

Open Water Responses to GroundUp News

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- 1. When was Open Water first approached by the Department of Social Development to investigate its school uniform project?**

We were approached during December 2023 to gauge our availability to conduct an investigation on an urgent basis and to explain our methodology and give an overview of projects we executed. We performed investigations into projects at the Department and also on behalf of other provincial departments of social development and therefore were identified as having an understanding of the regulatory and other requirements to commence with an investigation.

- 2. Open Water's scope of work for the department, at a cost of R8.5-million, appears to be to investigate the school uniform project, as well as unspecified "irregular expenditure". This seems high to investigate a relatively small project. On what basis did Open Water estimate the number of hours and staff members needed to carry out the audit?**

Our proposal was not a fixed price agreement but was a time and cost proposal. Our rates were presented at 50% of the fees prescribed by the Auditor General for investigations, hence the reference to cost of resources that guides the rate that is permissible. The rates were for a five-month period which was the remaining period of the National Treasury Panel and as the Department participated in that panel, we estimated the maximum time and cost should the investigations endure for the full period. The actual time spent during the first three months was substantially below the estimated time but in the interest of transparency we disclosed the actual potential cost of the investigations and not manipulate the appointment process later as many firms do. I cannot comment on the statements published that we were not the lowest priced quotation as we were not privy to the internal processes by the Department but it may well be helpful to consider the rates of other respondents and I would also add that it is not necessarily irregular not to appoint the lowest priced quotation as the PPPFA makes provision for this, considering that the panel was constituted by the National Treasury and therefore the Department was allowed to follow the same process applied by the National Treasury.

- 3. The Open Water budget for this project includes "irregular expenditure", but this is not described in the project overview. What irregular expenditure is being investigated in addition to the school uniform project?**

The irregular expenditure component related to the investigation of matters recorded on the Irregular Expenditure Register of the Department, as required by Treasury Regulations.

4. Did Open Water's appointment overlap at all with that of FSG Africa? Was there any overlap in mandate?

We consulted with a number of senior managers in the Department in obtaining an understanding of the specific obstacles and matters for investigation. It was during one of the meetings that the CRO informed us of the appointment of FSG and therefore we excluded the work under investigation by FSG from our proposed workplan. I am not privy to the scope of the work by FSG but understand it was relevant to the funding of NPO's and therefore could only overlap if the NPOs under investigation by FSG were also included on the Irregular Expenditure Register in which case we would rely on the work performed by FSG and not investigate the same matter.

5. What is the current status of Open Water's investigation and when does it expect to complete the investigation?

The investigation was "paused" during May and if the information reported by GroundUp is correct it seems that our appointment will be terminated. We have not received any information in this regard. It will be unfortunate as I believe our preliminary findings identified serious contraventions of laws and the regulatory framework of the Department and were going to have an impact in the Department.

I need to respond at this point to matters reported to in your article published on Thursday where you suggested that the school uniform project could have been investigated by the Department internally and that it would require a mere request to the contractors to find out who appointed them and instructed them to commence with production. Although I am restricted in providing detail in this regard as I am still bound by contractual obligations with the Department, I can respond that the Department wanted to appoint a capable external investigator as its own efforts did not yield acceptable outcomes for many years and that those responsible for the apparent waste of resources seemed to continue without any apprehension of consequences. I am also prepared to advise that the school uniform was a carefully devised scheme to make payments to entities that either did not participate in SCM processes and/or failed to comply with the tender requirements. You suggest that the persons responsible for this should be allowed to investigate themselves and it may well be that you are playing into the hands of those who derailed the investigation by supplying you with confidential documentation and convinced the Department that our appointment was irregular when it was not. It is also regrettable that the project was "paused" as soon as we presented our preliminary findings to the Department.

6. Open Water has a sketchy track record that has been reported on in the past: It is alleged in "Gangster State" that Open Water participated in a cover up of

politicians' roles in the Free State R1-billion housing splurge (including not making findings against the MEC, HOD and CFO of the housing department at the time. There is also the matter of the SAA Technical investigation, in which Bollore Africa Logistics was fingered without being given a chance to respond to allegations. It has also been reported that Open Water participated in a politically motivated investigation of the Council for Scientific and Industrial Research and employed a questionable methodology. In 2020, Open Water was appointed by Lindiwe Sisulu to investigate the Amatola Water Board, despite Open Water's Ricky Nkondo having links to Lungile Bomela, one of the central figures in the Amatola saga. How does Open Water respond to the allegation that it has a track record of being involved in politically motivated investigations, employing questionable methodology, and taking up investigations in which it has a conflict of interest?

I have responded to all of the above matters countless times. It is unfortunate that the next investigative journalist will do a social media search and will regurgitate the above matters to which my responses have been either been ignored or simply manipulated to create the impression that we were willing to manipulate reports to suit political motives. That is not true. What nobody wants to publish is that I made an offer to the author of Gangster State that I would meet with him to discuss his concerns and that I and my staff would undergo polygraph examinations, make our reports available to a mutually acceptable third party for review and provide him with a full record of all documentation and equipment we received and to who it was returned. He did not accept my offer.

I am just not sure what we were being accused of and I was never afforded an explanation. This matter as with all the others referred to in our so-called tainted history were instigated by those "informants" who were implicated in our investigations and followed the method of leaking information to the media. Regrettably the next investigative journalist will now include your article in the next enquiry into our company. I suggest that you check with the investigators of the Zondo Commission to what extent they relied on our work. They referred to and used our reports in the Free State housing matter, the SAA Technical matter as well as Eskom investigations. You should also check with the SAPS, the Asset Forfeiture Unit, the NPA and even the SIU, as they all have in the past and is currently relying on our reports and have commended us on the quality of our reporting and standard of work.

7. Open Water has been accused of furthering the interests of former premier Ace Magashule, particularly in the Free State housing matter. How do you respond?

I would respond comprehensively if you explain how we did this, what we did and how it can even be possible to further his (own) interests. (I have asked this on a number of occasions, but it seems the informant(s) of the journalist could not assist) I assure you we did not and was never requested to do anything untoward by Mr Magashule.

8. Did Open Water representatives engage in any private meetings with the MEC of Social Development Mbali Hlophe before the firm was appointed?

NO