

NATIONAL ASSEMBLY
QUESTION FOR WRITTEN REPLY
QUESTION NUMBER 1614
DATE OF PUBLICATION: 21 MAY 2010

Mr M Swart (DA) to ask the Minister of Finance:

- (1) Whether any forensic audits have been instituted by the National Treasury into its administration or the administration of its entities (a) in the (i) 2007-08, (ii) 2008-09 and (iii) 2009-10 financial years and (b) during the period 1 April 2010 up to the latest specified date for which information is available; if not, what is the position in this regard; if so, in each case, (aa) what was the subject of the audit, (bb) what was the finding of the audit, (cc) which entity or company or person was used to conduct the audit and (dd) what was the cost of the audit;
- (2) whether the results of the audits have been made public; if not, why not; if so, (a) when and (b) what are the further relevant details;
- (3) whether any criminal or disciplinary proceedings have been instituted as a result of the audits; if not, what is the position in this regard; if so, what are the relevant details?

NW1877E

REPLY:

- (1) Forensic audits have been instituted by the National Treasury in the following types of instances:
 - Alleged tender irregularities
 - Complaints about pension payouts

Further details in this regard are provided herewith below:

(a)			
(i) No forensic audits were conducted during the period 2007-08			
(ii) 2008-09			
(aa) Subject of Audit	(bb) Audit Finding	(cc) Conducted by	(dd) Cost
June 2008 – RT12-2007PP Sukuma – Verification of tender information submitted and allegations of fronting.	Discrepancies in tender information submitted and high probability of fronting.	SAB&T Business Innovations Group	R90 000
July 2008 – RT12-2007PP IVM – Verification of tender information submitted and allegations of fronting.	Discrepancies in tender information submitted and high probability of fronting.	SAB&T Business Innovations Group	R90 000
July 2008 – RT12-2007PP Ekto – Verification of tender information submitted and allegations of fronting.	No discrepancies in tender information submitted and no conclusive evidence could be found to prove fronting	SAB&T Business Innovations Group	R90 000
(iii) 2009-10			
(aa) Subject of Audit	(bb) Audit Finding	(cc) Conducted by	(dd) Cost
May 2009 - RT50/2005CV Afrox - The appointment of Afrox by CHB and Leratong hospitals outside the transversal contracts process of Treasury	The CHB and Leratong hospital contracts with Afrox were not in accordance with GDOH procurement procedures	SAB&T Business Innovations Group	R150 000

	<p>In addition thereto, Treasury Regulation 16A 6.5 stipulates that where GDOH opt to participate in transversal term contracts facilitated by the relevant treasury, which they did, GDOH may not solicit bids for the same or similar product or service during the tenure of the transversal term contract.</p> <p>Contract RT50/2005CV overlapped with the Leratong and CHB hospital contracts for a period of thirteen months from 1 January 2008 to date. The contracts provided similar services.</p>		
May 2009 – RT72/2006CP Afrox/VitalAire - The appointment of VitalAire by National Treasury to supply medical oxygen and various allegations made by NDOH	Allegations of irregularities in the awarding of the contract and non performance by VitalAire could not be substantiated.	SAB&T Business Innovations Group	R120 000
October 2009 – GEPF Special	<ul style="list-style-type: none"> Total amount 	Nexus Forensic	R293,745

<p>Pensions – investigation of allegations made by a whistleblower that fraudulent payments had been made from the GEPF, in that beneficiary bank account details were fraudulently changed prior to the making of Special Pension payments, which resulted in fraudulent payments being made, which in turn resulted in fruitless and wasteful expenditure. In addition, the two GEPF employees had been negligent in the performance of their duties, in that they had not informed their superiors of the fraudulent payments, and that they had authorised duplicate payments (to ensure that the correct beneficiaries eventually received the money) without obtaining the proper authorisation, which resulted in irregular expenditure.</p>	<p>fraudulently paid: R1,083,222.70 (7 criminal cases registered in this regard);</p> <ul style="list-style-type: none"> • Irregular expenditure incurred (double payments without authorisation): R412,585.05; • Presence of fraud syndicate working within Special Pensions detected - 9 officials identified who may be involved in the syndicate • Urgent intervention in respect of records management/registry, internal controls and IT controls identified and advised; • Current internal controls not sufficient to provide assurance that approved special pensions are paid to the correct (legal) beneficiaries, and not sufficient to prevent fraud and corruption; 	<p>Services</p>	
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	<ul style="list-style-type: none"> • Current system is open to abuse and staff members need urgent training • The authenticity of information received from political organisations' military wings regarding the struggle history of certain applicants is in question and there is not a control process to independently verify this. 		
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- (2) (a) RT12, RT50 & RT72: results of the audits have not been made public as it was not deemed necessary.
- (b) GEPF investigation was handed over to the South African Police for further investigation. Legally we cannot publish the information until the police have finalised & the court has made judgement.

