

# Minister Michael Masutha: Bosasa Contracts within the Justice and Correctional Services Portfolio

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25 Feb 2019

## Statement by the Ministry of Justice and Correctional Services presented by Minister Adv. Michael Masutha on Bosasa Contracts within the Justice and Correctional Services Portfolio

Minister of Health, Dr. Aaron Motsoaledi  
Deputy Ministers, Thabang iMakwetla and John Jeffery,  
Justice and Constitutional Development Director-General, Mr Vusi Madonsela,  
National Commissioner of Correctional Services, Mr Arthur Fraser,  
Head of the SIU, Advocate Andy Mothibi,  
Senior government officials,  
Ladies and gentlemen,

Members of the media,

A very good morning to you all and thank you for honouring our invitation.

Two weeks ago, during the State of the Nation Address, President Cyril Ramaphosa emphasised the need to step up the fight against corruption as an urgent task facing both the public and private sectors, at this moment in our history.

The President further said, "The action we take now to end corruption and hold those responsible to account will determine the pace and trajectory of the radical social and economic transformation we seek."

In line with the above, the Ministry of Justice and Correctional Services has noted representations made at the Zondo Commission of Inquiry alleging irregularities and corrupt activities on the part of officials within its portfolio in relation to African Global Operations, previously known as Bosasa.

From the outset, we wish to state our unequivocal support for the work of the Zondo Commission, as an important platform for our efforts aimed at rooting out elements, that if left unchecked, pose the potential to weaken our constitutional democracy. We would like to reiterate the call to those who have information that may assist the work of the Commission, not to hesitate, but to come forward as part of their contribution to the President's call to end corruption.

As the Ministry, we met with the affected Accounting Officers in the portfolio of Justice and Correctional Services departments and entities to consider the implications of recent developments relating to contracts with African Global Operations, or any of its subsidiaries.

## Correctional Services

I have in the past weeks undertaken in-loco inspections of kitchens at a number of correctional centres where public-private partnerships are in place to cater to the nutritional needs of inmates. Among the centres I visited are Johannesburg correctional centre, commonly known as Sun City, the Kgosi Mampuru Correctional Centre in Pretoria, and the Pollsmoor Correctional Centre in Cape Town.

Currently, there are 239 operational Correctional Centres in South Africa with 226 kitchens catering to a population of approximately 162 000 offenders as at end of January 2019. Out of the 226 kitchens, 31 of these provide nutrition services through an outsourced service, where 26 kitchens are being serviced by African Global Operations, with a population of 46 434 offenders (29%) while 112 754 offenders (71%) receive nutrition services in-house. The Department has been outsourcing Nutritional Services since 2004 to various correctional centres through competitive bidding processes.

In 2006, the President issued a proclamation to probe allegations of corrupt activities in the awarding of contracts to BOSASA, namely for nutritional services, access control, fencing and televisions.

The 2009 report of the Special Investigating Unit (SIU) in this regard, made the following recommendations to the Department of Correctional Services:

- Disciplinary action to be instituted against the then Chief Financial Officer, Mr Patrick Gillingham.
- The Department to consider instituting civil proceedings against BOSASA to recover possible losses.
- The NDPP to consider criminal charges against Mr. Gillingham and the former National Commissioner, Mr. Linda Mti as well as the company and individuals attached to it.

Since then, no criminal or civil proceedings were instituted; however, disciplinary proceedings were initiated against Mr Gillingham in 2009 but he resigned. DCS did not request the National Treasury to place BOSASA and its subsidiary companies on the restricted supplier's database.

In light of the testimony made at the Zondo Commission, the DCS made an undertaking that all large-scale contracts would be reviewed.

Following an announcement by two major South African banks, FNB and ABSA, that they would be closing the banking accounts belonging to African Global Operations on 28 February 2019.

African Global Operations notified DCS of its intention to apply for voluntary liquidation. Consequently, DCS served African Global Operation with a 30 day notice to cancel the contract for

nutritional services at seven management areas (contract HO3/2016). This was the last contract that DCS had with African Global Operations or any of its subsidiaries.

To date, without prejudice, officials who are still in the employ of DCS, who were implicated in acts of impropriety in the testimonies given before the Zondo Commission have been served with notices of in accordance with rules of natural justice to show cause.

Following these developments, DCS management developed and implemented a business continuity plan to ensure that the provision of nutritional services is not disrupted. The Department has developed an alternative food services plan to accommodate the viability of insourcing nutritional services. As early as next week, 8 March 2019, the DCS will commence an offender skills development project as part of the plan towards internalizing nutritional services. Processes to transfer skilled staff from other facilities to assist where necessary are currently underway.

Part of the business continuity plan includes close consultations with National Treasury and organised labour in addressing some of challenges that may arise. It is worth mentioning that yesterday we received a report of a pending meeting between the National Commissioner and the Liquidator.

In addition, management is also expected to conduct a cost benefit analysis and do a comparative study in relation to insourcing and outsourcing of nutritional services within the correctional environment.

