



public works  
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**Enquiries: Zara Nicholson: 079 416 5996**

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## **Media Statement by Minister of Public Works and Infrastructure, Patricia de Lille, MP**

### **Update on the outcome of the Beitbridge Border Fence investigation report**

#### **MINISTERIAL STATEMENT**

Today I am updating the public and media on the investigation into the Emergency Procurement and Implementation of the Borderline Infrastructure Project commissioned by the Department of Public Works and Infrastructure (DPWI) between South Africa and Zimbabwe at the Beitbridge Border Post.

I wish to remind the public that when this matter first emerged in the public domain, I immediately called upon the Auditor-General to conduct a full investigation. I did so to ensure that any allegations of wrongdoing on the part of any person in the department must be fully investigated and dealt with in a manner expected by the public. I was equally concerned that while the Border Fence Project was the result of emergency procurement, due process had to be followed and value for money had to be secured.

I am mindful that many questions have been raised and that the public has been waiting for the release of the outcome of this investigation. It must be noted that investigations of this nature has to be done thoroughly and due process has to be followed which can become time consuming. The public has a right to be updated on the progress in order to provide the necessary assurances that I am committed to clean governance and getting to the bottom of this matter.

I have now received a report on the investigation and I am releasing this information in the interest of transparency as the public has the right to ask questions and have those questions answered.

The investigation has not found any evidence of impropriety on my part and has also not found any evidence to suggest that I benefitted personally from this project in any way whatsoever.

It has however found a number of alleged procedural irregularities within the department which will become the subject of my attention in the weeks ahead to tighten up the internal control and systems in the DPWI.

I wish to assure that public that I have every intention of ensuring that any official who has been found guilty of any wrongdoing, will be dealt in the appropriate manner and will be held accountable.

A copy of the final report will also be shared with the respective law enforcement agencies, regulatory bodies and Parliament.

**Ministerial statement ends**

**Background and Timeline relating to the investigation:**

1. On the 20th of April 2020 I requested the AG to conduct an independent audit into the Beitbridge Border Fence project and requested that the external audit cover all aspects of the project process including whether the DPWI received value for money from this contract.
2. On 25 April 2020, I also requested the Department's Anti-Corruption Unit to do an investigation, assisted by members from the Special Investigations Unit (SIU) seconded to the department.

3. On the 25th of April 2020, before the investigation formally commenced, I accordingly requested the department's Chief Financial Officer and Deputy Director General for Construction, to place a moratorium on all further project payments for this project until further notice to mitigate any further financial risk to the Department.
4. The Investigating Team were further assisted by built environment professionals from the Presidential Infrastructure Coordinating Commission Technical Unit (PICC) who undertook a technical evaluation of the Border Fence installation while the team also conducted two site visits to the Beitbridge Border Fence project.
5. I received the draft report from the Anti-Corruption unit in June and requested that the draft report be sent to the Auditor-General a few days later to assist the office of the AG with its audit into the Beitbridge Border project.
6. I further requested that the draft report be sent to the SIU to conduct a quality assurance review. The SIU provided feedback in July and the Anti-Corruption investigation team effected the necessary amendments.
7. On the 31st of July 2020 I engaged the Auditor-General for the purpose of receiving an update on the audit. The Auditor General noted the investigation report and advised that his Office will conduct further audit procedures relating to matters arising from the Investigation Report in the context of the annual regulatory audit of the Department and will also follow up on the implementation of the recommendations of investigation.
8. On Thursday the 23rd of July 2020, President Cyril Ramaphosa signed a proclamation mandating the SIU to investigate any unlawful or improper conduct in the procurement of any goods, work and services during or related to the National State of Disaster in any institution. The Border Fence Project will accordingly form part of the scope of this proclamation and I welcome this action.

## Context and Executive Summary of the report

1. On 15 March 2020, the President declared a National State of Disaster.
2. Given the urgency of securing our borders, on Monday the 16th of March 2020, I issued a directive to the Director-General (DG) of the Department Advocate Sam Vukela, directing him to appoint a service provider using emergency procurement processes as provided for in Section 64 in the Public Finance Management Act No.1 of 1999 (“PFMA”) in relation to the erection and repair of the borderline fence at the Beitbridge Border Post.
3. The timelines which I included in the directive was received from the DG and the Deputy Director General of Construction.
4. In my attempt to secure the border to prevent the spread of COVID 19, I inadvertently referred to Section 27 (2) of the Disaster Management Act of 2002 in the directive instead of referring to Section 64 of the PFMA which deals with Executive directives having financial implications and which states:

“(1) Any directive by an executive authority of a department to the accounting officer of the department having financial implications for the department must be in writing.

