

Investigation Report

Prestige Project A: Security Measures

President's Private Residence: Nkandla



public works

Department:
Public Works
REPUBLIC OF SOUTH AFRICA

Department of Public Works

FOREWORD

TW Nxesi, Minister of Public Works

In October 2012 I ordered an investigation into the conduct and management of the security upgrades at the President's residence in Nkandla – in response to public concern that the cost estimates being mentioned seemed excessive, and allegations that the President had used State resources to build his private residence.

The Task Team submitted their report in January 2013. Because the report contained details related to security aspects of the upgrade and posed a potential risk to the security of the President, I therefore decided to classify the report as Top Secret. I then referred it to Parliament for guidance as to what appropriate steps needed to be followed.

The report has been considered and reported upon by the Joint Standing Committee on Intelligence (JSCI) and thereafter the Joint Cabinet Committee. After serving the report to the Joint Cabinet Committee, it was then tabled at Cabinet. The content of the report remains largely as submitted by the Task Team with an exclusion of sensitive security issues. I am now acting on the decision of Cabinet that the report should be made available to the public.

The report is primarily technical in nature. It provides a factual account of the security upgrades. I write this introduction in order to provide a context that will allow for a full understanding of what transpired.

First, it is important to indicate that all sovereign governments have a responsibility to provide security for their Heads of State and their families. Such security is provided at State's expense. This shows the importance of security around Heads of State. This obligation of sovereign governments is a significant factor in the finding of the investigation.

Parliamentary and Cabinet process that had to be followed as well as security concerns have delayed the obligation to account for public funds. Cabinet has taken

this view and resolved to release the report on the investigation that was initiated by the Department of Public Works into the Nkandla security upgrades. The line Ministers are taking responsibility for this project. The Minister of Public Works is taking appropriate action.

Both the Ministers of Police and Defence take the responsibility for the operational needs of their respective departments.

Let us take a step back. The Nkandla security upgrades became necessary when Mr Jacob Gedleyihlekisa Zuma became the President of the Republic in 2009. The state has an obligation to protect the President.

Mr Zuma lived and continues to live in a homestead he and his family developed in a remote area of rural KwaZulu-Natal with his extended family. The usual services such as transport, roads, power, water and sanitation that are taken for granted by many urban dwellers simply did not exist. This rural setting became a security nightmare for those charged with safeguarding the President.

Because of the violent history of this area of KwaZulu-Natal and the fact that the Zuma homestead and family members had previously been attacked on three occasions and the fact that the President has to conduct government functions such as receiving official delegations, holding regular meetings and business consultations from his private residence necessitated major security upgrades in Nkandla.

The requirement to provide security for the President's private residence was and is unavoidable, whether it is done now or when the President retires as implemented for Former Presidents. This is an obligatory requirement for all current and former Presidents.

The Ministerial Handbook did not adequately address security around the Head of State, Deputy President and their families hence the Cabinet policy of 2003.

The Cabinet Policy of August 2003 dealing with security measures at private residences of the President, Deputy President, Former Presidents and Former Deputy Presidents, explains in detail the procedure to be followed in dealing with the security of the President. The aforesaid Policy clearly emphasises the obligation of

the security cluster departments and that of Public Works in ensuring the implementation of security upgrades at private residences of the President, Deputy President, Former Presidents and Former Deputy Presidents.

There is an established process for undertaking security upgrades. The security cluster departments like Department of Defence and Military Veterans and Department of Police appointed an expert team to conduct security risk assessments. A summary of the Task Team recommendations was provided in a press conference held on 27 January 2013. In addition to security measures such as security systems, security fencing and fire fighting capabilities, the recommendations included the need to provide basic services such as power, water and health facilities. Furthermore, accommodation for security personnel was required to support the necessary security measures.

Let us be clear, it is the responsibility of the Department of Public Works to implement the recommendations from the security cluster and to manage the costs of the project in line with the Cabinet Policy of 2003. It is important to understand this process because this is where ultimate responsibility for the upgrade lies. Attempts to lay the responsibility for the upgrade at the door of the President are misdirected and malicious.

That brings me to the role of Public Works and my decision in October 2012 to order an investigation into the Nkandla security upgrade. The following is a summary of the Task Team findings:

- allegations that the President had used state resources to build or upgrade his personal dwellings are unfounded;
- the actual security upgrades cost approximately R71 million. Approximately R135 million was spent on operational needs and basic facilities and services (e.g. including water, power, accommodation etc.) needed to support the security upgrade for SAPS and Defence personnel.
- there is a number of supply chain irregularities in relation to the appointment of service providers and procurement of goods and services. For instance, large variation orders and the high percentage spent on consultancy fees point to the possibility of over-pricing and collusion.

In response to these findings and recommendations by the Task Team and given the possible existence of corruption, I engaged with the Special Investigating Unit (SIU) and the Auditor General (AG) for further forensic and criminal investigation.

The Department of Public Works and all relevant departments will institute disciplinary actions against officials who are found to have flouted procurement procedures.

Let me put these findings in their wider context. After a year as Minister of Public Works, I was painfully aware of systemic weaknesses in the Department including inadequate management capacity and poor financial controls providing fertile soil for fraud especially around leases, corruption and collusion in relation to building projects. These weaknesses had previously been reported upon by the Public Protector, the SIU and the Auditor-General. Over several years the AG gave the Department negative audit findings.

In other words, the problems detected in the case of the Nkandla security upgrade were not unique. They are symptoms of an underlying malaise at the Department of Public Works and this is what needed to be addressed. Examples include: the renovations of seven ministerial houses in Pretoria (at a cost of R27 million, much of the expenditure undocumented), eleven ministerial houses in Cape Town renovated at a cost of R100 million, the refurbishment of Public Works Central Government Office (where price escalated from R59 million to R325 million) and the construction of the Skilpadhek, Golelo and Lebombo border posts (which incurred fruitless and wasteful expenditure to the tune of R3.5 million and unauthorised payments of R50 million).

There are no easy or quick solutions. Indeed, National Treasury has assisted Public Works to develop a Seven Year Turnaround Plan. We have made significant progress over the last year in implementing the Plan.

With the assistance of the SIU we were able to charge and dismiss a number of senior officials. I removed financial delegations from the regions where irregularities were occurring. With the support of National Treasury, we have completed an audit and physical verification of 2,162 leases during which process we uncovered 112

empty buildings for which government was paying rental. We have now developed a more robust lease management system. The Department has enhanced internal investigating and risk management capacity. This will be reflected in a new organisational structure which is being developed under the guidance of the Department of Public Service and Administration. With the assistance of National Treasury we are reviewing Supply Chain Management processes to ensure greater transparency and effectiveness. Working closely with the Auditor-General's Office we have implemented a plan to achieve a clean audit.

Meanwhile, we need to conclude processes arising out of the investigation into the Nkandla security upgrade. The Public Protector is still to present a final report. The Task Team Report recommended that matters relating to the allocation of tenders and appointment of contractors be referred to the Office of the Auditor-General for a full forensic investigation. The JSCI further pronounced that, should the AG find any wrongdoing, the matter be referred to the SAPS and SIU. Allegations of irregularities in the Nkandla security upgrade are being fully investigated.

The question needs to be asked: can we streamline and coordinate these processes in future to avoid duplication and to rather focus on speedy remedial action. It is with this in mind that Cabinet has now resolved to release the Task Team report.

To conclude: the Task Team's Report presents the factual findings of their investigation. I believe that it is important for us to also consider this wider context - both to fully understand the findings and to develop the necessary strategies and controls to ensure value for money and public accountability in the future.

