to the completed installation and hand-over of the Facility.
- 2.4. Any alterations or exceptions to the schedule will be acted upon within 48 (forty eight) hours by Contractor, to ensure the continued connectivity of the equipment and system.
- 2.5. Corrective Maintenance will be outside of the normal maintenance program, and will be charged at a material plus labour rate, which will be quoted to the Principal, by the Contractor, in writing, and will only be performed on receipt of an official Purchase Order by the Principal. On receipt of such Purchase Order, such maintenance will take precedence over other Preventative Maintenance schedules.

3. TRAINING

- 3.1. During the currency of this Agreement, the Contractor shall provide training to the Principal and all Facility Service/Maintenance Officers on the administration of the CCTV, alarm and access control equipment and management system.
- 3.2. The qualifications and experience of all proposed training officers shall be supplied to the Principal prior to commencement of any training, on written request of the Principal.
- 3.3. The system training will be provided at the Mogale Business Park Training Facility situated at 1 Windsor Road, Luipaardsvlei, Mogale City (Krugersdorp).
- 3.4. The Contractor shall not be responsible for any travelling arrangements and costs associated with those employees availing themselves for the training at the Contractor's training facility, but all costs relating to the accommodation, food and beverages and the training whilst the Principal's employees are attending the training courses at the Contractor's training facilities in Mogale City, will be borne by the Contractor.
- 3.5. Should the Principal's employees require refresher training courses, such courses will be scheduled at a regional central facility convenient to both parties on a quarterly basis, dependant on the requirements of the Principal. This training will be given at no additional cost to the Principal.
- 3.6. The Contractor will furthermore offer a "Train the Trainer" program on the proposed system for employees nominated by the Principal.

3.7. Training courses and supporting material shall be presented in English.

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Schedule 4 – Pricing Schedule

1. The Pricing structure for the Installation and commissioning phase of the Project will be broken down as follows:
 - 1.1 10% of the Project Management Fee (as set out in Annexure G) and preliminary and general expenses (as set out in Annexure H) per Facility will be due on sign off of the PDR of each Facility.
 - 1.2 20% of the total contract value (excluding the cost of the Equipment) (as set out in Annexure G) of each Facility will be due on site establishment of the specific Facility.
 - 1.3 70% of the value of the Equipment (as set out in Annexure G) will be due and payable upon delivery of the Equipment to the specific Facility.
 - 1.4 Final payment of the balance of the Project Management fee, the contract value and the Equipment referred to in clauses 1.1, 1.2 and 1.3 above will be due on commissioning and hand-over of each Facility.
 - 1.5 Invoices will be processed by the Contractor at the above milestones, and will be payable by the Principal 30 (thirty) days from the date of delivery of the said invoice.

2. MAINTENANCE CHARGES

- 2.1 The initial first year's maintenance cycle (Warranty Year) will commence on hand over of each Facility and will be covered by the Contractor in full, with the exception of any Corrective Maintenance to be performed due to misuse and abuse of Equipment.
- 2.2 In year 2 the Contractor will charge a monthly Preventative Maintenance rate per Facility as set out in Annexure F.
- 2.3 With effect from year 3, the Preventative Maintenance rates referred to in clause 2.2 above will incur an annual increase capped to the prevailing CPIX interest rate (as published by Stats SA).

3. PRICING PRINCIPLES

- 3.1 The pricing excludes any repairs or maintenance on the Equipment in respect of misuse or abuse.
- 3.2 Each Facility will be billed according to a bill of materials (BOM) requirement, set out by the planning team's visits to the individual Facility, as well as the quoted labour component. These quantities and associated values (should they differ from the quantities specified in the original

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3 tender submission) will be stipulated on completion of the visit to the Facility and handed to the Principal's project team management, as well as the local Facility project manager.

3.3 Each completed Facility will be serviced monthly and will incur a monthly service fee/maintenance charge as set out in Annexure F from the second year of the maintenance cycle, as the first year (Warranty Year) is covered by the Contractor.

3.4 Corrective Maintenance will be charged from inception of the Agreement at an hourly rate of R500.00 (five hundred rand) (including VAT) per man hour, plus the cost of material (to be quoted). This rate is fixed to the end of the second year of the contract, and will thereafter attract an annual increase of 10.00% (ten percent) per subsequent year of the contract term.

3.6 Should the Principal require inter Facility communications / connectivity (VPN), this service will be quoted for separately and work will only proceed on this offering on receipt of an official works order form the Principal to the Contractor.

3.7 The Pricing structure for the installation and commissioning phase of the Project for each Facility will be set out in separate annexures attached to this Agreement.

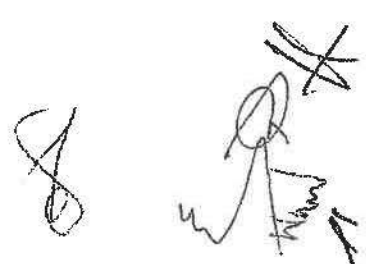
3.8 All variation orders must be submitted, approved and processed under the guidelines set and stated in the Public Finance Management Act of 1999 as amended from time to time.

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Schedule 5 - Dispute Resolution

If a dispute, disagreement or claim arises in relation to any aspect of this Agreement, the Parties shall attempt in good faith to come to an agreement in relation to the disputed matter, in accordance with the following process; This excludes material breaches and breaches contemplate in terms of clause 24

- 1.1 The Project Leaders appointed by the Principal and the Contractor shall meet to attempt to resolve the dispute.
- 1.2 If the dispute has not been resolved by such negotiation within 20 (twenty) days from the date of the first meeting, then the parties shall escalate the dispute to the Steering Committee.
- 1.3 If the Steering Committee has been unable to resolve the dispute within 20 (twenty) days of the referral to such committee, then the dispute will be finally escalated to the Arbitration Foundation of South Africa, for mediation, each party to pay its own costs, and the costs of the mediator shall be shared equally between the parties .
- 1.4 In attempting to resolve the dispute in accordance with the provisions of this Schedule, the parties shall use their best endeavour's to resolve such dispute without delay by negotiations or other informal procedure which the relevant representative may adopt. Those attempts shall be conducted in good faith in an effort to resolve the dispute without necessity for formal proceedings
- 1.5 Any dispute which has not been resolved by the representatives contemplated in Clause 1.2 to 1.3 within 60 (sixty) days of the dispute being referred to them (or longer period as agreed between parties) shall be treated as a dispute in respect of which informal resolution has failed.
- 1.5 If the informal dispute resolution of any dispute has failed, either party to this Agreement may refer the dispute to resolution by the courts.
- 1.6 Neither party is limited in any proceedings before the court to the information, evidence or arguments used in the informal attempts to resolve the dispute.
- 1.7 No reference of any dispute or any resolution process in terms of this Schedule shall relieve either party from any liability for the due and punctual performance of its obligation under this Agreement.



VPN

Architecture

Sites

All sites in the VPN will connect to their regional control room. The regional control rooms will in turn connect to the national control room which will be backed up by the disaster recovery centre (Figure 1 and Figure 2).

Tiered Control Room - Architecture

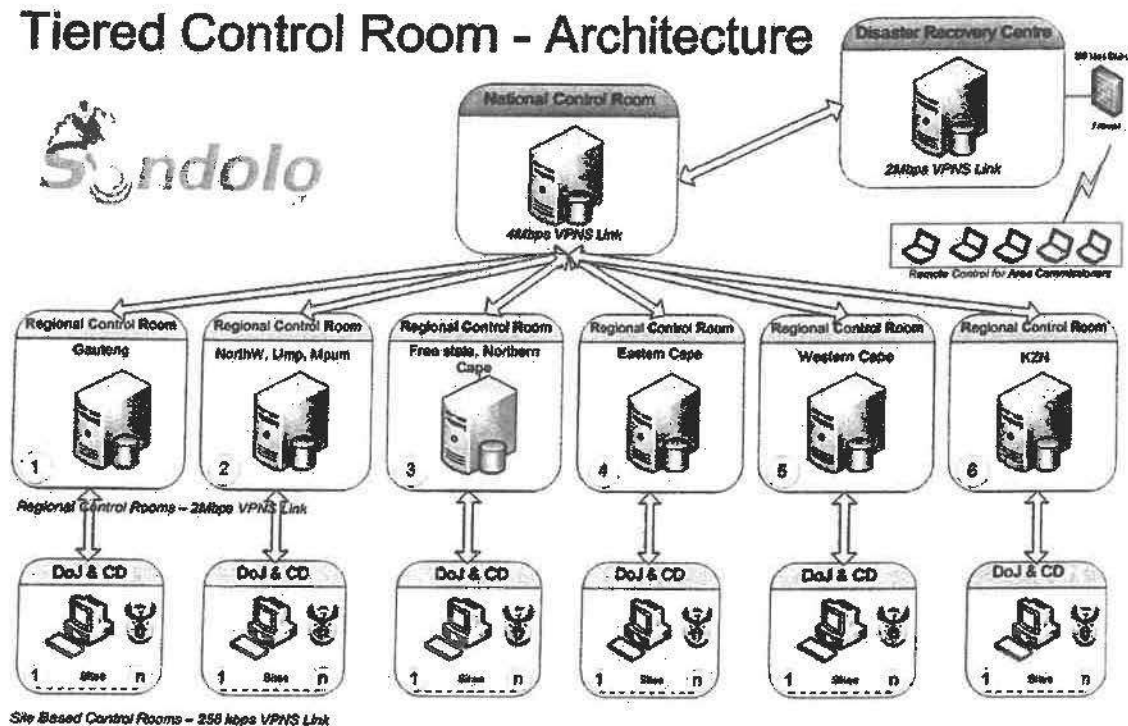


Figure 1: VPN Structure and Access Rules

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SondoloIT Vpns - Architecture

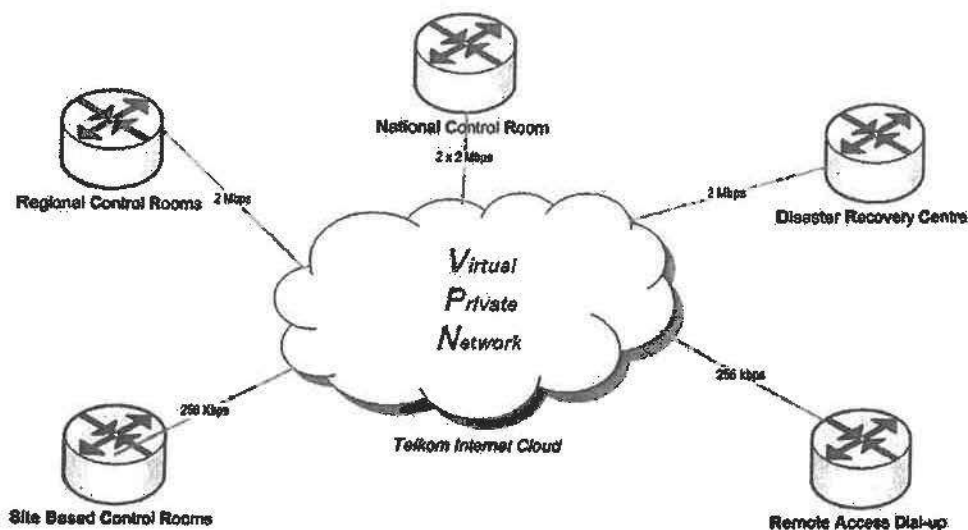


Figure 2: Sondolo IT VPN Cloud Architecture

IP Ranges

Each region will be on a separate VLAN to aid management of the various sites as well as security. Each region will only be able to access sites within its region. Sites won't be able to access any other sites and will only have access to their regional control room, the national control room and the disaster recovery centre.

All sites will be assigned a Class C IP Address from within the 192.168.0.0/16 range.

Data Replication

Data are replicated from the site based control rooms to the regional control room. The data are then replicated to the national control room which is then replicated to the disaster recovery site.

The types data that will be replicated is:

- Device configuration settings of Cameras, DVRs, Biometrics, etc
- Personal details – Name, Surname, ID No, Access Card No, Photo, Fingerprints, Passwords, etc
- Biometric clocking and movement data
- Software event logging and audit trails
- Video footage of incidents

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Security and Access Rules

The VPN needs to be secured and only authorised people should be granted access to the VPN. All servers required for the security system will be granted access to the VPN along with the following types of people:

- Nominated Department of Justice members
- Steercom Members
- Sondolo IT Support Staff
- Sondolo Operational Management Staff

The nominated employees from the Department of Justice should include the head of security for each of the facilities and the department's IT support management teams.

Web Access to Data and Information

Sondolo IT offers web access to reports and site information to clients without the need to connect to a VPN. This will ensure that it is as easy as possible for the client to get and use the data in order to turn the system into an effective solution.

Exposing security data from the VPN over a web interface requires careful consideration of the security implications. In order to minimise any vulnerabilities, the web server will not have access to the VPN but will be granted access to two servers within the VPN. Deep Packet Inspection will be used to ensure that only valid HTTP and FTP traffic is allowed to the Web Server.

Camera feeds will be streamed to an internal Media Server at the DRC. The Web Server will only be allowed to gain access to the Database Server and the Media Server at the DRC. This will minimise the risk of the web server being used to gain access to the sites in the event that it is compromised. The web server will also only be able to access the Media and Database servers on the require protocols and ports and all other attempts will be blocked (Figure 3).

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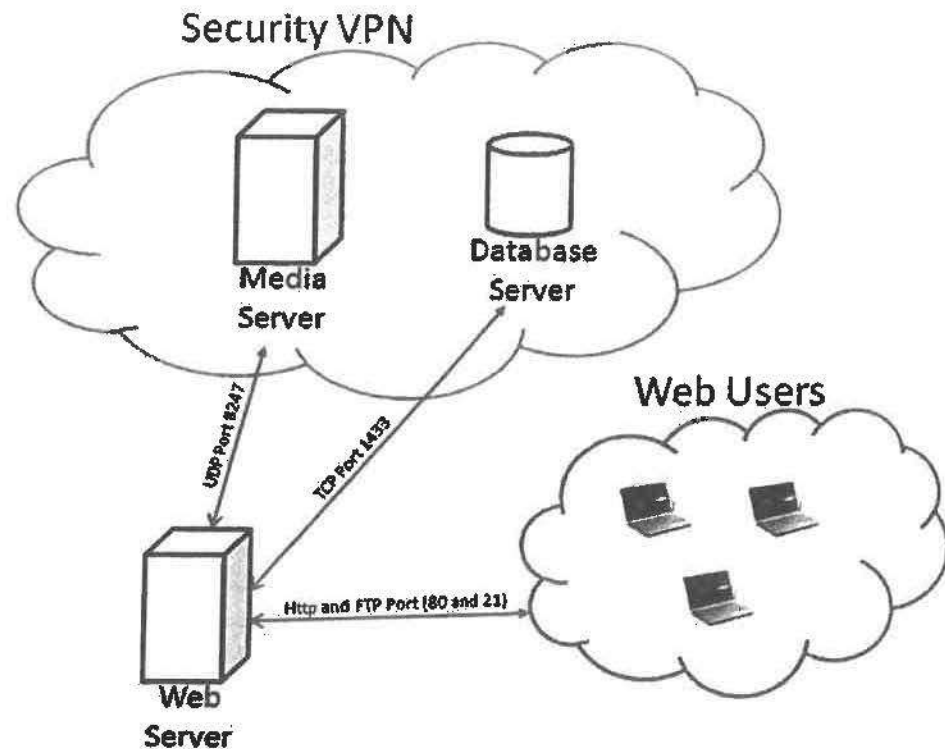


Figure 3: High-Level Overview of VPN Web Access

Policies

Server Documentation

This policy outlines the level of documentation required for each server (or PC) such as configuration information and services running. This policy is designed to provide for network stability by ensuring that quick failover in the event that a server needs to be rebuilt.

Documentation

For each server on the network there should be documentation detailing the:

- Server name
- Server location
- Function of the server (e.g. control room PC or enrolment station)
- Hardware components of system including make and model
- List of software running on the server, including OS, programs and services
- Configuration information including:
 - Comprehensive account settings for services and applications
 - Network protocols and ports that need to be allowed access to and from the server

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- Database file locations
- Owners and sensitivity of the data on the server
- Data on the server that should be backed up along with its location and backup frequency
- Administrators of the server
- Emergency recovery procedure

Change Notification

All changes to the server configuration (including software, protocol and security changes) must be reflected in an updated version of the server documentation.

User Privileges

This policy outlines the organisational groups and privileges of those groups on the servers. Specifically defining what groups of users have privileges to install computer programs on the servers.

Local Computer Groups

There are three (3) main categories of users on the security servers. These categories are:

1. Restricted users – these users can log on to the server and security applications but do not have sufficient rights to install programs or affect any system or application setting changes.
2. Standard users – these users have the same rights as the restricted users but can also effect application setting changes. Special training is required to allow users access to change application settings as incorrect application settings would result in the security applications not working correctly.
3. Administrators – these users have complete access to the system including effecting system settings. Only users with special training should be categorised as Administrators as many malicious programs and viruses can be installed in a subtle way by tricking the user during a seemingly normal installation procedure. If the user doesn't have the ability to install programs or affect system setting changes then these potential vulnerabilities can be prevented.

Control Room Operators would all form part of the Restricted Users group preventing them from causing accidental or malicious damage to the system.

Site Supervisors and Technicians would form part of the Standard Users group as they would have undergone special training on how to check the application configuration and interpret the settings as correct or incorrect.

Specialised IT Support personal only would be part of the Administrators group as they will be responsible for ensuring that the entire system and applications function correctly and would have the correct training required to identify where a system fault or application fault has occurred and to also perform the required maintenance to repair the fault.



Network Computer Groups

A VPN solution allows for network support and maintenance but also allows for sites to become vulnerable from network users.

The categories of users on the security VPN are as follows:

1. Backup Operators – allow users in this group the ability to check that scheduled backups have been performed correctly as well as to perform additional backups. The backup operators also have access to certain sections of the server's hard drive in order to copy backups over the network if needed.
2. Account Operators – these users have the ability to manage and view information about local user accounts on the servers.
3. Server Operators – have full access and privileges on certain levels of servers.
4. Domain Administrators – have full access and privileges on all workstations and servers on the VPN.

Administrative accounts should be given the minimum access to perform their function and should not be shared.

Account Management

All local and network computer groups will be managed from Active Directory providing LDAP directory services and using Kerberos Authentication. All accounts access will be controlled from the central Directory Services Server and will be implemented according to the Best Practices Guide: Active Directory Branch Office Guide Series (<http://technet.microsoft.com/en-us/library/cc749926.aspx>)

Passwords

Passwords are used to log on to the servers whilst biometric fingerprints are used to log in to the security applications. Passwords should be changed at least once a month and should be at least 8 characters in length and should include special characters as well as lowercase and uppercase characters.

Remote Access

The remote access policy defines standards for connecting to the security network and standards for computers that are allowed to connect.

Remote Access

Any remote access must be reviewed and approved by the appropriate supervisor. All employees by default will have their account settings to deny remote access until approval is given and the user's PC has been checked for the correct settings and antivirus definitions.

Remote Computer Requirements

Before a computer can be connected to the VPN it needs to satisfy the following conditions:

1. The anti-virus must be updated and approved by the IT Support team



2. The anti-virus must be operated in real-time on the computer
3. A full anti-virus scan must have been performed at least a week before each connection
4. The computer must be protected by a firewall at all times

Backup and Recovery

This policy defines the local backup and recovery procedures for all servers within the network. The files expected to be backed up are all database files, system files and incident video footage files.

Backup

A backup image is made of the entire system once it has been installed and configured correctly. This backup image can be used to get the system back up and running within a few minutes should the entire system need to be rebuilt. Each update to the system files will mean that a new backup image is created in order to ensure that the image is always up to date.

A full backup of all databases is made on Monday mornings from 00:10 AM. Differential backups and log file backups are made every evening just after midnight.

As soon as an incident is recorded in the Electronic Occurrence Book the video footage around the incident is extracted from the DVR and backed up to the hard drive of the server. The DVR only keeps footage for a period of between 14 days to a month and extracting the footage ensures that the footage is kept indefinitely.

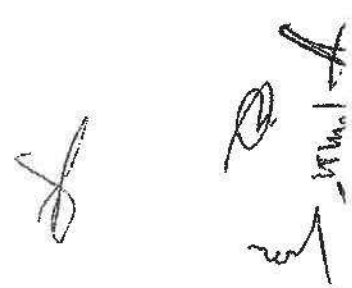
All back up files are synchronised over the VPN to the servers parent server (Site to RCC, RCC to NCC, NCC to DRC) in order to ensure that the backups are backed up.

Recovery

If the entire system needs to be rebuilt the system backup image is loaded and used to get the system back to an operational state. Since the data isn't backed up with the system image all previous data needs to be recovered after the system has been recovered.

To recover the databases the latest full backup must be restored and all differential backups and transaction log backups following the full backup must be applied in order. Once the last transactional log backup has been applied the databases are operational again.

All backed up video footage is automatically re-downloaded over the VPN for the duration that the video footage needs to remain on the site server.



Archiving

The amount of hard drive space on most of the servers (other than the DRC) is finite and archiving needs to be implemented in order to ensure that the servers don't run out of space for transactional needs.

Archiving

All data has a validity period on each server. Database transactions and visitors data are valid on the site and RCC servers for a period of 6 months after which they are truncated from the transactional tables. It is important to note that though they are truncated at the site an RCC level the transactions still reside at the NCC and DRC level. Data is never deleted at the DRC level and is merely moved to tape once the DRC server space becomes constrained.

Video footage is valid for a period of 3 months on site and at the RCC level, but again is kept at the DRC and NCC level.

Antivirus

Overview and Purpose

This policy is designed to protect the security network against intrusion by viruses and malware.

Antivirus

All servers on the network will use a single product for anti-virus protection. An anti-virus will be allocated based on a recommendation from the Contractor. A final decision on the product will be at the discretion of the Principal, provided the product is compatible with TrustMaster.

- The anti-virus will operate in real-time on each server and computer on the network.
- The anti-virus library definitions must be updated at least once a day. The NCC or DRC server can be used as an update server for the anti-virus definitions.
- Full anti-virus scans will be performed at least once a week on all user controlled workstations and servers.

Software and Licensing Needs

Control Rooms

The software running at each of the control rooms does not require any annual license fees. All software on the PC is either OEM, license free or the license is included with the hardware on site (Table 1).

Software Package	Licensing Model
Windows XP	Once-off purchase with the PC (OEM) No annual license fees Cost included in pricing

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Open Office	Open-Source software No license fees
Babylon Security Management	License fee included with the K-32 Controllers No annual license fee
Trustmaster Security	License included in pricing No annual license fee
SQL Server Express	Express edition requires no license fee (up to 4GB databases)

Table 1: Control Room Software and Licensing

Regional Control Centres

The software running at each of the regional control rooms does not require any annual license fees. All software on the PC is either OEM, license free or the license is included with the hardware on the sites within the region (Table 2).

Software Package	Licensing Model
Windows XP	Once-off purchase with the PC No annual license fees Cost included in pricing
Open Office	Open-Source software No license fees
Babylon Security Management	License fee included with the K-32 Controllers No annual license fee
Trustmaster Security	License included in pricing No annual license fee
SQL Server Express	Express edition requires no license fee (up to 4GB databases)

Table 2: Regional Control Room Software and Licensing

National Control Centre

The national control centre requires a license for both Windows Server 2008 as well as SQL Server Standard Edition. All other software is licensed in the same way as the regional and site control rooms. The license fee for Windows Server 2008 as well as SQL Server is carried by Sondolo IT for the duration of the maintenance contract (Table 3).

