



SIU_{SA}

STRIKING AGAINST CORRUPTION

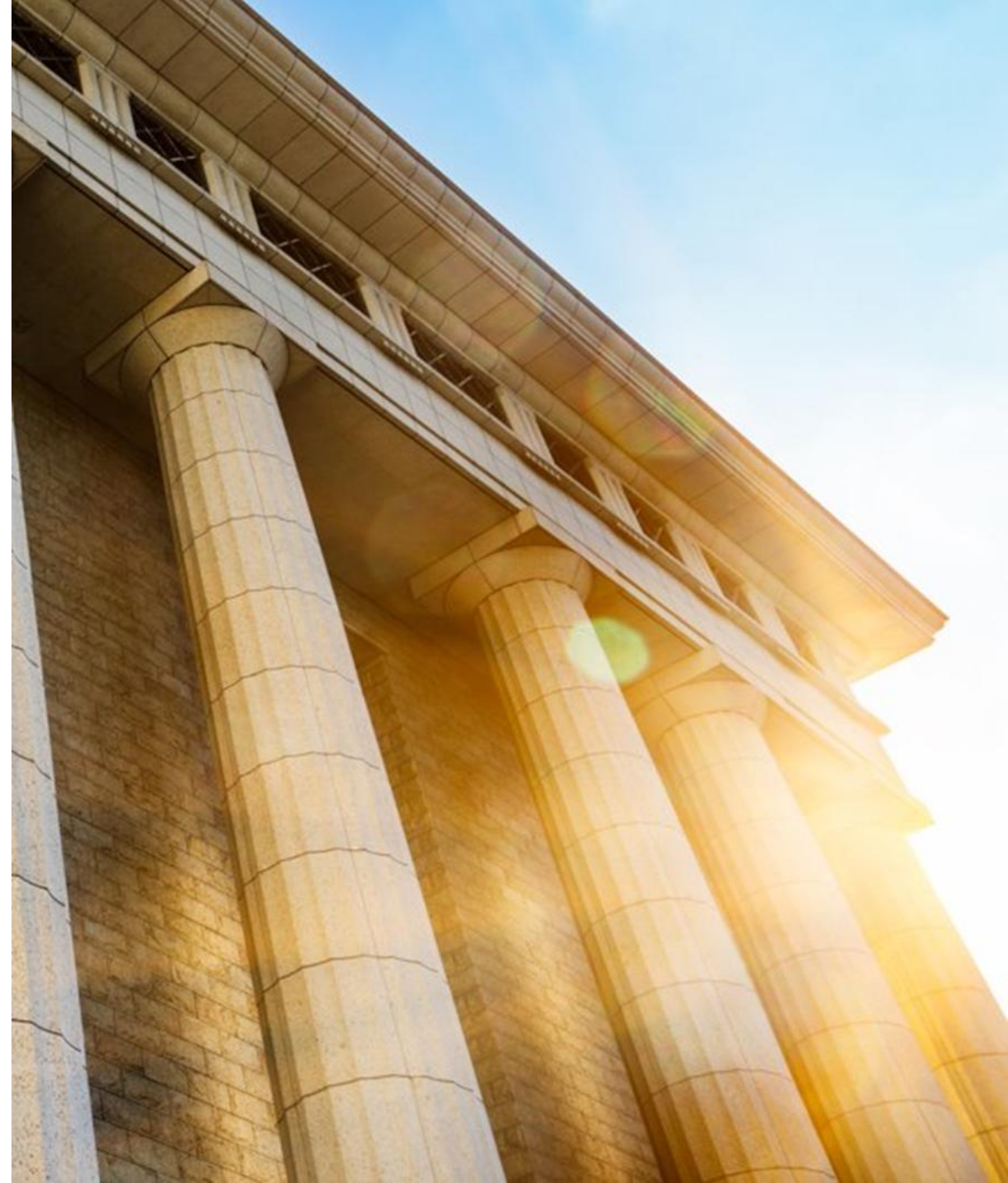
Briefing by the Special Investigating Unit on the investigations conducted into the affairs of Eskom Holdings SOC Ltd.

**Presented by :
Adv. Andy Mothibi
Head of Special Investigating Unit**

12 March 2025

OUTLINE

1. About the SIU
2. SIU Mandate Proclamation R11 of 2018
3. Status of Investigations
4. Conflict of Interest, Declaration of interest, Redflags and Whistleblowers
5. Coal Supply Investigations
6. Build Projects
7. Cloud Computing and Software Investigations
8. Engineering and Project Management
9. Procurement Irregularities
10. Security Contracts
11. Fuel Oil
12. SIU Mandate Proc 178 of 2024
13. Status of Investigations
14. George Fivaz Forensics and Risk
15. Observations
- 16₂ Systemic Recommendations
17. Prevention and Advisory Services





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ABOUT THE SIU

THE SIU'S LEGISLATIVE MANDATE

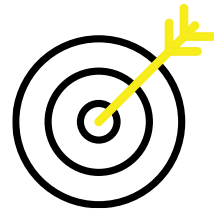
Empowering Legislation

Special Investigating Units and Special Tribunals Act, 1996 (Act no. 74 of 1996) ("SIU act").



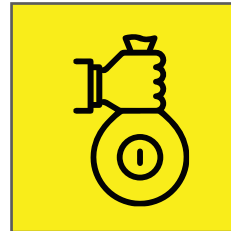
Vision

The State's preferred and trusted anti-corruption, forensic investigation and litigation agency.



Mission

We provide forensic investigation and civil litigation services to Combat corruption, serious malpractices and maladministration to protect the interest of the State and the public.



Major Functions

- Investigate corruption, malpractice and maladministration
- Institute civil proceedings



SIU Powers

- Able to subpoena, search and seize evidence, and interrogate witnesses under oath (once a proclamation has been issued)
- Institute civil litigation to recover state funds lost or to prevent future losses



Out of SIU Mandate

- Arrest or prosecute offenders
- Implement disciplinary actions
- Works closely with other relevant agencies where its powers fall short

SIU VISION, MISSION AND VALUES



VISION

The State's preferred and trusted anti-corruption, forensic investigation and litigation agency



MISSION

We provide forensic investigation and civil litigation services to combat corruption, serious malpractices, and maladministration to protect the interest of the State and the public



VALUES



INTEGRITY

Doing the right thing even when no one is watching



COOPERATION

Supporting and enabling all stakeholders in the fight against corruption



TEAMWORK

Fostering synergy in a multidisciplinary and diverse environment



PROFESSIONALISM

Developing and maintaining the highest standards



EFFICIENCY

Doing the right thing in a timely and cost-effective manner.



INDEPENDENCE

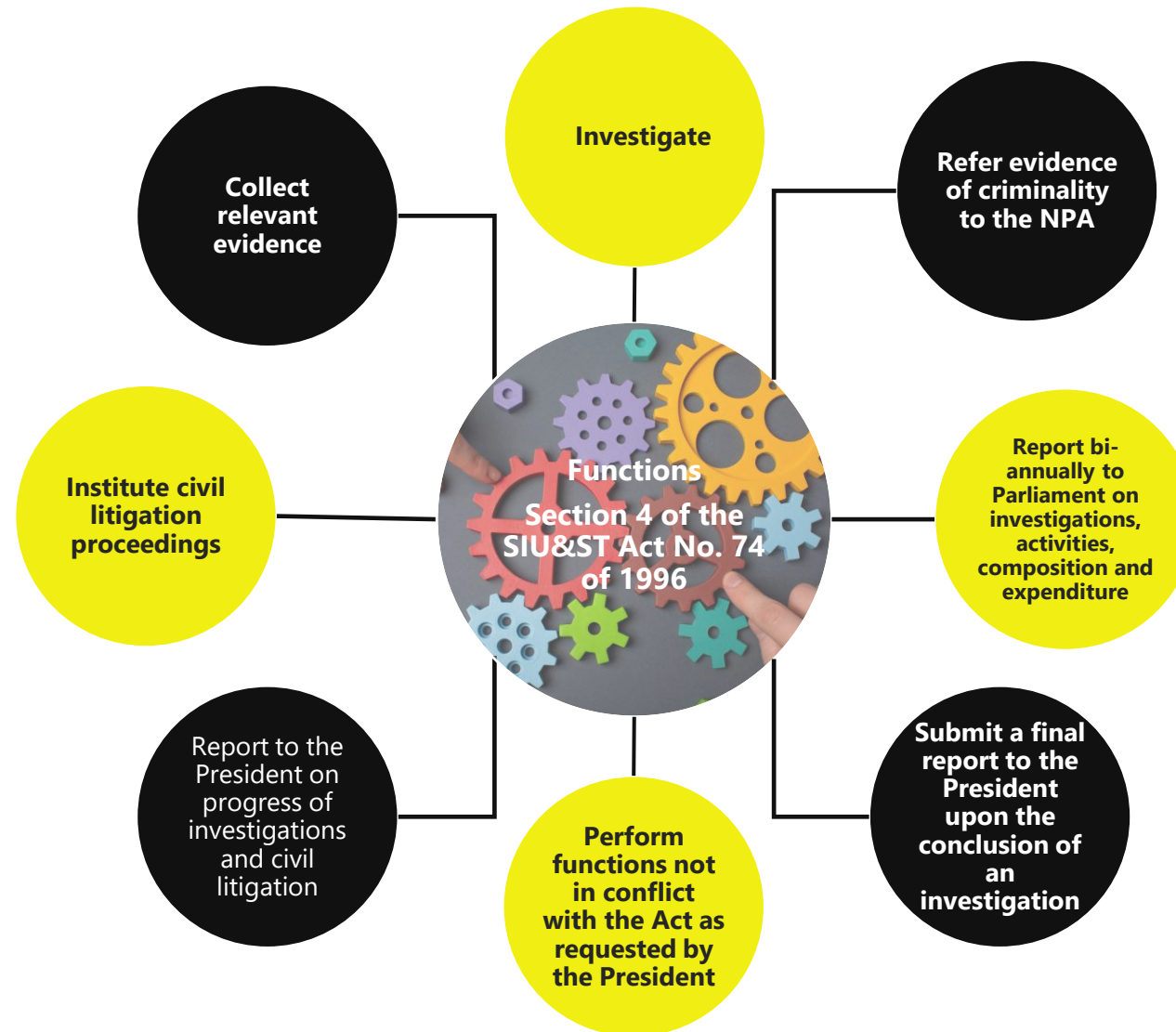
Acting without fear, favour or prejudice