EXPLANATORY NOTE

1. During 2011 and 2012 there were sustained and increased media allegations that the President used state funds to build his private home in Nkandla. These allegations were contained in various media reports. In response to these allegation, on 05 October 2012 the Minister of Public Works, Mr. Thulas Nxesi, held a press conference and announced that an investigation was going to be conducted and the task team was to be constituted to conduct the investigation.
2. At the end of October 2012, the task team was appointed to investigate the allegations with specific terms of reference. The appointed task team started its work at the beginning of November 2012. In conducting the investigation the task team made certain findings and recommendation which were contained in the report that was submitted to the Minister of Public Works and subsequently to the Joint Standing Committee on Intelligence (JSCI).
3. In 2008 prior to his election as the President of the Republic of South Africa, President Zuma and his family had started the expansion and improvement of the homestead (three houses) in Nkandla KwaZulu Natal on a 3.8324 ha land owned by the Zuma family. These improvements included construction of three new houses. At the time of the President's inauguration the progress in the construction of the three houses was as follows:
 - the first house was constructed up to roof level;
 - the second house was constructed up to roof level but the roof was not yet installed; and
 - the third house below the roof level.

The Zuma family had appointed and paid its own contractors, architect and engineers for the project. No public funds were used to build the house of the President.

4. Upon his inauguration, it was necessary that the state of security at the President's private residence be assessed in order to determine whether it complied fully with the security requirements for a sitting President in line with the Cabinet Policy of 2003 on security measures at Private Residence of the President, Deputy President and former Presidents and Former Deputy Presidents.
5. In terms of the policy referred to above, it is the duty of the State to protect and provide security to the current as well as former heads of state together with their immediate families. Should it have been found that the state of security did not measure to the security standard for a sitting President, necessary security upgrades would be required.
6. The South African Police Service ("SAPS") and the South African National Defence Force ("SANDF") and to a certain extent, the State Security Agency ("SSA") are responsible for the security of the President. The Department of Public Works ("DPW") is responsible for the construction and implementation of security measures as identified by the above departments.
7. A threat and risk assessment must be conducted by SAPS and based on the outcome thereof, security upgrades would be implemented in line with the assessment. SAPS would also utilize the Minimum Physical Security Standards (MPSS) which outlines what needs to be done to secure the President and his family. Thereafter, SAPS would submit a needs analysis for their own operational requirements.
8. The SANDF would similarly conduct an assessment and identify security measures needed. The DPW would do the costing and thereafter undertake the construction work based on the assessment. Where goods and services are to be procured the DPW as the implementing agent, would ensure that the funds required for the upgrades are available and budgeted for, the source of the funds would be identified, and the Supply Chain Management Policy of DPW must be complied with taking into account the provisions of section 217 of the Constitution

of the Republic of South Africa Act 108 of 1996 (“the Constitution”) and the Preferential Procurement Policy Framework Act (“PPPFA”). Deviations are only permissible within the framework provided for in the Supply Chain Management Policy of DPW, PPPFA, and the Treasury Regulations.

9. The major challenge identified by Task Team was that there was no coordination between various departments that ought to have been involved in the security upgrades in order to determine the appropriate budget for the project and the costing. For instance, DPW estimated the project at R27 million before assessments were conducted by SAPS and SANDF. Notwithstanding the fact that DPW had managed projects of a similar nature in the past, poor management of the project led to the incorrect estimation of the project. For completeness of costs estimate, DPW needs to take into account security assessments made by lead security departments, SAPS and SANDF. These assessments were not taken into account. The actual cost of the project escalated to R206 millions only after they took into account the assessment of the two Departments.
10. The R206 420 644.28 is made up of R71,212,621.77 for security upgrades at the private residence inclusive of professional fees of R20,688,736.89 , and an amount of R135, 208, 022.51 incurred as part of departmental operational needs required to enable the relevant departments (SAPS and SANDF) entrusted with the security of the President to perform their duties. Departmental operational needs include accommodation for security personnel, medical facility, crew pavilion, helipad, roads and earthworks.
11. Several clarity questions were raised with regard to the project after the task team report was presented. The following are some of the areas where the clarity questions were asked:
 - 11.1 the tuck shop;
 - 11.2 the construction of the fire pool;
 - 11.3 the relocation and reconstruction of the kraal;

- 11.4 the relocation of neighboring families;
- 11.5 the retaining wall;
- 11.6 fire pool;
- 11.7 visitors waiting room;
- 11.8 the construction of houses to accommodate SAPS and SANDF personnel etc.

Below is the summary explanation of the above mentioned features.

Tuck shop

- 11.9 The tuck shop existed long before the President was inaugurated and was located within the 3 ha land of the President. Due to security risks posed by the movement of people from outside the homestead into the high security area, the tuck shop had to be relocated from within the premises and erected at the perimeter of the premises. Since it was the initiative of the State to relocate the tuck shop and not the owner, the State was duty bound to bear the costs of the relocation and its construction at the new location.

Relocation of neighbouring families

- 11.10 The neighbouring families had to be relocated as they were identified as a security risk to have them within the high security zone. The rondavels could not remain where they were as there were going to be an obstruction to the fence line and furthermore posed a challenge for the positioning of the surveillance cameras.

Retaining wall

- 11.11 A retaining wall which is the so called “amphitheatre” meant for ground protection, is not an amphitheatre but constructed as a structure with

steps. It is in excess of 4 meters height, broken down in the form of stepped terraces and curved to give it more structural stability against the earth.

Chicken run

11.12 A feature known as the chicken run was constructed within the cattle kraal. It was created as a replacement to a number of building block structures that were scattered around some of the main dwellings which were obstructions and potential hiding areas for intruders. The relocation of these loose structures to a dedicated area improved the security on site.

Cattle Kraal and Culvert

11.13 When the assessments were conducted, as part of security, sensitive electronic equipment was recommended to be installed on the fence. False alarms as well as damage to the fence and electronic equipment could be caused by the cattle. The cattle and people were using the same entrance due to the location of the kraal posing a potential risk in the high security area. As a result, a decision was taken that the cattle kraal be moved to a dedicated area and culvert be erected to prevent the cattle from disturbing and damaging the electronic equipment and the fence.

Fire Pool and Water Reservoir

11.14 One of the hazards raised by the assessment was the possible outbreak of fire as most of the structures have thatched roofs and are close to each other. In order to eliminate or minimize potential risks and due to water supply which was erratic, a fire pool was decided on as the most viable option for firefighting.

11.15 Secondly water reservoir was constructed for use by both homestead as well as accommodation for security personnel. It was decided based on the advice of the mechanical engineer that a structure which can contain 45 000 litres of water was needed for fresh water in a form of a water storage tank.

Accommodation for security personnel

11.16 Prior to the security upgrades, static personnel were using the residence allocated by President for residential purposes. The static personnel were deployed from Ulundi on 7 day rotational basis and the facility was shared by male and female members. Other personnel were driving from Nkandla to Eshowe (“1 hour drive”) after dropping the President and sometimes they were sleeping in cars at Nkandla. The above necessitated the construction of residential facility for SAPS as well as SANDF personnel.

11.17 Whilst the construction of the permanent accommodation for the security personnel was underway, temporary accommodation in a form of park homes were procured to accommodate the security personnel.

Medical, air transportation and evacuation facilities

11.18 The South African National Defence Force is responsible for the air transportation and medical requirements of the President. The assessment by SANDF indicated a lack of the required level of medical facility in the immediate vicinity as prescribed in the Standard Operating Procedures (“SOP”).

11.19 The 140 000 population of Nkandla Municipality shares among itself the services of 10 (ten) primary health care facilities (inclusive of mobile clinics) and 2(two) tertiary-level services (Nkandla and Khombe hospitals) for health care. Nkandla Hospital has six permanent doctors and four seasonal medical practitioners. To augment the services are private doctors and traditional healers. The facilities are too far away and unable to meet the standards or

the nature of health care required for the President and his household. At the time the nearest facility with the required standard was two hours away in Durban.