Further, we wish to place it on record that the SIU is currently investigating contracts related to electronic monitoring, Independent Development Trust (IDT) on fencing projects and DCS KwaZulu-Natal procurement of various services. Once the investigation are concluded we will once again brief the public on the findings thereof and recommended steps to be taken.

Thus far, the SIU has made findings on the irregularity of contracts related to infrastructure assessment (MSW) and electronic monitoring system (EMS), which matters are currently the subject of litigation in court. Consequently, we would be unable to give further details because the cases are sub-judice.

We look forward to a speedy conclusion of these investigations in line with our earlier stated commitment to deal with corruption wherever it rears its ugly head.

It is in the above context that we welcome the President's announcement, yesterday, of the establishment of the SIU Special Tribunal, which is intended to fast-track the finalisation of civil litigation and speed up recovery of lost monies and assets. The establishment of this tribunal will ease the pressure in the mainstream courts.

Justice and Constitutional Development

In 2008, the Department of Justice and Constitutional Development was formally contracted to Sondolo IT for the supply, delivery, installation, commissioning, support and maintenance of a comprehensive CCTV, and Access Control System for court buildings identified as high risk and head office. The installation of security infrastructure under this contract was concluded in 2015, followed by a warranty period of 12 months during which Sondolo IT continued to deliver mandatory maintenance service. The value of this contract totaling R601, 863,632.

In September 2015, the contract with Sondolo IT was extended for an additional period of 36 months for corrective and preventative maintenance as per the original contract. This was also covering surveillance monitoring services in the identified high risk court buildings and the main control room at head office. The value of the contract which ended in September 2018 was R373, 709,412, of which the total expenditure is R340, 738,014.

The Security Management section failed to prepare a business case and the requisite tender documents on time for the procurement of these services. Consequently, the security section allowed Sondolo IT to continue rendering these services on a month-to-month basis, pending the finalisation of the necessary business case for the procurement of these services going forward. Following the delays in the finalisation of this process, considering the critical nature of this service, the Department was left with no option but to keep the services of Sondolo IT, pending the appointment of a new service provider on a quotation basis. The process is expected to be finalised soonest.

The conduct of relevant officials in the security section coupled with the serious allegations made at the Zondo Commission has led the Department to secure the services of an audit and advisory firm Sizwe Ntsaluba-Gobodo to review all security contracts awarded since 2006, with specific focus on contracts awarded to Bosasa and its subsidiaries. In terms of the contract, Sizwe Ntsaluba-Gobodo is expected to complete the review within three months.

As of this morning, 25 February 2019, an official in the Security Management of the Department has been placed under precautionary suspension following an internal forensic investigation implicating him in the irregular procurement of the services of Global Technology Solutions on behalf of the Zondo Commission.

The Department has also served a letter on a senior official in Security Management in accordance with the Rules of Administrative Justice to show cause why the Department should not place her under precautionary suspension pending the outcome of the investigation into allegations of improper conduct, including the delay in the procurement of surveillance and monitoring services, which has led to the Department insuring irregular expenditure since October 2018 to date.

The Secretary of the Zondo Commission has also been placed on special leave pending investigations into allegations of impropriety contained in testimony given before the Commission.

Investigating Corruption within the Office of the State Attorney

The investigation by the Special Investigating Unit (SIU) into the allegations of corrupt activities by some officials within the Office of the State Attorney, which includes collusion, non-competitive outsourcing of state legal work to practitioners and experts in private practice is on-going.

Thus far, the investigation has led to the arrest of a prominent attorney in Mthatha, Eastern Cape, relating to fraudulent medico-legal claims estimated to be over R100 million. The suspect has already appeared before a criminal court and the SIU, in partnership with the Department of Health, has put a hold on the payment of further claimed amounts. The SIU and the Department of Health are opposing an application by the suspect for the release of the further payments. The SIU is considering further action, including civil action to recoup monies already paid.

Six (6) more criminal cases of fraud to the value of more than R90 million have been registered. More arrests are expected as the investigation unfolds in the Eastern Cape and other parts of the country.

In Gauteng, the head of the Office of the State Attorney is currently under precautionary suspension.

We have referred these matters to the appropriate professional bodies in case of the attorneys to the Law Society, which is now called Legal Practice Counsel to consider the ethical implications.

## Conclusion

It is clear that our supply chain management system was undermined by specific role players in our environment that exploding gaps in the designed of our governance system. These maneuvers have also undermined our efforts at modernising our systems and consequently eroded confidence in our internal governance system.

It would be remiss of us not to commend the role played by the media, whistle-blowers, organised labour, NGOs and other sectors of society in complementing the work of government in the fight against corruption. In the end, we have no other option, but carry a common national obligation to build a winning nation free of all forms of corruption including theft, fraud, bribery, extortion, nepotism and patronage. Where these are detected, we will not hesitate to act in the public interest and put an immediate end to the malfeasance.

I thank you

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