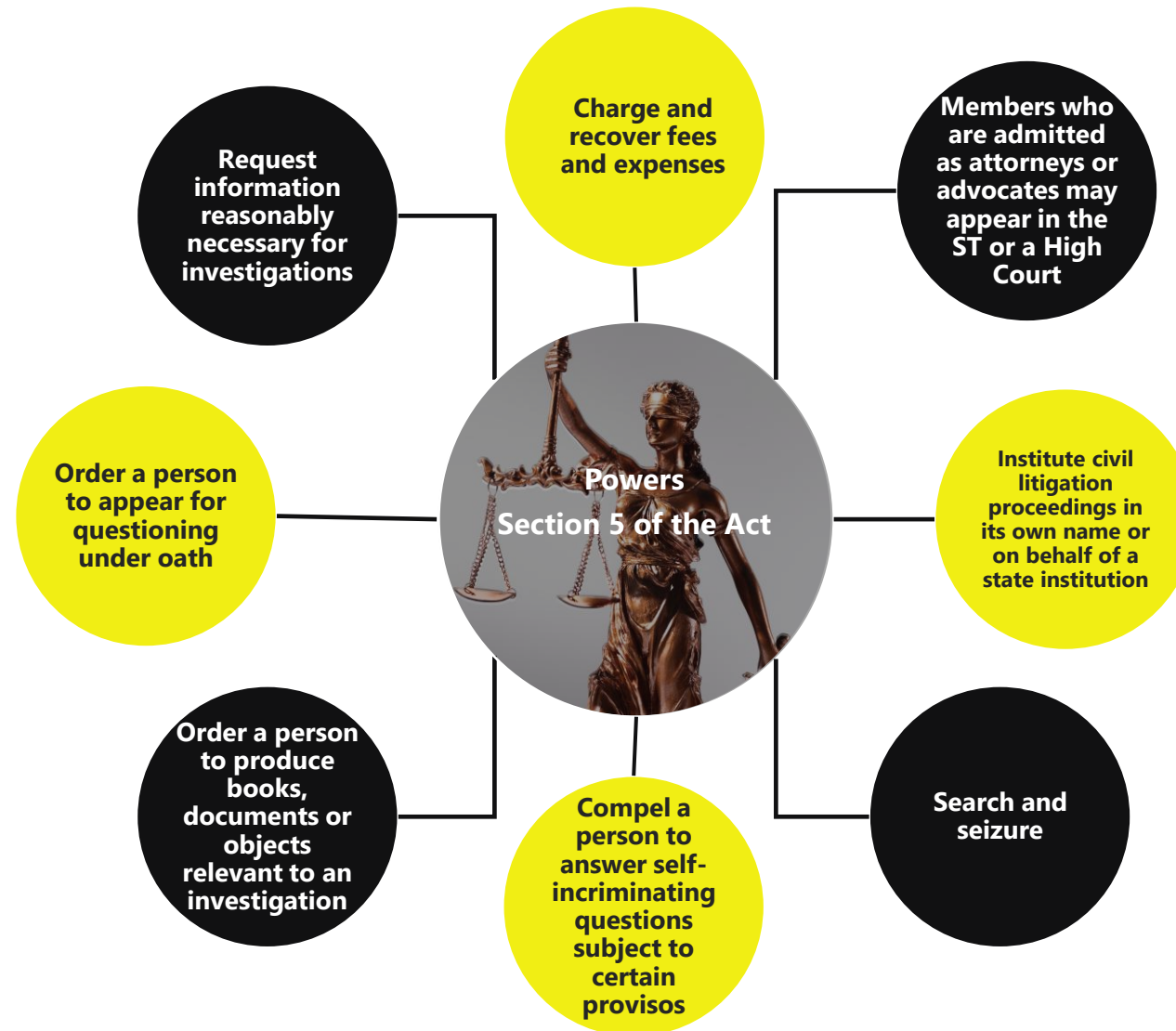
DRIVE AND PASSION

Ensuring that all tasks are performed with the requisite drive and passion

Functions of the SIU



Powers of the SIU



SIU CRITICAL SKILLS AND EXPERTISE



**Forensic Data
Analytics**

**Forensic
Accounting**

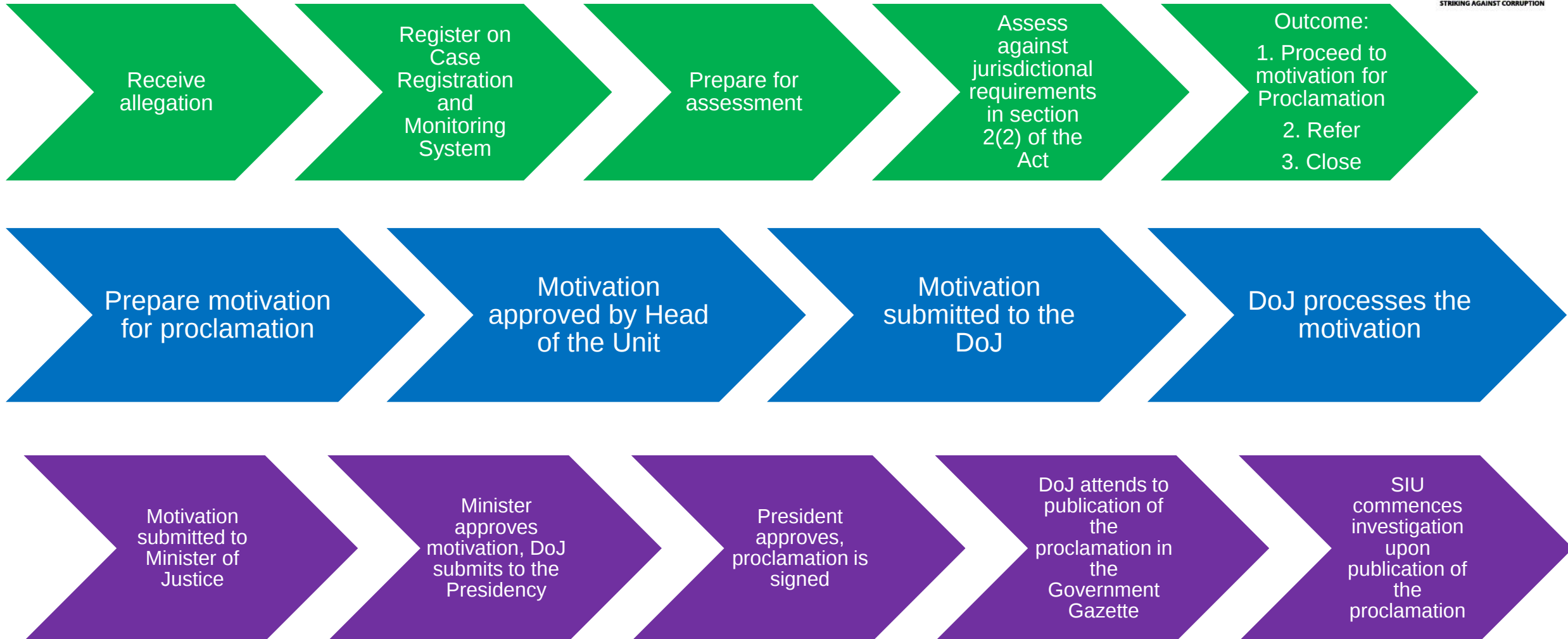
**Forensic
Investigation**

Civil litigation

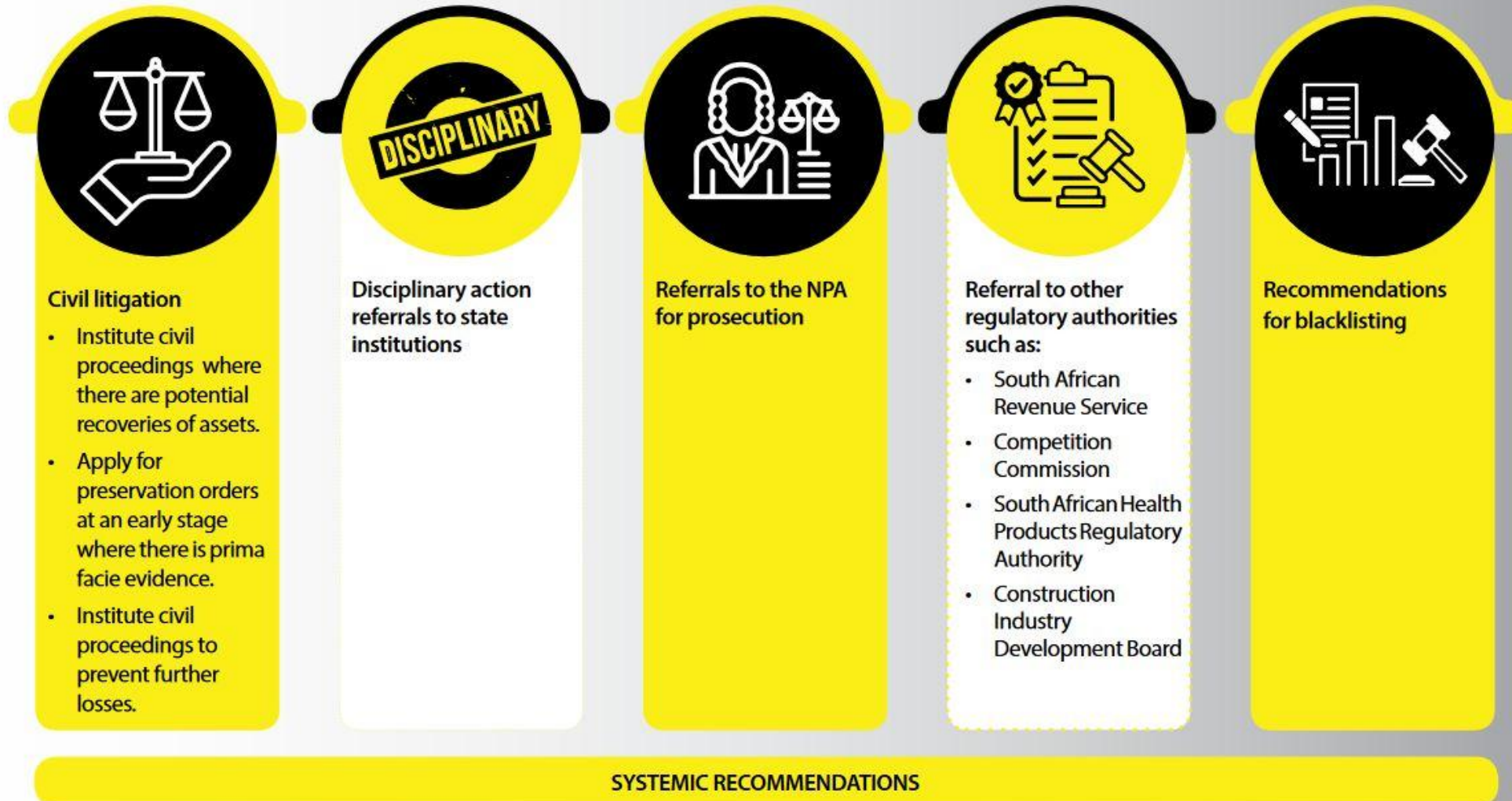
Forensic Legal

**Cyber
Forensics**

MOTIVATION AND PROCLAMATION PROCESS



SIU OUTCOMES AND CONSEQUENCE MANAGEMENT



Proclamation R11 of 2018 as amended by Proclamations 3 of 2022 and 97 of 2022

SIU Mandate

The SIU has a legal mandate to investigate and institute legal proceedings, where applicable, in instances where:

- maladministration of the affairs of a state institution;
- misuse of state funds and/or assets;
- corruption, fraud, irregular, unapproved and unlawful acquisitive acts, transactions or measures relating to state assets or money and improper or unlawful conduct by officials of stated institutions have occurred.