11.20 In addition, an emergency situation may arise that necessitates swift evacuation of the President and/or his family through adequate transport means, using efficient communication and effective security systems all of which are not readily available in the area of Nkandla. As part of the evacuation and transportation of the President, a helipad had to be erected for safe landing as there was no proper landing area for the helicopter.

Visitors' waiting rooms

11.21 Due to the large number of people that visit the President at his private residence, it became a security challenge to control them. Therefore a waiting place was erected to address this security challenge.

12. The task team makes a preliminary finding that there is a possibility of inflated prices and overcharging.
13. Furthermore, there is prima facie evidence that supply chain management prescripts were disregarded. In this regard further investigations are necessary subsequent to which steps need to be taken against those responsible for appointing service providers in complete disregard of Supply Chain Management Prescripts.
14. The conclusion reached by the Task Team is that:
 - 14.1 the project for the security upgrades in the private residence of the President was flawed in that it contravened section 217 of the Constitution

of the Republic of South Africa Act 108 of 1996 ("the Constitution") as no open tender process was undertaken;

- 14.2 DPW was required in terms of the Supply Chain Management Policy, Section 217 of the Constitution, Treasury Regulations, Preferential Procurement Policy Framework Act to have called for open tenders in order to procure a value for money service for the State;
- 14.3 the appointed service providers have probably overcharged the State by inflating prices for the goods or services they rendered;
- 14.4 an internal investigation needs to be undertaken by DPW to ascertain whether any employee involved in this project committed any possible misconduct.
- 14.5 the security upgrades in the private residence of President have cost the State R71,212,621.77 at the time of the conclusion of the investigation by the Task Team;
- 14.6 no public funds were used to build the President's private houses which were in the process of being built and /or completed when the security upgrades project commenced;
- 14.7 In the 5-ha State land, an amount of R135, 208, 022.51 was spent in respect of departmental operational needs (accommodation for SAPS and DOD personnel, clinic etc.) outside the President's residence.

Conclusion

15. The security and protection assessment done by the SAPS and SANDF are both an obligation and necessity.

16. The SANDF and SAPS fulfilled their mandate and remit by ensuring the security of the Head of State and his family.
17. The assessment responded well to the unique, social, environmental and geographic challenges of the Nkandla project.
18. The implementation of the security assessment is the area where most of the challenges were experienced as referred to above.
19. The security upgrades in the private residence of President have cost the State R71,212,621.77.
20. The President did not request any security and protection assessments from the SAPS and SANDF. The two departments conducted the assessments as part of their obligatory responsibilities.
21. No public funds were used to build the private houses of the President.

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INTRODUCTION

1. Honourable Minister Thulas Nxesi, Minister of Public Works, ordered, in November 2012, an investigation into the prestige project, known as Prestige Project A, to effect security upgrades at President Jacob Zuma's private residence at Nkandla in KwaZulu-Natal and, in consultation with the Minister of State Security, Dr Siyabonga Cwele and the Minister of Police, Mr Nathi Mthethwa, established a Task Team to investigate the matter. This decision came in response to allegations of financial mismanagement in the revamping of the President's home published by newspapers in September 2012 allegedly based on documentation obtained from the Department of Public Works (DPW). According to the information received from DPW, Prestige Project A has cost the Government R206 420 644.28 as at December 2012.
2. The DPW responded to the allegations by explaining that the security upgrades were necessary because the private residence of the President and the residences of former presidents were declared national key point areas under the National Key Points Act, 1980 (Act No. 102 of 1980). In terms thereof, any information relating to security measures is protected from disclosure and is supported by provisions of the Protection of Information Act, 1982 (Act No. 84 of 1982), which prohibits any person from being in possession of or disclosing information that relates to security matters.
3. While delivering his presentation at the Portfolio Committee on Public Works on 10 October 2012, and in response to the questions in Parliament, the Deputy Minister of the Public Works, Jeremy Cronin declared that an investigation into the allegations would be conducted and said:
"At the very least we need to make sure, without revealing the details, nature of security, we need to make sure as far as the tenders issued by Public Works, those were done clearly, there were no inexplicable overruns on costs".

4. The purpose of this report is to explain the background to the Nkandla project, the legal framework that governed the steps taken by the Task Team, the investigation that was conducted, the findings thereof and recommendations deemed necessary.

TERMS OF REFERENCE

5. As previously mentioned, the Minister of Public Works, in conjunction with the Ministers of Police and State Security, appointed a Task Team to conduct an investigation into the Nkandla Prestige Project and ascertain whether unjustifiably inflated prices had been collected. The terms of reference were as follows:

- 2.1 *Establish the chronology and process of declaring the Nkandla Residence Complex (NRC) as a National Key Point (NKP);*
- 2.2 *Ascertain the legal, procedural and regulations that govern the declaration of premises such as the NRC as the NKP;*
- 2.3 *Determine the legal and procedural processes of declaring the NRC as an NKP;*
- 2.4 *Ascertain in detail the recommendations made by the SSA, SAPS, Public Works and other statutory role-players in respect of the upgrading of security measures at the NRC;*
- 2.5 *Determine in detail any other recommendations made by statutory entities on the upgrading of the NRC on non-security aspects (i.e. improvements proposed but that were not related to the securing of the complex);*
- 2.6 *Establish details of the initial funds allocation and budget to the project and by whom was it approved;*
- 2.7 *Ascertain whether delivery and supply chain prescripts were followed;*

2.8 *Ascertain whether there were any deviations from the above;
and*

2.9 *Determine whether deviations from the above were in
accordance with the legal and procedural prescripts.*

ROLES AND RESPONSIBILITIES OF THE TASK TEAM

6. The team shall apply their skills and knowledge to study the scope of work of the contracts implemented internally in the residence consisting of Structural and Normal Construction, and works implemented externally consisting of Civil, Structural, and Landscaping Works. This shall include, but be not limited to, analysis of the quantities and rates applied to form the contract values of the contracts implemented.
7. The expectation is that at any given time the team will have access to visit the site to verify the scope of works, progress made, completed work, against the progress payments to both the Contractors and Consultants.
8. The Task Team will have access to interview any member of the professional teams, the project manager, and any person who the team considers relevant and important to give clarity on decisions taken over the project.
9. The Task Team will source, when necessary, additional expertise relevant to provide professional assistance to conduct the required study.

MANDATE OF THE TASK TEAM

10. The mandate of the Task Team, as established by the Minister of Public Works, derives from the Constitution of the Republic of South Africa, 1996 Section 92(1-3), which reads as follows:
“Accountability and Responsibilities: - (1) The Deputy President and Ministers are responsible for the power and functions of the

executive assigned to the President. (2) Members of the Cabinet are accountable collectively and individually to Parliament for the exercise of their powers and the performance of their functions. (3) Members of the Cabinet must –

- (a) act in accordance with the Constitution; and*
- (b) provide Parliament with full and regular reports concerning matters under their control.”*

APPLICABLE LEGISLATION

11. The following prescripts were utilised as reference in performing the investigation:
- (a) Constitution of the Republic of South Africa, 1996;*
 - (b) Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA);*
 - (c) Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and its associated regulations;*
 - (d) Treasury Regulations for departments, trading entities, constitutional institutions and public entities issued in terms of the PFMA, March 2005;*
 - (e) Supply Chain Management: A guide for accounting officers/authorities, February 2004;*
 - (f) SCM practice notes issued by National Treasury;*
 - (g) Departmental SCM policy approved on 29 April 2008;*
 - (h) Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001) and its associated regulations (PSIRA);*
 - (i) Construction Industry Development Board Act, 2000 (Act No. 38 of 2000) and associated regulations (CIDB);*
 - (j) National Treasury circular on code of conduct for bid adjudication committees (issued on 24 March 2006);*
 - (k) National Treasury instruction note on the amended guidelines in respect of bids, which include functionality as a criterion for evaluation (issued in September 2010);*
 - (l) Minimum Information Security Standards (MISS);*

- (m) *National Key Points Act, 1980 (Act No. 102 of 1980);*
- (n) *Government Immovable Asset Management Act, 2007 (Act No. 19 of 2007); and*
- (o) *Proclamation 21 of 2004 of the National Key Point Act.*

The above list of prescripts is by no means exhaustive.