Software Package	Licensing Model
Windows Server 2008	Annual License fee per instance Included in pricing under the duration of the maintenance contract
Open Office	Open-Source software No license fees
Babylon Security Management	License fee included with the K-32 Controllers No annual license fee
Trustmaster Security	License included in pricing No annual license fee
SQL Server Standard Edition	Annual License fee based on a Processor License Included in pricing under the duration of the maintenance contract

Table 3: National Control Centre Software and Licensing

Disaster Recovery Centre

All software within the Disaster Recovery Centre is fully licensed and maintained by Sondolo IT and is not related to the duration of either the installation or the maintenance contract.

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ANNEXURE D**PROJECT DEFINITION REPORTS ("PDR")**

Methodology in respect of the Service to be provided by the Contractor at each Facility:

On signature of the Service Level Agreement, the Contractor will start the process by:

- Ordering the prescribed equipment for the "Test/Pilot" sites (8 – 12 weeks delivery in some cases)
- Contacting the Principal (and other) authorised representatives on each Facility to begin the inspections
- Go through the Facility with the authorised representative of each Facility, allocating areas where the prescribed equipment is to be installed
- On completion thereof, do a site diagram for sign off from all involved parties, as to the installation design (including Department of Public Works and building owners, where applicable)
- This document will form part of the Project Definition Report ("PDR"), which is the ruling document for the installation and commissioning of all equipment at all the Facilities.
- It must also be noted that this final document can only be based on the tender requirements and not any other conditions that might arise or have arisen subsequent to discussions held by the parties.
- Any variation thereto will be dealt with by the change order process stated in the signed Service Level Agreement.
- Once the PDR is finalised and agreed on by both parties, the Contractor will commence the process by performing the site establishment at the nominated Facilities.
- The working hours and access to the Facility will be prescribed in each PDR document.

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- The timelines for the installation and commissioning phases of the project will also be agreed and noted in the PDR document.
- The Contractor will endeavour to meet to set timelines for this process, with the minimum amount of disruption to the operational requirements of the Principal, and may only claim extra time for each installation and commissioning under the conditions stipulated in the Service Level Agreement.
- Once the prescribed equipment is installed and commissioned at each individual Facility, the duly authorised representatives of each party will then go through the hand over process, where all risk, liability and ownership of the equipment will then transfer to the Principal.

<u>Annexure Number</u>	<u>Court Name</u>	<u>Region</u>	<u>Site Code</u>
D-1	Bisho High Court	Eastern Cape	63-100
D-2	East London	Eastern Cape	63-101
D-3	Grahamstown Magistrate	Eastern Cape	63-102
D-4	Grahamstown High Court	Eastern Cape	63-103
D-5	Lady Grey	Eastern Cape	63-104
D-6	Mdantsane	Eastern Cape	63-105
D-7	Port Elizabeth	Eastern Cape	63-106
D-8	Port Elizabeth High Court	Eastern Cape	63-107
D-9	Queenstown	Eastern Cape	63-108
D-10	Sterkstroom	Eastern Cape	63-109
D-11	Uitenhage	Eastern Cape	63-110
D-12	Umtata	Eastern Cape	63-111
D-13	Umtata High Court	Eastern Cape	63-112
D-14	Venterstad	Eastern Cape	63-113
D-15	Bloemfontein Magistrate Court	Free State	63-114
D-16	Bloemfontein Supreme High Court	Free State	63-115
D-17	Botchabello	Free State	63-116
D-18	Brandfort	Free State	63-117
D-19	Bultfontein	Free State	63-118

D-20	Edenburg	Free State	63-119
D-21	Ficksburg	Free State	63-120
D-22	Harrismith	Free State	63-121
D-23	Odendaalsrus	Free State	63-122
D-24	Philipolis	Free State	63-123
D-25	Phuthaditjhaba	Free State	63-124
D-26	Thaba Nchu	Free State	63-125
D-27	Virginia	Free State	63-126
D-28	Welkom	Free State	63-127
D-29	Calvinia	Northern Cape	63-128
D-30	De Aar	Northern Cape	63-129
D-31	Douglas	Northern Cape	63-130
D-32	Griquastad	Northern Cape	63-131
D-33	Groblershoop	Northern Cape	63-132
D-34	Hartswater	Northern Cape	63-133
D-35	Kakamas	Northern Cape	63-134
D-36	Kimberley	Northern Cape	63-135
D-37	Kimberley High Court & Masters	Northern Cape	63-136
D-38	Kuruman	Northern Cape	63-137
D-39	Pofadder	Northern Cape	63-138
D-40	Springbok	Northern Cape	63-139
D-41	Upington	Northern Cape	63-140
D-42	Victoria-West	Northern Cape	63-141
D-43	Athlone	Western Cape	63-142
D-44	Atlantis	Western Cape	63-143
D-45	Bellville	Western Cape	63-144
D-46	Bishop Lavis	Western Cape	63-145
D-47	Bluedown	Western Cape	63-146
D-48	Cape Town Magistrates	Western Cape	63-147
D-49	Cape Town High Court	Western Cape	63-148
D-50	Kuilsrivier	Western Cape	63-149
D-51	Phillipi	Western Cape	63-150
D-52	Robertson	Western Cape	63-151
D-53	Somerset-West	Western	63-152

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		Cape	
		Western	
D-54	Swellendam	Cape	63-153
		Western	
D-55	Worcester	Cape	63-154
		Western	
D-56	Wynberg	Cape	63-155
D-57	Bronkhorstspuit	Gauteng	63-156
D-58	Cullinan	Gauteng	63-157
	Johannesburg Magistrates & Family		
D-59	Court	Gauteng	63-158
D-60	Johannesburg High Court	Gauteng	63-159
D-61	Kempton Park	Gauteng	63-160
D-62	Kliptown	Gauteng	63-161
D-63	Meyerton	Gauteng	63-162
D-64	Pretoria High Court	Gauteng	63-163
D-65	Pretoria Magistrates	Gauteng	63-164
D-66	Pretoria North	Gauteng	63-165
D-67	Randburg	Gauteng	63-166
D-68	Roodepoot	Gauteng	63-167
D-69	Soshanguve	Gauteng	63-168
D-70	Soweto (Protea)	Gauteng	63-169
D-71	Springs	Gauteng	63-170
		Kwazulu	
D-72	Durban High Court	Natal	63-171
		Kwazulu	
D-73	Harding	Natal	63-172
		Kwazulu	
D-74	Izingolweni	Natal	63-173
		Kwazulu	
D-75	Kokstad	Natal	63-174
		Kwazulu	
D-76	Ladysmith	Natal	63-175
		Kwazulu	
D-77	Mtunzini	Natal	63-176
		Kwazulu	
D-78	Pietermaritzburg	Natal	63-177
		Kwazulu	
D-79	Pietermaritzburg High Court	Natal	63-178
		Kwazulu	
D-80	Pietermaritzburg Masters	Natal	63-179
		Kwazulu	
D-81	Pinetown	Natal	63-180
		Kwazulu	
D-82	Port Shepstone	Natal	63-181
		Kwazulu	
D-83	Umbumbulu	Natal	63-182
		Kwazulu	
D-84	Umlazi	Natal	63-183
		Kwazulu	
D-85	Verulam	Natal	63-184
D-86	Hlanganani (Vongani)	Limpopo	63-185
D-87	Lephalale	Limpopo	63-186
D-88	Mankweng	Limpopo	63-187
D-89	Modimoile	Limpopo	63-188
D-90	Mokerong	Limpopo	63-189
D-91	Phalaborwa	Limpopo	63-190

D-92	Polokwane	Limpopo	63-191
D-93	Ritavi	Limpopo	63-192
D-94	Sekgosesa	Limpopo	63-193
D-95	Sekhukhune	Limpopo	63-194
D-96	Thabamopo	Limpopo	63-195
D-97	Thohoyandou	Limpopo	63-196
D-98	Thohoyandou High Court	Limpopo	63-197
D-99	Tzaneen	Limpopo	63-198
D-100	Barberton	Mpumalanga	63-199
D-101	Delmas	Mpumalanga	63-200
D-102	Ermelo	Mpumalanga	63-201
D-103	Evander	Mpumalanga	63-202
D-104	Kriel	Mpumalanga	63-203
D-105	Mbibana	Mpumalanga	63-204
D-106	Mdutfane	Mpumalanga	63-205
D-107	Middelburg	Mpumalanga	63-206
D-108	Mkobola	Mpumalanga	63-207
D-109	Moutse	Mpumalanga	63-208
D-110	Nelspruit	Mpumalanga	63-209
D-111	Nsikazi	Mpumalanga	63-210
D-112	White River	Mpumalanga	63-211
D-113	Witbank	Mpumalanga	63-212
D-114	Brits	North West	63-213
D-115	Ga Rankuwa (Odi)	North West	63-214
D-116	Koster	North West	63-215
D-117	Klerksdorp	North West	63-216
D-118	Lichtenburg	North West	63-217
D-119	Mmabatho	North West	63-218
D-120	Mogwase	North West	63-219
D-121	Molopo	North West	63-220
D-122	Potchefstroom	North West	63-221
D-123	Rustenburg (Bafokeng)	North West	63-222
D-124	Swartruggens	North West	63-223
D-125	Temba (Moretele)	North West	63-224
D-126	Vryburg	North West	63-225
D-127	Zeerust	North West	63-226

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Today, CEO & DG indicated that all infrastructure related programmes we use this

DUM OF COOPERATION

between

PUBLIC OF SOUTH AFRICA ACTING THROUGH
ENT OF JUSTICE AND CONSTITUTIONAL
DEVELOPMENT

herein represented by ADV. [REDACTED] Sam in his capacity as

the Director General: Department of Justice and Constitutional Development, he duly authorised thereto

[herein referred to as "THE DEPARTMENT"]

and

THE INDEPENDENT DEVELOPMENT TRUST

Herein represented by DR [REDACTED] in his capacity as the Executive:
Regional Operations, and [REDACTED] in his capacity as Executive Head:
Development Programme Services, they duly authorised thereto

[herein after referred to "the IDT"]

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MEMORANDUM OF COOPERATION

between

**THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA ACTING THROUGH
ITS NATIONAL DEPARTMENT OF JUSTICE AND CONSTITUTIONAL
DEVELOPMENT**

herein represented by ADV. [REDACTED] Sam in his capacity as
the Director General: Department of Justice and Constitutional Development, he duly
authorised thereto

[herein referred to as "THE DEPARTMENT"]

and

THE INDEPENDENT DEVELOPMENT TRUST

Herein represented by DR [REDACTED] in his capacity as the Executive:
Regional Operations, and [REDACTED] in his capacity as Executive Head:
Development Programme Services, they duly authorised thereto

[herein after referred to "the IDT"]

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1. PREAMBLE

WHEREAS the aim of the Department of Justice and Constitutional Development is to uphold and protect the Constitution and the rule of law;

WHEREAS The Department of Justice and Constitutional Development as the custodian of the dispensation for justice, has as its mission to provide accessible, fair, speedy, cost – effective and quality justice for all; and

WHEREAS the Department of Justice and Constitutional Development as one of its innovative ways to ensure that all South Africans have access to quality justice has appointed the IDT as one of its strategic partners to assist it to deliver on its mandate.

WHEREAS the principal purpose of the Independent Development Trust, a Schedule 2 Major Public Entity in terms of the Public Finance Management Act (Act 1 of 99), is to support and add value to the national development agenda. The IDT does so by deploying its resources in the delivery of innovative and sustainable development programmes, which make a measurable difference in the levels of poverty and underdevelopment;

WHEREAS the IDT offers as its five core business areas:

- ❖ Development programme management;
- ❖ Harnessing of resources;
- ❖ Institutional delivery capacity building;
- ❖ Knowledge Management; and
- ❖ Monitoring and evaluation

as an integrated suite of products and services, in the search for innovative development solutions. In particular the IDT is committed to designing strategies to effectively engage with the second economy. In so doing, the overarching strategic goal of the Independent Development Trust is to deliver measurable sustainable development outcomes;

NOW THEREFORE the Parties confirm their distinct complementary and respective roles and hereby establish a strategic partnership.

2. INTERPRETATIONS AND DEFINITIONS

In this Memorandum, unless the context indicates otherwise:-

Clause headings are for convenience only and shall not be used in its interpretation, and the following expressions shall bear the meanings assigned to them and cognate expressions shall bear corresponding meanings:-

"Parties"	the Department of Justice and Constitutional Development and the IDT
"Memorandum"	this Memorandum including any Annexures that may be attached hereto

3. THE PARTIES TO THIS MEMORANDUM OF CO-OPERATION

The Parties to this Co-operation Agreement are:

3.1 The DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

And

3.2 The TRUSTEES OF THE INDEPENDENT DEVELOPMENT TRUST, a trust established by Deed of Trust executed in Pretoria on 12th July 1990 and amended on 24 November 1997 (Master's Registration No 669/91)

4. CO-OPERATION

4.1 This MOU will serve as a non-exclusive document between the Parties and aims to lay a sound basis for future co-operation between them.

4.2 The Parties recognize that the role of the IDT may differ in various programmes/projects it will participate with the Department.

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- 4.3 The scope and terms of co-operation in respect of each programme / project that may be agreed upon by the Parties shall be determined by them in separate agreements.
- 4.4 All the agreements and or Addendums subsequent to this Memorandum will be signed by the Department's Chief Director and the IDT representatives.
- 4.5 The Parties agree that they will prioritize the following projects and will implement the same during this current financial year:
- Construction of magistrate court buildings and related facilities in Ntuzuma, Port Shepstone, Tsineng and other areas as identified by the Department
 - Accessibility for persons with disabilities project;
 - Limpopo High Court; and
 - Mpumalanga High Court
- 4.6 The Parties undertake to act prudently and professionally in the performance of all agreements concluded pursuant to this Memorandum of Co-operation.
- 4.7 The Parties acknowledge that in implementing some of the programme/ projects, they have to work hand in hand with other relevant stakeholders more specifically the Department of Public Works as the custodian of State's fixed assets.

5. OBJECTIVES OF THE MEMORANDUM

The objectives and principles which underpin the parties' activities and operations in terms of this Memorandum will be to translate the provisions of the constitution into a living reality by:

- 5.1 improving access to justice for all;
- 5.2 providing and managing court facilities;
- 5.3 transforming justice in line with the democratic values of the constitution; and

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- 5.4 enhancing the Department's efficiency and capacity to make the service delivery simpler, faster and cost effective.

6. AREAS OF COLLABORATION

The areas of collaboration will include but not limited to:-

- Provision of court buildings and other related structures;
- Provision of accessible facilities for persons with disabilities;
- Provision of specialist human resources; and
- Other projects/ Programmes as the Parties may agree from time to time.

7. THE FUNDING

Unless agreed otherwise in writing, the parties agree that all the Projects/ Programmes covered by this Co-operation Agreement will primarily be funded by the Department.

8. MANAGEMENT STRUCTURES

The parties shall establish a Strategic Partnership Steering Committee with the functions as set out hereunder.

- 8.1 The Strategic Partnership Steering Committee will consist of at least two representatives from the parties and other relevant stakeholders.

- 8.2 The functions of the Strategic Partnership Steering Committee shall be:

- to guide the overall objectives set out in this Memorandum;
- to review and set the strategic directions for the Parties;
- to identify opportunities for joint collaboration;
- to facilitate information exchange;

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- to monitor the progress of the overall objectives set out in this Memorandum;
- to attend to any other functions which may be assigned to it by the Parties.

8.3 The Strategic Partnership Steering Committee shall meet at such intervals and at such places as it may determine from time to time but not less than twice in a year.

9. DURATION OF THE MEMORANDUM

9.1 This Memorandum will commence on the date of signature by both Parties and shall remain in existence for as long as the complementary mandates of the Parties remain unchanged. The efficiency of this Memorandum will be reviewed by the Parties annually.

9.2 The Memorandum may be cancelled at any time by either Party by giving (60) days prior written notice to the other.

10. COMMUNICATIONS

The Parties agree that:-

10.1 it is necessary to keep the channels of communication open between them at all times and on all aspects of their work.

10.2 the contact persons for communication between the Parties shall be:

- IDT: - [REDACTED] - Senior Manager: Programme Management Office
- Department : [REDACTED] [REDACTED]: Chief Director: Facilities and Infrastructure Management

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10. CONFIDENTIALITY

The information regarded as highly confidential will be disclosed to the third parties with the written express consent of the other party except where obliged to do so in terms of the legislation.

11. DOMICILIUM CITANDI ET EXECUTANDI

- 11.1 The Department chooses as its domicilium citandi et executandi for all purposes arising from this Memorandum:

Momentum Building
329 Pretorius Street
Pretoria

- 11.2 The IDT chooses as its domicilium citandi et executandi for all purposes arising from this Memorandum:

[REDACTED]
[REDACTED]
[REDACTED]
Pretoria

- 11.3 Either party may change its Domicilium citandi et executandi by means by means of a written notice to the other party, provided that such domicilium shall be a physical address within the Republic of South Africa.

- 11.4 All notices contemplated under this Memorandum shall be delivered by hand or sent by pre-paid registered post, in such event such notice shall be deemed to have been received the address 14 (fourteen) business days after the proven date of posting.

12. DISPUTE RESOLUTION

The Parties shall try to settle amicably through direct negotiations any dispute, controversy or claim arising out or relating to this Memorandum. If

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these negotiations are unsuccessful, the matter shall be referred to arbitration in accordance with the laws of the Republic of South Africa. The Parties shall be bound by such arbitration award rendered in accordance with such arbitration, as final decision on any dispute, controversy or claim.

13. AMENDMENTS

No amendments or consensual termination of this Memorandum will be in force unless reduced to writing and signed by both parties.

THUS SIGNED BY THE DEPARTMENT AT Pretoria THIS 9th DAY OF September 2007

WITNESSES:

1. [Signature]

2. [Signature]

FOR AND ON BEHALF OF THE
DEPARTMENT: THE DIRECTOR
GENERAL: DEPARTMENT OF JUSTICE
AND CONSTITUTIONAL DEVELOPMENT

THUS SIGNED BY THE IDT AT _____ THIS _____ DAY OF _____
2007

WITNESSES:

1. _____

FOR AND ON BEHALF OF THE IDT:
EXECUTIVE: REGIONAL OPERATIONS

2. _____

FOR AND BEHALF OF THE IDT: THE
EXECUTIVE HEAD: DPS

Annexure "D"



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

BRANCH: OFFICE OF THE CHIEF OPERATIONS OFFICER: CHIEF DIRECTORATE: RISK MANAGEMENT

Tel: 012 315 1032 / 012 406 4829 Fax: 086 777 8177 / 012 3151142
Ref/Nr: 1/3/2; 1/3/2/1

INTERNAL MEMORANDUM

DATE:	08 February 2015	FILE NR:	1/3/2 (NMN); 1/3/3/1
TO:	Ms N Sally Director General	FROM:	Ms Nelly CD: Risk Management
Via:	Ms L Lally Chief Financial Officer Dr. K De Wee Chief Operations Officer		Ms [REDACTED] Director: Security Mgt
Via:	[REDACTED] Act CD Facilities Management [REDACTED] CD: Budgets and decision support [REDACTED] Director Budgets		
SUBJECT:	REQUEST FOR FUNDING FOR SERVICE, MAINTENANCE AND SUPPORT FOR NATIONAL SECURITY INFRASTRUCTURE (NSI) IN 95 OFFICES ,THE NATIONAL CONTROL ROOM AND SUMMARY OF BUSINESS CASE		

1. PURPOSE

To request the Director General via the Chief Financial Officer to approve funding for the corrective and preventative maintenance and support of the security infrastructure installed in 95 offices countrywide and national control room in-order to ensure that there is return in the Departmental investment and support government priorities per National Development Plan regarding infrastructure outcomes.

2. BACKGROUND INFORMATION

2.1 Why the investment decision was necessary?

2.1.1 There were number of complaints from the Judiciary, Prosecutors, members of the public and officials based on the number of incidents that were occurring in many of DoJ & CD service points. Some of the incidents include Magistrates, Judges, Prosecutors, Lawyers and interpreters being attacked inside the court premises. These incidents were so bad to such an extent that a Prosecutor was stabbed to death in Pretoria Magistrate during the day and in Cape Town the Magistrate was stabbed on the face while presiding over a case. Violent

crimes that occurred at service points also involved the attacks of witnesses, staff members, members of the Judiciary and Family Advocates inside the Justice premises.

- 2.1.2 In addition to human related attacks there were lot of burglaries that were occurring as a result a lot of Departmental equipment, furniture, Third Party Funds and court records went missing. The courts also became more of a drug trafficking zones.
- 2.1.3 These incidents did not only affect the DoJ & CD goals in terms of access to justice for all, they also affected the services of other stakeholders like Correctional Services; Social Development and South African Police Services.
- 2.1.4 The continued loss of deceased estate files, court records, face value forms for the Vote and TPF accounts, cash, official stamps for Judges and Magistrates, state attorney records etc indicate that the traditional provision of guarding services alone is not enough and not sustainable to mitigate risks faced by the Department.
- 2.1.5 One could associate these challenges and incidents to number of influences like socio-economic factors, increase in crime trends; inherent risks; general nature of DoJ&CD environment and services being rendered; human error; and other risk exposures.

2.2 Proposed Solution(s)

- 2.2.1 Having experienced the above mentioned challenges, the Department embarked on the provision of more Guarding and Cash- in- transit services to reduce the risks and to ensure that the judicial officers, Prosecutors and Lawyers perform their work without fear even after hours.
- 2.2.2 Regardless of the Department having intensified its security in terms of Guarding Services and Cash-In-Transit the Department has experienced another trend of serious incidents e.g. armed robberies, arsons, thefts, assault, killings of Security Officers while on duty etc.
- 2.2.3 The Department took a strategic decision to strengthen security infrastructure at court buildings due to the serious nature of security incidents as they continued to affect the reputation of the Department; Ministerial Outcomes and people's lives.
- 2.2.4 In addition, the trends in the security industry indicated that automation of security was having more benefits than merely having human Security Officers. Such benefits, given the amount that was being transacted in our courts and the slow progress on the PPP solution for Monies held in Trust / Third Party Funds, the Department felt that automation of security systems was the way to go.

3. DISCUSSION AND MOTIVATION

3.1 Initiation phases and challenges thereof:

- 3.1.1 A Request for Proposal, RFP 2007 03B was issued on 6 July 2007 with a closing date of 20 July 2007 to supply the Department with an integrated security solution for all the buildings/ premises and to conduct a security risk assessment thereof. A consultant was then to conduct inspections and security assessments. In summary they were to provide a designed plan for the integrated security solution to all building(s)/ premises throughout the country to including fire detection system.
- 3.1.2 This then led to the Integrated National Security Infrastructure Project where Sondolo IT was appointed in terms of the bid RFB 2008 15. The total bid amount was R601m for 127 offices. The project was calling for provision and the establishment of state of the art, comprehensive and integrated security system with high levels of back-up to ensure high levels of reliability, providing extensive reporting and recording of information for analysis while at the same time being flexible and up-gradable to adapt to changing requirements. The R5.9million is still remaining in terms of the equipment and site installations as confirmed by Chief Director Supply Chain Management. Furthermore, 32 offices are still not covered due to budgetary constraints.
- 3.1.3 Since the Department was relying heavily on Guarding and Cash in transit services at the time the technological security measures were designed to assist in reduction of security guarding services in the long term upon full implementation. This means the project was also calling for the acquisition, delivery, installation, commissioning of equipment and for provision of software and hardware training as well as maintenance and support of both hardware and software.
- 3.1.4 The details of the requirements and the sub-systems that are part and parcel of the solution are in the SLA and also captured in the operational document are included for more information.