This investigation spans the period 1 January 2003 to 2 December 2022 or events which took place prior to 1 January 2003 or after 2 December 2022, but is relevant to, connected with, incidental or ancillary to the matters mentioned in the Schedule.

SIU Mandate (cont.)

In terms of the Schedule to the Proclamation, the SIU is mandated to investigate:

1. The contracting for or procurement of—
 - a) coal;
 - b) coal transportation services;
 - c) diesel;
 - d) cloud computing services (SAP);
 - e) software licenses and support services (SAP);
 - f) engineering and project management consulting services in respect of Contract Number: 4600061859 and Contract Number: 4600062636 (Impulse International);

SIU Mandate (cont.)

- g) goods, works and services by Eskom's Kusile, Medupi, Kendal, Matla, Duvha, Arnot, Tutuka and Grootvlei power stations as well as Eskom's Head Office situated at Megawatt Park in Johannesburg;
 - h) contract number 4600062450 for information technology (Oracle) and
 - i) fuel oil supply contracts.
2. Maladministration in the affairs of Eskom and any losses or prejudice suffered by the Eskom in relation to the Medupi, Kusile and Ingula build projects as well as the high voltage transmission projects associated with Medupi, Kusile and Ingula.

SIU Mandate (cont.)

3. The appointment of McKinsey, Trillian and Regiment Capital to render services to Eskom.
4. Any undisclosed or unauthorised interests which employees, officials or agents of Eskom may have had in contractors, suppliers or service providers bidding for work or doing business with Eskom or to whom contracts were awarded by Eskom, and the extent of any actual or potential benefits derived directly or indirectly by such employees, officials or agents from such undisclosed or unauthorised interests.



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STATUS OF INVESTIGATIONS

CONFLICT OF INTEREST, DECLARATION OF INTEREST, REDFLAGS AND WHISTLEBLOWERS

Conflict of Interest

1. Failure to Comply With Eskom’s Declaration of Interest Policy

Allegations	Eskom employees had not complied with the declaration of interest policy in that they did not complete the declaration forms
Findings	Investigation found that 5464 employees did not complete their DOI forms.
Outcomes	These employees have been referred to Eskom

2. Conflict of Interest

Allegations	Eskom employees who were potentially linked to entities that are Eskom Vendors, contractors or suppliers	
Findings	Data analytics revealed that 334 Eskom employees held interests in companies	
Outcomes	DC Referrals 194 referrals were made to Eskom	NPA Referrals 14 NPA referrals have been made 3 x Eskom employees have been arrested - Magagula – Guilty 7 counts corruption & 2 counts fraud (SWP) - Mahwiliri – Set for trial 18 & 19 May 2025 (Dismissed 9/8/24) - Ramaru – Set for trial 1 Apr 2025 (FWW) - Additional cases are being prepared for referral to the NPA

Conflict of Interest

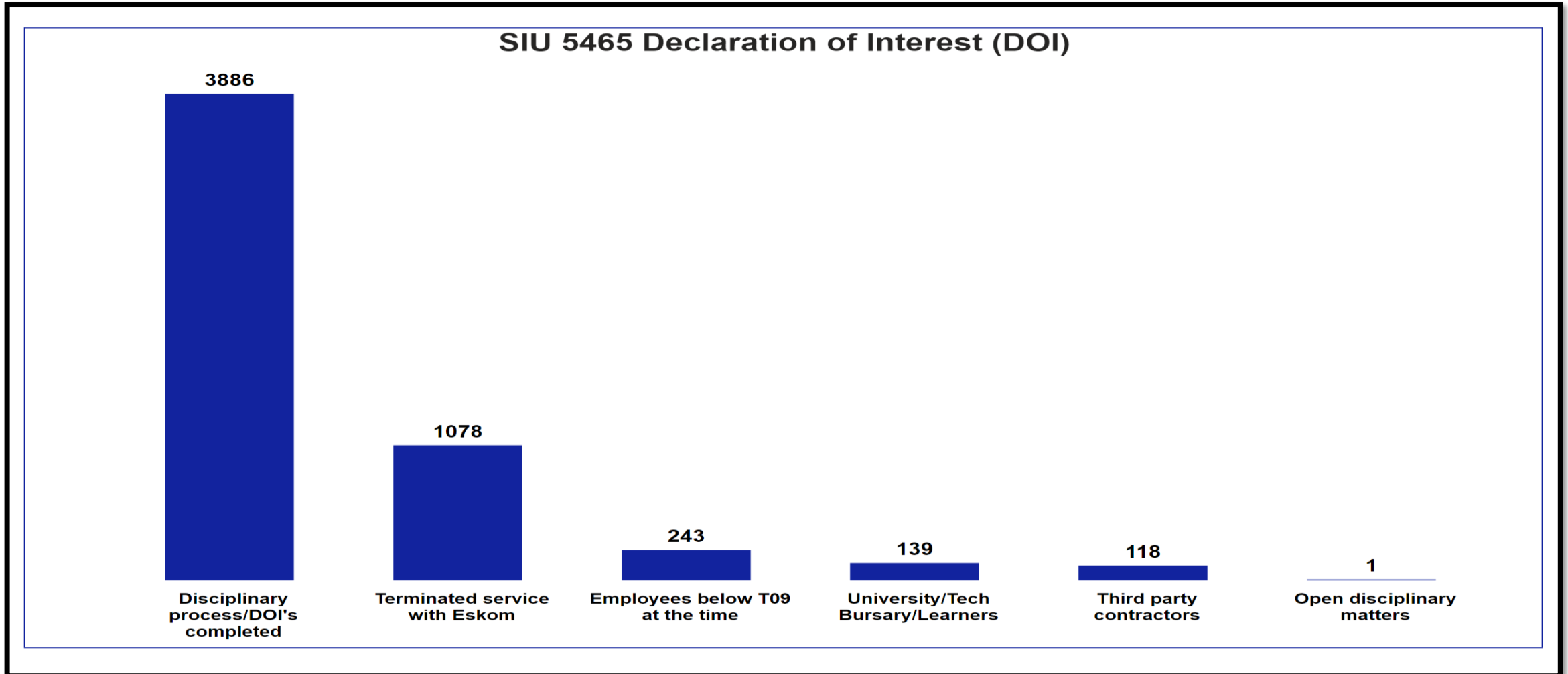
3. Redflags

Allegations	Senior Eskom employees were redflagged through an external service provider
Findings	34 matters were referred to the SIU for further investigation
Outcomes	11 matters have been referred for disciplinary action, 21 matters were closed out and 2 matters are still under investigation

4. Whistle Blowers

Allegations	Ad-hoc cases received from various sources
Findings	The SIU received various cases from whistleblowers. 29 Cases were assessed and was covered by the mandate of the SIU
Outcomes	11 Matters were finalised and referred to Eskom for disciplinary action

Declaration of Interest DC Outcomes



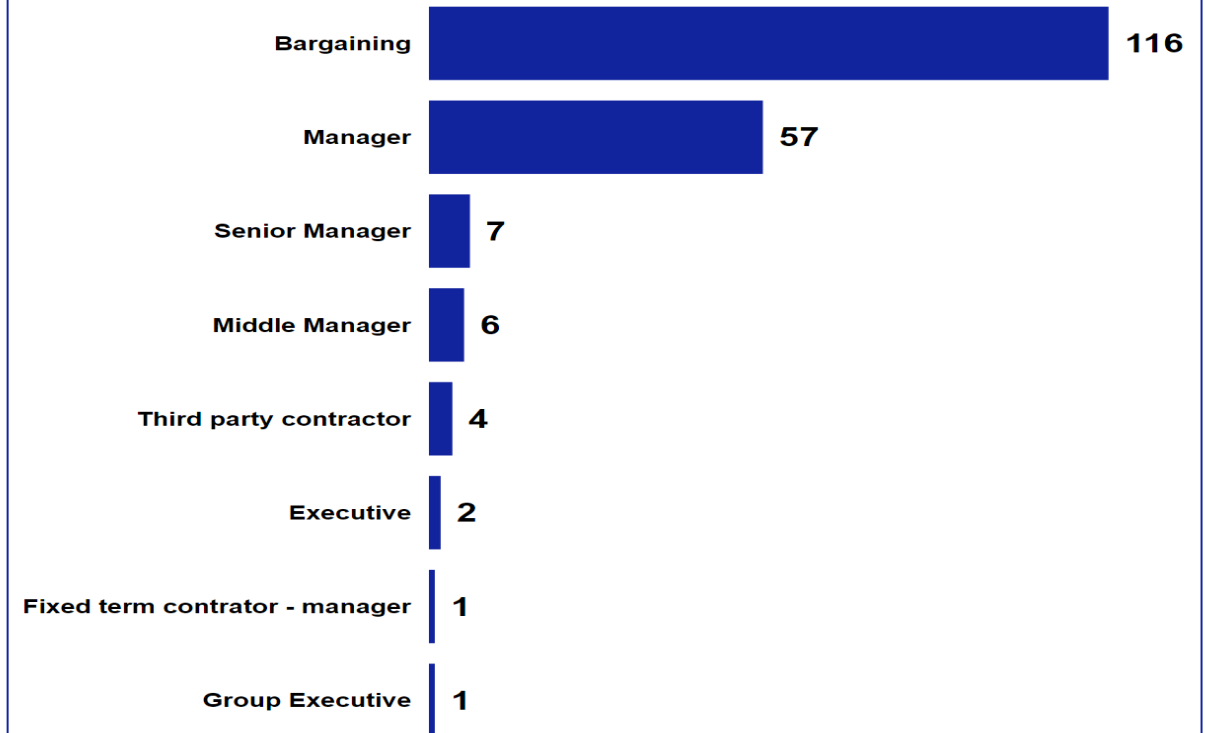
Conflict of Interest – DC Outcomes

SIU Referrals - Conflict of Interest (194)