(3)

Financial Period 2008-09	
June 2008 – RT12-2007PP – Sukuma	<p>No criminal or disciplinary proceedings have been instituted due to the fact that although there was a high probability that fronting existed; the State Attorney was of the opinion that the evidence was not sufficient. The fact that there was no definition of fronting and no case law on fronting compounded the decision.</p> <p>One of the recommendations of the forensic audit was that National Treasury's general and specific conditions of tender should be improved to include a section which deals with fronting. This has been done. The tender was cancelled and put out to re-tender.</p>

<p>July 2008 – RT12-2007PP – IVM</p>	<p>No criminal or disciplinary proceedings have been instituted due to the fact that although there was a high probability that fronting existed; the State Attorney was of the opinion that the evidence was not sufficient. The fact that there was no definition of fronting and no case law on fronting compounded the decision.</p> <p>One of the recommendations of the forensic audit was that National Treasury's general and specific conditions of tender should be improved to include a section which deals with fronting. This has been done.</p> <p>The tender was cancelled and put out to re-tender.</p>
<p>July 2008 – RT12-2007PP – Ekto</p>	<p>No criminal or disciplinary proceedings have been instituted due to the fact that the allegation of fronting could not be proved.</p> <p>One of the recommendations of the forensic audit was that National Treasury's general and specific conditions of tender should be improved to include a section which deals with fronting. This has been done.</p>
<p>Financial Period 2009-10</p>	
<p>May 2009 - RT50/2005CV Afrox - The appointment of Afrox by CHB and Leratong hospitals outside the transversal contracts process of Treasury</p>	<p>It was recommended that the accounting officer of GDOH should institute an investigation within 30 days into the alleged award of the Leratong and CHB contracts to Afrox in contravention of GDOH procurement procedures by one of the GDOH employee.</p> <p>The employee was grossly negligent placing GDOH at risk by claiming to procure in terms of an existing contract (RT50/2005CV) in circumstances where the contract expressly prohibits same. Disciplinary action was recommended against the GDOH employee.</p>
<p>May 2009 – RT72/2006CP Afrox/VitalAire - The appointment of VitalAire by National Treasury to supply medical oxygen and various allegations made by NDOH</p>	<p>On the basis of the audit finding there was no need for criminal or disciplinary proceedings to be instituted.</p>

October 2009 – GEPF Special Pensions– Investigation of allegations made by a whistleblower that fraudulent payments had been made from the GEPF

RECORD OF DISCIPLINARY ACTIONS TAKEN:

Disciplinary action was initiated against two employees of the GEPF, the process of which was driven by National Treasury.

In respect of the first official:

- Charged with 2 counts of contravening provisions of the PFMA;
- The charges were: 1) negligence and failure to comply with the provisions of section 45(a), and 2) failure to report and inform the Accounting Officer of the fruitless and wasteful expenditure incurred with the making of the 2 duplicate payments;
- The accused was acquitted on both charges;
- The Presiding Officer found that he was acting on instruction of his superior at the time, and that he did not receive proper guidance from his superior
- The official was re-deployed to conduct research within the appeal section of Special Pensions, Pretoria.

In respect of the second official

- National Treasury elected not to continue with the disciplinary enquiry against the second official, and he received a final written warning for negligence and non-compliance with the PFMA;
- The official returned to his office of employment in KZN, GEPF, where he is conducting administrative duties for applications for normal and standard pensions.

RECORD OF CRIMINAL CASES REGISTERED:

- 7 criminal cases have been registered with the SAPS at Pretoria Central, with docket numbers CAS 523/11/2009, CAS 524/11/2009, CAS 525/11/2009, CAS 526/11/2009, CAS 289/12/2009, CAS 293/12/2009, CAS 406/12/2009;
- Total amount fraudulently paid in respect of these cases: R1,083,222.70;
- Irregular expenditure (double payments made as a result of the fraudulent payments without the appropriate approval, after the legitimate beneficiaries complained that they had not received the funds): R412,585.05;

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| | <ul style="list-style-type: none">• The detailed review of the files indicated the presence of a syndicate working within the Special Pensions division, possibly in collusion with external bank employees, lawyers and members of communities;• Various Special Pensions employees (9 in total) were identified who may have been involved in assisting with the fraudulent transactions being processed;• Further investigation will have to be conducted (and was advised) to confirm whether they have indeed been involved in the syndicated activities and how they may have benefited from this;• Interviews with e.g. the beneficiaries, bank officials, law firms and members of the communities are still to be done;• The SAPS has issued subpoenas for access to certain individuals' bank statements. These need to be obtained and cash flow analysis is to be conducted;• The prosecutor indicated satisfaction with the state of the investigation when Nexus Forensics handed over all the evidence and information in our possession to the SAPS and indicated that the investigating officer would investigate further;• Please note that these 7 cases are not under the custodianship of the SIU. They were reported directly to the SAPS by Nexus Forensics |
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