3.2 Programme and project execution phases - Challenges and other risk contributing factors highlights

Even before the commencement of the project and during the project initiation, implementation and commissioning phases there were a number of challenges experienced by the Department and the appointed service provider like:-

- 3.2.1 The signing of the SLA took more than 18 months due to internal frustrations as well as limited cooperation from the DPW and SAPS as major stakeholders. After 18 months the

Director General appointed IDT to assist under the same umbrella contract covering other infrastructure projects.

- 3.2.2 There were numerous meetings that were held among all the stakeholders at DPW, SAPS, IDT and Departmental offices (internal stakeholders). The intervention of the Director General and Chief Operations Officer was requested and they also had meetings with them including correspondence via emails and formal letters. All the meetings were to push for the signing of the SLA and the project implementation thereof.
- 3.2.3 All stakeholders (ISM, Facilities, Security, NPA, SAPS, Regions, National DPW and Regional DPW, IDT legal team, Service Provider and DoJ & CD legal counsel and State Attorneys) were represented in all meetings for the SLA finalisation.
- 3.2.4 After signing the SLA during the approach planning meetings it was decided to conduct a rapid risk assessment because of the time that has elapsed between the RFP, the tender and the signing of the SLA.
- 3.2.5 During the on-going rapid risk assessments that were conducted, the re-assessments for each site Project Definition Report and the meetings held in with the Regional Heads, Judiciary, Prosecutors, SAPS, Provincial DPW, IDT and relevant staff members in 2010/ 2011 it was discovered that:-
- a) Some of the material that was originally specified would no longer suit the building design either due to new infrastructural changes or tenants installations or DPW projects or aging infrastructure;
 - b) Judges chambers, Magistrate's secure passages and chambers, doors leading to the benches, server rooms, access to the cash halls – counters in-depth trays, bullet proofed glasses, protection of record rooms/libraries, prisoners friend areas, cell areas – interlock offloading areas, consultation rooms, national and provincial control rooms were not adequately covered for effective and efficient security;
 - c) In some offices and surroundings new risks have emerged either due to establishment of new mines and or population growth in the areas or new crime trends or new municipal boundaries that led to community protest;
 - d) There were number of offices where the building plans could not be supplied by the DPW or could not be found as some of them were last seen during the old TBVC states;
 - e) There were offices where DPW had changed focus in terms of Ramp project or building refurbishment project which would affect security installations;

- f) There were offices that were built on rocky areas which were not initially indicated as such which would affect the designs and fence tremendously in terms of costs and material thereof;
- g) The fire intrusion and detection system was also not covered adequately to meet the building standards of safety;
- h) The Department assumed that there would be enough space and security for the safety of the equipment to be installed;
- i) Some buildings were declared as heritage buildings and these would require other processes and special applications and material from various Heritage Councils throughout the country. It was noted during the implementation phase that the Heritage Councils do not have a standard operating model which was another twist for the Department and implementing agent (IDT and Sondolo IT);
- j) There were offices that took more than 9.5 months to get heritage approvals and had specialised equipment which could not be duplicated or transferred to other courts as they are uniquely designed;
- k) The FIFA 2010 offices were to be prioritised in terms of basic safety and security infrastructure needs and Presidential / Ministerial agreements with international community;
- l) The Departmental air conditioners were not serviced by the DPW on time and this affected the servers and control room equipment;
- m) Some of the working air conditioners did not match the specification of the server rooms or and control rooms;
- n) Some of the Departmental doors where security magnetic locks were to be installed were not high security doors to carry magnetic equipment; etc

3.3 Summary of action steps taken to address the above:

- 3.3.1 The hurdles mentioned above could not be predetermined as this was one of the massive projects of the Department, limited resources and was never done before. These challenges had a negative effect on other reports like Departmental Cash flows reports, ENE reports to Treasury, reports to Parliament and Departmental strategic and performance reports. These challenges and delays were becoming a reputation risk as the Department had to answer a lot of media enquiries and parliamentary questions especially in 2010 till 2012.
- 3.3.2 As part of the governance processes the Acting CFO, DDG Corporate Services, COO and the Director General suggested that there need to be a separate National Steering Committee and the Regional Operations Committees with powers necessary to implement the project so as to avoid further delays in the procurement of equipment, infrastructure

installations and commissioning thereof. This was also aimed at controlling logistical nightmares of internal memos and meetings for each little obstacle experienced per site. The National Steering Committee consisted of teams from Finance, Security, Facilities Management, IDT, Service Provider and Members of the Regional Operations Committee. All Regional inputs from the Operations Committees and from the Judiciary and Regional DPW teams were tabled in each meeting. In summary the Committees were to ensure smooth project implementation whilst following IDT processes as part of Treasury Regulations and Project Management principles.

- 3.3.3 Based on the above obstacles and time delays it was noted that the project plan needed to be revised mainly because of the changes in prices of both security and building equipment. That time the FIFA 2010 world cup preparations in the country influenced the market prices drastically.
- 3.3.4 If the project was going to be implemented as initially designed that would have meant only 42 sites were to be covered vs the 127 sites due to passing of time, escalation of equipment costs and changes in technology. The DG and the Minister were seriously under pressure since media and other political parties were enquiring all the time. The National Steering Committee with IDT Programme Managers, DPW via the DG, the Acting CFO, DBAC and COO had to make few calls in order to cover as many offices as possible instead of 42 while considering all the risk factors, like:
- a) In-depth surveys had to be conducted per office; the development Project Definition Report per office had to be done the internal control mechanisms as well as the change control sheets became necessary. These had to be signed off at Regional and National levels before the procurement of equipment;
 - b) Records rooms and Judiciary / Prosecution secured passages had to be considered based on the risks per site and the inputs from the Judiciary and Prosecution. The emergency panic and release buttons had to be considered as well. If these areas were left out there were gaps in security;
 - c) The Cash halls were to be considered because the PPP project in respect of management of Third Party Funds was no longer implementable (this was before the new current ISM/ CFO solutions came into the table;
 - d) The security entrance and exit points had to be designed such that the premises cater for people leaving with disabilities. Therefore each access and egress point had to be uniquely designed for paraplegic points. In most of the 95 sites this element was not considered initially as a result it was a challenge for the Department;
 - e) Where there were no building plans at all special services for the architects and quantity surveyors had to be procured to ensure that the security layout plan are in line

with building plans. The various teams of the Sondolo IT with IDT and DoJ & CD had to go to old TBVC state offices to establish whether the plans are available, others that were found were not readable hence the redesign;

- f) The overseas operating systems had to be replaced with a locally manufactured system which will be able to perform optimally to save costs and to reduce reliance from overseas companies and to promote local investment and economy. This was going to be a problem in terms of service, maintenance and support if the Department had to rely on overseas technicians;
- g) The utilisation of a local system (SoftCon which is compatible with TrustMaster software) made an allowance of utilising locally manufactured security access cards, biometrics, cameras, etc;
- h) The usage of Fibre Optic for connectivity was not going to be economically viable for the Department based on costs hence it was reconsidered;
- i) Workshops were held with Regional Heads; Area Court Managers and members of the Judiciary; Facilities management and DPW in various regions in order to reprioritise the courts / offices;
- j) The air conditioners had to be procured and or serviced by the Department to ensure that the control rooms are fully functional and that the servers and other equipment are not damaged due to overheating since DPW was not servicing the existing ones (e.g. by November/ December 2012 there were 56/75 air conditioners that were not functional hence a drastic decision had to be made in EXCO to save the new equipment); etc.

3.3.5 There were three different types of fences used depending on the Municipal by-laws, environmental risks per site and the condition of the existing fence had to be considered and reported on;

3.3.6 The Regional Control Rooms to be considered later depending on the availability of funds or be considered in other modernised forms. The central control room space had to be created by Facilities team at SALU as part of Tenants Installations since there was no space at Predmed or Momentum and equipment is old;

3.3.7 The type of security doors were also classified based on the site risks, number of personnel in that court and the community that is being serviced;

3.3.8 The equipment that was not yet installed per site had to be stored in special containers based on the limited space in courts and based on the potential damages on the floors and tiles;

- 3.3.9 An Integrated Fire detection, control and emergency communication were not to be implemented fully as all buildings are having the Building Management Systems as part of the regulations. This element was left out on the specifications and its inclusions would have meant a major change of spec because fire hydrants, gas suppression system, lifts etc. has to be interconnected via security systems and was to cost R94m more for the identified 42 offices at that time; etc.

3.4 Lessons learnt

In addition to the above, the following are some of the lessons learnt:

- 3.4.1 In any project the in-depth surveys should be conducted with end-users before the project implementation or before the specifications are drawn;
- 3.4.2 On-going management of risks in any project is very important;
- 3.4.3 Having a dedicated team for the project also helps in terms of managing it;
- 3.4.4 Workshops with all stakeholders for on-going buy-in;
- 3.4.5 Funding for all projects should be determined beforehand;
- 3.4.6 Studying of social trends is very important as service delivery protests became a concern during this project execution;
- 3.4.7 SAPS became one of the major stakeholders as they are the custodian of the Minimum Physical Security Standards per cabinet approval and they are responsible for the holding cells in all DoJ & CD courts. So the security installations in other areas were to affect the unsecured drop off areas and their standard operating procedures. They had to be consulted for security rapid risk assessments in affected offices and for cohesion.

3.5 Matters that were outstanding and now finalised or near completion

The matters and the work indicated below are still within the contract terms and have been discussed with Supply Chain Management and the Steering Committee. The Service Provider with IDT where applicable have to work with the Department:

- 3.5.1 The details pertaining to the maintenance and support of the entire systems have now been finalised. This element is part of the initial contract but at the time of the SLA signing the operational details and inspection forms could not be captured as it was very difficult to pre-determine all the elements in terms of both corrective and preventative maintenance.
- 3.5.2 As advised by the State attorneys and the Legal Counsel it was not going to be a fair and transparent process if the above details were captured in 2009 or 2010 because at the time the teams were not sure of who was going to be involved at what level and which operations will be affected with what technology.

- 3.5.3 On the same note the standard operating procedures pertaining to the corrective and preventative maintenance have been finalised. Workshops have been held already in this regard.
- 3.5.4 Training of Provincial and National Office Security Managers is still pending and inclusion of control room operators to be part of support and maintenance for the next 3 years (36 months). This will reduce pressure in terms of outsourced guarding services as the system is not optimally utilised and the Department has no full control over current security guards as they are employed by different service providers and they change them continuously. This is very risky for the Department and also poses information security risk. This will be part of the essential services as part of the agreement and there should be skills transfer once the Department has its own control room structures in the long-run. The same model of Departmental IT call centres can be applied and the Department will manage the service provider closely in terms of call logs and system downtimes. There were meetings already held with ISM in this regard in November and December 2013 and in 2014 for more advice in the draft documents and monitoring tools. This is even more vital now since the Department has reduced the security Grades to D and the current outsourced security officers are not properly skilled to handle control room equipment and cannot produce the required management reports etc.
- 3.5.5 The finalisation of Harding magistrate Courts is still pending in terms of the Infrastructural work that is to be managed by the IDT and the completion period should be end Feb/ March 2015. For the work involves the construction of guard hut so that the x-ray equipment; walk through metal detectors and the cameras are not outside. In the Ficksburg Magistrate court the work is in respect of finalising the main entrance in terms of special Heritage requirements by the IDT and then Sondolo IT to install the special turnstiles and fillers as approved by the Heritage Council. However, IDT indicated that Ficksburg work has been completed during the last quarter 3 and will be handed over after finalising the snags in quarter 4. The work of these offices is still within the contract terms as well.
- 3.5.6 The list of problems currently encountered because of not implementing will either result to irregular expenditure or courts fiddling with the current equipment due to frustrations. Some courts they want to call their own unconstructed people to fix certain areas. The National office has received a significant number of requests from the Regional Heads, Office Heads, Judiciary etc regarding these areas of maintenance and support. This is also putting the Accounting Officer and Ministry under pressure.
- 3.5.7 32 offices are still not covered as contracted and intended due to budgetary constraints faced by the Department.

4. MONITORING OF CONTRACT PERFORMANCE AND BENEFITS

- 4.1. Based on the advice of other engineers from the DPW, IDT and inputs from the Police and ISM the Department shall monitor performance of the service provider in various areas so as to support the strategic objectives of the Department and NDP infrastructure goals. These areas include the following significant benefits:
- 4.1.1. The applications software, operating systems, servers, computers, CCTV's, air conditioners, fences, x-ray machines, motor gates, holding cell garages, etc will not shut down before reaching their full economic life span.
 - 4.1.2. Data protection, availability of backup information, on-going assessment of disk storage capacity and supporting the security servers / supporting the storage infrastructure. Also the stored data shall be protected and not be corrupted; the department transfers this risk to the service provider.
 - 4.1.3. Offsite monitoring of other risk sites to reduce costs of outsourced guarding services.
 - 4.1.4. Incident management including on-going reports and monthly, quarterly and annual reporting.
 - 4.1.5. Evidence gathering for investigations and testifying in court where necessary and protection of information in line with MISS.
 - 4.1.6. Ensuring that the systems, software and hardware in all affected offices including the central control are always relevant with the current market trends. Confidentiality and data integrity shall be prioritised and authorisation thereof. The access controls into the security control rooms and systems shall be monitored and a record of changes to be part reports / audit logs.
 - 4.1.7. On-going training of Departmental security officers and managers in terms of the systems developments and new equipment to ensure skills transfer during the contract term.
 - 4.1.8. Ensuring that all identified Regional and National office managers have mobile access to sites to reduce the travelling costs and supervisory costs of the current guarding services.
- 4.2. The service provider will ensure continuous assessment, evaluation (every 6 months) and training of affected control room operators as required by the PACST (Pan African Council of Professional Surveillance and Technologies) and PSIRA (Private Security Industry Regulatory Authority) and in which the Department does not have the required capacity to do at the moment.
- 4.3. In addition to the above key performance areas the Departmental security Committees and the Operational Committees at National and Regional level shall monitor the performance of the service provider and advise where necessary.

4.4. Penalties shall also be imposed to the service provider in case there is poor performance in accordance to the penalty regime in the operational document and SLA.

4.5. The above and other value for money matters were also communicated in various monitoring bodies like Portfolio committee, SCOPA, AG and National Treasury and in newspaper enquiries from 2010 onwards pertaining the court security infrastructure.

5. FINANCIAL IMPLICATIONS

5.1. The service, maintenance and support includes the following equipment installed in various offices:

Security System Component	Total Number of Items
Cameras	6562
Door Controllers and access points and gates	4648
Digital Video Recorders	498
Turnstiles	147
UPS	104
X- Ray machines / walk through metal detectors	172
Trust Master Software	96
Miscellaneous Items (Card Readers, Door Closures, Door Monitors, Flash Buzzers, Glass Break Units, Intercoms, Controller Boxes and Boards, Back Up Batteries, Panic Buttons, Outdoor Camera Housings, 42" Displays, Storage Drives, IR Passive Units, 16CH Baluns, Computer Screens)	89820
Control room PC's	310
Total	101920

5.2. The total price structure is **R373 709 412.00 inclusive of VAT** for 36 months. This amount includes:

Description summary	Amount
Current faulty stock (Camera, access gates, control room, conduit pipes, equipment aircons, servers, etc.) at various offices.	R19 749 816.00
Telkom costs for VPN, VOIP, APN installations, Regional/ National Control setup and maintenance	R33 114 971.00
Disaster recovery site setup and maintenance	R9 815 632.90
Surveillance technicians and related costs	R133 567 533.84
Other Equipment related costs and support	R177 461 458.26
Total	R373 709 412.00

5.3. The salaries of qualified security technicians that will also assist shall be based on the Sectorial Determination 6 adjustments as publicised annually by the Department of Labour.

6. RECOMMENDATION

It is recommended that the Chief Financial Officer:-

- 6.1. Takes note of the report in terms of the project and provides necessary support and guidance in terms of the full maintenance plan in order to maximise the returns on the security investment.
- 6.2. Reprioritise funding in the Department to support preventative and corrective maintenance of the existing infrastructure for the next 36 months of the contract (R373 709 412.00 VAT inclusive over the MTEF period).

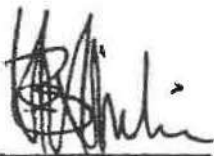


Ms. N. Nelly
Chief Director: Risk Management



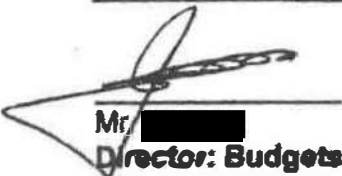
Ms. [Redacted]
Director: Security Management

Supported/ not supported



Mr. [Redacted]
Act Chief Director Facilities Management

Supported/ not supported



Mr. [Redacted]
Director: Budgets and decision support

It is recommended that the Chief Financial Officer:-

- Supported/
- ~~not supported~~

Supported/ not supported

Supported/ not supported
Funding will be sourced from additional
1.8 million received from NT for security. We
also anticipate further savings that will be derived
from the security contract that will be expiring
at the end of December 2015.

Comments

Budget availability supported.

Request for funding for service, maintenance and support for national security infrastructure in 96 offices and summary of business case.

6. RECOMMENDATION

It is recommended that the Chief Financial Officer and the Director General:-

- 6.1. Takes note of the report in terms of the project and provides necessary support and guidance in terms of the full maintenance plan in order to maximise the returns on the security investment.
- 6.2. Reprioritise funding in the Department to support preventative and corrective maintenance of the existing infrastructure for the next 36 months of the contract (R373 709 412.00 VAT inclusive over the MTEF period).

Approved / not Approved

Before I approve ^{or not} please clarify I ff:
I do not understand 1 memo. Was 1 tender issued for the services mentioned herein. How much services were rendered ie total + total installations + maintenance. What is the balance? Is 1 amount in 6.2 the total tender as at 1 date of approval or inclusive of escalations? What were 1 escalation amounts. Was 1 infrastructure procured as per 3.3.8 - where is it kept & what is its value? Is 1 project to be approved by DBAC so why has the not happened. The history in this memo clouds the important strategic information which could help to make decisions. Where did this budget come from?

Ms  Sally
 Director General

26/03/16

The additional explanation is noted as per memo dated 8 Sept 2016. I am seriously concerned that to respond to these questions has taken almost 6 months. There is something fundamentally wrong with the work ethic and culture of responding in this manner. Work which should be addressed as a matter of urgency otherwise requests of this nature are always dated & it's difficult to pinpoint issues because of the time lag.

I approve for implementation. Please can this be reported on monthly to the Strategy Unit so it is visible to all Exco members.

Request for funding for service, maintenance and support for national security infrastructure in 96 offices and summary of business case. 14

SONDOLO IT (PTY) LTD

PROPOSAL TO DOI - OPERATIONALISATION OF EXISTING SLA BETWEEN SONDOLO IT & DOI - RFB 2008 15

	Monthly cost Year 1 (01 January 2015 till 31 August 2018) - VAT Incl			
	Control Room 2D 2 N Plus RCC staff	Control Room 2D 1 N No RCC staff	Control Room 2D 0.5 N No RCC staff	Control Room 2D 0 N No RCC staff
Control room staffing (Number of Staff Deployed)	R 9 216 980.34	R 6 822 334.20	R 5 979 773.52	R 5 137 212.84
(Number of Sites)	R 440.00	R 305.00	R 257.50	R 210.00
VPN	R 95.00	R 95.00	R 95.00	R 95.00
VOIP	R 844 077.43	R 844 077.43	R 844 077.43	R 844 077.43
APN	R 34 691.17	R 34 691.17	R 34 691.17	R 34 691.17
Disaster Recovery Site Maintenance	R 14 583.99	R 14 583.99	R 14 583.99	R 14 583.99
	R 272 656.47	R 272 656.47	R 272 656.47	R 272 656.47
	R 4 985 040.49	R 4 985 040.49	R 4 985 040.49	R 4 985 040.49
SubTotal 1	R 15 368 029.89	R 12 973 383.75	R 12 130 823.07	R 11 286 262.39
Installation/Onco-off costs over 36 months				
VPN	R 21 955.45	R 21 955.45	R 21 955.45	R 21 955.45
VOIP	R 4 184.79	R 4 184.79	R 4 184.79	R 4 184.79
APN	R 367.48	R 367.48	R 367.48	R 367.48
SubTotal 2	R 15 394 537.62	R 12 999 891.48	R 12 157 380.80	R 11 514 770.12
Current faulty stock Recovery over 36 months	R 493 050.45	R 493 050.45	R 493 050.45	R 493 050.45
Grand Total per Month VAT Incl	R 15 887 588.07	R 13 492 941.92	R 12 650 381.25	R 11 807 820.57
Estimated Contract Cost VAT Incl Over 36 months, excl Annual Increases	R 571 953 170.96	R 485 745 909.30	R 455 413 724.85	R 425 081 540.40
Estimated Contract Cost VAT Excl Over 36 months, excl Annual Increases	R 501 713 307.33	R 426 092 902.89	R 399 485 723.55	R 372 878 544.21
SUMMARY (VAT Incl):				
LABOUR RELATED COST	R 9 418 960.11	R 7 024 313.97	R 6 181 753.29	R 5 339 192.61
TELKOM RENTALS	R 919 860.32	R 919 860.32	R 919 860.32	R 919 860.32
EQUIPMENT RELATED COST	R 5 538 735.63	R 5 538 735.63	R 5 538 735.63	R 5 538 735.63
OFFICE SPACE RENT FOR DISASTER RECOVERY	R 10 032.00	R 10 032.00	R 10 032.00	R 10 032.00
TOTAL CONTRACT COST FOR 36 MONTHS EXCLUDING ANNUAL PRICE INCREASES	R 15 887 588.07	R 13 492 941.92	R 12 650 381.25	R 11 807 820.57

Total cost with VAT

Less Control room Labour till Dec 2015
costs

R 425 081 540.40

(51 372 129.40)

R 373 709 412.00



W. R. R. 08/02/2015



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

BRANCH: OFFICE OF THE CHIEF OPERATIONS OFFICER: CHIEF DIRECTORATE: RISK MANAGEMENT

Tel: 012 315 1032 / 012 406 4829 Fax: 086 777 8177 / 012 3151142

Ref/Nr: 1/3/2; 1/3/2/1

DIRECTOR MEMORUNDUM

DATE:	08 Sept 2015	FILE NR:	1/3/2 (NMN); 1/3/3/1
TO:	Ms Sally Director General	FROM:	Ms N.M Nelly CD: Risk Management
Via:	L Lilly Act Chief Operations Officer		Ms [REDACTED] Director: Security Management
SUBJECT:	CLARITY ON ISSUES PERTAINING REPAIRS AND MAINTENANCE OF SECURITY SYSTEMS COUNTRY WIDE		

1. PURPOSE

The purpose of this memorandum is to provide clarity on issues raised by the Director General regarding the repairs of security equipment and maintenance thereof.