APPROACH AND METHODOLOGY

12. The investigation commenced on 12 November 2012 and included site inspections, followed by the collection and verification of information from documents and interviews with relevant persons involved in the project.
13. Individuals interviewed were not required to give evidence under oath. However, normal secrecy documentation was completed to maintain secrecy and the confidentiality of the investigation.
14. **Supporting Documents Review:** Review of supporting documents (departmental correspondence, invoices, remittance advices and references to prescribed and recommended acts, regulations, policies and procedures);
15. **Physical Inspection:** Task Team members visited the residence of the President of the Republic of South Africa in Nkandla.
16. **Interviewing of Officials:** Officials who were directly involved in the Prestige Project A were interviewed. These included officials from South African Police Service (SAPS) and the DPW. Interviews with Principal Agent Minenhle Makhanya, DPW Project Managers, KwaZulu-Natal (KZN) Regional Managers, Security Managers, former Project Managers, Chief Financial Officer and SAPS produced substantiating reports. In addition, officials from SSA were interviewed concerning the vetting processes followed during the accreditation phase of the various service providers.
17. **Reference Groups:** The Task Team further relied on documents produced by the technical expertise of quantity surveyors, structural and civil engineers appointed by the DPW.

18. **Auditor-General of South Africa (AGSA):** The Task Team obtained the reports of the Auditor-General on the Prestige Project “A” audits.

BACKGROUND

19. In 2008, before his appointment as the President of the Republic of South Africa, President Zuma and his family engaged the services of Minenhle Makhanya Architects to design and draw plans, as he was planning to renovate his private residence at Nkandla, a village in rural KwaZulu-Natal.
20. Mr. Makhanya was appointed as the Principal Agent and Moneymine Investment 310 CC as a contractor for the actual construction of the residence. The negotiations and terms of the agreements between the parties were private.
21. In May 2009, after the inauguration of the President, the Department of Public Works became involved as the relevant departments had embarked on a process of evaluating the security situation of the President’s residences to ascertain to what extent the safety of the President and his immediate family could be compromised as a direct result of the public position held by the President and as there was a clear need to upgrade security at the residence of the President.
22. On 19 May 2009, the then Acting Director-General, Mr Solly Malebye and Security Manager, Mr Zwitani Rambau from Public Works Head Office visited the President’s residence and later instructed the Durban Regional Office professional services regarding steps to be followed in upgrading security at the house of the President in Nkandla.
23. On 21 May 2009, the professionals of DPW visited the President’s residence and prepared a scope or proposal on security upgrades to be effected at the residence. According to the initial scope by

Public Works, the estimated cost was approximately R27 million.¹ However, these cost estimates were not based on any expert security assessments - they were merely thumb sucked.

24. It should be noted that the initial scope and proposal had no input of the South African Police Services (“SAPS”), Department of Defence (“DOD”), or National Intelligence Agency (“NIA”) as it was then called².
25. At this time the construction of the residence by the Zuma family was already underway. The work had progressed as follows:
 - House 1: all works completed up to roof height;
 - House 2: building works was up to below roof height;
 - House 3: building works was up to below roof height.³
26. Ms. N Mbukushe prepared an internal memorandum dated 06 August 2009, addressed to the Chairperson of the Project Management Budget Committee (PMBC) regarding the request from Durban Regional office for the funding of the project. Such a request was supported and its implementation approved by DPW, subject to approval by SAPS⁴.
27. The memo also indicated other comments that:

“Due to urgent nature of services – service must proceed and funds will be made available periodically, as and when savings materialize from prestige / DPW budget.”
28. As a result, the Planning Instruction⁵ from Ms Sasa Subban to Mr Khanyile, on the installation of security measures and related services at the President’s private residence, was prepared in which

¹ Internal Memo from Mr Khanyile to Ms Sasa Subban “estimate cost” dated 5 August 2009.

² See Document by DPW undated

³ Internal memo from Rindel to RBAC dated 25 May 2010.

⁴ Internal Memo from Ms N Mbukushe to PMBC Chairperson dated 06 August 2009.

⁵ Planning Instruction dated 18 August 2009

the Durban Regional Office was requested to procure the services of suitably qualified specialist service providers to do the planning, design and construction of the project in compliance with the requirements of SAPS, DOD and NIA.

29. Funding for construction costs and professional fees for anticipated expenditure during the 2009/10 financial year was confirmed as R27 893 067.00.
30. In September 2009, Acting Director General, Mr. Malebye instructed the DPW Regional Office to appoint Minenhle Makhanya Architects as a consultant that was already working on site. It should be noted that Minenhle Makhanya Architects was not on the roster system of DPW. As a result, Mr. J Rindel who was the Project Manager prepared a submission motivating for the appointment of Minenhle Makhanya Architects for design and supervision of the project. The aim of the submission was to request approval for such an appointment.
31. Prior to this decision a meeting was held between DPW and other stakeholders, in which the then Acting Director-General gave an instruction that the Scope of Works for the private construction should be integrated or synchronised with the future building plans of the owner of the property. The motivation for the appointment of the private professionals was that:-
 - *The appointment of such professionals was essential to ensure complete integration between the two separate projects (installation of security measures and the owner's own upgrading project);*
 - *It was not advisable to utilise professionals of DPW as they did not carry professional indemnity; and*
 - *This was a fast-track project and it was therefore essential that one team work on all aspects of the project."*

32. The submission was approved by the then Acting Director General, Mr Malebye⁶.
33. SAPS made an input on security upgrades at the joint meeting of 12 October 2009 between DPW and SAPS.
34. On 15 October 2009, SAPS sent a Needs Analysis to DPW, setting out all their accommodation needs estimating the total cost at R13 260 827.63⁷.
35. On 10 June 2010 Mr Khanyile, DPW Regional Manager of the Durban Regional Office, sent a memorandum to then Acting Director General, Mr. Sam Vukela, requesting approval for the funding of the project amounting to R38 920 896.00. Acting COO, Mr. Samuel, supported the submission, Acting Director General, Mr. Vukela, recommended and CFO Ms. Motsisi approved it.⁸
36. It is not clear why an approval for funding was done by the CFO and not the Acting Director-General as the Accounting Officer as such a practice is irregular.
37. The PMBC approved the budget on 30 June 2010.

SECURITY ASSESSMENTS

First Security Assessment by SAPS

38. The requirement to conduct a security assessment and arrangements for the provision of appropriate security is set out in Clause 3 of the Ministerial Handbook.
39. The first input by SAPS is contained in the Needs Assessment presented to DPW on 12 October 2009.

⁶ Internal Memorandum dated 10 September 2009.

⁷ Certified needs assessment dated 15 October 2009 signed by Senior Superintendent LF Linde

⁸ Internal Memorandum from Mr Khanyile dated 10 June 2010

40. It should be noted that the Needs Assessment only dealt with the accommodation of SAPS personnel guarding the premises.
41. In terms of this assessment, the needs for SAPS were:
- 1 x 3-bedroomed house
 - 2 x Office
 - 2 x Guard House
 - 1x Control Room
 - 3 x Bachelor-flat type house
 - 1 x Lock up Garage
 - 8 x Carports at living quarters.

The total estimated cost was approximately R13 260 827.63.