Eskom outcome

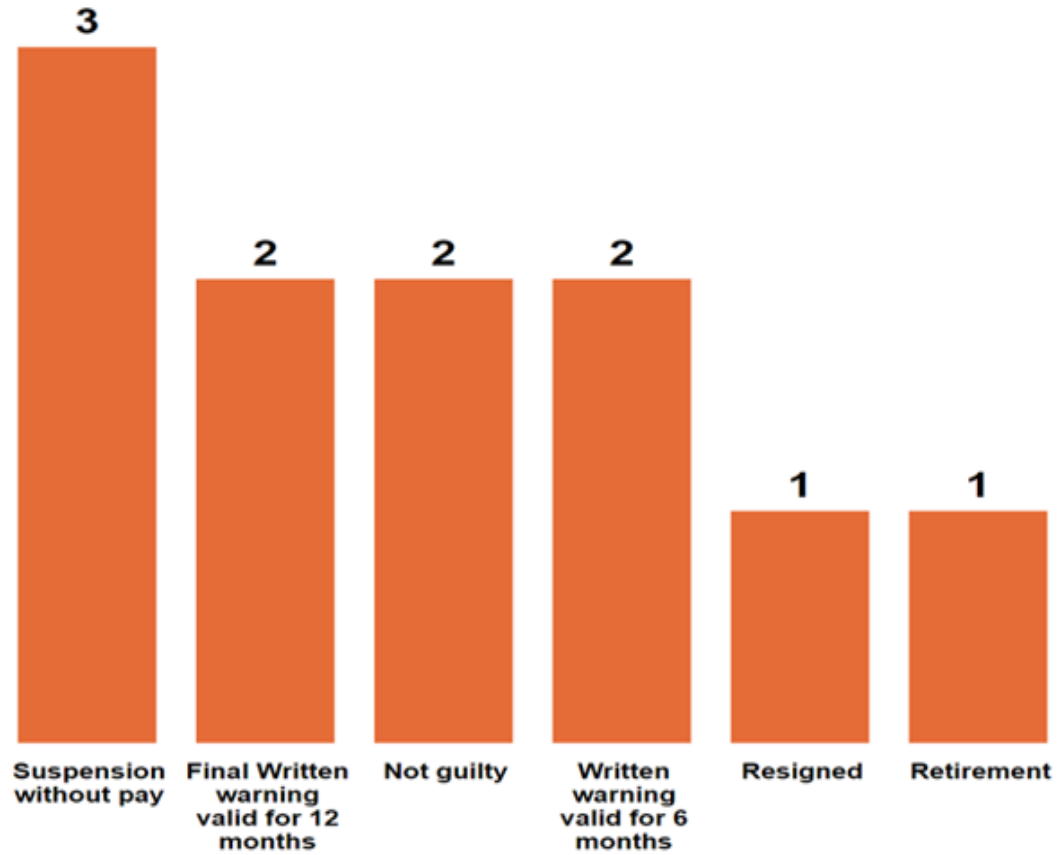


Employee levels

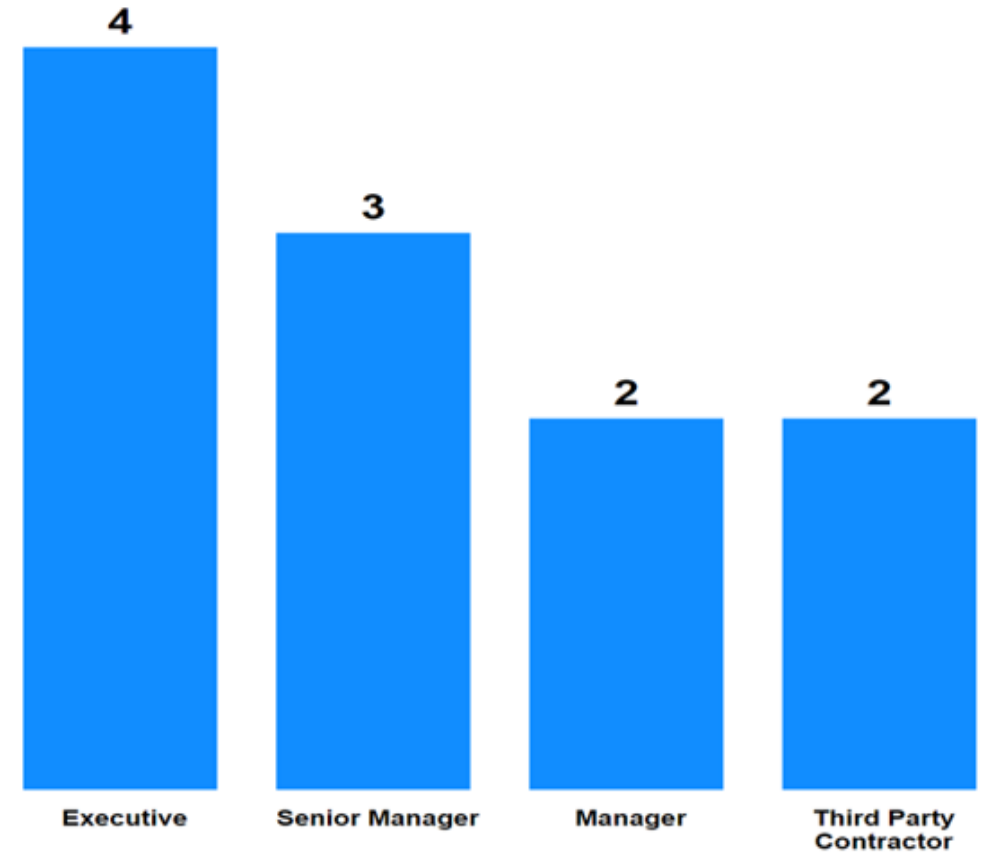


Redflags – DC Outcomes

Eskom outcome

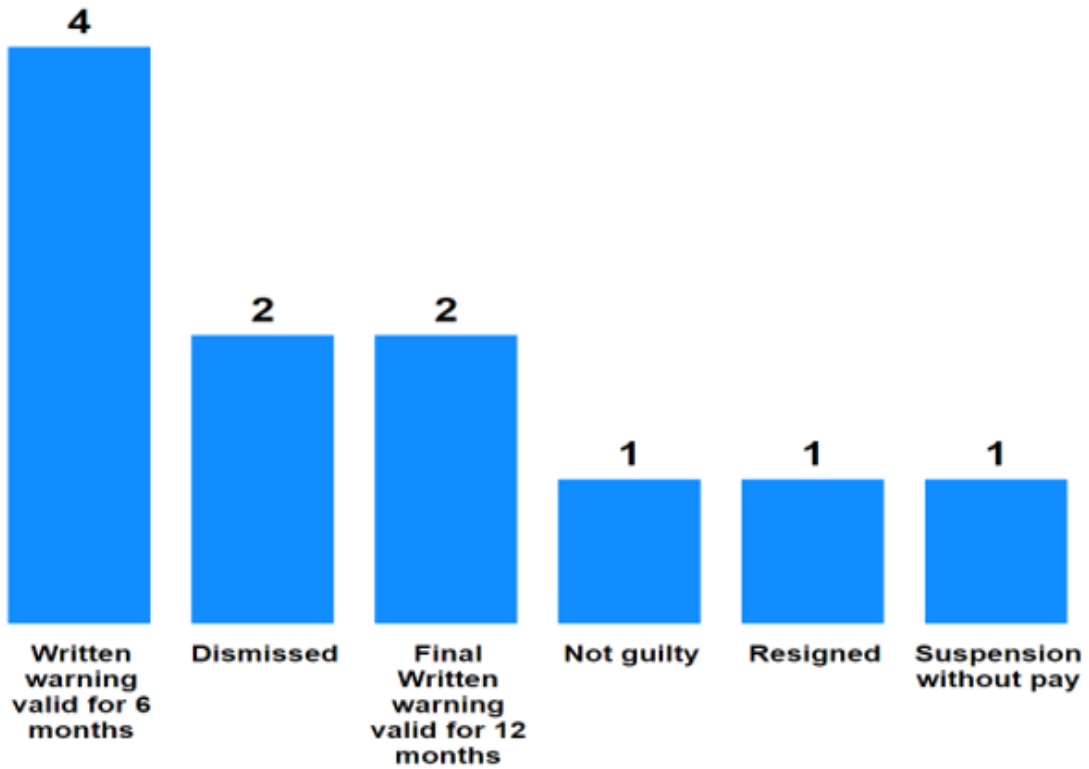


Employee levels

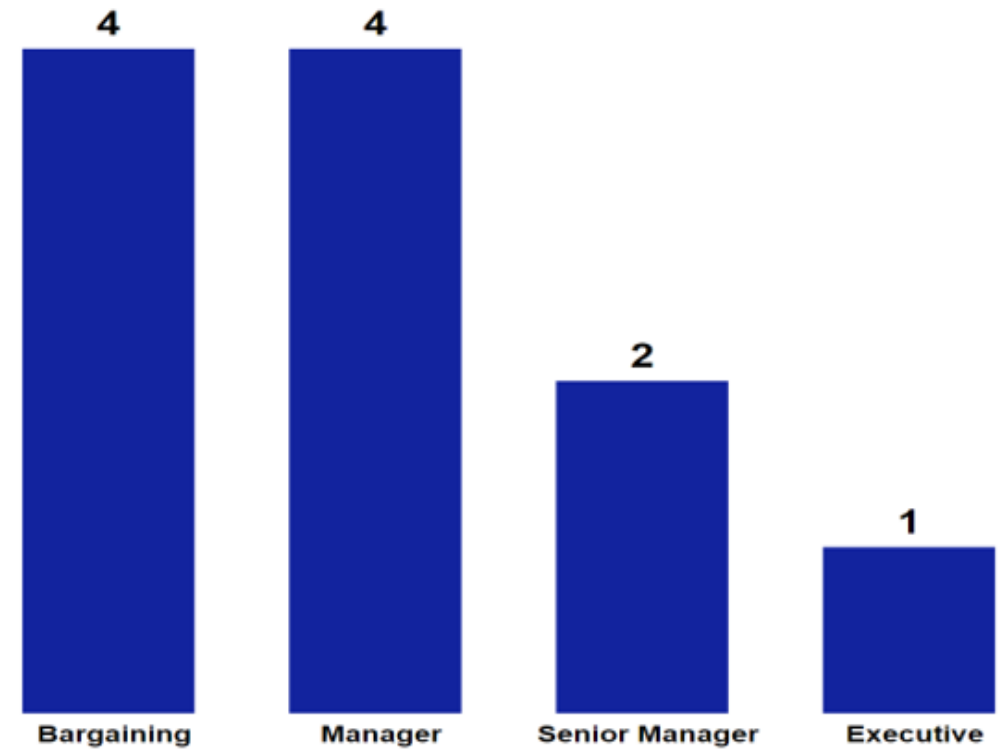


Whistleblowers – DC Outcomes

Eskom outcome



Employee levels



COAL SUPPLY INVESTIGATIONS

Coal Supply Agreements

1. Tegeta Brakfontein GHC 90171/18

Allegations	It is alleged that senior Eskom executives colluded with state capture actors and concluded a CSA with Tegeta for the supply of coal to Majuba Power Station, to the value of R3.7 billion, on the basis of the 2008 Medium Term Procurement Mandate,
Findings	The SIU found that the contract was unlawfully awarded in that it was not consistent with the provisions of Section 217 of the Constitution.
Outcomes	• The contract was reviewed and set aside by the High Court on 21 February 2020. GHC Case No 90171/18 refers • Value of the contract was R3,7bn • Future savings was calculated at R2,6bn • The SIU and Eskom have pursued the business rescue practitioners for appropriate relief as a result of damages suffered by Eskom due to poor quality coal being supplied by Tegeta Brakfontein to the value of claim is R734m. This action is being opposed by the BRP. Counsel has been briefed to have matter set down for hearing to argue point that Eskom is not a creditor. This will avoid Eskom being considered a creditor as provided in the Insolvency Act by the BRP's , if successful this will avoid the obtainment of an un-executable "hollow" judgment. The possibility of acting against company's executive is not excluded in the event of the judgment not being satisfied. • The criminal matter is being dealt with by the NPA.

Coal Supply Agreements

2. Tegeta Optimum GHC 35689/20

Allegations	It is alleged that senior Eskom executives colluded with state capture actors and facilitated a prepayment agreement with Tegeta that allowed Tegeta to acquire Optimum Coal Mine from Glencore. The prepayment represented payment for the future supply of coal to the Hendrina Power Station.
Findings	The SIU found that the contract was unlawfully awarded in that it was not consistent with the provisions of Section 217 of the Constitution.
Outcomes	• The contract was terminated, and Tegeta Optimum was placed under business rescue. • Eskom has lodged 2 x claims against Tegeta Optimum to recover contractual penalties under the Hendrina CSA. • As both Tegeta and Optimum were under business rescue, Eskom was unlikely to recover its claim against them. • Civil proceedings have been instituted by the SIU and Eskom against various former Eskom employees, former board members, a former executive authority and private individuals to recover R 3,8bn losses suffered. • In August 2020 combined summons and particulars of claim were issued against 12 defendants under GHC Case No 35689/20. • The matter has been placed on case management for a trial date to be set. • The criminal matter is being dealt with by the NPA.

Coal Supply Agreements

3. Tegeta Koornfontein

Allegations	It is alleged that senior Eskom executives colluded with state capture actors and concluded a CSA with Tegeta Koornfontein for the supply of coal to Eskom.
Findings	The SIU found that the contract was unlawfully awarded in that it was not consistent with the provisions of Section 217 of the Constitution.