2. MATTERS FOR CLARITY

2.1 Was there a separate tender for repairs, services and maintenance of installed equipment and was the infrastructure procured?

Response:

- a) Service and maintenance was part of the initial procurement processes per tender RFB 2008 15 and was part of the original SLA signed by the Department and the service provider for a period of 36 months. Hence the 98 offices installed also need to be connected to the National control room and disaster recovery centre for business continuity purposes.
- b) Yes, the infrastructure was paid for including the software hence at the end of the maintenance period the source codes shall be handed over to the department. The service provider has a duty to upgrade the software during maintenance period.

[Annexure A1 – A5 – extracts referring to service and maintenance from the SLA.]

2.2 How is the department going to deal with other offices where systems were installed and was the infrastructure procured and where is it kept?

Response:

- a) An investigation has been done by the security managers and it has been discovered that there are 55 offices that are having various systems and equipment that were installed by the

department and DPW that also need attention in terms of repairs and maintenance. It is advisable that the department go out on tender for these offices as they were installed by various service providers in different courts and are not maintained / there is no contract in place.

- b) In addition, there are 79 offices that only have x-ray machines and walkthrough metal detectors that need to be repaired based on assessments. These can be repaired on a quotation basis like the way the department normally deals with them. These machines in these offices were also procured by the department few years back.

2.3 What is the proposed way forward regarding other offices that have nothing?

Response:

- a) These offices which are about 300 will also need to be catered for in terms of security systems. Some offices will only require installation of alarms and intruder detection systems and others will require medium to advance security measures depending on the threats. The project can be managed in phases.
- b) Furthermore, the Provincial Security Managers have identified 57 courts/ offices that need urgent attention in terms of security measures based on SAPS security audit reports and the threats surrounding these offices. These can be priorities in terms of the procurement processes if funding allows.
- c) In addition, SAPS has been approached to advise the department on the National Key Points and strategic installations requirements for certain identified offices. Based on the current engagements, this will be a long-term plan assessment project over a period of three to five years after which clarity will be provided on the way forward.
- d) In newly constructed offices the departments works with DPW and SAPS to ensure that security measures are catered for as part of tenant installations. Maintenance is usually not included. Facilities management will be requested to ensure systems utilised are compatible with departmental standards for utilisation of a standard maintenance contract.

2.4 How are the operations going to function in terms of managing these repairs and maintenance based on this request?

Response:

- a) As advised by the DG there will be a multidisciplinary National Operational Steering Committee to manage these processes. The terms of reference shall be approved by the DG via the Acting COO.
- b) The Project Manager shall be appointed to assist the unit with this project and many others within the Chief Directorate. Already the proposal/ memo is under consideration.
- c) The National Operational Steering Committee shall also include the Regional representatives. The proposal was also discussed with ISM as they manage a lot of projects and there is an

agreement that they will assist the unit in terms setting up and models including management of logged calls so as to monitor the performance of the service provider and for institution of penalties.

- d) The engagement model has already been finalised and ISM and Regional managers were also involved in making inputs.
- e) The benefit is of the connectivity of the regional offices and equipment is going to be through modern technology and VPN no trenching will be done this time around which will be cheaper since most regional offices are under leased buildings.

2.5 How is the department going to deal with the issue of budget for the current request?

Response:

- a) Budget has been allocated as confirmed by the Chief Director Budgets per attached memo, **Annexure B**

2.6 How are we sure that the prices quoted are reasonable?

Response:

- a) The quotations and or confirmation of prices for major system components were sourced from various companies and state institutions to determine if the price ranges are reasonable. Based on the information sourced the prices quoted are fair and others are below the market rates.

Annexure C1 – C9 For example,

- the Telkom proposal are the same per quoted and the same model currently used by the department as confirmed with ISM;
 - maintenance of the generators, volts and currents, checking of radiation levels, switches, screens etc. are the same prices as quoted by the R & D technologies
 - maintenance and support in respect of server rooms, air conditioners are the same as confirmed by the original suppliers
 - maintenance of cameras is at the same range as per Airports Company although they vary in terms of models.
 - the labour costs in respect of technicians for control rooms are the same as PSIRA rates.
- b) In addition to department of Labour rates, where applicable, the prices are based on national index rates as announced by Stats SA according to the SLA.

2.7 How do we know that we will benefit from this service and maintenance implementation?

Response:


- a) Once this is implemented, there will be reduced number of security guards in control rooms managed by different service providers in the affected offices and the internal staff members that have been recently employed will also be trained over a period of time in terms of the basic skills.

- b) All the affected offices will also be monitored centrally and connected to emergency response units hence reduction of warm bodies at night for patrols and also reduction of supervisors travelling to do night duty monitoring. etc.
- c) The above points will significantly reduce requirements of security operations and consequently the tender that is expiring in Dec 2015.
- d) The current complaints by the Judiciary and Regional Heads regarding repairs will be managed better including complaints to the Minister.
- e) Other benefits are highlighted under section 4 of the main memorandum.

3. RECOMMENDATION


It is recommended that the Director General approves:-

- 3.1 The changes in security operations envisaged through maintenance contract.
- 3.2 The reprioritised funding in the Department to support preventative and corrective maintenance of the existing infrastructure for the next 36 months of the contract (R373 709 412.00 VAT inclusive over the MTEF period of 3 years) of which R264million has already been made available and R111m need to be secured in future years.


Ms N.M. Nelly

Chief Director: Risk Management

Supported/ Not Supported


Ms L. Lilly
Acting Chief Operations Officer

This year's spend of R77m is already allocated and the increase over the rest of the period is available. Difference of R111 million still to be obtained, but cost is according to utilisation and the cost can thus be managed within the budget.

Approved /not Approved


Ms N. Sally
Director General

11/09/15

1.1.18 In the event of a conflict of terms, terms that are more favourable to the Principal will apply unless expressly provided for otherwise in this Agreement.

1.2. **Meanings of expressions and words.** In this Agreement the following expressions and words have the meanings assigned to them below and derivative expressions and words will have a corresponding meaning:-

- 1.2.1. "Abuse" means conduct in respect of equipment which does not constitute normal prudent use or operation of such equipment, which causes physical damage to such equipment by a site, as determined in accordance with clause 8.3;
- 1.2.2. "Agreement" means this Agreement, including all schedules and annexes, the Tender Document submitted by the Contractor in terms of RFB 2008 18 and with amendments thereto executed by the parties in accordance with the Change Control Policy;
- 1.2.3. "Bid" means the Tender (RFB 2008 18) issued by the Principal in respect of the Services;
- 1.2.4. "Bid Price" means the selling price awarded to the Contractor
- 1.2.5. "Business Day" means any day in the RSA which is not a Saturday, Sunday or official public holiday within the meaning of the Public Holidays Act, 1994. All references in this Agreement to days shall be deemed to be to calendar days, unless specifically stipulated as being Business Days;
- 1.2.6. "Change Control Policy" means the policy set out in Schedule 1 - Change Control Policy;
- 1.2.7. "Contractor Project Leader" means a Contractor representative appointed as such in terms of Schedule 2 - Contract Governance Structure to fulfil the functions set out therein;
- 1.2.8. "Contractor" means Sondolo IT (Pty)Ltd, Registration Number 2005/000600/07, a limited liability company duly incorporated in accordance with the laws of the Republic of South Africa;
- 1.2.9. "contractor" means all personnel under the auspices of the Contractor.
- 1.2.10. "Corrective Maintenance", means all maintenance work to be performed by the Contractor, outside the generally accepted principles of warranty and preventative maintenance are concerned. This includes, but is not limited to, repairs needed to be done on equipment that have been damaged by misuse, abuse and force majeure, whichever is evident;
- 1.2.11. "Commencement Date" means date of the Signature Date;

Handwritten signatures and initials:
 [Signature] [Signature] [Signature]
 [Initials]

- 1.2.12. "Commissioning" means the signoff by both parties of the relevant Facility of delivery of service.
- 1.2.13. "Effective Date" means the date of the commissioning of the relevant Facility.
- 1.2.14. "Equipment" means all hardware that will be installed by the Contractor as part of the Services in accordance with the provisions of this Agreement;
- 1.2.15. "Facilities" means the nominated court buildings listed in Annexure A at which the services will be provided by the Contractor in terms of this Agreement;
- 1.2.16. "Facility Project Manager" means the person who is authorised and delegated by the Principal to act as such;
- 1.2.17. "IT System" means the computer and peripheral devices, hardware, firmware, operating system software and equipment to be utilised by the Contractor in the performance of its obligations under this Agreement, as more fully set out in Annexure B;
- 1.2.18. "Maintenance Contract" means the maintenance of equipment pursuant to this Agreement on the terms and conditions set out in Schedule 3 – Service Definition and Service Levels, as amended by the Contractor and approved by the Principal in writing, which approval shall not be unreasonably withheld;
- 1.2.19. "Personnel" means any employee, agent, consultant or sub-contractor of the parties;
- 1.2.20. "Prime Rate" means the prime rate of interest (percent, per annum) from time to time charged by First National Bank Limited to its corporate clients in the private sector, as certified by any manager of such bank, whose appointment and authority it shall not be necessary to prove, calculated daily and compounded monthly in arrears;
- 1.2.21. "PDR" means Project Definition Report. This document depicts a full breakdown of the project by Facility, from site establishment all the way through to site commissioning as per Annexure C ;
- 1.2.22. "Preventative Maintenance" means the monthly maintenance program that will be performed on the Equipment by the Contractor's technicians to ensure that the Equipment is continuously operational to the satisfaction of the Principal;
- 1.2.23. "Preventative Maintenance rates" means the monthly rates charged per Facility to perform Preventative Maintenance, as more fully set out in Annexure F;
- 1.2.24. "Principal" means The Government of the Republic of South Africa Through The Department of Justice and Constitutional Development;
- 1.2.25. "Principal's Data" means collectively:-

him
A
m

SONDOLO IT (PTY) LTD

SCHEDULE OF MONTHLY DISASTER RECOVERY COST

Disaster Recovery Site		Monthly Cost		VAT	Monthly Cost		Mark-up 10%	TOTAL VAT incl
			VAT Incl			VAT Incl		
Hosted Virtual Server with 1GB Memory, 1vCPU, SPLA for OS included	1	R 8 240.00	R 8 240.00					
Windows OS Support 24x7 (Hosted Virtual Server) Per VM	1	R 3 200.00	R 3 200.00					
Backup Base (1GB) per GB - 3 months to disk	90	R 7.80	R 702.00					
Dedicated Hosted Firewall - Basic Service 24x7 Active/Passive	1	R 30 551.00	R 30 551.00					
Virtual LAN	1	R 2 680.00	R 2 680.00					
Top of Rack Ports	1	R 2 988.00	R 2 988.00					
Equipment Rental Total (Supplied by Telkom)			R 48 348.00	R 6 770.54	R 55 118.54		R 5 513.15	R 60 644.69
Staffing	12	R 11 134.11	R 133 369.32	R 18 671.70	R 152 041.02		R 15 204.10	R 167 245.13
supervisor	2	R 13 849.54	R 27 699.08	R 3 877.87	R 31 576.95		R 3 157.70	R 34 734.65
Office rent	90	R 100.00	R 9 000.00	R 1 120.00	R 9 120.00		R 912.00	R 10 032.00
SUBTOTAL			R 217 429.40	R 30 440.12	R 247 869.52			
Markup		10%	R 21 742.94	R 3 044.01	R 24 786.95			
TOTAL			R 239 172.34	R 33 484.13	R 272 656.47		R 24 786.95	R 297 443.42

All other equipment installed at the planned Disaster Recovery Site at Mogale Business Park will be installed by Sondolo IT and will be transferred to the Department at the end of the contract.
All cost related to this equipment (Desktop PC's & printers) will be borne by Sondolo IT.

SONDOLO IT (PTY) LTD

SCHEDULE OF MONTHLY VOIP COST

Pricing Summary - 3 Year Contract Term			
Description	Qty of Sites	Once-Off Charges (Excl. VAT)	Rental Charges (Per Month) Excl. Vat.
Small Sites: 1 users X 95 sites	95	R 95 000.00	R 16 491.18
Head Office: 5 users	1	R 1 524.38	R 433.66
Regional Offices: 2 users x 9	9	R 12 446.91	R 2 632.09
National Control Centre: 12 users	1	R 1 854.29	R 763.12
Centralised VoIP Link at Head Office	1	R 9 312.00	R 7 344.36
Total		R 120 137.58	R 27 664.41

Markup	10%	R	12 013.76	R	2 766.44
	Ex VAT	R	132 151.34	R	30 430.85
	VAT	R	18 501.19	R	4 260.32
	VAT Incl	R	150 652.53	R	34 691.17
Monthly	36	R	4 184.79		

Annexure "EF"

Programme Implementation Agent: IDT

CHANGE CONTROL FORM

1	Reason for variation:	Additional work <input checked="" type="checkbox"/>	Design change <input type="checkbox"/>	Specification change <input type="checkbox"/>
2	Requested by:	DoJ & CD <input checked="" type="checkbox"/>	Sondolo IT <input type="checkbox"/>	IDT <input type="checkbox"/>

[illegible]

Total Revised Amount	R 8 248 544.21
----------------------	----------------

Date for Completion as per PDR

01 February 2010

This expenditure will be funded from :

Additional funds ☐ Original Programme Budget ☒ Additional funds requested ☐

Change Control Form

DOJ & CD - NSI

Programme Implementation Agent: IDT

Contractor: Sondolo Integrated Technologies (Pty) Ltd

Programme ID:	DOJGPN01:NSI	Project ID:	DOJGPN01:NSI
Project Name:	Pretoria North Magistrates		
Change Order No:	001	Date initiated:	06 November 2009
Description :	Extension of scope to protect Judges, Magistrates and Prosecutors Offices		

We approve this application as indicated above.

Stamp

Programme Implementation Agent: IDT

Contractor: Sondolo Integrated Technologies (Pty) Ltd

CHANGE CONTROL FORM				
Programme ID:	DOJMPN01:NSI	Project ID:	DOJMPN010008	
Project Name:	Middelburg Magistrates Court			
Change Order No:	208	Date initiated:	2012-10-26	
Description:	Credit for not being able to proceed with CCTV & Access Control installation due to Public Works Contract. Only New Fence and Gates were installed.			
1 Reason for variation: Additional work <input checked="" type="checkbox"/> Design change <input type="checkbox"/> Specification change <input type="checkbox"/>				
2 Requested by: DoJ & CD <input checked="" type="checkbox"/> Sondolo IT <input type="checkbox"/> IDT <input type="checkbox"/>				
THE ABOVE WILL NECESSITATE THE FOLLOWING :				
ITEM	DESCRIPTION	ADDITION	OMISSION	REVISED AMOUNT
1	ORIGINAL APPROVED AMOUNT : R 7 327 838.21		R 6 298 338.17	R 1 029 500.04
<div>The above rates include VAT</div>				
Total Revised Amount			R 1 029 500.04	
Date for Completion as per PDR		N/A		
This expenditure will be funded from :				
Additional funds <input type="checkbox"/> Original Programme Budget <input checked="" type="checkbox"/> Additional funds requested <input type="checkbox"/>				

Department of Justice and Constitutional Development: National Security Infrastructure Programme
Programme Implementation Agent: IDT Contractor: Sondolo Integrated Technologies (Pty) Ltd

CHANGE CONTROL FORM				
Programme ID: DOJKNN01:NSI		Project ID: DOJKNN010002		
Project Name: Harding Magistrates Court				
Change Order No:		Date initiated: 2012-07-31		
Description :		Credit for X-Ray, Metal Detector, Turnstiles, Gate & Fence due to change in scope		
1 Reason for variation: Additional work <input type="checkbox"/> Design change <input checked="" type="checkbox"/> Specification change <input type="checkbox"/>				
2 Requested by: DoJ & CD <input checked="" type="checkbox"/> Sondolo IT <input type="checkbox"/> IDT <input type="checkbox"/>				
THE ABOVE WILL NECESSITATE THE FOLLOWING :				
ITEM	DESCRIPTION	ADDITION	OMISSION	REVISED AMOUNT
1	Credit for the following equipment due to change in approved PDR (Removal of Security Entrance Section) 1. X-RAY SCANNER 2. WALK THRU METAL DETECTOR 3. DOUBLE TURNSTILE 4. SLIDING GATE 5. 34M SECURITY FENCING		R 999 638.75	R 999 638.75
The above rates include VAT				
			Total Revised Amount	R 999 638.75
Date for Completion as per PDR		N/A		
This expenditure will be funded from : Additional funds <input type="checkbox"/> Original Programme Budget <input checked="" type="checkbox"/> Additional funds requested <input type="checkbox"/>				

Department of Justice and Constitutional Development: National Security Infrastructure Programme
Programme Implementation Agent: IDT Contractor: Sondolo Integrated Technologies (Pty) Ltd

Programme ID:	DOJKNN01:NSI	Project ID:	DOJKNN010002
Project Name:	Harding Magistrates Court		
Change Order No:		Date initiated:	2012-07-31
Description :	Credit for X-Ray, Metal Detector, Turnstiles, Gate & Fence due to change in scope		
Signatories			
We approve this application as indicated above.			
Organisation	Designation	Signature	Date
DOJ	CD: Risk Mgt		
DOJ	Director		31/07/2012
DOJ	Director: Integrity		31/07/2012
DOJ			
DOJ	Act CD: Budget		31/07/2012
DOJ	Director for		31/07/2012
DOJ	Mr. Director		31/07/2012
DOJ	NPM		31/07/2012
DOJ	PF		31/07/12

Department of Justice and Constitutional Development: National Security Infrastructure Programme

Programme Implementation Agent: IDT

Contractor: Sivivane Construction

CHANGE CONTROL FORM				
Programme ID:		DOJGPN02:NSI		Project ID:
Project Name:		Kempton Park Magistrates Court		
Change Order No:		071		Date initiated:
Description :		Additional Infrastructure Requirements (Cancellation of Change control no's 050 and 064)		
1 Reason for variation: Additional work <input checked="" type="checkbox"/> Design change <input type="checkbox"/> Specification change <input type="checkbox"/>				
2 Requested by: DoJ & CD <input type="checkbox"/> Sondolo IT <input type="checkbox"/> IDT <input checked="" type="checkbox"/>				
THE ABOVE WILL NECESSITATE THE FOLLOWING :				
ITEM	DESCRIPTION	ADDITION	OMISSION	REVISED AMOUNT
1	SUPPLY AND INSTALL FLUORESCENT LIGHTING (X6)		-(R 5369.40)	-(R 5369.40)
2	ADDITIONAL EXTERNAL WORKS (PARAPLEGIC RAMP)		-(R 1197.00)	-(R 1197.00)
3	SUPPLY AND INSTALLATION OF ALLUMINIUM PANELS AT THE MAIN ENTRANCE AND EXIT		-(R 8196.21)	-(R 8196.21)
4				
The above rates include VAT				
Total Revised Amount				-(R 14762.61)
Date for Completion as per PDR				
This expenditure will be funded from :				
Additional funds <input type="checkbox"/> Original Programme Budget <input type="checkbox"/> Additional funds requested <input checked="" type="checkbox"/>				

Department of Justice and Constitutional Development: National Security Infrastructure Programme

Programme Implementation Agent: IDT

Contractor: Sivivane Construction

CHANGE CONTROL FORM

Programme ID:	DOJGPN02:NSI	Project ID:	DOJGPN020005
Project Name:	Kempton Park Magistrates Court		
Change Order No:	071	Date initiated:	28 March 2011
Description :	Additional Infrastructure Requirements (Cancellation of Change control no's 050 and 064)		

Signatories

We approve this application as indicated above.

[illegible]

Department of Justice and Constitutional Development: National Security Infrastructure Programme

Programme Implementation Agent: IDT

Contractor: Sondolo Integrated Technologies (Pty) Ltd

[illegible]

Department of Justice and Constitutional Development: National Security Infrastructure Programme

Programme Implementation Agent: IDT

Contractor: Sondolo Integrated Technologies (Pty) Ltd

[illegible]

Department of Justice and Constitutional Development: National Security Infrastructure Programme
Programme Implementation Agent: IDT Contractor: Sondolo Integrated Technologies (Pty) Ltd

CHANGE CONTROL FORM									
Programme ID:		DOJLPN01:NSI		Project ID:	DOJLPN010002				
Project Name:		Lephale Magistrates Court							
Change Order No:		075		Date initiated:	2011-04-18				
Description :		Rebuilding of gate posts and alterations to Gates							
1 Reason for variation: Additional work <input checked="" type="checkbox"/> Design change <input type="checkbox"/> Specification change <input type="checkbox"/>									
2 Requested by: DoJ & CD <input type="checkbox"/> Sondolo IT <input type="checkbox"/> IDT <input checked="" type="checkbox"/>									
THE ABOVE WILL NECESSITATE THE FOLLOWING :									
ITEM	DESCRIPTION	ADDITION	OMISSION	REVISED AMOUNT					
1	Rebuilding of gate posts and gate alterations	R73,054-34		R73 054-34					
<div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div>									
The above rates include VAT									
Total Revised Amount				R73 054-34					
Date for Completion as per PDR			N/A						
This expenditure will be funded from :									
Additional funds <input type="checkbox"/> Original Programme Budget <input type="checkbox"/> Additional funds requested <input checked="" type="checkbox"/>									

Quotation

Private Bag 2002, Krugersdorp, 1740. Tel:(+27) 011 660 8050 Fax:(+27) 011 660 9693



REG. NO. 2005/000900/07
VAT REG. 4370217186

Independent Development Trust
Cnr Oberon & Sprite
FEARIE GLEN
0043

QUOTATION NO	QUO0003287
DOC DATE	2011/04/18

DETAILS	QTY	PRICE (ex VAT)	AMOUNT (ex VAT)
Quotation for the rebuilding of posts and gate alterations at Lephalale Magistrates Court	1.00	64,082.76	64,082.76
Detail of work to be done Breaking down and rebuilding of 2 posts Removal and re-installation of equipment on posts Removal and alteration of 2 swing gates into 1 sliding gate A plinth and new Sliding rail for the gate Labour for all above			
SUBTOTAL			64,082.76
VAT			8,971.59
TOTAL			73,054.34

PLEASE NOTE

- 1) All prices are nett.
- 2) Subject to stock availability from manufacturers/suppliers
- 3) This quotation is valid for 14 (fourteen) days

We trust that the above quotation meets with your approval. Should any further information or assistance be required please contact us

Contractor: Sondolo Integrated Technologies (Pty) Ltd

Page 1 of 2

Department of Justice and Constitutional Development: National Security Infrastructure Programme
Programme Implementation Agent: IDT Contractor: Sondolo Integrated Technologies (Pty) Ltd

Programme ID:	DOJNWN01:NSI	Project ID:	DOJNWN010014
Project Name	Mothibistadt (Kudumane) Magistrates Court		
Change Order No:		Date initiated:	2012-12-14
Description :	Changes made to Perimeter Fence, Access Gates & Areas		

Signatories

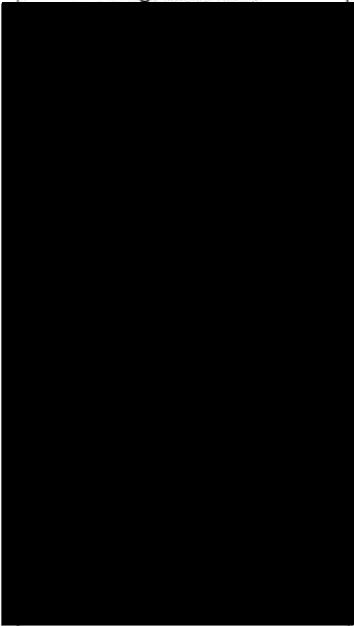
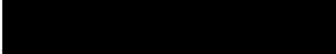
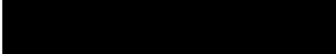
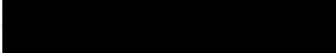
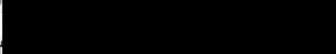
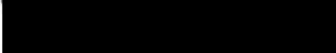
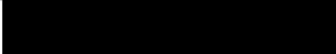
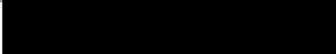
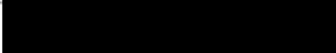
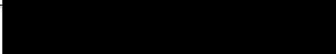
We approve this application as indicated above.