Second Security Assessment by SAPS

42. SAPS conducted a second physical security assessment. It is however not clear when this was conducted as the document submitted is undated but bears the signature of Assistant Commissioner T Kulu.⁹
43. The assessment recommended the following:
- a. Perimeter fencing;
 - b. Entrance gate;
 - c. Guard hut - SAPS specification / standard;
 - d. Security control room;
 - e. Illumination to be installed around the residence;

⁹ Undated security assessment by SAPS, Major General T Kulu and Lt Col Moseje, as received from Mr Du Toit

- f. Bullet resistance glass;
- g. Replacement of all external doors;
- h. Burglar proofing;
- i. Fire fighting equipment;
- j. Intruder alarm system;
- k. CCTV Camera System;
- l. Staff quarters;
- m. Safe haven;
- n. Police barracks;
- o. Water supply – new borehole to minimise water shortage; and
- p. Stand-by generator.

Security Assessments by Department of Defence (DOD)

- 44. The first assessment by the Department of Defence (Air Force) was prepared following a meeting between South African Military Health Service (SAMHS), DPW, Oryx helicopter crew and South African Air Force (SAAF) on 04 August 2009. The assessment was in relation to the identification of a helicopter-landing pad.
- 45. The assessment proposed the site for the construction of the helicopter pad and the specification. Secondly, a recommendation was made for the construction of the crew facility. The specification of the crew facility is also set out in detail. The assessment does not set out an estimate of costs per item as identified¹⁰.

¹⁰ Letter from SAAF dated 5 August 2009 by LT COL A.H Kitley

46. The second available assessment by the Department of Defence is the handwritten notes by LT General Ramlakan.¹¹
47. The input by the Department of Defence included, among others:
- 47.1 A clinic for primary use of DOD;
 - 47.2 Provision of Safe haven;
 - 47.3 Crew pavilion;
 - 47.4 Perimeter fence;
 - 47.5 Standby power generator;
 - 47.6 Bullet resistant glass in certain areas and
 - 47.7 Evacuation measures.
48. The third assessment was from SA Military Health Services, which requested accommodation for military personnel and the health facility or clinic. The specifications for the health facility are set out in detail, including the gymnasium¹².
49. The assessment by the Department of Defence had no estimation of costs.

Security Analysis by CA Du Toit (Pty) LTD

50. In 2010, CA Du Toit (Pty) Ltd, a security engineering company, was appointed to assist in the interpretation, specification and implementation of security requirements. The contractor presented a report in this regard¹³. CA Du Toit (Pty) Ltd was paid an amount of R 2 342 141.16. .

¹¹ Internal Memo dated 2 June 2010 by Mr Rindel

¹² Need assessment dated 07 August 2009 from SA Military Health Service by Surgeon General LT General Ramlakan

¹³ See report dated 23 July 2010 by CA Du Toit

DECLARATION AS NATIONAL KEY POINT

51. The National Key Points Act regulates the declaration of any place or area as a National Key Point.
52. Section 2A provides that:
 1. *When, in the opinion of the Minister it will contribute to the safeguarding of two or more National Key Points if certain steps in respect of their security are taken jointly by their owners, he may declare those Key Points a National Key Points Complex irrespective of whether one of the Key Points adjoins any other irrespective of whether the steps contemplated will be taken at or any of the Key Points.*
 2. *The owner of a Key Point included in a Key Points Complex shall forthwith be notified thereof by written notice, as well as the name of and address of each of the other owners of Key Points included in the Key Points Complex.*
 3. *The inclusion of a Key Point in a Key Points Complex shall not exempt the owner of that Key Point from any obligation in terms of this Act.*

33 Section 3B(1) provides that:-

1. *There is hereby established an account to be known as the Special Account for the Safeguarding of National Key Points (hereinafter referred to as the account), into which shall be paid –*
 - (a) *moneys appropriated by Parliament for the account;*
 - (b) *moneys appropriated by Parliament by an Appropriate Act or any other Act for the requirements of a State department and which the Minister who administers that department, with the concurrence of the Minister of*

Finance directs to be utilized for the security of a particular Key Point or Key Points Complex;

- (c) moneys recovered or received from the owner of a Key Point in terms of this Act;*
- (d) moneys received by way of a refund of expenditure incurred on the account;*
- (e) interest derived from the investment of moneys standing to the credit of the account; and*
- (f) moneys which accrue to the account from any other source;*

2. The moneys in the account shall be utilised to:-

- (a) render at the discretion of and on the conditions determined by the Minister financial assistance, including loans at the interest rate contemplated in section 26 of the Exchequer and Audit Act, 1975 (Act 66 of 1975), to an owner in connection with steps taken or to be taken by such owner in respect of the security of a Key Point in terms of this Act;*
- (b) take or cause to be taken the steps contemplated in section 3 (3)(b), 3 (5) (b) and 3A; and*
- (c) defray expenditure in connection with safeguarding of Key Points.*

3. Notwithstanding anything to the contrary in any other law contained, the Minister, with the concurrence of the Minister of Finance, shall designate a person in the service of the State who shall be deemed to be the accounting officer for the account for the purposes of section 15 of the Exchequer and Audit Act, 1975 (Act 66 of 1975).

4. *A bank account shall be kept for the account at the South African Reserve Bank.*
 5. *Moneys standing to the credit of the account, which are not required for immediate use or as a reasonable working balance, may be invested in such manner as the Minister may determine with the concurrence of the Minister of Finance.*
 6. *Any unexpected balance in the account at the close of any financial year, including accrued interest on investment balances and other receipts, shall be carried forward as a credit in the account to the following financial year.*
 7. *The account shall be audited by the Auditor-General.*
53. In terms of the National Key Points Act, the Minister responsible for declaring a place or area a National Key Point is the Minister of Defence. However, in 2004 this function was transferred to the Minister of Safety and Security by a proclamation¹⁴, hence the leading role played by SAPS in the declaration of the President's residence as a National Key Point.
 54. As indicated above, the Minister of Public Works indicated that the President's residence was declared a National Key Point.
 55. On 08 April 2010, Mr Nathi Mthethwa, Minister of Police, declared President Jacob Zuma's residence in Nkandla Kwa Nxamalala a National Key Point, in terms of the National Key Points Act (Certificate number: NKP 0134000).
 56. In terms of the documentation provided by SAPS, the declaration of Kwa-Nxamalala Nkandla was declared a National Key Point, following a physical Security Assessment of the residence.
 57. The investigation has established that the Act was not fully complied with in that a Special Account was not established as

¹⁴ Proclamation GG 26164 of 26 March 2004

required by the same Act. The investigation has revealed that all costs for the security upgrade were paid from DPW account.

PROJECT IMPLEMENTATION

58. Prestige Project A was divided into two focus areas, the state-owned land covering a 5, 1598 ha area and the President's residence covering a 3, 8324 ha area. Because the President's private land was not large enough to accommodate all operational requirements flowing from the security assessments, it became necessary for the state to acquire additional land.
59. The Scope of Works was then divided into three phases. The first Phase identified as the most essential item to be completed as soon possible to ensure the minimum level of security measures on site. This phase was done as an emergency work.
60. According to the estimates by the Principal Agent, the estimated total cost including VAT, for the entire project amounted to R195 205 783, 02. This amount excludes professional fees.
61. The first service provider contracted for emergency works in the first phase was **Moneymine Investment 310 CC** and the contract was concluded on a negotiated basis, meaning that no open tender process was followed in its appointment.
62. Moneymine Investment 310 CC was responsible for all the works in the high-security area, which is in and around the old and new buildings, including building works for the first portion of the safe haven, landscaping around the buildings and further reinstatement of the landscape damage during construction.
63. Additionally, this service provider was responsible for the relocation of neighbours' dwellings, which was a security requirement. As in November 2012, records reflected that an amount of R52 750 625.60 had been paid for this service.
64. The second service provider for Phase 1 on the low-security area was **Bonelena Constructions and Projects**. The procurement of

this service provider was also done through a nominated process. The scope of work included all works falling outside the homestead area, which included:

