



11 November 2020

Zondo commission – Former Denel CEO grilled over policy violation to favour Gupta company

The commission of inquiry into state capture on Wednesday shone the spotlight on a decision by former Denel GCEO Zwelakhe Ntshepe to approve the award of a contract to Gupta-linked VR Laser in a deviation from procurement policy in 2015. The contract was part of Denel's Hoefyster project, and VR Laser was to become a single source supplier of armour steel components for the parastatal.

Ntshepe claimed there was an urgent need to approve, given that a memorandum of agreement (MoA) had already been signed with VR Laser by his predecessor, Riaz Saloojee, months earlier. Failure to move quickly on the matter would open up Denel for a possible lawsuit by VR Laser.

"The facts are there to prove that Denel has always been late and sometimes incurring very bad penalties in terms of deliveries, because the programmes were late or the programmes did not meet the specifications of the client," said Ntshepe.

"It came to me on an urgent basis, saying we need these vehicles urgently. I approved it based on that."

But the head of procurement Dennis Mlambo had not approved the motivation, and had instead instructed the procuring division, Denel Land Systems (DLS), to source proof that neither Denel-owned LMT nor Denel Vehicle Systems (DVS) could carry out the task. According to the Denel procurement policy, single source contracts can only go to external suppliers if the in-house manufacturers cannot deliver. At the time of Ntshepe signing off, Mlambo had not received such proof.

Ntshepe threw him under the bus, though, saying that it was because of Mlambo's neglect of his duties that a motivation to deviate without full facts ended up with him to approve. "The ultimate responsibility of the organisation lies with the CEO. If there are things that are not done in the company, I cannot go to the board and say so and so refused to do that."

But evidence leader Paul Kennedy told Ntshepe that Mlambo was neither aware of the signed MoA, nor was he appraised of reasons why the two divisions could not be appointed to do the work.

In his own testimony last month, Mlambo told the commission that when the motivation first came to him, he challenged then DLS CEO Stephan Burger and COO Reenen Theubes to provide the necessary proof that neither DVS nor LMT could manufacture the components.

"There were two critical things that I was angry over. The first one was that this should not have gone out to external parties or companies to quote because we had acquired LMT in particular to design and manufacture the same products so that we could meet our contractual obligations on the Hoefyster contract," said Mlambo.

But Ntshepe stuck to his guns, defending his decision to approve. “There was a motivation. To me the motivation made sense. We also had the urgency of making sure that the vehicle is ready, therefore the responsibility that I bear on my shoulders gave me the right to be able to do that.”

If anything, the responsibility lay with Mlambo to make sure that the terms of the policy were adhered to always. “Five months after the agreement is signed, the group chief procurement is not aware. There is tardiness somewhere there.”

When Burger brought the motivation to Ntshepe at the end of October 2015, he told him Mlambo was delaying the process, said Ntshepe. Former DLS procurement head Celia Malahlela testified that despite her assertion that the process go to open tender, and that the project timeframe not exceed a period of three years, the MoA was instead entered into with VR Laser for a 10-year partnership, without Malahlela’s knowledge. But the final submission to Denel reflected her department as having supported this. Ntshepe said he was unaware of Malahlela’s views, as they were not included in the motivation.

“In my tenure at Denel, it was my duty to make sure that everybody spoke freely without fear. I was not aware that Ms Malahela was being undermined, nor did she ever come to me to say that she was being undermined.

“I was aware of the policy. I was aware that there was a motivation to deviation from the policy. I was not aware that there is a minority view to say that Ms Malahlela is not agreeing with this.”

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