Organisation	Designation	Date
	Act Director	19/12/2012
	Act Director	19/12/2012
	Act CD Budget	19/12/2012
	PM	2012/12/19
	Ag Dir - Risk Mgt	19/12/2012
	Dir : Integrity	19/12/2012
	Dir : Law & Ethics	19/12/2012
	Director	19/01/2013
	MANAGEMENT	23/01/2013
	IDT - PM	19/02/2012
	PFM (AE)	19/12/2012

Department of Justice and Constitutional Development: National Security Infrastructure Programme
Programme Implementation Agent: IDT Contractor: Sondolo Integrated Technologies (Pty) Ltd

CHANGE CONTROL FORM					
Programme ID:		DOJGPN02:NSI		Project ID:	DOJGPN020006
Project Name:		Cape Town Magistrates Court			
Change Order No:		118		Date initiated:	2011-08-10
Description :		Changes to Fence Design due to Heritage Requirements			
1 Reason for variation: Additional work <input type="checkbox"/> Design change <input checked="" type="checkbox"/> Specification change <input type="checkbox"/>					
2 Requested by: DoJ & CD <input checked="" type="checkbox"/> Sondolo IT <input type="checkbox"/> IDT <input type="checkbox"/>					
THE ABOVE WILL NECESSITATE THE FOLLOWING :					
ITEM	DESCRIPTION	ADDITION	OMISSION	REVISED AMOUNT	
1	Changes to Fence Design due to Heritage Requirements				
	ORIGINAL APPROVED AMOUNT: R 10 068 785.47	R 81 254.21		R 10 150 039.68	
<div></div>					
The above rates include VAT					
Total Revised Amount			R 10 150 039.68		
Date for Completion as per PDR					
This expenditure will be funded from :					
Additional funds <input type="checkbox"/> Original Programme Budget <input checked="" type="checkbox"/> Additional funds requested <input type="checkbox"/>					

Department of Justice and Constitutional Development: National Security Infrastructure Programme
Programme Implementation Agent: IDT Contractor: Sondolo Integrated Technologies (Pty) Ltd

Programme ID:	DOJWCN02:NSI	Project ID:	DOJWCN020006
Project Name:	Cape Town Magistrates Court		
Change Order No:	118	Date initiated:	2011-08-10
Description :	Changes to Fence Design due to Heritage Requirements		
Signatories			
We approve this application as indicated above.			
Organisation	Designation	Signature	Date
	Asst Dir		10/08/2011
	CD Dist mgt		10/08/2011
	Director		10/08/2011
	Stationary Head		2011-08-10
	PM		2011/08/10
	Portfolio Manager		10/08/2011
	PM		10/08/2011
	General Mgt		10/08/2011
	Dir Facilities		25/08/2011

Annexure "GH"



Glenwood Office Park
Cnr. Oberon & Sprita Streets
Faerie Glen 0043
PO Box 73000, Lynnwood Ridge 0040
Tel: (012) 645-2000 - Fax: (012) 348-0137
Website: www.idt.org.za

17th July 2009

The Director General
Department of Justice and Constitutional Development
Private Bag X 81
Pretoria
0001

Attention: Adv [redacted] Sam

**RFB 2008 15: NATIONAL SECURITY INFRASTRUCTURE FOR THE DEPARTMENT OF
JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

Thank you for the letter, dated 09 July 2009, notifying the IDT of your decision to appoint our organisation to support and assist the Department with implementation of the National Security Infrastructure Programme.

We hereby accept the appointment for the programme and are pleased to undertake this assignment.

Yours faithfully

Executive Head: Development Programme Services Unit

On behalf of the IDT

Trustees: PF Radebe (Chairperson), ME Tom (Deputy Chairperson), T Nkamba-Van Wyk, GJ Downing, KV Tiya, F
Peisel, ZQL Mhlabatha, NTF Mpumwana, C Motsisi, D Myeni

CEO: T Nwademutswu

Registration Number: 889/91

**the doj & cd**

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

Private Bag x81, PRETORIA, 0001 • Momentum Centre, 329 Pretorius Street, c/o Pretorius & Prinsloo Streets, PRETORIA •
Tel: +27 12 315 1031/11747 • Fax: +27 12 315 1142 or 012 3206522

BRANCH: DIRECTOR-GENERAL

Ref: 1/3/2 (MIS)
1/3/5/1 2009/2010 Budget (MIS)

Enq: [REDACTED]

E-mail: [REDACTED]

Ms [REDACTED]
The Chief Executive Officer
Independent Development Trust
P O Box 73000
LYNWOOD RIDGE
0040

Dear [REDACTED]

RFB 2008 15: NATIONAL SECURITY INFRASTRUCTURE FOR THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

The meeting held on 01 July 2009 between Mr [REDACTED] and Dr [REDACTED] from your institution and officials from the Department of Justice and Constitutional Development refers.

The Department has in 2007 engaged the services of **GM** Consortium for the generation of specifications and bid (tender) documentation for the entire security infrastructure of its sites / offices country wide. The scope of work and terms of reference for **GM** Consortium were as follows:

- To investigate and to perform site risk assessments for each of the offices nation wide and to table a security plan for each office.
- To generate the specifications for each of the security sub systems into a fully integrated security system. These sub systems included the following:
 - Access control, CCTV, asset tracking (both passive and active), smoke detection, evacuation system, Integrated Building Management system, electronic log book, event logging system, security control room at the premises and a National Control Room link to the DOJ&CD headquarters.

- To generate the specification for the national control room as well as the method of operation of this control room.
- To generate a tender document inclusive of the bills of quantities for each office.
- To regulate the tender process; and
- Recommendation of tenders.

Sondolo IT (Pty) Ltd (*hereafter referred to Sondolo*) was awarded the contract, RFB 2008 15 for the supply, installation, maintenance of an integrated security solutions for the identified 127 sites / buildings of the Department to the amount of R601 million. The plan was that, the roll out of this service should be over a period of three (3) financial years which should have commenced in 2008/2009 financial year for the pilot sites. The amount was supposed to be divided over the 2008/2009, 2009/2010 and 2010/2011 financial years based on the project deliverables. The implementation of the project was delayed due to circumstances beyond our control. The project should now commence in 2009/2010 financial year with your assistance starting with the identified pilot sites. A twelve month warranty and guarantee period will be applicable to buildings after integrated systems have been tested, commissioned and signed off by the State. After one year warranty/guarantee period per building /site is signed off, a three (3) year maintenance contract will commence and these costs are not included in the amounts mentioned as these will depend on the standard fees and the turn around times that will be agreed upon all parties concerned.

To ensure that the conceptual (original) needs of the Department are addressed the Department selected the following buildings to be pilot sites for this project:

- High Court: Johannesburg
- High Court Pretoria
- Magistrate's Office: Pretoria
- Magistrate's Office: Johannesburg
- Magistrate's Office: Pretoria North; and
- Magistrate's Office: Kempton Park (can be additional)

The above-mentioned pilot project sites will minimize the risks of not providing an efficient and effective security infrastructure service as envisaged. The pilot project sites, once completed, will provide us with useful information, and this will be used to set the standards for all other sites to follow.

The implementation of the Department's National Control Room in Pretoria will also be tested during this period to ensure that the proposed Virtual Private Network (VPN) or any other connectivity option is the best option for the Department. With this information the Department may decide either to increase or reduce the value of the contract or the number of sites to be covered in order to ensure that there is economic acquisition of services and resources and to ensure an efficient and effective implementation of security infrastructure in each site.

- Due to accommodation constraints at many of our offices, employees may be required to be reshuffled in terms office of office space; or
- Separate sites for control rooms may be identified; or
- Build at certain identified offices; or
- Some offices may even share control rooms if feasible.

This means that the relevant plans may need to be drafted and approved, as these control rooms must be according to specifications. These control rooms on buildings / sites, must be linked with the National Office Control Room.

Fencing may be erected at various buildings / sites and the correct measurements must be taken into account at the relevant buildings / sites. Proper planning in this regard needs to be conducted, with your institutions assistance.

In summary, over and above your assistance is required on the following aspects:

- IDT be involved in all aspects of this project and professional services;
- Communicate with all relevant stakeholders for the success of the project including DPW.
- Assist with access to sites, water supply and electricity supply;
- Provide the necessary approval for fencing on sites;
- Assist with storage facilities for equipment;
- Assist with the building of control room(s) where necessary
- Ensure compliance with all relevant legislation;
- IDT commitment adherence to project timeframes;
- Signing off – 1st delivery and final delivery certificates;
- Assist with management of warranties and maintenance;
- Provide with all professional assistance required;
- A senior contact person.

I delegate Ms **Netty**, Chief Director: Risk Management as the contact person to this project.

Her particulars are as follows:

- Tel: [REDACTED]
- Cell: [REDACTED]
- E-mail: [REDACTED]

I enclose together with this letter the bid documents for the awarded tender including the specifications and the bills of material. The latest version of the Service Level Agreement (SLA) with the service provider and six (6) set of files for you and your team attention. The SLA has already been vetted by Adv [REDACTED], Senior Legal Council together with Sondolo legal representative, Ms [REDACTED].

It will be appreciated if your institution could proceed with the necessary services required at your earliest convenience. Your support and assistance in this regard will be highly appreciated to ensure safety in our buildings and hence access to justice for all.

Yours Sincerely,



Adv [REDACTED]
DIRECTOR-GENERAL
DEPARTMENT JUSTICE AND CONSTITUTIONAL DEVELOPMENT
Date:.....



justice

Department
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

Private Bag X81 PRETORIA 0001 - Tel (012) 315 10
Momentum Centre - Cnr. Pretorius and F

Site visit for



Mr. [REDACTED]

The Director General

The Department of Public Works

Private Bag

PRETORIA

0001

Dear Colleague

INTEGRATED SECURITY INFRASTRUCTURE: DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

The meeting held on 07 November 2008 between you, Chief Operational Officer of your department and official(s) of the Department of Justice and Constitutional Development refer.

The Department engaged the services of [REDACTED] Consortium for the generation of specifications and bid (tender) documentation for the entire security infrastructure of its sites/ offices country wide. The scope of work and terms of reference for **GM** Consortium were as follows:

- To investigate and to perform site risk assessments for each of the offices nation wide and to table a security plan for each of the offices;
- To generate the specifications for each of the security sub systems into a fully integrated security system. These sub systems will include the following:
 - Access control, CCTV, Asset tracking (both passive and active), Smoke Detection, Evacuation system, BMS System, Electronic log book, Event logging

*Blom -> DPA letter (Nov 2008)
- Similar letter to IOT
- Maintenance costs not included in the bid & shall be known later at market related rates
- See para of draft may increase or decrease number of sites or amount to ensure efficient security & effectiveness
- Budget for DPA CO*

13/11/2008

Date: 17 November 2008



justice

Department
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

Private Bag X81 PRETORIA 0001 - Tel (012) 315 1031 / 1606 Fax (012) 315 1142 / 1606
Momentum Centre - Cnr. Pretorius and Prinsloo Streets - Pretoria

Site visit for



Ref: 1/3/2 (PBM)
1/3/5/1 2008/2009 Budget (PBM)

Enq: [Redacted]

E-mail: [Redacted]

Date: 17 November 2008

Mr. [Redacted]

The Director General

The Department of Public Works

Private Bag

PRETORIA

0001

Dear Colleague

INTEGRATED SECURITY INFRASTRUCTURE: DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

The meeting held on 07 November 2008 between you, Chief Operational Officer of your department and official(s) of the Department of Justice and Constitutional Development refer.

The Department engaged the services of [Redacted] Consortium for the generation of specifications and bid (tender) documentation for the entire security infrastructure of its sites/offices country wide. The scope of work and terms of reference for **GM** Consortium were as follows:

- To investigate and to perform site risk assessments for each of the offices nation wide and to table a security plan for each of the offices;
- To generate the specifications for each of the security sub systems into a fully integrated security system. These sub systems will include the following:
 - Access control, CCTV, Asset tracking (both passive and active), Smoke Detection, Evacuation system, BMS System, Electronic log book, Event logging

system, Security Control Room at the premises and a National Control Room link to Pretoria.

- To generate the specification for the national control room as well as the method of operation of this control room.
- To Generate a tender document inclusive of the bills of quantities for each of the offices;
- To regulate the tender process; and
- Recommendations of tenders.

Sondolo IT (Pty) Ltd (*here after Sondolo*) was awarded the contract, RFB 2008 15 for the supply, installation and maintenance of an integrated security solution for the identified 127 sites / buildings of the Department to the amount of R601 million. The plan is that the roll out of this service should be over a period of three (3) financial years commencing in the 2008/2009 financial year with an amount of R45 million for the pilot sites. The amount of R565 million shall be divided over the 2009/2010 and 2010/2011 financial years. A twelve (12) month warranty and guarantee period will be applicable on all the buildings after the integrated systems were tested, commissioned and signed off by the State. After the one year warranty/guarantee period per building / site is signed off, a three (3) year maintenance contract will commence and these costs are not included in the amounts mentioned as these will depend on the standard fees and the turn around times that will be agreed upon by all parties concerned.

To ensure that the conceptual (original) needs of the Department are addressed the Department selected the following buildings to be pilot sites for this project:

- High Court: Johannesburg;
- Magistrate's Office: Pretoria;
- Magistrate's Office: Soweto (Protea)
- Magistrate's Office: Kempton Park; and
- Magistrate's Office: Pretoria North.

The above-mentioned pilot project sites will minimise the risks of not providing an efficient and effective security infrastructure service. The pilot project sites, once completed, will provide us with useful information, and this will be used to set the standards for all other sites to follow. The implementation of the Department's National Control Room in Pretoria will also be tested during this period to ensure that the proposed Virtual Private Network (VPN) is the best option

for the Department. With this information the Department may decide either to increase or reduce the value of the contract or the number of sites to be covered in order to ensure that there is economic acquisition of services and resources, an efficient and effective implementation of security infrastructure in each site.

Due to accommodation restraints at many of our offices, sites for control rooms must be identified or may have to be built at certain identified offices. The relevant plans need to be drafted and approved, as these control rooms must be according to specifications. These control rooms, on buildings / sites, must be linked, via VPN, with the National Office Control Room in Pretoria.

Fencing is also to be erected at various buildings / sites and the correct measurements must be taken into account at the relevant buildings / sites. Proper planning in this regard needs to be conducted, with your Department's assistance.

As discussed in the meeting our Department acknowledges the oversight that your Department was not consulted at the commencement of the project as part of normal stakeholder engagement, and we sincerely apologize for any inconvenience caused. It is also important to note that this project will not affect your capital works programme and the budget is not from the capital works allocation.

Your support and assistance in this regard will be highly appreciated to ensure safety in our buildings, make a success of this project and hence access to justice for all. It will be further appreciated if your professional teams, property management team as well as your legal representatives (to assist with contractual issues) can assist our Department to ensure that value added services and value for money is met.

Your support is always valuable to us.

Sincerely,



DIRECTOR-GENERAL: JUSTICE AND CONSTITUTIONAL DEVELOPMENT



Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

Private Bag x81, PRETORIA, 0001 • Momentum Centre, 329 Pretoria
Tel: +2712 315 1747 • Fax: +086 500 3351

BRANCH: OFFICE OF THE DIRECTOR-GENERAL

Ref: 1/3/2 (NMN)
1/3/5/1 2009/2010 Budget

Enq: [REDACTED]

E-mail: [REDACTED]

Date: 08 July 2009

[REDACTED]
Acting Director-General
Department of Public Works
Cnr Skinner and Andries Street
PRETORIA
0001

Dear Colleague

RFB 2008 15: INTERGRATED SECURITY INFRASTRUCTURE: DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

The above matter has reference.

The last meeting held on 17 June 2009 between the two Departments, my Department was provided with a proposal and requested to advertise the tender for professional services. As you know we do not have the capacity and expertise to do such, hence we were seeking your intervention.

In terms of taking the above mentioned project forward, I have decided to approach the Independent Development Trust (IDT) to assist with the project management and professional services. A meeting between my Department and IDT took place during the week of 29 June 2009 and 03 July 2009, however, your Department will continue to be involved in this project in all other aspects as previously discussed. There will also be a full participation of your regional representatives in various provinces as advised by your professional team.

I look forward to the success of this project together as partners in business.

With kind regards,

Adv [REDACTED]

Director-General: Department of Justice and Constitutional Development

DATE: 8/7/09

DPW Regional teams
to be involved at least
level + IDT as well

By both DG - agree

[Signature]
10/07/09

J.41



Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

Private Bag x81, PRETORIA, 0001 • Momentum Centre, 329 Pretorius Street, c/o Pretorius & Prinsloo Streets, PRETORIA •
Tel: +2712 315 1747 • Fax: +086 500 3351

BRANCH: OFFICE OF THE DIRECTOR-GENERAL

Ref: 1/2/2 (NMND)

Date: 08 July 2009

Mr [REDACTED]
Acting Director-General
Department of Public Works
Cnr Skinner and Andries Street
PRETORIA
0001

Dear Colleague

RFB 2008 15: INTERGRATED SECURITY INFRASTRUCTURE: DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

The above matter has reference.

The last meeting held on 17 June 2009 between the two Departments, my Department was provided with a proposal and requested to advertise the tender for professional services. As you know we do not have the capacity and expertise to do such, hence we were seeking your intervention.

In terms of taking the above mentioned project forward, I have decided to approach the Independent Development Trust (IDT) to assist with the project management and professional services. A meeting between my Department and IDT took place during the week of 29 June 2009 and 03 July 2009, however, your Department will continue to be involved in this project in all other aspects as previously discussed. There will also be a full participation of your regional representatives in various provinces as advised by your professional team.

I look forward to the success of this project together as partners in business.

With kind regards,

Adv M Sam

Director-General: Department of Justice and Constitutional Development

DATE: 31/7/09



public works

Department:
Public Works
REPUBLIC OF SOUTH AFRICA

Private Bag X65, PRETORIA, 0001 Int Code: +27 12 Tel: 012 337 2326 Fax: 012 325 8095
Cell: 082 902 9233 e-mail: gerard.damstra@dpw.gov.za website: www.publicworks.gov.za

ADV M Sam

DIRECTOR-GENERAL

Department of Justice and Constitutional Development
Private Bag X 81
PRETORIA
0001

Dear Colleague

RFB 2008: INTEGRATED SECURITY INFRASTRUCTURE: DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

Reference is herein made to your evenly headed letter, dated 8 July 2009, referenced 1/3/2 (NMN) and 1/3/5/1 2009/2010 Budget.

It has been noted that you approached the Independent Development Trust for the appointment of professional service providers for the integrated security project. As per the ruling made by Adv [REDACTED] of your Department in telephonic discussion subsequent to receipt of your letter referred to above, my staff will cease any work related to the appointment of service providers and put to file any documentation already compiled for such purpose.

It is herein confirmed that my Department will remain involved in the project as discussed with your Adv [REDACTED]. In this regard please be informed that the necessary coordination has been established, and will actively be kept alive, with Adv [REDACTED] in order to bring my Regional Structures into play at the appropriate time according to the progress of the project. It is understood that the project will kick off with a pilot being run at five sites in the Gauteng area and there after be rolled out country-wide.

Remaining your partner in business,

Kind regards.


[REDACTED]
ACTING DIRECTOR-GENERAL: DEPARTMENT OF PUBLIC WORKS

DATE: 3/8/2009

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
PRIVATE BAG X61
2009 -08- 12
PRETORIA 0001
OFFICE OF THE DIRECTOR-GENERAL

Bloem's letter
to inform DPW that
SLA is expected as
per their inputs +
to bring up.

3 484
Tel (012) 315 1031/ 1606 Fax (012) 315 1142
Pretorius and Prinsloo Streets - Pretoria

Ref: 1/3/2 (PBM)
1/3/5/1 2008/2009 Budget (PBM)
1/3/5/1 2009/2010 Budget (PBM) Enq:
Ms. N M Nelly
E-mail: [REDACTED]

15 December 2008

Mr. [REDACTED]
The Chief Operations Officer
The Department of Public Works
Private Bag X65
PRETORIA
0001

Dear Sir

**RFB 2008 15: INTEGRATED SECURITY INFRASTRUCTURE: DEPARTMENT OF JUSTICE
AND CONSTITUTIONAL DEVELOPMENT - DRAFT SERVICE LEVEL AGREEMENT**

The meeting held on Friday, 21 November 2008 between you and officials of the Department of Justice and Constitutional Development (DoJ & CD) has reference.

Please find herewith the latest draft Service Level Agreement and its annexures between our Department and Sondoio IT (Pty) Ltd for your review. You will note that in this version we have incorporated additional clauses in order to address certain concerns that were raised by you during the discussions. This means this is a replacement of the versions that were submitted to your Department in October and November 2008.

You will recall that the project should have commenced implementation at the latest by October 2008. Given the lost of time since then and the fact that this project is budgeted for within this financial year, we intend signing the Service Level Agreement by the 14th of January 2009. Taking all other things into consideration and the limited timeframes that we are all faced with we would prefer to receive your comments early enough for us to achieve



Department
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

Private Bag X81 PRETORIA 0001 - Tel (012) 315 1031/1606 Fax (012) 315 1142
Momentum Centre - Cnr. Pretorius and Prinsloo Streets - Pretoria

Ref: 1/3/2 (PBM)
1/3/5/1 2008/2009 Budget (PBM)
1/3/5/1 2009/2010 Budget (PBM)

Enq: Ms. N M Nelly

E-mail: [REDACTED]

15 December 2008

[REDACTED]
The Chief Operations Officer
The Department of Public Works
Private Bag X65
PRETORIA
0001

Dear Sir

**RFB 2008 15: INTEGRATED SECURITY INFRASTRUCTURE: DEPARTMENT OF JUSTICE
AND CONSTITUTIONAL DEVELOPMENT - DRAFT SERVICE LEVEL AGREEMENT**

The meeting held on Friday, 21 November 2008 between you and officials of the Department of Justice and Constitutional Development (DoJ & CD) has reference.

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You will recall that the project should have commenced implementation at the latest by October 2008. Given the lost of time since then and the fact that this project is budgeted for within this financial year, we intend signing the Service Level Agreement by the 14th of January 2009. Taking all other things into consideration and the limited timeframes that we are all faced with we would prefer to receive your comments early enough for us to achieve

this objectives preferably on or before 09 January 2009.

We always value your support.