- 64.1 Construction of a perimeter fence (low security fence);
 - 64.2 Construction of access control buildings;
 - 64.3 Re-construction and relocation of a tuck shop, generator room and waste disposal area near the entrance; and
 - 64.4 Construction of a helicopter landing pad.
65. The contract value for all the works was R19 174 478.52. The work was completed by November 2012 and the amount paid was R23 317 238.94. The contractor was also contracted for Phase 2 for R61 614 076.92 and paid R54 850 502.99, by November 2012. However, the contract was cancelled due to poor performance. The contractor was paid the total amount of R78 167 741.93 as at December 2012.
66. The third contract for high security fencing was awarded to **Beta Fence** by direct contract, utilising emergency delegation.
67. The Scope of Works included the construction of the interior high-security fence in accordance with the SAPS specifications.
68. The contract value for the fence was R 9 237 471.51 and as in November 2012, the work was completed.
69. The fourth contractor, still in Phase 1, for the procurement of a temporary emergency medical facility and temporary homes for SAPS security personnel, was **Natal Park Homes**. The contract was procured by direct contract, utilising emergency delegation as approved by the then Acting Director General of DPW.
70. These temporary homes included:
- 3m x 3m bedroom units;
 - 2m x 2m bedroom units;
 - 1 x basic clinic;
 - 1x small boardroom; and
 - 1x office accommodation

71. The total contract value for these was R2 436 396.60. The temporary homes were, indeed provided and on inspecting the site in November 2012, the homes were still there. As in November 2012, the full amount of the contract value of R2 436 396.60 had been paid.
72. The fifth contractor contracted to provide emergency power supply to the site whilst the facilities were being constructed and permanent equipment was being delivered, was **Pro hydraulics t/a Viper Generators**, which provided a temporary generator set. This service provider was procured through direct contract, utilising emergency delegation as approved by the then Director General. The contract value was R 275 250.00. Records show that an amount of R 253 080.00 had been paid by November 2012.
73. The sixth contractor contracted for the procurement of bullet-resistant windows, in line with the SAPS Security Assessment, was **SA Bullet Resistant Glass (Pty) Ltd.**
- 73.1 The procurement of this contract was also done by direct contract, utilising emergency delegation as approved by the then Director General.
- 73.2 The total contract value for the installation of the bullet-resistant windows was R3 035 694.00 and a payment amount of R3 035 293.80 and as in November 2012, the windows had been fully installed and the total contract amount paid up.
74. The seventh contractor, procured through a nominated process, to conduct security advising (interpretation, specification and implementation) was **CA Du Toit (Pty) Ltd.** The contract value for this was R 2 342 141.16 and as in November 2012 the security services had been rendered and the full contract amount paid.
75. The eighth contractor, **Minenhle Makhanya Architects** that was appointed the Principal Agent, was a direct appointment (*NB! A Principal Agent is entitled to an 18% payment of the total project amount*). As in November 2012, an amount of R 16 044 384.39 had been paid to this service provider.

76. The procurement of the ninth contractor, **Otis (Pty) Ltd**, which was appointed for the installation of lifts, was also a direct appointment. According to records, this contractor had been paid R 1 986 823.01 in total by November 2012.
77. The tenth contractor, **E Magubane CC**, was contracted for the installation of CCTV cameras. The tender amount approved was R 9 680,212.95, inclusive of VAT. However, as in November 2012, records reflect that an amount of R 10 009,933.51 had been paid to this company. The security clearance was declined by NIA in 2008 and there was no clearance issued for the utilisation of this company in the Prestige Project A. Minutes from meetings suggest that requests for security clearances were made to Mr Rambau for him to facilitate the clearance by NIA.
78. The eleventh contractor, **Ibhongo Consulting CC**, was contracted to compile the engineering service report for the project. It is not clear what procurement process was followed in appointing this (as only an appointment letter was approved by the then DG without following due process). As in November 2012, an amount of R 6 006 457.36 had been paid to the contractor.
79. The procurement of the twelfth contractor, **Igoda Projects (Pty) Ltd** that was contracted for electrical engineering work, was also done via a direct appointment. As in November 2012, an amount of R 2 460 063.66 had been paid to Igoda Projects (Pty) Ltd.
80. The thirteenth contractor, **ILangaletu Consult CC T/A R&G**, was contracted for quantity surveying services. The procurement of this contract too was a direct appointment. As in November 2012, an amount of R 13 794 957.70 had been paid to the contractor.
81. The fourteenth contractor, **Mustapha and Cachalia CC**, which was contracted for the installation of air-conditioning, mechanical ventilation, and fire detection and evacuation system, was procured through a nominated process. As in November 2012, an amount of R 2 802 796.32 had been paid to this service provider.
82. The fifteenth contractor that was contracted to manage the project to ensure that deliverables for phase 1 of the project were achieved

was **Ramcon** and the company was appointed through a nominated process. As in November 2012 an amount of R 5 092 477.73 had been paid.

SUPPLY CHAIN MANAGEMENT

Applicable procurement provisions

83. There is a range of provisions that determine how a government department may procure goods and services. These provisions comprise the Constitution, various statutes and regulations, and departmental policies, directives and circulars.
84. On 29 April 2008, the DPW's then Accounting Officer / Director-General signed the department's SCM Policy, which came into effect on 1 May 2008, providing a policy framework that envisages that the SCM system will be brought into effect through directives, delegations and "business processes". The following provisions of the SCM policy are relevant:

*"The Department must comply with the principles of fair, equitable, transparent, competitive and cost-effective processes throughout acquisitions...."*¹⁵

85. In implementing the policy, DPW must:
- (a) *ensure that bid documentation and the general conditions of contract are in accordance with ... the instructions of National Treasury ...; [and]*
 - (d) *advertise bids in at least the Government Tender Bulletin for at least 30 days before closure, except in urgent cases where*

¹⁵ See paragraph 52 of the SCM Policy

bids may be advertised for a shorter period on approval of the Bid Adjudication Committee ...”¹⁶

86. The Department will apply the 80/20 and 90/10 scoring models of the Preference Procurement Policy Framework (PPPF) and its Regulations and the bid should be awarded to the highest score. Any exception must be referred to the National Bid Adjudication Committee for approval.¹⁷
87. The SCM policy does not stipulate under what circumstances the Department may procure goods or services other than by way of a competitive bidding process.
88. The SCM policy further sets out the acquisition procedures of goods and services relating to the construction sector.
89. In this case, the Regional Bid Adjudication Committee (RBAC) was granted approval to adopt a negotiated and nominated procedure in appointing contractors. In terms of the directive on acquisition and disposal, the negotiated procedure is the least desirable of all acquisition procedures and the Bid Adjudication Committees (BAC) may approve this procedure as a last resort. The directive further sets out circumstances where a negotiated procedure may be used.¹⁸
90. As far as the nominated procedure is concerned, the directive also states that the nominated procedure is not a desirable acquisition procedure and that the relevant BAC may approve this procedure as a last resort. This means that other avenues available must be exhausted before a nominated or negotiated process can be adopted. It is clear that none was followed in the project.

¹⁶ See paragraph 52 of the SCM Policy

¹⁷ See paragraph 54 of the SCM Policy

¹⁸ See Supply Chain Management Policy-Directive on acquisition and disposal management

91. The nominated process requires at least three (3) vendors or bidders to be nominated from a supplier register or panel of vendors to provide a written or verbal quote. In this case, the Principal Agent, Mr. Minenhle Makhanya, was requested to provide a list to DPW and suppliers were not nominated from the supplier register as requested by the SCM policy.
92. It is clear in the matter that a nominated procedure was adopted, however the procedure was not followed as service providers were extracted from the list provided by the Principal Agent and not from DPW's database. Furthermore, no quotes were requested from three (3) vendors as the policy dictates.
93. Even where a negotiated process was approved, the procedure was not followed, particularly in the appointment of Moneymine Investment 310 CC for phase 2 of the project. Evidence showed that approval for the appointment of Moneymine Investment 310 CC on the negotiated process was a result of a motivation presented during a meeting held on 21 December 2010¹⁹.
94. The SCM regulations reiterate that procurement of goods and services must be either by way of quotation or through a bidding process. SCM regulation 16A6.4 permits the Accounting Officer to procure the required goods or services by other means if in a specific case if it is "impractical to invite competitive bids".
95. This is subject to the proviso that the reasons for deviating from inviting competitive bids must be recorded and approved by the accounting officer. Secondly such deviation must be reported to the Auditor General.
96. In this case, there is no evidence to show that deviations were reported to the Auditor General.

