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In the course of 2004, a contract was awarded for catering and training services in seven management areas of the Department of Correctional Services (DCS).

Up until then, catering services had been provided “in-house” by inmates working under the supervision of DCS staff. The reasons for outsourcing the catering were, according to a departmental document compiled at that time, as follows:

- “The Department does not have the facilities or the infrastructure to continue with meal preparation while closing down the current kitchens for upgrading;
- The Department does not have access to suitable training programmes that are accredited by the authoritative bodies;
- Because the Department does not have access to suitable training programmes, it is experiencing staff shortages and courses are not structured to meet critical needs; and
- The Department does not have a controlled computerized meal planning system.”

The contract was put out to tender in the Government Gazette as HK 2/2004, and was for a three year period between 1 August 2004 and 31 July 2007, to supply catering services to:

- St Alban’s;
- Johannesburg;
- Durban Westville;
- Pollsmoor;
- Pretoria;
- Modderbee; and
- Krugersdorp.

Because of an “oversight”, some correctional centres that fall within these management areas were not included in the original tender specifications. Accordingly, the contract was administratively extended after it had been awarded to include these centres. This aspect will be discussed later.

According to the Chief Deputy Commissioner: Development and Care (Ms S Moodley), no feasibility study was conducted prior to the award of the contract. (Briefing to Portfolio Committee on Correctional Services held on 19 August 2008).

Fourteen bids were received for this tender, of which five were eliminated because they had not participated in the site visits and/or because they had not submitted the necessary documentation. The remaining bids were referred to a Bid Evaluation Committee consisting of P Gillingham, K M Mabena, J Coetzee, B S Lenkoe and M A Mdlletye.

Points were allocated by the members of this Committee, in respect of the following attributes of the bidders:

<b><u>ATTRIBUTE</u></b>	<b><u>SCORE</u></b>
Experience	40
Training	30
Equipment	25
Management	30
Finance	25
Maintenance	15
In-loco Inspections	35
<b><u>TOTAL</u></b>	<b><u>200</u></b>

It is not entirely clear on what basis these attributes were identified, especially as no feasibility study was conducted prior to the tender specification. However, based on anecdotal evidence, the bid evaluation committee appears to have placed emphasis on at least two aspects:

- The ability of the bidders to provide local, regional and national CCTV coverage of the facilities to enhance security and prevent smuggling; and
- The ability of the bidders to provide mobile kitchens in the event that the prison kitchens were to be renovated.

Even at this stage of the bid, the suspicion arose amongst some bidders that the attributes were selected to advantage bidder(s) that had these capacities.

This impression is to some extent substantiated by a document, the status and authorship of which are unknown, entitled "Points to consider for impending Correctional Services Tender". The document appears on the face of it to introduce additional attributes with which the bidders had to conform, that were not part of the tender document. This document is appended hereto. (Appendix A).

The points were allocated by the Committee to bidders were as follows:

Tamarron Trading 120	23.60
Kei Catering Services	68.60
Iziko Catering Services	93.20
Kagiso Khulani Supervision Food	95.60
Serveco	104.60
Sodexho SA	106.20
Unique Catering Services	130.40
Sechaba Catering Services	138.20
Bosasa Operations	182.60

Bosasa's score is so high compared to the other bidders that it is worth looking at the scores awarded by the individual members of the Bid Evaluation Committee, as follows

		Points awarded by	Points awarded by	Points awarded by	Points awarded by	Points awarded by	
CRITERIA	WEIGHT (MAX POINTS)	P O'C GILLINGHAM	KM MABENA	J COETZEE	BS LENKOE	MA MDLETYE	TOTAL POINTS
Experience	40.00	38.00	40.00	37.00	38.00	35.00	188.00
Training	30.00	30.00	30.00	26.00	30.00	25.00	141.00
Equipment	25.00	23.00	23.00	21.00	25.00	20.00	112.00
Management	30.00	28.00	30.00	26.00	23.00	22.00	129.00
Finance	25.00	24.00	25.00	21.00	25.00	15.00	110.00
Maintenance	15.00	14.00	15.00	12.00	14.00	12.00	67.00
In Loco Inspections	35.00	35.00	35.00	32.00	32.00	32.00	166.00
<b>TOTAL POINTS</b>	200.00	192.00	198.00	175.00	187.00	161.00	913.00
<b>AVERAGE POINTS</b>							182.60

The very high score given for these attributes to Bosasa allowed it to bid competitively for the catering contract EVEN THOUGH ITS TENDER WAS NOT THE LOWEST IN EVERY CASE. In fact, Bosasa's price was the lowest (and then only marginally) in respect of *only one* management area (Krugersdorp).