Sincerely,

A handwritten signature in black ink, appearing to be "Nelly", is written over a circular official stamp. The stamp contains some illegible text and a central emblem.

Nelly

CHIEF DIRECTOR: RISK MANAGEMENT

For DEPARTMENT JUSTICE AND CONSTITUTIONAL DEVELOPMENT



Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

Private Bag X81 PRETORIA 0001 - Tel (012) 315 1031/ 1606 Fax (012) 315 1142
Momentum Centre - Cnr. Pretorius and Prinsloo Streets - Pretoria

Ref: 1/3/2 (PBM)
1/3/5/1 2008/2009 Budget (PBM)
1/3/5/1 2009/2010 Budget (PBM)

Enq: Ms. N M Nelly / Mr. [REDACTED]

Date: 27 November 2008

[REDACTED]
The Director General
The Department of Public Works
Private Bag X65
PRETORIA
0001

Attention: Chief Operations Officer

**RFB 2008 15: INTERGRATED SECURITY INFRASTRUCTURE: DEPARTMENT OF JUSTICE
AND CONSTITUTIONAL DEVELOPMENT - THE APPOINTMENT OF A PROGRAMME
MANAGER FOR THE MANAGEMENT OF THE PROVISION AND GENERATING OF A
SECURITY INFRASTRUCTURE AND THE APPOINTMENT OF AN ARCHITECT FOR SPACE
PLANNING**

The meeting held on Friday, 21 November 2008 between your Chief Operational Officer of your department and officials of the Department of Justice and Constitutional Development (DOJCD) and the letter dated 17 November 2008, of which a copy is attached for ease of reference. refer.

The Department of Justice and Constitutional Development wish to engage the services

- Of a qualified Electronic Engineer or Electro-mechanical Engineer, as a Programme Manager to manage, the implementation of RFB 2008 15 with all the aspects on planning, coordination, review, control and signoff on the construction / installation of the security infrastructure of identified buildings/ sites, countrywide.

- Of an Architect / Space Planner to ensure that all designs, space planning and drawings are drawn-up, approved by the relevant authorities/ role-players, i.e. Heritage Council, and distributed to the relevant role-players.

It will be appreciated if your Department can invite bids for the required services. The funds will be made available for the appointment of a qualified Electronic Engineer or Electro-mechanical Engineer and the Architect / Space Planner for the management of the implementation of the provision and generating of a security infrastructure, RFB 2008 15.

It will be appreciated if the responsibilities can be clearly defined for the appointed Programme Manager and Architect / Space Planner. The appointed Programme Manager and Architect shall sign a confidentiality agreement with the Department of Justice and Constitutional Development.

I will appreciate your assistance and support in this regard.

Sincerely,



ADVOCATE [REDACTED] E

DIRECTOR-GENERAL: JUSTICE AND CONSTITUTIONAL DEVELOPMENT

Annexure "IJ"



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA



1 Jan 2011
31 Dec 2012

ROUTE FORM FOR DOCUMENTATION

Reference	
Subject	ADJUDICATION OF BID NO RFB 2010 02B FOR THE APPOINTMENT OF SERVICE PROVIDER TO RENDER A 24 HOUR SECURITY GUARDING AND SPECIAL SERVICES FOR A PERIOD OF 24 MONTHS AT VARIOUS OFFICES WITHIN THE NINE(9) PROVINCES

Functionary routed from:

Capacity	Signature	Ext : Room No	Date Dispatched	STATUS / PURPOSE
Deputy Director: SCM			10/12/10	FOR APPROVAL
Director: SCM			10/12/10	10/12/10
Chief Director: SCM			10/12/2010	10/12/2010

Functionary Routed to:

Capacity	Signature	Date Received	Date Dispatched
CFO		Acting CFO Signed Submission 10/12/2010	
DDG		2010-12-10	13/12/10
Dr K De Wee COO			14/12/10
Director General			

COMMENT:

CONFIDENTIAL

BID EVALUATION AND RECOMMENDATION**BRANCH: CFO: Supply Chain Management****Tel: 012 315 4545****Fax: 086 641 2053****INTERNAL MEMO**

DATE:	08 December 2010	BID NUMBER:	RFB2010 02B
TO:	Departmental Bid Adjudication Committee	FROM:	Departmental Bid Evaluation Committee

SUBJECT: ADJUDICATION OF BID NO RFB 2010 02B FOR THE APPOINTMENT OF SERVICE PROVIDER TO RENDER A 24 HOUR SECURITY GUARDING AND SPECIAL SERVICES FOR A PERIOD OF 24 MONTHS AT VARIOUS OFFICES WITHIN THE NINE (9) PROVINCES

1. PURPOSE

- 1.1 To respond to the matters requiring clarity that arose in the Departmental Bid Adjudication Committee meeting of 02 December 2010.

2. BACKGROUND

- 2.1 The Department Bid Adjudication Committee raised the following concern(s) which needed clarity from the Evaluation Committee before the memorandum recommending the appointment of the service provider(s) can be recommended/ not recommended to the Accounting Officer:

- Why did the Evaluation Committee recommend the splitting of the regional allocation to more than one service provider as opposed to one service provider (i.e. the highest scorer per region)?
- Where more than one service provider is recommended in one region, how will the DBAC be certain that the equitable allocation of the courts has been fairly done? How will the DBAC be certain that no service provider was prejudiced against in relation to the price as the service providers quoted different rates?

3. RESPONSE FROM THE EVALUATION COMMITTEE

- 3.1 The Evaluation Committee considered the allocation of one service provider per region however taking cognisance of the high risks associated with the awarding or preferring one service provider, the Committee opted for the splitting to more than one service provider. This was also supported by the fact that the highest scoring service provider per province would have been the same service provider in 7 provinces. This approach would not be supporting the equitable share principle.

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ADJUDICATION OF BID NO RFB 2010 02B FOR THE APPOINTMENT OF SERVICE PROVIDER TO RENDER A 24 HOUR SECURITY GUARDING SERVICES FOR A PERIOD OF 24 MONTHS AT VARIOUS OFFICES WITHIN THE NINE (9) PROVINCES

- 3.2 With regards to the equitable splitting of the courts to the service provider per province, that process has commenced and the outcome thereof will be brought to the attention of the DBAC for endorsement before it can be approved by the Accounting Officer and even communicated to the service providers (once appointed). The outcome will be reflective of both the courts allocated per service provider and the related cost/ price.
- 3.3 With regards to the non- prejudice to service providers with regards to rates, once the service providers have been approved engagement with them for a standard rate (per security guard grade) will take place and this information will also be communicated to Accounting Officer via the DBAC. This exercise will be done to ensure that all service providers are on an equal footing but also to ensure that the Department gets the best-value for money service from all.
- 3.4 The end- user Chief Directorates (both in DOJCD and NPA) have the necessary operational skills to manage these various contracts at an operational level and have put in place medium to long term plans to deal with any challenges that might arise at that level.

The Evaluation Committee appreciate the consideration of the memorandum presented to the DBAC meeting dated 02 December 2010 and hope the further explanation/ clarity provided above will assist the DBAC to reach to a decision on this matter.

4. RECOMMENDATION

It is on the above that the Evaluation Committee recommends that:

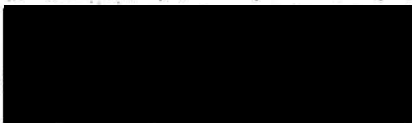
- 4.1 The recommendations for awarding the Guarding Service Bid utilising the splitting methodology as per the memo presented to the DBAC meeting of 02 December 2010 be approved;
- 4.2 The negotiations on the standard price be entered into with all the service providers that would have been approved for the appointment of the Guarding Services Bid
- 4.3 The outcome of the splitting (i.e. number of courts per service provider, costs associated per service provider) be communicated to the DBAC and the Accounting Officer before the signing of a Service Level Agreement(s);
- 4.4 Proof of confirmation from the service providers on the negotiated standard rate (per security guard grade) be communicated to the DBAC and the Accounting Officer before the signing of the Service Level Agreement(s).

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ADJUDICATION OF BID NO RFB 2010 02B FOR THE APPOINTMENT OF SERVICE PROVIDER
TO RENDER A 24 HOUR SECURITY GUARDING SERVICES FOR A PERIOD OF 24 MONTHS
AT VARIOUS OFFICES WITHIN THE NINE (9) PROVINCES

Signed on behalf of the Departmental Bid Evaluation Committee:

A black rectangular box redacting the signature of the Chairperson.

Chairperson: DBEC

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BID EVALUATION AND RECOMMENDATION**BRANCH:** CFO: Supply Chain Management**Tel:** 012 315 4545**Fax:** 086 641 20553**INTERNAL MEMO**

DATE:	09 December 2010	BID NUMBER:	RFB2010 02B
TO:	Director-General	FROM:	Departmental Bid Evaluation Committee and Adjudication Committee

SUBJECT: ADJUDICATION OF BID NO RFB 2010 02B FOR THE APPOINTMENT OF SERVICE PROVIDER TO RENDER A 24 HOUR SECURITY GUARDING AND SPECIAL SERVICES FOR A PERIOD OF 24 MONTHS AT VARIOUS OFFICES WITHIN THE NINE (9) PROVINCES

1. PURPOSE

- 1.1 To request the Bid Adjudication Committee to support the recommendation of the Bid Evaluation Committee in the appointment of competent service providers to provide 24 hours Security Guarding / special services for a period of 24 months at the various offices within the nine (9) provinces.
- 1.2 To request the Director General to grant approval for the appointment competent security service providers to provide 24 hours Security Guarding / special services for a period of 24 months at the various offices within the nine (9) provinces.

2. BACKGROUND

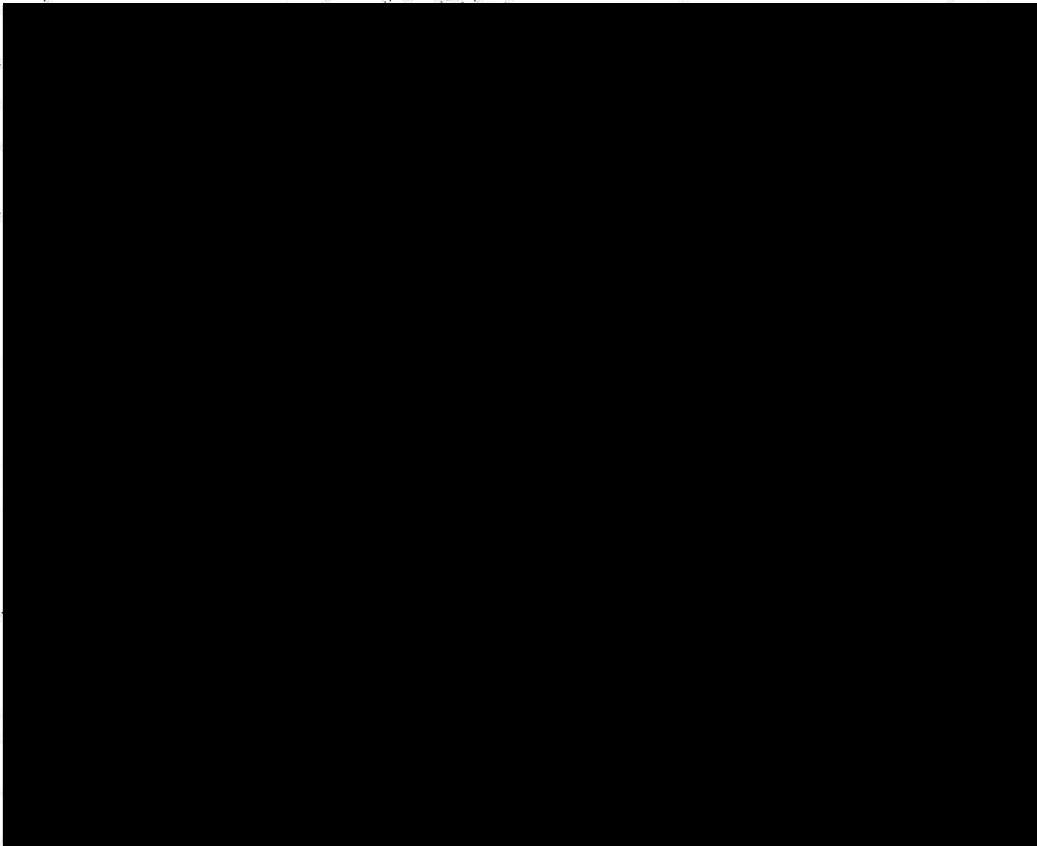
- 2.1 The Department of Justice and Constitutional Development including (NPA) currently receive the security guarding and special services in all offices through continuous extension of existing contract from the period October 2009 until December 2010. The bids for the security services were previously advertised in the month of February 2010 and were never awarded due to irregularities identified during the evaluation process. (See attached annexure).
- 2.2 The repeated extension of the existing contract has attracted the attention of the media other stakeholders, so much that they requested explanation from the Accounting Officer as to the reason (s) for such unending extensions.
- 2.3 In light of the above, it became imperative for the department to re-advertise the bids which was then advertised in the State Tender Bulletin and Mail & Guardian on 22 October 2010. The bid was also advertised in the Sunday Times on 24th October 2010 for a shortened period of two weeks as approved by the DBAC.
- 2.4 The bid documents were also made available on the departmental website but it is difficult to stipulate the number of documents collected/ downloaded from the website. However, 102 prospective service providers collected the bid documents in the form of a computer disk from the Department.

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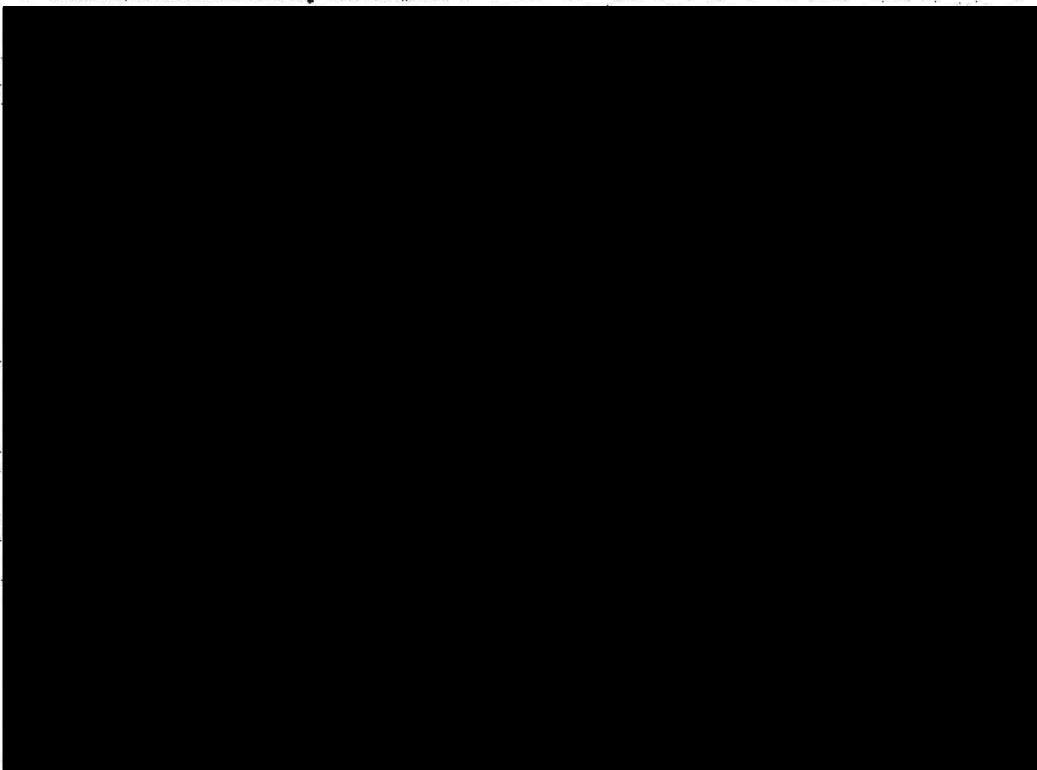
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Out of 102 prospective service providers who collected the bid proposal at the reception, only 68 submitted their bid proposals.

3. NAMES OF ALL RECEIVED BIDDERS (68)

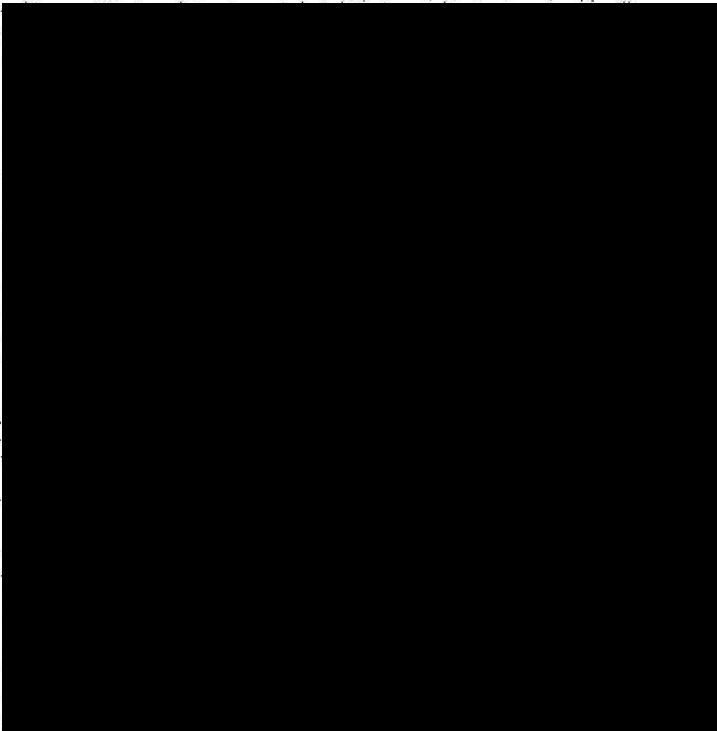


26. Bosasa Security Services



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3.1 Functionality

It was stipulated in the terms of reference that prospective service providers should comply with certain conditions of the requirements failing which their bid proposals will be invalidated. The conditions stipulated were as follows:

3.1.1 Bidders were required to comply with the following mandatory requirements:

SCM Mandatory Requirements

- SBD 1 Signed
- Original Valid Tax Clearance Certificate
- SBD 4 [Declaration]
- SBD 5 Signed
- Signed Bid Declaration
- SBD 6 Signed
- Signed Acceptance Terms and Conditions
- SBD 8 Signed
- SBD 9 Signed
- Special Conditions of Contract signed (SCC)
- Cipro Checks
- National Treasury Checks [List of Restricted Suppliers] – Refer to page 64 of the Bid document

Risk Management Mandatory Requirements

- Certified Copy PSIRA Certificate
- Original and Valid Letter of Good Standing PSIRA
- Members, Directors and Managers with PSIRA [Grade B Security Officers (Certified Copy PSIRA Certificate(s))
- Register of Companies and CC (Certified Copy obtained from DTI)
- Letter of Good Standing from Workman's Compensation Commissioner (Certified Copies)
- Valid Unemployment Insurance Fund (UIF) Registration [Certified Copies]
- Accreditation in terms of the relevant Firearm Legislation (Certified Copy)

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- Firm – arm Licenses in the name of the Company and / or CC (Certified Copies)
- Original Company and or close corporation resolution authorizing a particular person sign the bid documents
- In case of a Consortium /Joint Venture and Original duly signed consortium /joint Venture agreement by all parties.
- Letter of Good Standing from the Provident Fund

3.1.2 Bidders obligations as per the tender document (Page 36/37)

Bidders shall be obliged to provide the following additional information. Failure to comply will result in the disqualification of a bidder. The latest Government Gazette makes provisions for remuneration/wages of the Security Services Trade.

- For the purpose of this contract, use will be made of the relevant Category Security Officers, as defined in the Order made in terms of Section 51A(2) of the Labour Relations Act, 66 of 1995,
- It is expected that the Service Provider shall pay his/her employees at least a minimum monthly basic wage, as prescribed for Area concerned of the Order for the Security Officers Trade (Government Gazette no. 32524 dated 25 August 2009, as amended). Employees must be paid within seven (7) days in the new calendar month after the service has been rendered for the previous month. Failing which, the service may be terminated.
- No Bid will be considered where the price tendered are below the minimum PSIRA requirements as set out in the Government Gazette annually or where the bid has not made provision for annually price adjustments according to the statutory wage increase.
- Are all your employees registered as Security Officers in terms of all applicable relevant legislation? You will be required to furnish proof of registration on request.
Yes / No
- Are your employees and security dogs trained according to the training as prescribed by Private Security Industry Regulatory Authority?
Yes / No
- Please state whether all the company employees and security dogs are trained accordingly:
Yes / No
- a) Original or certified copies of their entities bank statement for a consecutive period of any three months for the year 2007,2008 and 2009, and
- b) Certified copies of the latest audited annual financial statement.
- c) In the case a newly established entity, submit a latest audited annual financial statement or recent financial results and the bank statement for a consecutive period for any three months for the latest financial period

Failure to comply with (a) and (b) or (c) above will automatically invalidate the prospective bidders bid proposal (page 35/36)

4. DISCUSSION AND PROCESSES FOLLOWED

The approved panel representing the Department of Justice and Constitutional Development and the NPA evaluated the received proposals according to a set of evaluation criteria. The evaluation committee consisted of the following members:

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After a thorough examination of each bid proposal as per set criteria, the Bid Committee unanimously agreed that the bidders mentioned here under did not meet the minimum compliance requirements, and as such could not be scored for Functionality.