¹⁹ PA-01: Request for approval of procurement strategy dated 10 January 2011

MINISTERIAL HANDBOOK AND CABINET DECISION 20 AUGUST 2003

97. The Ministerial Handbook is a guideline for benefits and privileges to which members of the executive and their families are entitled, in the execution of their duties. However, the Ministerial Handbook does not adequately cover the provision of security upgrades on the private residences of the President, Deputy President and former Presidents and Deputies are concerned.
98. In terms of Clause 3 of Chapter 3 dealing with security analyses of members of the executive, other than the President and the Deputy President, the handbook provides that:
- 3.1. *On assumption of office, members should approach, the Minister of Intelligence Services and the Minister of Safety and Security, for a security analysis and arrangements for the provision of appropriate security.*
 - 3.2 *Members and their support staff should, at all times, adhere to the security arrangements and policies, and take precautions not to do anything that will compromise security. A copy of the Minimum Information Security Standards Manual can be obtained from the National Intelligence Agency.*
 - 3.3 *The analysis referred to in paragraph 3.1 above, will include security of private residences occupied on a regular basis, State owned residences, private residences, personal security and the offices utilized the Members.*
 - 3.4 *The Minister of Public Works, should be requested to implement, in conjunction with the SAPS, the recommended security arrangements at privately owned residences in terms of the scheme approved by the Cabinet for this purpose [Cabinet decision October 8, 1997].*

99. In terms of Annexure E of the Handbook on Policy on Security Measures at the private residences of public office bearers, the State contribution on security measures may not exceed a hundred thousand rand (R100 000.00).

100. The Handbook provides that:-

1. *The Minister of Public Works may approve a State contribution of a non-recoverable maximum amount of R100 000, or the total cost of security measures not exceeding R100 000.*

2. *Should the cost of the security measures be more than R100 000, the difference shall be borne by the Public Office Bearer.*

3. *The State's contribution of R100 000 should be reviewed every five years to match with the changing costs for security systems.*

4. *The following procedure should be followed to obtain approval from the Minister of Public Works for the State's contribution of R100 000 to be made towards security measures at the private residences of Public Office Bearers:*

4.1. *The South African Police (Protection and Security Service) should at the request of a Public Office Bearer, conduct a security evaluation of such Public Office Bearer's private residence.*

4.2 *SAPS (Protection and Security Service) would discuss the Public Office Bearer's personal circumstances with him/her, with a view to inform the recommendations to be made.*

4.3 *SAPS (Protection and Security Service) should submit the security evaluation report to the Department of Public Works, Directorate: Prestige Accommodation (Head*

Office) for consideration by the Interdepartmental Security Coordinating Committee (ISCC) and for cost estimates to be prepared.

4.4 The Directorate: Prestige Accommodation will provide SAPS (Protection and Security Service) with the cost estimate to be attended to the Public Office Bearers copy of the security evaluation report and to be forwarded to the relevant Public Office Bearer.

4.5 Upon receipt of the report and cost estimate, the Public Office Bearer may submit a formal request to the Minister of Public Works for this Department to make a contribution towards the security measures.

4.6 The Office Bearer may effect security measures at a lower level than recommended by SAPS (Protection and Security Service), provided that he/she first obtains the approval of the Minister of Safety and Security.

4.7 Once the Minister of Public Works has approved the contribution by the Department toward the security measures, the Public Office Bearer should obtain quotations for the work to be executed and forward the preferred quote to the relevant Regional Office of the Department for technical scrutiny, bearing in mind the fact that the State may only contribute a maximum amount of R100 000 towards the security measures.

4.8 Should the quotation be found reasonable and in accordance with the approved security measures, the Public Office Bearer may enter into agreements with contractors for the work to be executed.

4.9 Upon completion of the work, the Public Office Bearer must furnish the relevant Regional Office with receipts of

the work executed. The Office Bearer must certify that the work has been executed to his/her satisfaction. On receipt thereof, the relevant Regional Office, in collaboration with the SAPS (Protection and Security Service), will inspect the completed work. If the Regional Office and SAPS are satisfied that the work has been completed in accordance with the tender/quotations and recommendation of South African Police Service, payment would be made directly to the Office Bearer, who would in turn be responsible for the payment of contractors.”

CABINET DECISION 20 AUGUST 2003

101. The Cabinet decision (Policy on security measures at private residence of Presidents and Deputy Presidents) was taken following a memorandum presented by the Minister of Intelligence for an approval of policy regarding security measures at the private residences of the President, Deputy President and former Presidents and Deputy Presidents²⁰. The main reason for this policy, was that the Ministerial Handbook was inadequate in providing security in the private residence of these office bearers.
102. The adopted policy provides for the process according to which the South African Police Services and the Department of Public Works would investigate, fund and maintain security measures at the private residences of the President, Deputy President and former Presidents and Deputy Presidents.
103. The policy provides that:
- (i) *At the request of the President, the Deputy President or The Presidency, the South African Police Service (SAPS), together with the National Intelligence Agency (NIA), shall evaluate the*

²⁰ Cabinet decision dated 20 August 2003 * It should be noted that this policy was adopted after enactment of National Key Point Act and the current Ministerial Handbook

security situation of private properties that are owned and regularly used by the President, Deputy President, former President, Deputy Presidents and (in exceptional cases) their immediate family. The main consideration shall be to ascertain to what extent the safety of the President, Deputy President, former Presidents or Deputy Presidents or their immediate families, including their personal property, (own emphasis) is compromised as a direct result of the public position held or previously held. The evaluation by SAPS shall be based on the findings of threat analysis by NIA;

- (ii) Based on the above evaluation, the SAPS and NIA shall formulate a proposal on appropriate security measures (staff and structures) that should be put in place by the State (if any). These measure shall be submitted to the Interdepartmental Security Coordinating Committee (ISCC) for technical assessment;*
- (iii) The Department of Public Works shall then prepare cost estimates of the proposed structural security measures and submit it to the SAPS;*
- (iv) The SAPS shall then advise the Minister of Safety and Security on the proposed safety measures, including the cost thereof. Whatever measures are approved by the Minister for Safety and Security shall subsequently be communicated to the President or Deputy President or former Presidents or Deputy Presidents for consent;*
- (v) The SAPS shall thereafter submit the measures, as approved by the President or Deputy President or former Presidents or former Deputy Presidents, to the Department of Public Works, which shall approach the Minister of Public Works for approval of the costs of the structural measures;*

- (vi) *The security measures that have been agreed to in the above process shall be implemented as follows:*
 - (aa) *SAPS personnel and related costs shall be provided and funded by the SAPS; and*
 - (bb) *Structural additions and amendments shall be provided, maintained and funded by the Department of Public Works; and*
- (vii) *The security situation at private properties owned and regularly used by the President, Deputy President, former Presidents and Deputy Presidents and their immediate family shall, from time to time, be revisited by the SAPS, based on the findings of a threat analysis done by NIA. The SAPS shall report its findings to the Minister for Safety and Security. This may at any time lead to upgrading, downgrading or termination of security measures. If security measures are downgraded or terminated, any permanent structures shall become the property of the owner of the land on which the said structures were erected, who shall have to maintain them.*

104. It is evident from the terms of the Cabinet decision and policy approved that the main consideration was the safety of the President. It is further clear that the decision does not place any limit on the amount to be spent on the security upgrades to the residences of sitting President and Deputy President as well as their predecessors as recommended by the SAPS and NIA (as it was then called).