This is because, according to a confidential Departmental "Briefing Note" entitled "Evaluation: Bid Number HK 2/2004: Rendering of Catering and Training Services at Various Management Areas: 1 August 2004 to 31 July 2007:

Department of Correctional Services”, the points for these attributes (or “criteria”, as the document calls them) count equally with points on price.

The bottom line is that, according to documents at my disposal, Sechaba Catering Services submitted a lower tender on price in *all but one* management area, and yet, because of the high point for the “criteria”, the Bid Evaluation Committee recommended the award of the contract to Bosasa in all but one management area (Modderbee). (Appendix B)

The annual prices quoted by the two companies in their bids are as follows:

<b>MANAGEMENT AREA</b>	<b>BOSASA</b>	<b>SECHABA</b>
St Albans	R 26 526 569.10	R 24 075 686.00
Johannesburg	R 59 617 155.99	R 46 298 822.00
Durban-Westville	R 49 076 172.45	R 45 262 585.00
Pollsmoor	R 34 350 141.87	R 27 746 174.00
Pretoria	R 34 597 131.26	R 33 794 775.00
Modderbee	R 22 524 683.19	R 14 052 972.00
Krugersdorp	R 14 678 570.85	R 14 739 323.00
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<b>TOTAL (per annum)</b>	<b>R241 370 424.70</b>	<b>R205 970 337.00</b>
<b>TOTAL (over contract period, not allowing for escalation)</b>	<b>R724 111 274.10</b>	<b>R617 911 011.00</b>
<b>DIFFERENTIAL</b>	<b>R106 200 263.10 (17.1%)</b>	

It is inconceivable that a potential saving of over **R100 million** over the three years of the contract could be nullified by the fairly arbitrary evaluation of five officials of the “criteria” of the respective companies.

The situation gets more serious in two respects. Firstly, the complex calculation that combined points for price with points for “criteria” delivered a score which indicated that Sechaba ought to have been allocated the contract at least for the Modderbee Management Area. (The 37.6% differential in price was presumably too big to have been overcome by the weighting Bosasa achieved via the “criteria”). Yet when the contract HK 2/2004 was awarded, it was awarded in its entirety to Bosasa. This was because Bosasa offered to drop its overall price by 0,8% and on that basis was apparently awarded the entire contract. (see Appendix C) It seems to have escaped the DCS that Sechaba’s tender on the entire contract was 17.1% cheaper.

The second respect concerns the extension of the contract during 2005. Apparently the original tender did not specifically mention the supply of catering

services to some of the satellite correctional centres that resort under the various management areas. (Thus, for example, Devon and Nigel resort under Modderbee.) Accordingly, this contract was administratively extended and awarded to Bosasa.

There are two serious problems. The first is that the award of the original contract was for the “Rendering of Catering and Training Services at Various Management Areas.” The Management Areas included the satellite correctional centres then, and it is inexplicable why an extension of the contract was necessary to include them. The original tender should have encompassed services to these centres.

Secondly, a contract is, in terms of the Public Finance Management Act, incapable of being extended administratively if it exceeds 20% of the original contract price. The extension in this case amounted to 34,2%. (see Appendix D)

In summary, the award of this contract needs to be investigated for the following reasons:

- (1) By its own admission, the DCS had not undertaken a feasibility study before inviting tenders for the award of the contract;
- (2) The absence of rigorous criteria for the award of the contract – which would have flowed from a proper feasibility study – allowed the criteria to be determined arbitrarily by the members of the Bid Evaluation Committee. The disproportionate weighting given to such “criteria” by the Committee allowed the Committee to recommend the award of the contracts to Bosasa in all but one management area, despite the fact that in all but one management area, Sechaba had submitted lower (and in some cases considerably lower) tender prices for these services;
- (3) Notwithstanding the fact that Sechaba was recommended to be awarded the Modderbee contract, the contract was awarded entirely to Bosasa, owing to the offer of a discount (which was considerably less than the saving that would have been made if the contract had been awarded to Sechaba in the first place);
- (4) The Department extended the contract administratively to include satellite correctional centres that were not included in the original contract. This is either incompetence or a mechanism to extend the contract without involving a tender process; and
- (5) The Department relied on delegated authority to authorize the award to the extended contract to Bosasa, despite the limitation of such delegations to a maximum of 20% of the original contract price. The extension of the contract amounted to 34,2% of that price.

## **Conclusion**

The Democratic Alliance requests this investigation not only in the interests of good governance, but also because the contract is to be renewed shortly. An investigation might reveal short-comings in previous procedures so as to avoid their repetition.

Moreover, we request this investigation because there is a *prima facie* link between the award/re-award of this contract and the sudden “redeployment” of the former National Commissioner, Mr Vernie Petersen. Only a thorough investigation will dispel the perception that Mr Petersen’s steps to stop the further extension of Contract 2/2004 and his removal from the Department were linked.