Outcomes	• The contract was terminated by Eskom based on the SIU's findings • Value of the contract was R6,5bn • Potential respondents/defendants have no assets and was placed under business rescue. • Civil legal action was not considered as it would not have realized the losses and or damages suffered by Eskom as it would have resulted in a hollow, un-executable judgment. • The criminal matter is being dealt with by the IDAC.

Coal Supply Agreements

4. SIU vs Mazibuko and Others ST GP 10/21

Allegations	It was alleged that Mazibuko, an Eskom employee had an undisclosed interest in an Eskom supplier Commodity Logistix Managers (“ CLM ”).
Findings	The investigation found that Mr Petros Mazibuko an Eskom Senior Manager Coal Operations received money from CLM through a network of other entities connected to him through family.
Outcomes	• The SIU investigated a contract awarded to Commodity Logistics Managers to the value of R24m. • The SIU made a disciplinary referral against Mazibuko where after a hearing was convened and he was dismissed. • The SIU embarked on civil litigation proceedings to freeze the bank accounts of Mazibuko and disgorge the secret profit that he received. Special Tribunal Case GP 10/21 • The SIU approached the case in 2 parts. Part A – Preservation of R11m which was in the personal bank account of Mazibuko and Part B – the Forfeiture of these funds as it constituted secret profits. The SIU were successful on both parts and obtained an order from the ST on 4 October 2021. • Mazibuko filed an application for leave to appeal the order which was dismissed. • On 16 February 2023, Mazibuko petitioned the SCA to appeal this judgment the appeal was upheld and the SIU is opposing the matter. The matter is ongoing • The SIU has made 10 NPA referrals against various individuals and companies including Mazibuko.

Coal Supply Agreements

5. SIU vs Zulu ST GP 04/22

Allegations	It was alleged that Zulu, an Eskom employee had an undisclosed interest in an Eskom supplier Commodity Logistix Managers (“ CLM ”).
Findings	The investigation found that Mr Thulani Zulu, an Eskom Contract Supply Unit Manager received funds (R2,8m) from CLM through various entities.
Outcomes	• The SIU investigated a contract awarded to Commodity Logistics Managers to the value of R24m. • Zulu resigned immediately after the SIU interviewed him. • The SIU embarked on civil litigation proceedings to disgorge the secret profits that Zulu received in the form of kickbacks Special Tribunal Case GP 04/22 • Zulu brought various interlocutory applications which was opposed by the SIU. • The matter was first heard on 19 August 2022 and the ST requested for clarity on issues that was not fully addressed in the papers resulting in the parties amending its papers. • Judgment is pending. • The SIU has made 5 NPA referrals against various individuals and companies including Zulu.



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BUILD PROJECTS

Build Projects

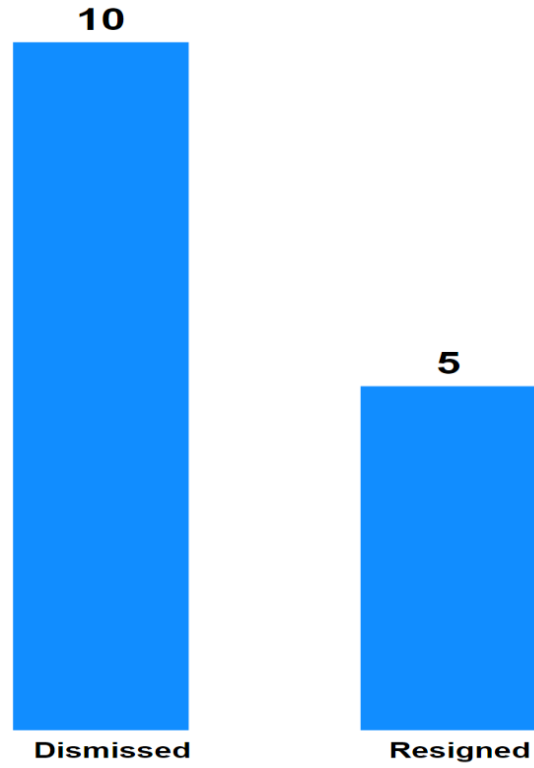
Kusile, Medupi and Ingula

Number of Contracts	30		
Value of Contracts	R200bn excluding variations, modifications, compensation events and task orders		
Outcomes	Disciplinary Referrals: 15 DC referrals to date	NPA Referrals • 163 NPA referrals have been made to date • Referrals include Eskom employees and Eskom Contractors • Several cases have already been enrolled	Civil Litigation • ABB has been reviewed and set aside in April 2024 • 3 x cases are being prepared by CLU

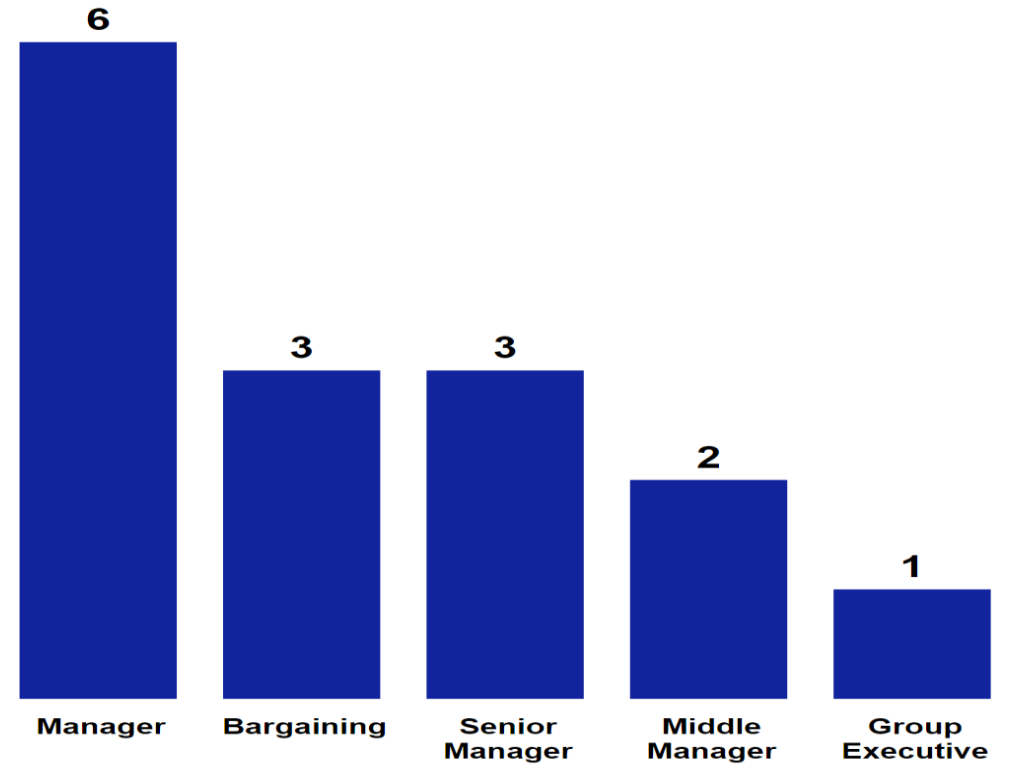
Outcome of DC Referrals and Eskom Employee Levels