(2) If implementation of the directive is likely to result in unauthorised expenditure, the accounting officer will be responsible for any resulting unauthorised expenditure unless the accounting officer has informed the executive authority in writing of the likelihood of that unauthorised expenditure.

(3) Any decision of the executive authority to proceed with the implementation of the directive, and the reasons for the decision, must be in writing, and the accounting officer must promptly file a copy of this document with the National Treasury and the Auditor-General, and if a provincial department is involved, also with the relevant provincial treasury.”

The directive was indeed in writing. Furthermore, I was not, at any time, informed by the relevant accounting officer that the directive was likely to result in unauthorised expenditure.

### **The Findings of the Report:**

1. Procurement and other irregularities were uncovered and it is recommended that the Border Fence Project be brought before the SIU Tribunal to pursue civil litigation.
2. The investigation as a whole indicated a series of alleged procurement and other irregularities and allegations of fraud committed by identified officials of the department, and the Border Fence Project service providers.
3. These alleged irregularities relate to the application of emergency procurement and payment processes by DPWI officials with respect to both the appointment and payments made to the Contractor and Principal Agent.
4. The investigation report found that as a result of the irregular application of the emergency procurement process there was a projected spend of R40.4million.

At all times, the cost of the project communicated to me was in the region of R37.1million. It was only much later that officials informed me of the additional cost of just over R3.2million for the Principal Agent for professional services and project management which led to the actual total projected spend being just over R40.4million.

5. The investigation also found that the effecting of an advance payment of R21, 8 million to the Contractor and R1.8million to the Principal Agent within days of their respective appointments, was irregular as no material was delivered and construction had not commenced.
6. Furthermore, an assessment conducted by the Professional Review Team, of the items in the Bill of Quantities (BOQ), Drawings, Specifications indicated that they were not aligned and the fence is not in compliance with the Drawings and the Specifications.

7. Although the contracted amount was ostensibly calculated at 2016 prices based on an earlier contract, the evaluation indicated that some of the items were in fact not based on these 2016 prices.

The Value for Money Assessment conducted by the PICC technical task team indicated significant anomalies. The total projected project cost, which includes both construction and principal agent fees, for the Contract was R40.4million, just over R1million per kilometer.

Using the 2016 Repairs and Maintenance Project (RAMP) Contract rates – at which this project was contracted, the assessment by the PICC technical task team found that the overall total project cost should have amounted to R26.1 million was therefore overpriced by R14.3million.

8. The investigation also revealed that several aspects of the design specification as well as poor construction practices compromised the effectiveness of the fence as a deterrent for crossing the South African border with Zimbabwe.

The Technical Assessment also found that significant elements of the Border Fence Project were not implemented. For example, the design of the fence had a final height of 2.2meters and the final actual height of the fence reached no more than 1.8meters on either side of the border, making it more easily scalable.

The barbed wire coils were stretched beyond its recommended effective limit, also making it easier to scale the fence. These factors undermined the effectiveness of the fence to mitigate border threats.

#### **Recommendations of the investigation:**

Against the background of these findings, recommendations were made for the department to pursue disciplinary, criminal, civil and systemic consequence management.

The recommendations are as follows:

- Disciplinary charges are recommended against fourteen (14) senior officials of the DPWI as a result of a range of alleged acts of misconduct perpetrated mainly during the procurement and construction phases of the Beitbridge Border Fence Project.

- The Beitbridge Border Fence Project should be processed in terms of the Presidential proclamation mandating the SIU to investigate COVID-19 related projects and bring the matter before the SIU Tribunal.
- The Principal Agent and the Main contractor must be restricted from doing business with government subject to National Treasury's approval, should it be established that they were in any way complicit in any acts of criminality.

In conclusion, I would like to assure South Africans that I have released this information in the interest of accountability and transparency however all the allegations in the investigation's report need to be tested and due process must be followed in relation to labour relations processes and procurement regulations in implementing the recommendations.

I am publicly committing that once due process has been followed, action will be taken against anyone found guilty of any wrongdoing.

I will request regular reports on these recommendations to ensure that we follow consequence management practices.

ENDS

Media enquiries:

Zara Nicholson

Media Liaison Officer to Minister of Public Works and Infrastructure: Patricia de Lille (MP)

Mobile: 079 416 5996

Email: [Zara.Nicholson@dpw.gov.za](mailto:Zara.Nicholson@dpw.gov.za)