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Zondo Commission – Transnet’s Gijima/T-Systems data services tender debacle

A Transnet board meeting in January 2017 that was to rubber-stamp a tender process for a data services contract ended up becoming an attack of the parastatal’s systems by former director Stanley Shane.

The commission of inquiry into state capture heard an audio recording on Monday that was alleged to be a verbal rant by Shane, addressing a board impasse involving two opposing recommendations for the awarding of the tender. Both Gijima and T-Systems had been recommended by Transnet’s former chief information officer Makano Mosidi and former CFO Garry Pita, respectively. Mosidi was testifying before the inquiry.

Shane had chaired the meeting, at which Mosidi had been invited to present her recommendation for the benefit of the board acquisitions and disposals committee (BADC). Pita and former group CEO Siyabonga Gama were also present. Board chairperson Elsie Mabaso was the only member, Mosidi recalled, to enquire on the veracity of her recommendation for Gijima to be awarded the tender. Mabaso asked Mosidi: “If this was your money, would you put your life on the line?” to which Mosidi answered yes.

T-Systems was the incumbent, and until the new procurement event had held the data services contract valued at R2.5-billion. The value of the new contract was just under R1.9-billion, and Mosidi’s position was that Gijima’s offer of further reducing the tender cost to R1.3-billion was a bargain for Transnet.

Shane, however, disagreed with Mosidi’s notion, and used the platform to share his views. Referring to the topic as a “difficult agenda item”, he raised the probability of an award to Gijima causing speculation and possibly inviting negative media reports. According to Shane, the Transnet board had already been tainted by negative publicity owing to the awarding of contracts.

“We have been unable as an organisation to protect our board from fame without fortune,” Shane can be heard saying in the recording. “I sit at a table in my community and am perceived as a crook.

“The decisions by the executives are nice...but in the end we are the guys that are one up...”

Shane can then be heard seeming to tally Transnet’s options in terms of awarding the contract. “With no disrespect, we are heading down the path of litigation...we are going to get sued by Gijima, or we are going to get sued by T-Systems...that’s what you guys [executives] are saying to us.”

He argued that there had been no way of acquiring consultants who were not dishonest and disingenuous, because that would be the make-up of any consultancy with the organisation. “We are not a risk-averse board, we are a scarred board. Every decision we have made, we have borne the repercussions of.”

Cost, Shane further argued, should not have been considered as a factor. “I’m used to taking risks, I couldn’t care about the cost...you could cost an extra billion rand and you have the hardware I couldn’t care...”

Later in the recording Shane can be heard saying that the tender process had in any case been entered into to get a feel for the market and test whether T-Systems was not charging Transnet too much in its existing contract.

This was a blow to Mosidi, who when asked by evidence leader Veruschka September what her reaction was to Shane’s address, said her biggest disappointment was that the board did not take the extensive internal processes seriously.

She told the inquiry that had the team known, there would not have been such an extensive process.

The board’s resolution was to award to T-Systems, and in February Gama and Pita signed a letter of intent. From this point on, noted Mosidi, her team was left out of the loop on any updates relating to the process. “As a business owner, I did expected to be copied, for example, when the letter of award was sent out,” said Mosidi. She learned later of an objection by Gijima.

There was pressure from National Treasury which had declared that Transnet could not extend the existing contract with T-Systems, and meanwhile Gijima had instituted court action against Transnet. In an effort to resolve this, Gama instructed Mosidi to engage the two companies in settlement negotiations in an effort to avoid going the court route.

The award was eventually rescinded in late September 2017 during a special board meeting, and awarded to Gijima, on the directive of National Treasury. Mosidi noted that Shane had resigned from the board by this time.

A Johannesburg High court ruling in December last year found the award to T-Systems to have been invalid.

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