

Target: Eight more companies

Construction industry board intends to prosecute those not part of the agreement

Roy Cokayne

CONSTRUCTION companies who admitted and settled bid-rigging and collusion contraventions during the Competition Commission's fast-track settlement process, but are not part of the agreement between the government and seven listed companies, are not off the hook.

The Construction Industry Development Board (CIDB) intends to prosecute the eight remaining companies that were not part of the agreement with the government that settled outstanding and potential civil damages claims from state entities. The CIDB previously confirmed to Business Report it would continue its prosecution of the companies who were not part of the agreement.

Listed construction company Esor was the only listed company among the 15 firms that reached a settlement during the fast-track settlement process that was not part of the agreement with government.

Wessel van Zyl, Esor's chief executive, said yesterday its settlement with the commission was for a case involving a private institution and not a government entity. He said it went back to the client after reaching a settlement with the commission, informed them what had happened and negotiated an agreement and settlement.

He confirmed Esor had received a letter from the CIDB about 10 days ago requesting the company to engage with them to "take the matter forward".

In terms of the agreement with the government, the companies have collectively agreed to contribute R1.5 billion for development projects and committed to promote transformation and black participation and ownership in the sector. The agreement was reached with WBHO, Aveng, Group Five, Basil Read, Raubex, Stefanutti Stocks and Murray & Roberts (M&R).

Economic Development Minister Ebrahim Patel told



The interior of the new Council Chamber is still under construction in Braamfontein, Johannesburg. Aveng is one of the seven construction companies that have reached settlement with the Competition Commission over bid rigging.

PHOTO: SIMONE KLEY

R1.5bn The amount to be contributed for transformation

Business Report this week that the agreement with the listed companies was now capable of being extended to other parties.

"We will be engaging with the other companies to say to them: 'This is the framework, you have been implicated and there are still outstanding

matters involving you and it would be good for you to come on board'. If those talks don't get anywhere, then we will deal with them," he said.

Sanctions that can be imposed by the CIDB for contraventions of its code of conduct include prohibiting companies from doing public-sector work and a fine not exceeding R100 000.

Public Works Minister Thulas Nxesi said this week the R100 000 fine that could be imposed by the CIDB was "peanuts to some of those com-

panies", but the government would not want to prevent construction companies from doing public-sector work because of the impact on the thousands of workers employed in the sector.

Nxesi admitted that the government faced a dilemma over the way it dealt with the large construction companies, because smaller black-owned companies had been previously downgraded by the CIDB.

He said a moratorium had been placed on the CIDB downgrading companies until planned amendments to the

legislation and regulations governing the construction sector had been finalised.

Nxesi said the collusion uncovered in the construction sector had "opened up a lot of issues and exposed the limitations of the current legislation".

The settlement reached with the government resulted in the South African National Roads Agency Limited in November withdrawing civil damages claims valued at up to R760 million that it had lodged against several listed construction

companies for collusion and bid-rigging on its tenders.

However, the R428.75m civil damages claim lodged by the City of Cape Town against WBHO, Aveng and Stefanutti Stocks for colluding on the tender for the construction of the Greenpoint Stadium for the 2010 Soccer World Cup is still proceeding.

Patel said the legal processes of the City of Cape Town case were quite advanced when the government got within sight of a settlement with the seven listed companies and it was