SIU Referrals - Build Project (15)

Eskom outcome



Eskom levels



Build Projects

ABB International – C & I Contract at Kusile GCH 31211/23

Allegations	It was alleged that the ABB C & I contract was riddled with corruption.
Findings	The SIU found that the contract was unlawfully awarded in that it was not consistent with the provisions of Section 217 of the Constitution. The SIU also found that there was a generally corrupt relationship between ABB and Eskom executives
Outcomes	• The contract was reviewed and set aside by the High Court on 5 April 2024 under GHC Case No 31211/2023 • Value of the contract was R2,5bn incl VAT. • The NPA's IDAC has reached an agreement with ABB to repay R2,5bn in the form of punitive reparations as a result of the serious crimes committed against Eskom during the State Capture period. • No DC referrals were made as all the implicated officials were no longer employed by Eskom. • GHC Case No 31211/2023 has been challenged by Mr Koko. The matter is being defended by the SIU and Eskom and the matter is ongoing

Build Projects

SIU vs Hlakudi and Others ST GP 08/22

Allegations	It was alleged that Eskom employees were receiving kick-backs from Eskom contractors.
Findings	The SIU investigated the Stefanutti Stocks Izazi Consortium JV contract at Kusile Power Station for Site Finishing (P28). The SIU found that there was a corrupt relationship between the JV and Eskom employees
Outcomes	• The SIU found evidence of a flow of money from Eskom to the JV and then to the Eskom employees. • Some Eskom employees resigned prior to the SIU investigation. • A disciplinary referral was made by the SIU one Eskom employee, and he was dismissed. • The SIU filed its summons and particulars of claim against the Eskom employees to disgorge profits they received from the JV. This matter is ongoing. ST GP 08/22 • NPA referrals have been made against all individuals and entities concerned and the AFU has preserved various assets held in the names of the Eskom employees. • The SIU has found that this contract with the JV was irregularly awarded and is being prepared for civil litigation with a view of setting aside the contract.

Build Projects

SIU vs Moyo ST GP 09/22

Allegations	It was alleged that Eskom employees were receiving kick-backs from Eskom contractors.
Findings	The SIU investigated the Tamukelo contract at Kusile for the transportation of raw and potable water to the value of R 341 213 488.92. The SIU found that an Eskom employee, received financial benefits to the tune of R 24, 584,000 from Tamukelo through a network of entities, and family members.
Outcomes	• Moyo received these payments in circumstances where she was responsible and/or involved in the appointment, managing of and approving of payments to Tamukelo. • The SIU made a disciplinary referral against Ms Moyo who was dismissed after a disciplinary process. • The SIU obtained an interim order to freeze Ms Moyo's pension. ST GP09/2022 • The SIU has made referrals to the NPA and AFU. • The Tamukelo contract was terminated by Eskom in October 2020 prior to any SIU findings being made. • The SIU has assisted the AFU in confiscating and freezing various assets of Ms Moyo which she acquired with the proceeds of crime as well as significant assets held by Tamukelo and its directors. • On 20 March 2024, the High Court granted final forfeiture orders against the assets previously preserved of Moyo and the directors of Tamukelo.

CLOUD COMPUTING AND SOFTWARE

Cloud Computing and Software

SIU vs SAP ST GP 11/22

Allegations	It was alleged that the Eskom cloud computing and software licencing contract with SAP was riddled with corruption.
Findings	The SIU investigated 2 x contracts that Eskom concluded with SAP in 2016 for cloud computing services and software licencing. The SIU found that the appointment of SAP was unlawful and irregular and inconsistent with the Constitution.
Outcomes	• The SIU embarked on civil litigation to set the 2 x contracts concluded between Eskom and SAP aside. • The matter was heard in the Special Tribunal on Case No ST GP 11/22 on 20 March 2024. • The ST declared the 2 x contracts invalid and set them aside. • The combined value of the contracts was R1,2bn including VAT • The ST also ordered that SAP repay an amount of R570m to the SIU. • The SIU made 13 x NPA referrals for criminal prosecution. • The R570m recovered from SAP by the SIU has been repaid to Eskom.



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ENGINEERING AND PROJECT MANAGEMENT CONSULTING SERVICES

Engineering And Project Management Consulting Services

Impulse International

Allegations	It was alleged that Eskom employees were receiving kick-backs from Eskom contractors.
Findings	The SIU investigated two (2) contracts awarded to Impulse at Matla (R41.5m) and Majuba (R41.8) Power Stations. Evidence was found of a corrupt relationship between Impulse and Eskom officials and their family members.
Outcomes	• Impulse instituted civil action against Eskom suing for damages in respect of the early termination of these contracts • Eskom is defending both matters and lodged counter proceedings to have the contracts declared invalid – these proceedings are still pending but are currently deadlocked. • The SIU entered into discussions with Eskom about the possibility for the SIU to join/intervene in such cases, to try to bolster Eskom's case, but will only do so if its proposed intervention would add significant value to the litigation and if it is cost-effective and efficient to do so and would not result in further undue delay. • The SIU is playing an active role in assisting the IDAC to investigate certain aspects of the matter, which also resulted in AFU obtaining preservation orders.

PROCUREMENT IRREGULARITIES

Procurement Irregularities

The contracting for or procurement of goods, works and services < R1 000 000 at all Eskom's Power Stations

Allegations	It is alleged that Eskom's informal tendering process is being manipulated by Eskom employees and Eskom Vendors.
Findings and Outcomes	• The SIU identified 3 x groupings of companies that are defrauding Eskom by utilising the RFQ process for services/products ○ Group 1 - Grouping of 23 vendors with POs valued at approximately R1.8 billion across all 15 Power Stations. ○ Group 2 - Grouping of 31 vendors with POs valued at approximately R1.7 billion across all 15 Power Stations. ○ Group 3 – Grouping of 12 vendors with PO's valued at approximately R700m across all 15 Power Stations. • These suppliers collude with Eskom officials. • The SIU has identified a direct link of money flowing from these companies through a network of entities to Eskom employees. • To date 35 Eskom employees have been identified having received more than R180m from these vendors • 34 DC referrals have been made - 17 current and 17 former employees. • 116 - Referrals have been made to the NPA and 116 referrals have been made to the AFU • 109 - Referrals have been made to SARS • 45 Eskom vendors have been blocked to date

Procurement Irregularities

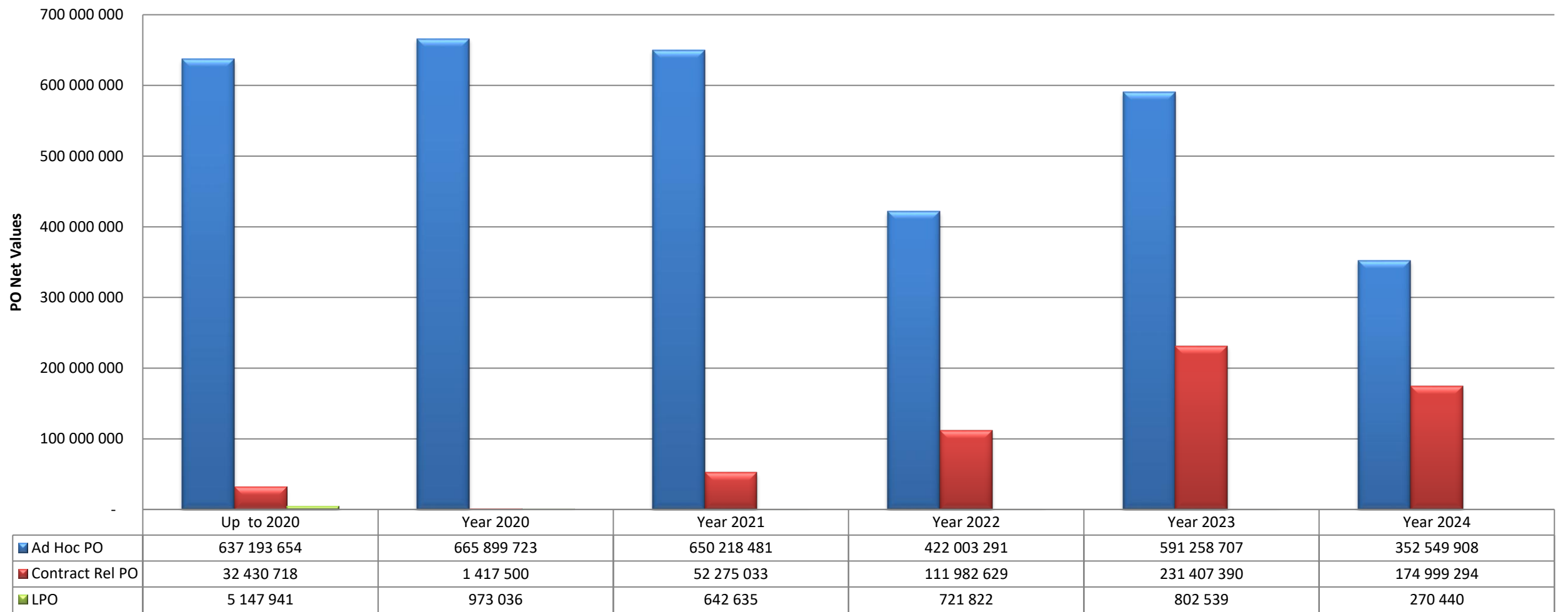
The contracting for or procurement of goods, works and services < R1 000 000 at all Eskom's Power Stations