4.1 BIDDERS WHO WERE DISQUALIFIED PER PROVINCE

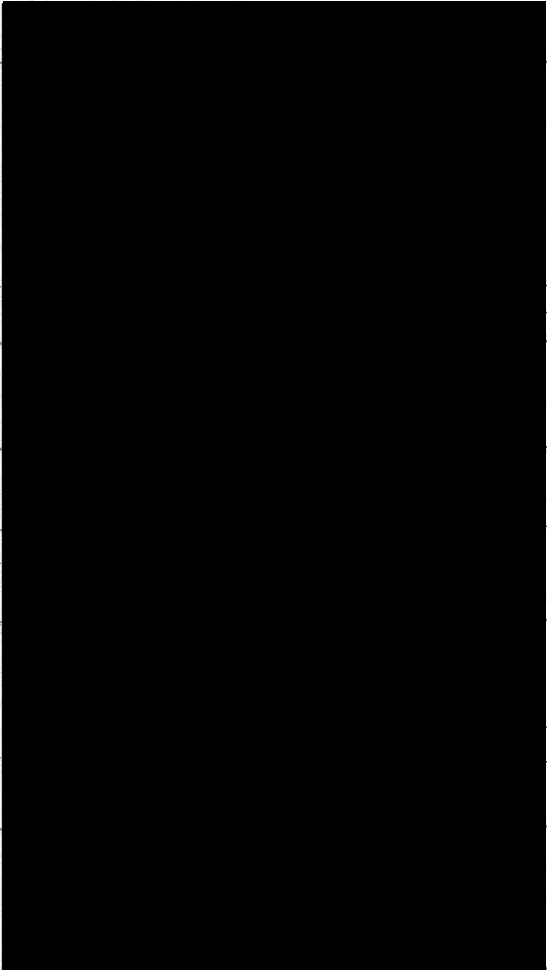
4.1.1

KWA ZULU NATAL

Disqualified Bidders	Reasons by Evaluation Committee
	<ul style="list-style-type: none"> No original and valid tax clearance certificate No financial bank statements No letter of good standing of compensation of employees No fire arm licences No confirmation letter of fire arms
	<ul style="list-style-type: none"> No letter of good standing of workman's compensation No resolution letter for the signatory No letter of good standing with PSIRA
	<ul style="list-style-type: none"> No certified copies of the registrar of companies or close corporation. A copy of the letter of PSIRA is attached and not the original No certified copy of workman's letter of good standing
	<ul style="list-style-type: none"> Copies of PSIRA registration certificate not certified Copy of tax clearance certificate not valid. Uncertified copy of BW Ngidi PSIRA registration certificate Uncertified copy of DJS Dlada registration certificate. No fire arm licences attached. Original company and cc resolution authorizes a particular person sign the bid document scanned copy Accreditation in terms of the relevant fire arm legislation only application supplied Members Directors and management with

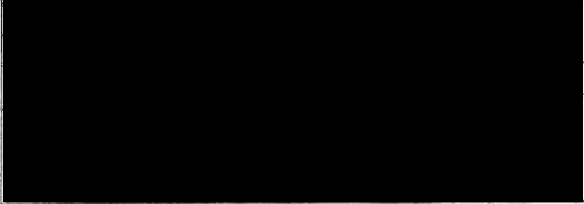
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	PSIRA not certified
	<ul style="list-style-type: none"> Uncertified copy of company registration attached None updated certified copy of members certificate CD Kotsi as well DUBE certified in 2008/08/01
	<ul style="list-style-type: none"> Copy of a certified copy of PSIRA company registration certificate was attached. Uncertified of the member registration certificate (MG Novela) and (NA Mbonamto). Uncertified copies of CK 2 registrar of companies. No fire arm licences attach. No SAPS fire arm accreditation
	<ul style="list-style-type: none"> No fire arm accreditation or letter from SAPS to confirm that they have fire arm licences. No licences attached as well
	<ul style="list-style-type: none"> Tax certificate seemed not original No fire arm accreditation attached No SAPS letters attach to confirm in neither possession of a licences nor copies of the licences.
	<ul style="list-style-type: none"> Copy of CK 2 registrar of company not certified No letter of SAPS attached confirming possession of licences.
	<ul style="list-style-type: none"> No liability insurance confirmation attached. No letter of good standing from provident fund
	<ul style="list-style-type: none"> Letter of good standing from PSIRA is uncertified. No letter of good standing with work mans compensation commissioner.

4.1.2

FREE STATE

Disqualified Bidders	Reasons by Evaluation Committee
	<ul style="list-style-type: none"> Good standing Compensation Commissioner / PSIRA not certified only colour copies submitted Fire Arm accreditation is colour copies of certified copies
	<ul style="list-style-type: none"> Good standing Compensation commissioner / Fire Arm Accreditation and licences letter copy not certified (Refer to SBD 2 of bid document)

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	<ul style="list-style-type: none"> PSIRA / Cipro / Unemployment / Good standing compensation fund letter not certified
	<ul style="list-style-type: none"> Good standing Compensation Commissioner not certified Fire Arm Accreditation not certified

4.1.3

NORTH WEST

Disqualified Bidders	Reasons by Evaluation Committee
	<ul style="list-style-type: none"> No copy of fire arm licences No confirmation letter of fire arms Letter of provident fund is older then the required date
	<ul style="list-style-type: none"> Copies of the CK 2 registrar of companies are not certified No letter of good standing on provident fund attached
	<ul style="list-style-type: none"> Uncertified copy of PSIRA attach Uncertified copies of directors registration certificate from PSIRA Uncertified CK 2 registrar of companies as well UIF insurance confirmation. Good standing / Compensation commissioner not certified
	<ul style="list-style-type: none"> Bidders' letter of good standing and provident fund and compensation are not certified and older than 3 months. CK 2 was not attached SAPS letter of licences and licences are not certified.
	<ul style="list-style-type: none"> Letter of good standing with PSIRA not attached. Letter of SAPS and copies of licences of fire arms not certified. Company registration not certified No letter of good standing of provident fund certificate

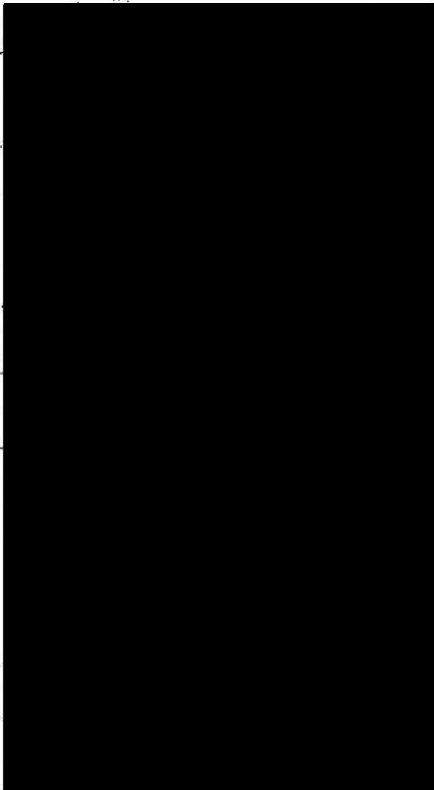
4.1.4

EASTERN CAPE

Disqualified Bidders	Reasons by Evaluation Committee
	<ul style="list-style-type: none"> Provident fund certificate attached is more than 3 months therefore unacceptable
	<ul style="list-style-type: none"> Good standing / Compensation commissioner / Fire Arm Accreditation and licences letter copy not certified Provident certificate is older than 3 months

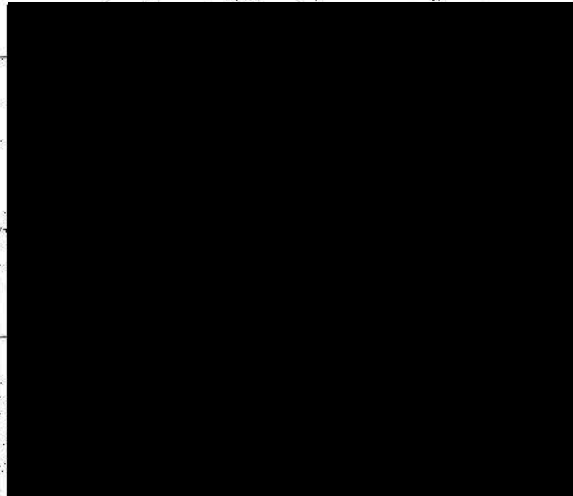
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	Not acceptable
	<ul style="list-style-type: none"> The bidder had applied for fire arm licence but did not received confirmation
	<ul style="list-style-type: none"> Letter authorising signatories colour copy of the original not certified Cipro registration not certified UIF registration copy of certified copy Letter of good standing with PSIRA expired Copies of fire arm licences not certified
	<ul style="list-style-type: none"> Provident Fund certificate not provided
	<ul style="list-style-type: none"> Provident Fund is not valid as it is older than 3 months
	<ul style="list-style-type: none"> Letter of good standing from workman's compensation commissioner not certified. UIF registration-Not certified. PSIRA letter of good standing not certified nor original CIPRO registration is a copy of a copy which is not accepted. Provident fund certificate not provided Copy of a certified copy submitted for PSIRA certificate

4.1.5

NORTHERN CAPE

Disqualified Bidders	Reasons by Evaluation Committee
	<ul style="list-style-type: none"> No proof /certificate from provident Fund
	<ul style="list-style-type: none"> Letter of Good standing / Compensation commissioner / Fire Arm Accreditation and licences letter copy not certified Provident Fund certificate is older than 3 months
	<ul style="list-style-type: none"> PSIRA / Cipro / Unemployment /Good standing compensation fund letter not certified scanned copies was provided
	<ul style="list-style-type: none"> Good standing Compensation Commissioner not certified Fire Arm Accreditation not certified


4.1.6

WESTERN CAPE

Disqualified Bidders	Reasons by Evaluation Committee
----------------------	---------------------------------

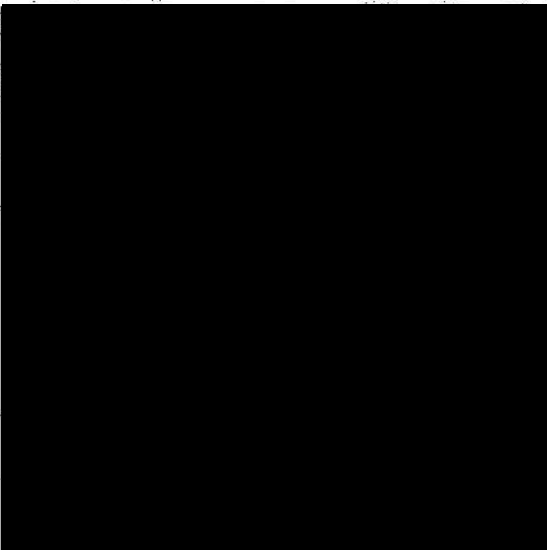
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	<ul style="list-style-type: none"> • Fire Arm licence not certified • Members grading by PSIRA scanned copy and not certified • PSIRA registration scanned copy and not certified • Letters of good standing scanned and not certified • Provident Fund certificate not provided.
	<ul style="list-style-type: none"> • Letter of good standing from PSIRA copy of a certified copy not acceptable • A number of the documents that were required to be either certified or original have been submitted as not certified or scanned copies of certified copies or in a case of Provident Fund it has expired.
	<ul style="list-style-type: none"> • Provident Fund certificate not provided as requested. Do not meet SCM checklist requirements
	<ul style="list-style-type: none"> • PSIRA members grading not certified • CIPRO certificate registration not certified • PSIRA registration not certified • Letter of good standing PSIRA copy of a copy not certified • Letter of good standing (commissioner) expired • Provident Fund certificate not attached


4.1.7

MPUMALANGA

Disqualified Bidders	Reasons by Evaluation Committee
	<ul style="list-style-type: none"> • Cipro not certified • PSIRA not certified • Original and valid letter of good standing not original • No provident Fund certificate attached.
	<ul style="list-style-type: none"> • No certified copies of PSIRA certificate as well no original • No Valid Unemployment Insurance Fund (UIF) Registration (Certified Copies) • No Accreditation in terms of the relevant Firearm Legislation (Certified Copy) • No original company and close corporation resolution authorizing a particular person sign the bid documents. • No provident Fund document/letter attached.
	<ul style="list-style-type: none"> • Certified copies of mandatory requirements as per guarding services were not submitted. • Copy of the Bid document is scanned (Portion of the Bid)

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	<ul style="list-style-type: none"> • Certified copies of mandatory requirements as per guarding services were not submitted.
---	---


4.1.8

GAUTENG

Disqualified Bidders	Reasons by Evaluation Committee
	<ul style="list-style-type: none"> • Original and valid letter of good standing PSIRA no original submitted • Provident Fund letter older than 3 months • Letter of good standing of workman compensation no certified copies supplied • Accreditation of fire arm legislation not supplied • Firearm licences in name of the company not supplied • Original company or close corporation registration authorisation not supplied <p>All mandatory requirements were not submitted as per Risk Management compliance check list</p>
	<ul style="list-style-type: none"> • Original and valid letter of good standing PSIRA no original submitted • Provident Fund letter older than 3 months • Letter of good standing of workman compensation no certified copies supplied • Accreditation of fire arm legislation not supplied • Firearm licences in name of the company not supplied • Original company or close corporation registration authorisation not supplied <p>All mandatory requirements were not submitted as per Risk Management compliance check list</p>
	<ul style="list-style-type: none"> • Register of companies and cc (certified copy obtained from DTI) not certified • No original and valid letter of good standing PSIRA • Letter of provident fund older than 3 months • Original company or close corporation registration authorisation not supplied • Accreditation of fire arm legislation not supplied • Firearm licences in name of the company not supplied
	<ul style="list-style-type: none"> • Original and valid letter of good standing PSIRA no original submitted • Provident Fund letter older than 3 months • Letter of good standing of workman compensation no certified copies supplied • Accreditation of fire arm legislation not supplied nor original

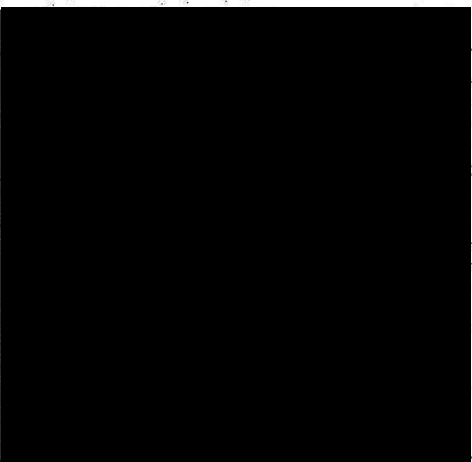
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	<ul style="list-style-type: none"> • Original and valid letter of good standing PSIRA no original submitted • Provident Fund letter older than 3 months • Letter of good standing of workman compensation no certified copies supplied • Accreditation of fire arm legislation not supplied • Firearm licences in name of the company not supplied • Original company or close corporation registration authorisation not supplied
	<ul style="list-style-type: none"> • Letter of good standing of workman compensation no certified copies supplied • Original and valid letter of good standing PSIRA no original submitted • Letter of good standing of workman compensation no certified copies supplied • Valid unemployment insurance fund registration copies not certified • Accreditation of fire arm legislation not supplied • Firearm licences in name of the company not supplied
	<ul style="list-style-type: none"> • Original and valid letter of good standing PSIRA no original submitted • Provident Fund letter older than 3 months • Letter of good standing of workman compensation no certified copies supplied • Accreditation of fire arm legislation not supplied • Original company or close corporation registration authorisation not supplied

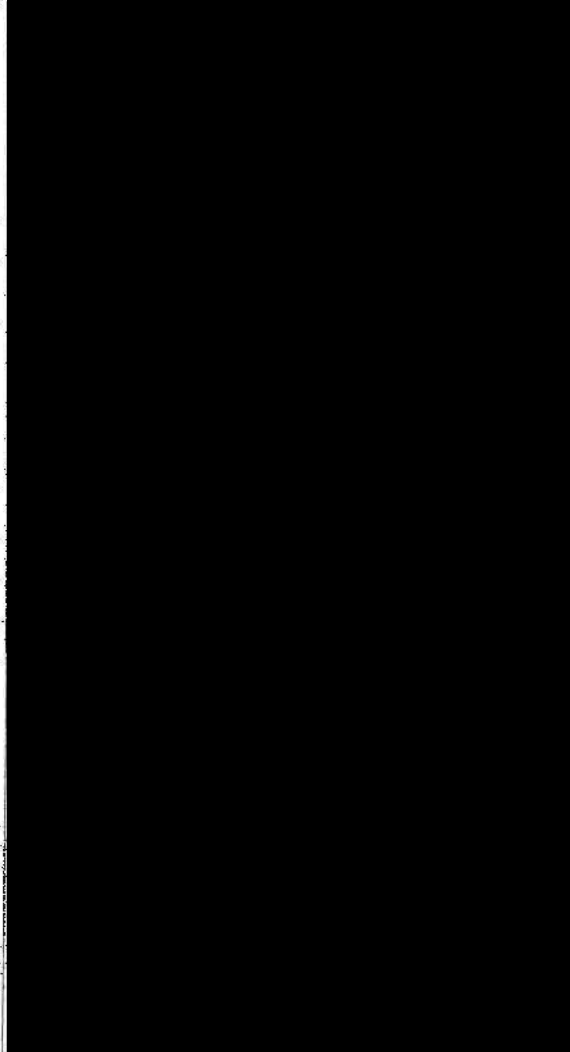
4.1.9

LIMPOPO


Disqualified Bidders	Reasons by Evaluation Committee
	<ul style="list-style-type: none"> • Original company or close corporation resolution authorisation a particular person signed bid document was not attached • No provident fund letter submitted
	<ul style="list-style-type: none"> • Certified copies of mandatory requirements as per guarding services were not submitted
	<ul style="list-style-type: none"> • Original and valid letter of good standing PSIRA no original submitted • Provident Fund letter older than 3 months • Letter of good standing of workman compensation no certified copies supplied • Accreditation of fire arm legislation not supplied • Original company or close corporation

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	registration authorisation not supplied
	<ul style="list-style-type: none"> • Letter of good standing from workman's compensation commissioner not certified • UIF registration-Not certified • PSIRA letter of good standing not certified nor original • CIPRO registration is a copy of a copy which is not accepted • Provident fund certificate not provided • Copy of a certified copy submitted for PSIRA certificate
	<ul style="list-style-type: none"> • Valid certificate of PSIRA copy of certified copy • Copy of certifying stamp on fire arm licences
	<ul style="list-style-type: none"> • Original or valid letter of good standing PSIRA is not original • No accreditation in terms of fire arm legislation submitted • No fire arm licences in the name of the company or cc is submitted • No resolution letter in terms of fire arm licences submitted • No provident fund letter submitted
	<ul style="list-style-type: none"> • Certified copy of PSIRA certificate not certified • Original and valid letter of good standing PSIRA not certified • Valid unemployment insurance fund registration not certified • Provident fund certificate not provided
	<ul style="list-style-type: none"> • Cipro not certified • PSIRA not certified • Original and valid letter of good standing not original • No Provident Fund certificate attached
	<ul style="list-style-type: none"> • No provident fund certificate attached • No fire arm licences copies attached • No original and valid letter of good standing for PSIRA • Accreditation in terms of the relevant fire arm legislation

5. CONSOLIDATED BIDS RECEIVED FOR DIFFERENT PROVINCES

Disqualified Bidders	Reasons by Evaluation Committee
	<ul style="list-style-type: none"> • Original or valid letter of good standing PSIRA is not original


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	<ul style="list-style-type: none"> • Original or valid letter of good standing PSIRA is not original • Letter of unemployment insurance fund registration copies were not certified • Fire arm licences in the name of the company or cc were not certified • Original company and close corporation resolution authorising a particular person to sign the bid documents is not certified
	<ul style="list-style-type: none"> • Original or valid letter of good standing PSIRA is not original • Letter of good standing from workman's compensation commissioner copy of a copy • Accreditation in terms of the relevant fire arm legislation • No fire arm licences in the name of the company or cc is submitted • No Provident Fund certificate attached.
	<ul style="list-style-type: none"> • Registrar of companies and cc not certified copies(not all pages certified) • Original or valid letter of good standing PSIRA is not attached • Accreditation in terms of the relevant fire arm legislation • No fire arm licences in the name of the company or cc is submitted • No Provident Fund certificate attached.
	<ul style="list-style-type: none"> • Original or valid letter of good standing PSIRA is not original • No fire arm licences in the name of the company or cc is scanned copies • Valid unemployment insurance fund registration not certified
	<ul style="list-style-type: none"> • Original or valid letter of good standing PSIRA is not original • No fire arm licences in the name of the company or cc is not certified • Registrar of companies and cc not certified copies • Provident Fund certificate older than three months • Accreditation in terms of the relevant fire arm legislation not applicable
	<ul style="list-style-type: none"> • Original or valid letter of good standing PSIRA is not original • No fire arm licences in the name of the company or cc is not certified • Registrar of companies and cc not certified copies • Provident Fund certificate older than three months • Accreditation in terms of the relevant fire arm

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	legislation
	<ul style="list-style-type: none"> • Original or valid letter of good standing PSIRA is not original • Members and director and managers with PSIRA grade B security officer not certified • Original or valid letter of good standing PSIRA is not original • Provident Fund certificate older than three months • Accreditation in terms of the relevant fire arm legislation not attached • Original company and close corporation resolution authorisation particular person signed the bid document not attached
	<ul style="list-style-type: none"> • Original or valid letter of good standing PSIRA is not original • Registrar of companies and cc not certified copies • Provident Fund certificate older than three months • Original or valid letter of good standing PSIRA is not certified • Copy of PSIRA certificate not certified • Original company and close corporation resolution authorisation particular person signed the bid document not attached • Valid unemployment insurance fund not certified • Accreditation in terms of the relevant fire arm legislation • No fire arm licences in the name of the company or cc
	<ul style="list-style-type: none"> • Accreditation in terms of the relevant fire arm legislation • No fire arm licences in the name of the company or cc • Original or valid letter of good standing PSIRA is not original • Members and director and managers with PSIRA grade B security officer not certified
	<ul style="list-style-type: none"> • Original or valid letter of good standing PSIRA is not original • Registrar of companies and cc not certified copies • Provident Fund certificate older than three months • Original or valid letter of good standing PSIRA is not certified • Copy of PSIRA certificate not certified • Original company and close corporation resolution authorisation particular person signed the bid document not attached

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	<ul style="list-style-type: none"> Valid unemployment insurance fund not certified Accreditation in terms of the relevant fire arm legislation No fire arm licences in the name of the company or cc
	<ul style="list-style-type: none"> Accreditation in terms of the relevant fire arm legislation No fire arm licences in the name of the company or cc Copy of PSIRA certificate not certified Original company and close corporation resolution authorisation particular person signed the bid document only one resolution from Anani was received and not from SHS Security Services Valid letter of good standing PSIRA is not certified
	<ul style="list-style-type: none"> Original or valid letter of good standing PSIRA is not original Letter of good standing of workman's compensation commissioner not certified
	<ul style="list-style-type: none"> Accreditation in terms of the relevant fire arm legislation not certified Original or valid letter of good standing PSIRA is not original Original company and close corporation resolution authorisation particular person signed the bid document was not signed Provident Fund certificate not attached
	<ul style="list-style-type: none"> Original or valid letter of good standing PSIRA is not original Provident Fund certificate older than three months Accreditation in terms of the relevant fire arm legislation not certified No fire arm licences in the name of the company or cc
	<ul style="list-style-type: none"> Original or valid letter of good standing PSIRA is not original Provident Fund certificate older than three months Original company and close corporation resolution authorisation particular person signed the bid document was not certified
	<ul style="list-style-type: none"> Certified Copy of PSIRA Certificate scanned copy was submitted
	<ul style="list-style-type: none"> No certified copy of PSIRA certificate and document is scanned Original or valid letter of good standing PSIRA is not original and is scanned Provident Fund certificate older than three months

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	<ul style="list-style-type: none"> Registrar of companies and cc not certified Letter of good standing from workman's compensation commissioner is expired
	<ul style="list-style-type: none"> Original or valid letter of good standing PSIRA is not original but certified Fire arm licences in the name of the company or cc is not attached Provident Fund certificate not attached Letter of good standing from workman's compensation commissioner is expired
	<ul style="list-style-type: none"> Accreditation in terms of the relevant fire arm legislation not certified Original or valid letter of good standing PSIRA is not original but certified Original company and close corporation resolution authorisation particular person signed the bid document was not signed Provident Fund certificate not attached
	<ul style="list-style-type: none"> Copy of PSIRA certificate not certified Members Directors and managers with PSIRA (Grade B security Officers (Certificates) not certified No original or valid letter of good standing PSIRA submitted Provident Fund certificate not attached
	<ul style="list-style-type: none"> Registrar of companies and cc not certified copy of certified copy Members Directors and managers with PSIRA (Grade B security Officers (Certificates) not certified
	<ul style="list-style-type: none"> Copy of PSIRA certificate not certified Provident Fund certificate not attached
	<ul style="list-style-type: none"> No original or valid letter of good standing PSIRA submitted Provident Fund certificate older than three months Valid unemployment Insurance Fund (UIF) registration not certified
	<ul style="list-style-type: none"> Members Directors and managers with PSIRA (Grade B security Officers (Certificates) not certified Registrar of companies and cc not certified copy of certified copy Letter of good standing from workman's compensation commissioner not certified No original or valid letter of good standing PSIRA Valid unemployment Insurance Fund (UIF) registration not certified copy of a certified copy Provident Fund certificate not attached
	<ul style="list-style-type: none"> Members Directors and managers with PSIRA