FINDINGS

National Key Points

105. In accordance with applicable legislation, the Minister of Police, on 08 April 2010, declared the private residence of President Jacob Zuma a National Key Point and a certificate in that regard (Certificate number: NKP 0134000) was issued.

106. In terms of the National Key Points Act, the Minister responsible to declare a place or area a National Key Point is the Minister of Defence. However, in 2004 this function was transferred to the Minister of Safety and Security, currently called Minister of Police, by Proclamation GG 26164 of 26 March 2004 as signed by former President Thabo Mbeki.
107. Preceding the declaration process and in line with government policy, in particular Cabinet Memorandum 09 of 2003 which provides for a process according to which the South African Police Services and the Department of Public Works should investigate, fund and maintain security measures at the private residences of current and former Presidents and Deputy Presidents of the country, the Security Cluster departments conducted security assessments of the residence and accordingly made recommendations to review and address security shortcomings surrounding the President's residence.
108. In the case of declared National Key Point area, a Special Account should have been registered and opened with the concurrence of the Minister of Finance and be allocated funds from the National Treasury. This did not take place as it is in contradiction with the PFMA.

Budget

109. Although different consultants made cost estimates and presented them to DPW, the budget for this particular project was not included in the Medium Term Expenditure Framework (MTEF) for financial periods 2010-2013, neither was it included in the Adjusted Estimate of National Expenditure.
110. According to documents submitted by the acting CFO, Ms Sue Mosegomi, funds for this project were sourced from other prestige projects (Dolomite and PRIP) that were underutilizing funds

allocated to them. It was estimated that this particular project would cost R 228 million for the period 2010–2013.

111. The actual security upgrades and related activities commenced in June 2010. On verification, the investigation confirmed that the actual cost for the whole project paid to date is R 206 420 644.28.²¹
112. The Department of Public Works did not pay any contractor for the construction of the houses of the President. The evidence presented to the the Task Team showed that government (DPW) paid for security upgrades at the homestead which were as a result of assessment conducted by the Police and Defence. The cost to the security features amounted to R71 212 621. 77 including consultancy fees.
113. The costs for other departmental operational needs such as accommodation for government personnel (SAPS security personnel and DOD aircrew), the clinic, helipad, etc., amounted to R135 208 022.51, inclusive of consultancy fees.
114. The investigation has found that the total amount paid by the state as at December 2012 amount to R206 420 644.28. Included in the total cost is an amount of R26 677 240.46, which constitutes variation orders.

²¹ See memo from Acting CFO dated 19 November 2012 attaching WCS print out

The table below illustrates the breakdown of costs:

Description	Actual Security Costs- (R)	Other Departmental Operational needs Costs- (R)
Low Security Area		23 317 238,94
SAPS and DOD Facilities		54 850 502,99
High Security Facilities Part 2 (Earthworks, Roads and Garages)	21 755 454,59	20 887 398,57
SAPS: ParkHomes		2 436 396,60
Emergency Work LSA		2 026 181,26
Otis Lift	1 986 823,01	
Relocation and High Security Facility Part 1	4 245 828,46	3 835 762,72
Fence	9 237 471,51	
Electronic Detection Systems	10 009 933,51	
Bullet Resistance Glass	3 035 293,80	
Generator	253 080,00	
<i>Total excl professional fees</i>	<i>50 523 884,88</i>	<i>107 353 481,08</i>
Professionals Fees	20 688 736,89	27 854 541,43
Grand Total	71 212 621,77	135 208 022,51

Supply Chain Management

115. The Supply Chain Management Policy and prescripts were not fully complied with in the procurement of goods and services related to the project. For instance, deviations were not duly reported the AG as per SCM prescripts and the appointment of the contractors who were already on site was in violation of the PFMA.
116. The whole purpose of a competitive bidding process as set out in the Constitution, SCM Policy and treasury regulations and that is supposed to be fair, equitable, transparent and cost effective, was not achieved.

117. It was also found that the then Minister of Public Works, Minister Doidge and Deputy Minister Bogopane-Zulu attended and presided over site meetings and in some instances interacted with contractors involved in the project. This was reflected in the minutes, memos generated by officials of DPW and from evidence of three (3) officials and one (1) contractor who raised uneasiness with the involvement of the executive in the project.
118. The appointment of E Magubane CC for installation of CCTV system is contrary to the approved procurement strategy. The involvement of Mr Zwitani Rambau in recommending E Magubane, despite being advised in writing by NIA that the company did not meet the required security vetting standards, is a matter of serious concern.
119. The investigation further found Bonelena also employed foreign nationals in the project who were not vetted. This is a security breach.
120. Instruction Note 32 of par 3.9.3 of National Treasury was not complied with.
121. Contracts may be expanded or varied by not more than 20% or R20 million (including all applicable taxes) for construction, related goods, works and/or services and 15% or R15 million (including all applicable taxes) for all other goods and/or services of the original value of the contract, whichever is the lowest.
122. In terms of paragraph 3.9.3 of Instruction Note 32 of National Treasury, variation orders may not exceed 20% of the contract amount. However in this project, there were four (4) variation orders, three (3) of which exceeded the 20% limit as required by the Instruction Note of National Treasury.

Variation orders

123. The following contractors did not go through security clearance processes as was requisite:

Consultant	Security Clearance	Services
CA Du Toit (Durban)	No	Security
Ibhongo Consultants CC	No	Civil/Structuring Engineers
Ilangalethu Consulting CC	No	Quantity Surveyor
Minenhle Makhanya Architects	No	Architectural Design and Project Agent
Mustapha and Cachalia CC (Durban)	No	Mechanical Engineer
IGODA	No	Electrical
E Magubane Information Systems	2008: clearance denied 2009: clearance not issued for Prestige Project A	Electronic Detection System

Immovable Asset Management - Maintenance Plan

124. It is evident that, in implementing Prestige Project A, the DPW did not comply with the Government Immovable Assets Management Act of 2007, par 6 (1) (i-iii) which, among others, requires an immovable asset management plan for all immovable assets managed by departments.

RECOMMENDATIONS

As a way forward and against the backdrop of the irregularities found by the Task Team, the following recommendations are made:

125. That the report be referred to law enforcement agencies, including the Special Investigation Unit (SIU), the Auditor-General (A-G) and

- the South African Police Service (SAPS), with a view to investigate any possible acts of criminality;
126. That Parliament review the National Key Point Act and align it with the 2004 Proclamation referred to above;
 127. That DPW develop a policy to the management and control of particular Prestige Projects;
 128. Now that the project is nearing its end, DPW to do a cost apportionment of the total expenditure incurred for the purposes of allocating costs to and invoicing relevant stakeholders;
 129. That a further investigation be conducted to establish whether there was justifiable reasons to delegate the authority to RBAC;
 130. A surety that DPW had made to IDC on behalf of Bonelena Constructions and Projects be investigated further;
 131. That irregularities that have been identified be further investigated and any professionals who might be found to have acted unethically be reported to relevant professional bodies and/or institutions;
 132. That immediate disciplinary measures be instituted against any government officials who might be implicated in any kind of wrongdoing, including the flouting of policies and procurement procedures,
 133. That the SSA conduct a comprehensive Information Security Risk Assessment of the project;
 134. That the role of the then Minister Doidge and Deputy Minister Bogopane-Zulu be further investigated and clarified.
 135. That the SSA conduct comprehensive vetting of all Supply Chain Management personnel within DPW; and

136. That the Ministerial Handbook be reviewed in order to be consistent with the provisions of the Proclamation GG 26164 of 26 March 2004 and Cabinet Decision/Policy of 20 August 2003 on security measures at Private Residences of the President, Deputy President and former Presidents and Deputy Presidents.
137. Any breach of law, which has resulted in a criminal act or omission, must be reported to the relevant authorities for investigation and prosecution.

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