Approach

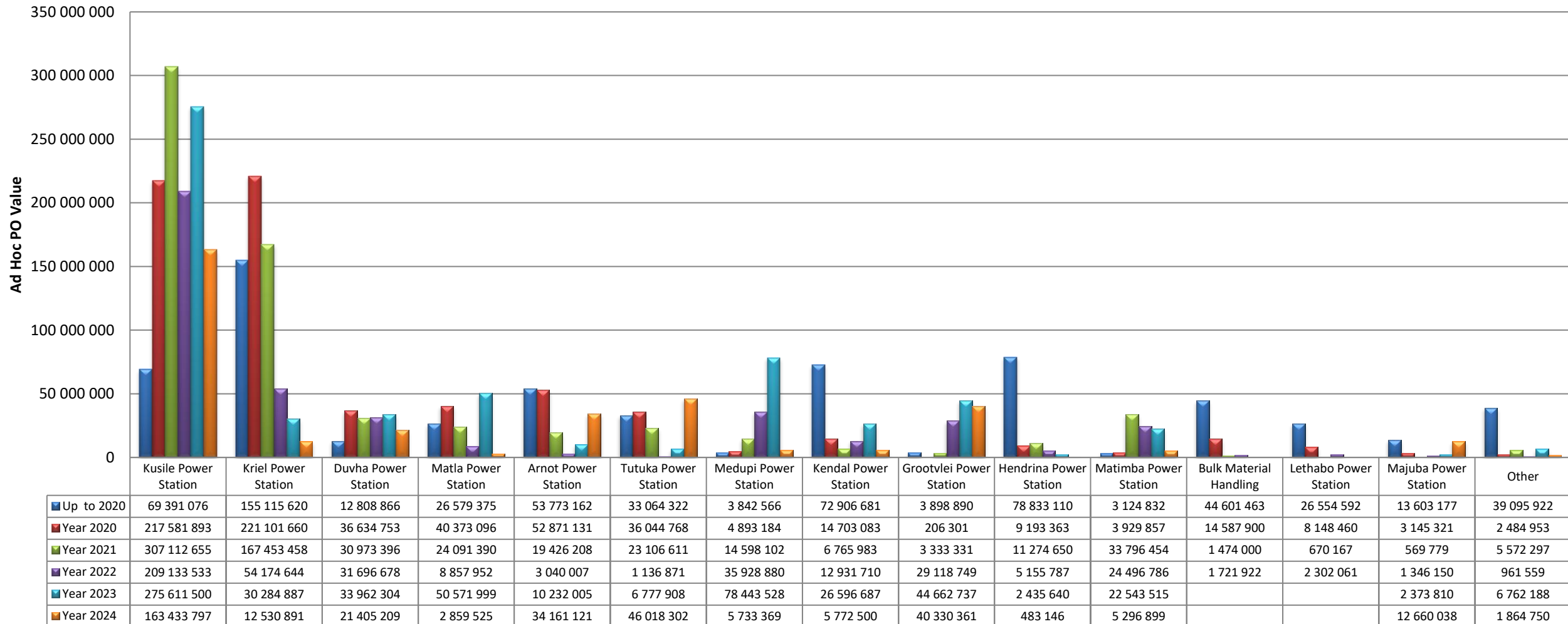
- The SIU is conducting this investigation in a phased approach.
- Inter-Departmental Task Teams have been established to coordinate efforts.
- The Task Team includes the FIC, SSA, SAPS CI, SAPS Detectives, DPCI, the AFU, and SARS
- The SIU has established a Tactical Operational Group (TOG) with the FIC for inclusion of the banks.
- The SIU has already engaged with Eskom on imaging the laptops of all identified individuals. To date over 530 laptops have been imaged.
- The SIU will prepare matters for civil litigation to preserve employees' pensions when the need arises.
- SARS are already very advanced in looking into the tax affairs of the vendors, other entities and Eskom employees concerned.



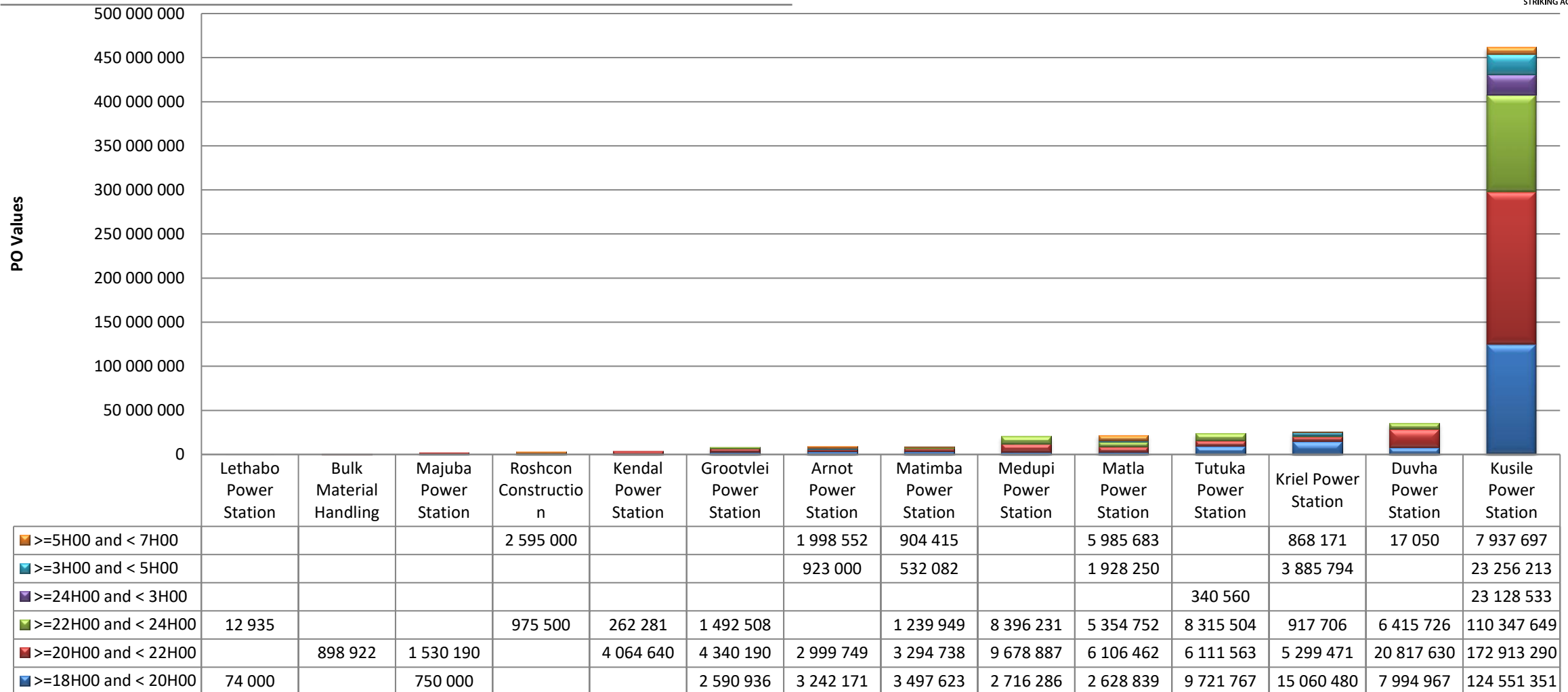
Overall View on PO Value for Group 1 & 2 for all PO's/year (31 Dec 2024)



PO's Value per Plant per Year for the Groups 1 & 2



PO's Created Outside of Normal Work Hours (>7H00 but <18H00)



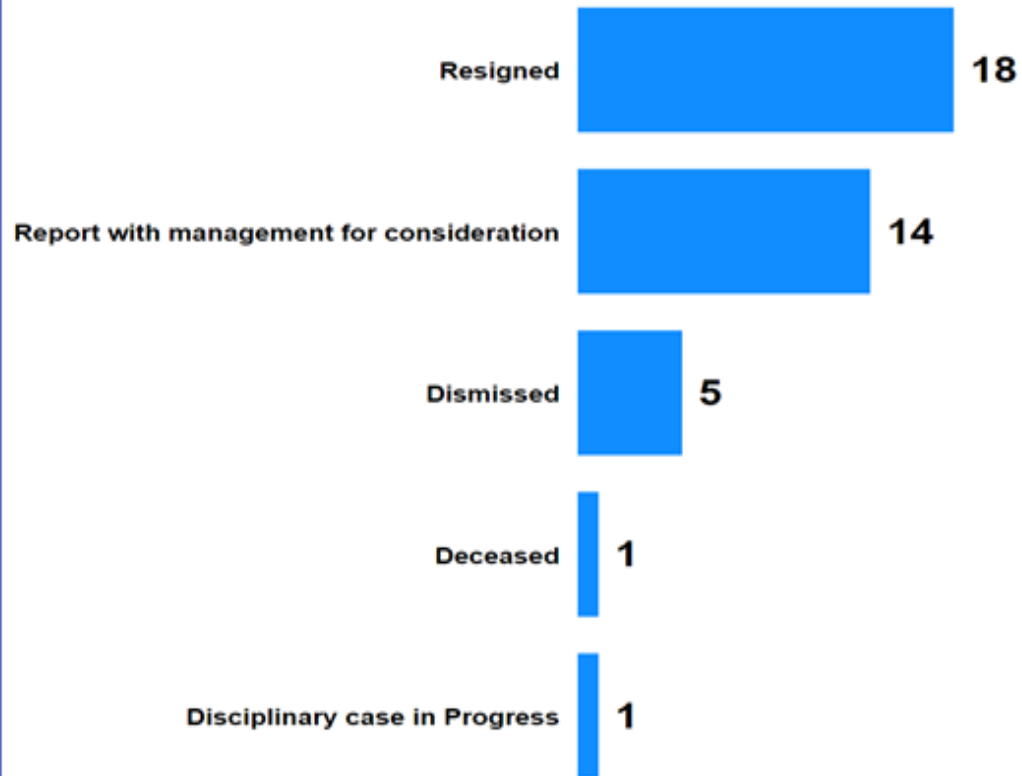
EMERGENCY SECURITY CONTRACTS

Security Contracts

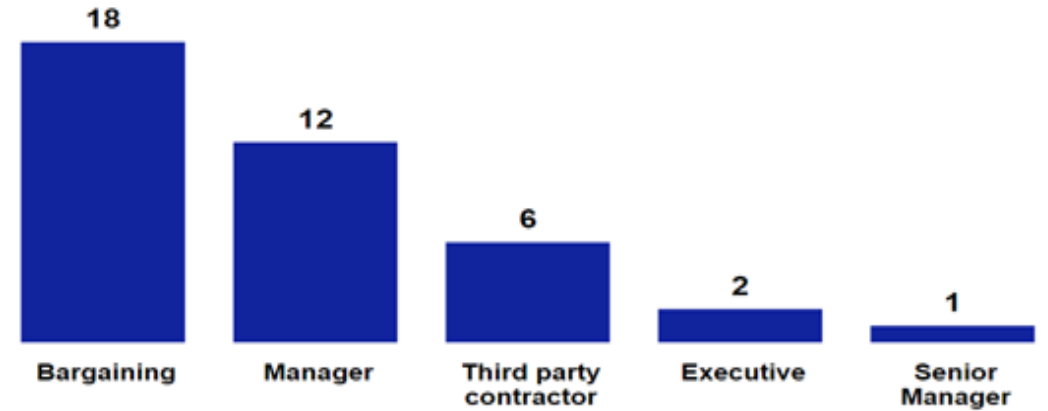
Security Contracts	
Allegations	It is alleged that Eskom's did not follow the correct emergency procedures when concluding security contracts on an emergency.
Findings	• The SIU identified 3 x security contracts that were awarded on an emergency. • The contracts are inter-related and cannot be investigated in isolation • Investigation into 2 x Contracts have been finalised ○ Eskom employees deliberately created emergencies. In 1 case Eskom employees were planning on declaring an emergency 7 days in advance. ○ Companies that were appointed did not have the capacity to undertake the work and render the service and subcontracted 90% of the work to third parties ○ It is unclear how the companies without capacity were identified ○ Eskom employees contacted intermediaries before contacting the actual service providers for quotations ○ Intermediaries invoiced and were paid a facilitation fee by the Eskom supplier ○ Eskom employees persisted with the emergencies even after alleged perceived threats had dissipated • 1 x Matter is still under investigation
Outcomes	5 x DC referrals 3 x NPA referral 1 x matter is being prepared for civil litigation to set the contract aside. Counsel has been appointed and the papers are being drafted