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	<ul style="list-style-type: none"> (Grade B security Officers (Certificates) not certified • Copy of PSIRA certificate not certified • Original or valid letter of good standing PSIRA is not original but certified • Valid unemployment Insurance Fund (UIF) registration not certified • Registrar of companies and cc not certified copy (for Khoza) • Letter of good standing from workman's compensation commissioner not certified
	<ul style="list-style-type: none"> • Copy of PSIRA certificate not certified • Original or valid letter of good standing PSIRA is not original • Registrar of companies and cc not certified copy not all copies are certified • Letter of good standing from workman's compensation commissioner not certified
	<ul style="list-style-type: none"> • Copy of PSIRA certificate is a copy of certified copy • Original or valid letter of good standing PSIRA is not original • Members Directors and managers with PSIRA (Grade B security Officers (Certificates) not certified • Registrar of companies and cc not certified copy not all copies are certified • All other required documentation were not attached
	<ul style="list-style-type: none"> • Letter of good standing from workman's compensation commissioner not certified • Provident Fund certificate is older than 3 months • Accreditation in terms of the relevant fire arm legislation not certified
	<ul style="list-style-type: none"> • Letter of good standing from workman's compensation commissioner not certified and expired • Valid unemployment Insurance Fund (UIF) registration not certified • Original or valid letter of good standing PSIRA is not original • Copy of PSIRA certificate not certified copy of a certified copy • Registrar of companies and cc not certified copy of certified copies • Members Directors and managers with PSIRA (Grade B security Officers (Certificates) is a copy of a certified copy
	<ul style="list-style-type: none"> • Original or valid letter of good standing PSIRA is not original • Copy of PSIRA certificate is a copy of certified copy

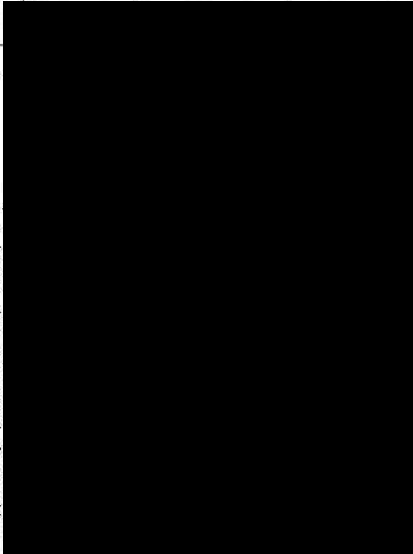
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	<ul style="list-style-type: none"> Valid unemployment Insurance Fund (UIF) registration not certified Letter of good standing from workman's compensation commissioner not certified and expired Registrar of companies and cc not certified copy of certified copies Members Directors and managers with PSIRA (Grade B security Officers (Certificates) not certified Accreditation in terms of the relevant fire arm legislation not certified copy of a certified copy Fire arm licences in the name of the company or cc is not attached copy of a certified copy
	<ul style="list-style-type: none"> Original or valid letter of good standing PSIRA is not original Provident Fund certificate is older than 3 months
	<ul style="list-style-type: none"> Valid unemployment Insurance Fund (UIF) registration not certified
	<ul style="list-style-type: none"> Accreditation in terms of the relevant fire arm legislation not certified only application for licence Fire arm licences in the name of the company or cc is not attached only competency certificate attached
	<ul style="list-style-type: none"> Original company and close corporation resolution authorisation particular person signed the bid document was not attached
	<ul style="list-style-type: none"> Copy of PSIRA certificate is a copy scanned copy Members Directors and managers with PSIRA (Grade B security Officers (Certificates) copy of certified copy scanned copy Fire arm licences in the name of the company or cc is not certified Register of companies and cc not certified Accreditation in terms of the relevant fire arm legislation not certified
	<ul style="list-style-type: none"> Copy of PSIRA certificate is not certified Original or valid letter of good standing PSIRA is not original Fire arm licences in the name of the company or cc is not certified Letter of good standing from workman's compensation commissioner not certified Register of companies and cc not certified Original company and close corporation resolution authorisation particular person was not signed Provident Fund certificate is older than 3 months (SJR Security Services)

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	<ul style="list-style-type: none"> • Register of companies and cc is copy of certified copy • Letter of good standing from workman's compensation commissioner not certified • Valid unemployment Insurance Fund (UIF) registration not certified • Copy of PSIRA certificate is copy of a certified copy • Members Directors and managers with PSIRA (Grade B security Officers (Certificates) copy of certified copy
	<ul style="list-style-type: none"> • Copies of PSIRA registration certificate not certified • Copy of tax clearance certificate not valid • Uncertified copy of BW Ngidi PSIRA registration certificate • Uncertified copy of DJS Dlada registration certificate • No fire arm licences attached • Original company and cc resolution authorizes a particular person sign the bid document scanned copy • Accreditation in terms of the relevant fire arm legislation only application supplied • Members Directors and management with PSIRA not certified

6. EVALUATION PROCESS

It was part of the terms of reference that bidders will be evaluated in terms of the functionality criteria with a set minimum points to be obtained in order to qualify for the evaluation in terms of the PPPFA principle.

In respect to the evaluation matrix for functionality, the prospective service bidders were rated from 1 to 5 as follows: 1 = very poor, 2 = poor, 3= average, 4 = good and 5= very good.

It was further stipulated that Bidders that score less than 60% out of 100% in respect of functionality/quality compliance would be regarded as non responsive and would not be evaluated further. In order to ensure meaningful participation and effective comparison, bidders are requested to furnish detailed information in substantiation of compliance to the evaluation criteria.

- 6.1 The total of 100 points will be calculated on the basis of 90 points for price, and 10 points for specific goals and ownership. The points in respect of price will be calculated on the ceiling price of the bid.
- 6.2 The Bid Evaluation Committee held a meeting on the 8th, 9th, 10th, 11th, 12th, 13th and 29th November 2010, to evaluate and allocate points to qualifying bids in respect of functionality according to the bid evaluation criteria that formed part of TOR.
- 6.3 The under - mentioned bidders complied with the minimum requirements and were therefore evaluated in terms of the functionality and zero bidders scored less than the minimum 60% threshold that was set for the evaluation criteria for functionality

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6.3.1 BIDDERS WHO QUALIFIED PER PROVINCE:

6.3.1.1 Free State

- 1. [REDACTED]
- 2. [REDACTED]
- 3. [REDACTED]
- 4. [REDACTED]
- 5. Bosasa Security Services

6.3.1.2 Eastern Cape

- 1. [REDACTED]
- 2. [REDACTED]
- 3. Bosasa Security Services

6.3.1.3 Gauteng Province

- 1. [REDACTED]
- 2. [REDACTED]
- 3. [REDACTED]
- 4. [REDACTED]
- 5. Bosasa Security Services
- 6. [REDACTED]
- 7. [REDACTED]
- 8. [REDACTED]

6.3.1.4 Kwa Zulu Natal

- 1. [REDACTED]
- 2. [REDACTED]
- 3. [REDACTED]
- 4. Bosasa Security Services
- 5. [REDACTED]

6.3.1.5 Limpopo

- 1. [REDACTED]
- 2. [REDACTED]
- 3. [REDACTED]
- 4. [REDACTED]
- 5. Bosasa Security Services
- 6. [REDACTED]
- 7. [REDACTED]
- 8. [REDACTED]

6.3.1.6 Mpumalanga

- 1. [REDACTED]
- 2. [REDACTED]
- 3. [REDACTED]
- 4. Bosasa Security Services
- 5. [REDACTED]
- 6. [REDACTED]
- 7. [REDACTED]

6.3.1.7 Northern Cape

- 1. [REDACTED]
- 2. [REDACTED]
- 3. [REDACTED]

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4. Bosasa Security Services

6.3.1.8 North West

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. Bosasa Security Services
6. [REDACTED]
7. [REDACTED]

6.3.1.9 Western Cape

1. [REDACTED]
2. [REDACTED]
3. Bosasa Security Services

Attached herewith see Annexure B, which is a summary of the points allocated by each member of the bid evaluation committee and the individual scoring sheets of all the service providers.

6.3.2 Price

It was stipulated in the terms of reference that a service provider should score at least 60% in respect of functionality to qualify for further evaluation. All the above mentioned service providers as per 6.3.1 scored more than 60% and therefore complied with the technical criteria and were therefore evaluated further in terms of price, equity ownership and specific goals.

6.3.3. Equity ownership and specific goals

The points in respect of equity ownership (HDI, women and people with disabilities) and specific goal (SMME) were calculated and added to the points out of 90 to arrive at the final comparative points out of 100 on which the recommendation is based.

Attached as Annexure A, is a spread sheet with the comparative points.

7. MOTIVATION

7.1 Subsequent to the BEC discussions on the current security challenges countrywide, the following provinces were identified by Security and Risk Management Officials who were part of the BEC, identified the following provinces as the high risk provinces: **Gauteng, Western Cape, Kwazulu Natal, Free State and Eastern Cape.**

7.2 The above assertions were informed by the current security incidents registered in the department and reported to the Law Enforcement Agencies and the State Intelligence Community. The Security Risks inherent risks in the above 5 mentioned provinces have been influenced by the geographical location and size as well as the economical factors of the provinces.

7.3 It was agreed that based on the above, the current consistent approach exercise of awarding or preferring one service provider manifests high risks to losses of assets in general and constituted risk in terms of labour unrest or any risk. The continued application of this approach also did not support the Broad Based Black Economic Empowerment and the principles of equitable share.

7.4 Although the evaluation process revealed that certain bidders scored the highest after pricing consideration, the evaluation committee adopted the matrix approach of demarcating the

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provinces in order to get quality of services from the diversified service providers to increase competition.

7.5 The Bid Evaluation Committee satisfied itself that all service providers that were evaluated for functionality are competent and demonstrated satisfactory ability to render the required services.

7.6 Pages 63 and 64 of the bid document stipulate the special conditions whereby the department reserves the right to award different parts of the bid to different bidders as well as the right to award the bid per province, region and or holistically. This stipulation further serves as a rationale behind splitting of the tender amongst deserving and qualifying bidders as opposed to awarding the tender to a sole service provider.

7.7 The evaluation committee has also taken cognisance of the different pricing made by the bidders in different areas as indicated in their proposal documents. Accordingly, the BEC asserts that in order to award this Bid in the principle of Best and Final Offer (BAFO) the department should enter into pricing negotiation with all the successful bidders once this bid is approved. The above exercise is consistent with departmental cost saving initiatives and will also ensure that the department receives quality security services and value for money.

8. OPTIONS AVAILABLE

8.1 In the light of the above preceding discussion, and the final consolidated results that were presented to the Bid Evaluation Committee after pricing and HDI were considered, the Bid Evaluation Committee looked at the following options for recommendation to the Departmental Bid Adjudication Committee and the Director General the awarding of this tender to the competent service provider (s) in all (nine) 9 provinces as follows (see attached consolidated scoring sheets)

On the 09th December 2010, the DBAC instructed that the DBEC should also reflect an additional option according to their directive which will reflect the results of the highest scoring bidder(s) per province(s) compared to the options already identified by the DBEC. The option suggested by the DBAC is reflected as option 3 below, however the DBEC was against this approach since it influences the principle of monopoly.

OPTION 1	OPTION 2	OPTION 3
1. Northern Cape: • Bosasa	1. Northern Cape: • Bosasa • [REDACTED]	1. Northern Cape: • Bosasa
2. Western Cape: • Bosasa • [REDACTED]	2. Western Cape: • Bosasa • [REDACTED]	2. Western Cape: • Bosasa
3. Eastern Cape: • [REDACTED] • Bosasa • [REDACTED]	3. Eastern Cape: • [REDACTED] • Bosasa • [REDACTED]	3. Eastern Cape: • [REDACTED]
4. Free State: • Bosasa • [REDACTED] • [REDACTED]	4. Free State: • Bosasa • [REDACTED] • [REDACTED]	4. Free State: • Bosasa
5. North West: • [REDACTED]	5. North West: • [REDACTED] • Bosasa • [REDACTED]	5. North West: • Linda

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6. KwaZulu- Natal: • Bosasa • [REDACTED] • [REDACTED]	6. KwaZulu- Natal: • Bosasa • [REDACTED] • [REDACTED]	6. KwaZulu- Natal: • Bosasa
7. Limpopo: • [REDACTED] • [REDACTED]	7. Limpopo: • Bosasa • [REDACTED] • [REDACTED]	7. Limpopo: • Bosasa
8. Mpumalanga: • [REDACTED] • [REDACTED] • [REDACTED]	8. Mpumalanga: • Bosasa • [REDACTED] • [REDACTED]	8. Mpumalanga: • Bosasa
9. Gauteng: • [REDACTED] • [REDACTED] • [REDACTED]	9. Gauteng: • Bosasa • [REDACTED] • [REDACTED]	9. Gauteng: • Bosasa

9. RECOMMENDATION

9.1 In light of the above available options, the Bid Evaluation Committee recommends **OPTION 2** based on the following reasons:

- 9.1.1 The 3 highest scoring bidders per province with consideration of the price (i.e. best value for money, quality services).
- 9.1.2 The award of this bid to one (1) service provider per region would not address the risk factor(s) associated with open and competitiveness, ethics and fair dealings, equity.
- 9.1.3 The award of this bid to one service provider will pose high risks in terms of service delivery, labour unrests, litigation, insolvency, etc.
- 9.1.4 The benefits of awarding the bid to more than one service provider will enhance service delivery, productivity, reduce the dependency on operations
- 9.1.5 The awarding of this bid to more than one service provider per region will assist the department in terms of contract management with regards to supplier performance. In terms of poor performance by one service provider in a region, the department has an option of exploring the services of another service provider within that region without necessarily going through costly bidding process.

It should be noted that the Security and Risk Management officials (DOJCD and NPA) supported this model or approach after a benchmark that was done in South African Police Services, Departments of Health and Social Development in both North West and Limpopo provinces respectively. This model or approach so far proves to be the best in the public sector since it promotes SMME while in the same time ensuring that departments receive quality and value for money security services.

9.1.2 In terms of Treasury Regulations 16A9.1(c), authorities must check the National Treasury's database of restricted suppliers prior to awarding any contract. This is to ensure that no recommended bidders or any of its directors are listed as companies or persons prohibited from doing business with the public sector. All the above service providers were checked with the National Treasury as per the attached email. National Treasury indicated that the said entities are not listed under the restricted register.

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10. FINANCIAL IMPLICATIONS

An all inclusive cost for the provision of 24 hour security guarding services for a period of 24 months at the various offices within the nine (9) provinces as stipulated in the pricing schedule shall be applicable in all instances. Expenditure will be borne by the Chief Directorate Risks Management in DOJ & CD and Security and Risk Management Business unit in the NPA.

ADJUDICATION OF BID NO RFB 2010 028 FOR THE APPOINTMENT OF SERVICE PROVIDER TO RENDER A 24 HOUR SECURITY GUARDING SERVICES FOR A PERIOD OF 24 MONTHS AT VARIOUS OFFICES WITHIN THE NINE (9) PROVINCES

BID EVALUATION COMMITTEE

Name	Signature	Date
[REDACTED]	[Signature]	09-12-2010
[REDACTED]	[Signature]	9-12-2010
[REDACTED]	[Signature]	09/12/10
Mr. [REDACTED] Nale	[Signature]	09/12/10
[REDACTED]	[Signature]	09/12/10

BID ADJUDICATION COMMITTEE RECOMMENDED / NOT RECOMMENDED

DEPARTMENTAL BID ADJUDICATION COMMITTEE		
APPLICATION APPROVED / NOT APPROVED		
NAME AND SURNAME	SIGNATURE	DATE
[REDACTED]	[Signature]	10/12/2010
[REDACTED]	[Signature]	10/12/10
[REDACTED]	[Signature]	10/12/10
[REDACTED]	[Signature]	10/12/2010
[REDACTED]	[Signature]	10/12/2010
[REDACTED]	[Signature]	2010/12/11 Chairperson

Recommendation supported

Deputy Director: SCM (SECRETARY)
Date: 10/12/2010

- 1) Security management to consider cheap alternatives
- 2) Loss to be secured within borders of the relevant

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ADJUDICATION OF BID NO RFB 2010 02B FOR THE APPOINTMENT OF SERVICE PROVIDER TO RENDER A 24 HOUR SECURITY GUARDING SERVICES FOR A PERIOD OF 24 MONTHS AT VARIOUS OFFICES WITHIN THE NINE (9) PROVINCES

BID EVALUATION COMMITTEE

Name	Signature	Date
[REDACTED]		30-11-2010
[REDACTED]		30-11-2010
[REDACTED]		30/11/2010 09/12/10
[REDACTED]		30/11/2010
Mr. [REDACTED] Nate		30/11/2010
[REDACTED]		30/11/2010
[REDACTED]		30/11/2010
[REDACTED]		30/11/2010

BID ADJUDICATION COMMITTEE RECOMMENDED / NOT RECOMMENDED

Recommendation supported / not supported

as per the recommendations of both committees (BEC & BAC)

Director: SCM

Date 10/12/10

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ADJUDICATION OF BID NO RFB 2010 02B FOR THE APPOINTMENT OF SERVICE PROVIDER
TO RENDER A 24 HOUR SECURITY GUARDING SERVICES FOR A PERIOD OF 24 MONTHS
AT VARIOUS OFFICES WITHIN THE NINE (9) PROVINCES

Recommendation supported / not supported

CD: SCM

Date

10/12/2010

Based on the Recommendation
of DBAC and the evaluation
Committee

Recommendation supported / not supported

CFO

Date

2010/11/10

Recommendation supported / not supported

SCM TO IMMEDIATELY ESCALATE IS BIDDER(S) UNABLE TO FIT INTO
ESTABLISHED STANDARD RATE WITHOUT SERVICE IMPAIRMENT AND ALSO THAT
SLAS ARE NOT SIGNED ON RATES OTHER THAN THOSE ESTABLISHED IN APPROPRIATE
PROCESS

DDG

Date

13/12/10

Recommendation supported / not supported

COO

Date

Recommendation approved / not approved

Director-General

Date

14/12/10

Option 2 approved
for reasons explained
in paragraph 9 of the
memo.

CONFIDENTIAL

Annexure "**KL**"

Annexure "**KL**"

Excluded because of
redactions

Annexure "**M**"

Annexure "**M**"

Excluded because of
redactions

Annexure "**N**"

Annexure "N"

**Excluded because of
redactions**

**M.L. MATEME INC**

ATTORNEYS

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10th August 2021

**THE SECRETARIAT
STATE CAPTURE COMMISSION OF INQUIRY
“ PER EMAIL ”**

Dear Madam

Re: BOSASA RELATED EVIDENCE – STATE CAPTURE COMMISSION

We address you following the directive issued by the Chairperson of State Capture Commission of Inquiry; that we may supplement our evidence and or address any issue which may not have been addressed on the 30th July 2021.

The Affidavit attached hereto addresses the comments and or questions raised at the end of the Evidence by the Chairperson of the Commission.

The Affidavit is attached hereto and is self-explanatory.

Should there be any further information required we shall on request respond and or supplement.

Thanking you.

Yours faithfully

PER.:


M.L. MATEME INC

Please note: We are open for business (by appointment only).

M.L. MATEME INC

When visiting our offices, please ensure that you wear a mask and follow the steps we have implemented to stop the spread of COVID-19 and for your protection.

Affidavit of William Khotso De Wee

I, the undersigned,

William Khotso De Wee

Declare under oath as follows:

Introduction

1

1.1 I am adult male and former public servant. I live in Pretoria. I am a South African Citizen.

1.2 I am married with children.

1.3 The facts contained herein fall within my personal knowledge, unless the contrary appears from the contents hereof, and to the best of my knowledge both true and correct.

2

2.1 During my appearance, on the 30th July 2021 at the Judicial Inquiry on Allegations of State Capture, Fraud and Corruption in the Public Sector including Organs of State, the Chairperson, Deputy Chief Justice Zondo, raised a concern that a security company called Bosasa, kept being awarded government tenders between 2008-2015 despite media allegations about possible corruption. He asked why public servants did not stop awarding these tenders to Bosasa based on these media allegations.

2.2 As a public servant occupying the position of Chief Operations Officer in the Department of Justice and Constitutional Development at the time, despite media allegations, I was not aware of any substantive evidence of corrupt activity influencing the awarding of tenders at the time, and neither did I participate in any such activities.

2.3 The procurement decisions I participated in, as far as I am concerned, strenuously followed due process and were informed and influenced by the various provisions of the Public Finance Management Act and its regulations, as well as the provisions of the National Treasury Guidelines of 2004 titled "Supply Chain Management: A Guide for Accounting Officers/ Authorities", which provides amongst others, in paragraph 2.5.3, that:

In dealing with suppliers and potential suppliers, institutions should:

Wk
17.5.13.

- Preserve the highest standards of honesty, integrity, impartiality and objectivity;
- Be fair, efficient, firm and courteous;
- Achieve the highest professional standards in the awarding of contracts, so as to maximise value for money while adhering to international standards;
- Provide clear specifications for requirements which encourage innovation and refer, where appropriate, to relevant technical and other standards;
- Make available as much information as suppliers need to respond to the bidding process and to define and publicise procurement contact points;
- Manage the bidding process so that genuine competition is preserved and discrimination is avoided;
- Make available the broad criteria intended for the evaluation of bids, to evaluate bids objectively and to notify the outcome promptly;
- Within the bounds of commercial confidentiality, to debrief unsuccessful bidders of the outcome of the bidding process so as to facilitate better performance on future occasions;
- Achieve the highest professional standards in the management of contracts;
- Pay promptly for work done in accordance to standards as set by a legal and binding contract; and
- Respond promptly, courteously and efficiently to suggestions, enquiries and complaints.

2.4 If the above-mentioned Bosasa contracts were blocked on the basis of media allegations and hearsay alone, without any substantive evidence, there is a risk that the above provisions pertaining to impartiality, objectivity, fairness, genuine competition and avoidance of discrimination would have been violated and the legal rights of the bidders prejudiced.


DEPONENT

Thus signed and sworn before me at Benoni on this the 10th day of August 2021 by the deponent who acknowledges that he knows and understands the contents of this affidavit; that it is the truth to the best of his knowledge and belief and that he has no objection to taking the prescribed oath and regards the same as binding on the deponent's conscience and the administration of the oath complied with the Regulations contained in Government Gazette No. R1258 of 21 July 1972, as amended.


M Ramela 9820973 W/O
COMMISSIONER OF OATHS

EX OFFICIO:

FULL NAMES:

MAPHUTI RAMELA

PHYSICAL ADDRESS: SAPS 117 HARPUR STREET

DESIGNATION:

BENONI 1500
WARRANT-OFFICER

SOUTH AFRICAN POLICE SERVICE
117 HARPUR AVENUE, BENONI
10 AUG 2021
CLIENT SERVICE CENTRE HARPURLAAN 117, BENONI
SUID-AFRIKAANSE POLISIEDIENS