Outcomes of Procurement and Security DC Referrals

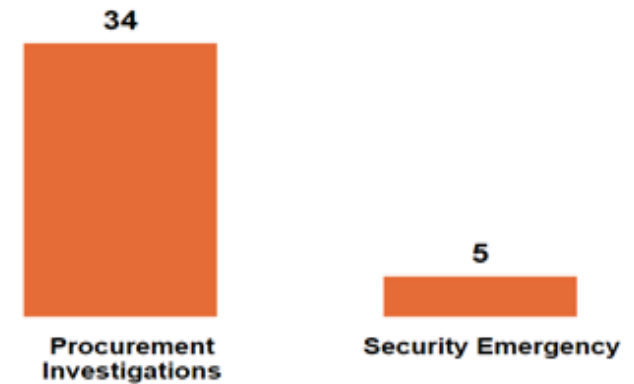
Eskom Outcome



Employee levels



Investigation Categories





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FUEL OIL SUPPLY CONTRACTS

Fuel Oil Supply Contracts

Econ Oil – Other Fuel Oils contracts have not commenced as yet

Allegations	It was alleged that Econ Oil overcharged Eskom to the tune of R1.2bn
Findings	• An assessment on the matter has commenced • Eskom has taken Econ Oil to the DAB to recover all monies overcharged. The matter is ongoing. • The SIU entered into discussions with Eskom about the possibility for the SIU assisting Eskom, to try to bolster Eskom's case, but will only do so if its proposed intervention would add significant value to the dispute and if it is cost-effective and efficient to do so and would not result in further undue delay. • It is unlikely that the SIU will become involved in the matter as it appears that the matter is quite advanced at the DAB and pleadings have closed.
Outcomes	• None as yet

PROCLAMATION 178 OF 2024

PROCLAMATION 178 OF 2024



SIU Mandate

The SIU has a legal mandate to investigate and institute legal proceedings, where applicable, in instances where:

- maladministration of the affairs of a state institution;
- misuse of state funds and/or assets;
- corruption, fraud, irregular, unapproved and unlawful acquisitive acts, transactions or measures relating to state assets or money and improper or unlawful conduct by officials of stated institutions have occurred.

The investigation spans the period 1 March 2006 to 30 August 2024 or events which took place prior to 1 March 2006 or after 30 August 2024, but is relevant to, connected with, incidental or ancillary to the matters mentioned in the Schedule.

SIU Mandate (cont.)

1. The procurement of and contracting for –
 - (a) Coal from Tegeta for coal supplied by Optimum and Brakfontein Mines;
 - (b) IT services in terms of a master agreement concluded with T Systems;
 - (c) Information technology services concluded with SAP;
 - (d) Services in respect of Task Order SM008 for “capital scrubbing”;
 - (e) Security services from Combined Private Investigations;
 - (f) Forensic investigation services from Kapditwala Inc. t/a Dentons South Africa; and
 - (g) Information technology services from Cutting Edge Commerce (Pty) Limited.

STATUS OF INVESTIGATIONS

SIU Mandate (cont.)

FOCUS AREA	NO OF INVESTIGATIONS	STATUS OF INVESTIGATIONS
T Systems	1	Ongoing
Combined Private Investigations	1	Ongoing
Capital Scrubbing	4	Ongoing
Kapidtwala	1	Ongoing
Cutting Edge	1	Ongoing

GEORGE FIVAZ FORENSICS AND RISK

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- During May 2022, the SIU became aware that GFFR had undertaken intelligence gathering in respect of the affairs of Eskom.
- The SIU was able to obtain copies of the GFFR reports and assessed the information.
- The content of the reports at best can be considered information and has to be confirmed by evidence
- Much of what was in the reports was of a criminal nature and this prompted the SIU to write to the DPCI and advise them accordingly.
- The SIU proposed a collaboration of effort in tackling some of the matters where there was an overlap of mandates between the DPCI and SIU. This was well received, and task teams were established.
- The SIU is using the reports as intelligence in approaching investigations.

GEORGE FIVAZ FORENSICS AND RISK

- The SIU established that the exercise undertaken by GFFR was partly funded by BLSA.
- The SIU is looking into the possibility of Eskom funds being used to fund GFFR indirectly as GFFR was not appointed by Eskom directly.
- The SIU is looking into the role of the former GCEO in relation to the appointment of GFFR and how GFFR was funded beyond the funding received from BLSA.
- The SIU is looking into whether GFFR was granted access to any of Eskom's sites, people and systems during this exercise and if so how was this allowed and who facilitated this access.
- The SIU will not rule out pursuing any person who may have acted unlawfully, unethically or inappropriately.



SIU_{SA}
STRIKING AGAINST CORRUPTION

OBSERVATIONS

SIU Observations Conflict of Interest

- Eskom manages Conflicts of Interests of its employees through various policies and procedures that require that Eskom officials above a certain level annually declare all conflicts of interest, directorships, memberships, details of any related or inter-related persons or other associates that do business with Eskom, whether a conflict exists or not.
- Employees are prohibited from having a personal or other interest in an Eskom contract, whether as a supplier, an advisor, or by virtue of being a director or owner of a business, or in any other capacity. This includes third-party related transactions with an indirect link to an Eskom contract (for example, having a personal or other interest in a business that has as interest in a Supplier to Eskom)
- In terms of section 17(1) of PRECCA a public official who holds an interest in any contract emanating from or connected with the public body in which he is employed is guilty of an offence.

SIU Observations Conflict of Interest

- The identification of transgressions is problematic. Desktop analyses of available databases do not always identify the links between officials and Eskom vendors
- The above analyses will only identify the official's link to an entity if he/she is reflected as a director of the entity on the CIPC database. The following instances will not be picked up:
 - Where the Directors of the Eskom Vendor are family members or friends of the official in question;
 - Where the Directors of the Eskom Vendor are co-directors of the Eskom official in other entities that are not Eskom vendors;
- What further complicates the identification of conflicts is that Eskom vendors often pay kickbacks to officials indirectly e.g. by paying the creditors of the official directly (e.g. by paying the official's child's school fees or by paying the official's service providers/suppliers directly).

SIU Observations – Coal Procurement and Transportation

- Eskom officials facilitate contracts with coal providers despite concerns about coal quality raised by technical experts
- Laboratory testing processes are interfered with by submitting coal that was not from the contracted mine for testing. This happened due to the deliberate actions of Eskom officials who:
 - Made sure that samples for testing were obtained in the absence of Eskom observers
 - Facilitated the swapping of samples
- Once the coal is delivered at the Power Station no quality checks are conducted before coal from different origins were mixed.
- Eskom can mitigate the risk of this happening by installing automated real-time combustion testing facilities that are able to link test results to a specific load, and therefore source, as soon as the coal arrive at the power station, and before offloading.

SIU Observations – Build Projects

- Our investigations in relation to build projects reflect that claims management is an area that is abused by Eskom officials and Contractors alike in the following manner:
 - Contractors submit inflated, unsubstantiated, duplicated claims that are settled by Eskom officials.
 - Contractors refuse to submit substantiation for their claims and Eskom officials allow them to get away with this practice
 - Contractors and officials manipulate claims assessment processes by providing incorrect/selective information
 - Officials deliberately fail to timeously instruct claims assessors to defend Eskom against claims leaving them with unreasonably short timeframes within which to adequately prepare defences.
 - Officials circumvent the claims assessment process by issuing unnecessary and inflated variation orders.

SYSTEMIC RECOMMENDATIONS

SYSTEMIC RECOMMENDATIONS

- Thorough vetting of officials upon entering Eskom is not enough, Eskom should consider implementing contractual terms that allow for access to the personal information of the employee, such as bank accounts of the employee (and his/her spouse & children), e-mails and cellular phone communications
- Continued monitoring of high risk officials are required (such as SCM practitioners, contract managers, financial staff etc.)
- Manage information obtained through DOIs by both officials and bidders – e.g. if an official declares his interest in a business, ensure that such business do not appear on Eskom's vendor database and if they do, remove them
- Build a database of high risk officials/contractors identified in forensic and audit reports/bid documents etc.
- Develop a system to red flag transactions approved by high risk officials on the SAP payment system or payments made to high risk suppliers/contractors.

SYSTEMIC RECOMMENDATIONS

- Improve transparency in relation to procurement processes - Transparency provisions enable processes and decisions to be monitored and reviewed, helps ensure that decision-makers can be held accountable and also helps open public procurement to more competition.
- The attitude of turning a blind eye must be discouraged.
- When strategic positions are filled, there is usually a rapid progression of the incumbents go-to people to fill in the support positions. This usually presents a fertile ground for corruption as a result of unquestionable loyalty to the incumbent.
- Independent expert oversight over claims and variations processes (the governance applied to managing claims should equally be applied to the assessment of variations.
- Aggressively defend open claims against Eskom.

SYSTEMIC RECOMMENDATIONS

- Apply a consistent and forensic approach to the assessment of claims for additional time and cost in strict adherence to the contract.
- Ensure that project documentation and records to maintained to rebut, by way substantiated alternative assessment, inflated contractor claims.
- Eskom's first line of defence, is its construction project management teams. It is therefore essential that these individuals are properly skilled and working in Eskom's best interests at all times. Central oversight of contract management is required.
- Eskom considers alternative modes of coal delivery like rail and conveyor as opposed to road. This will prevent any tampering with the coal. This could also be more cost effective in the long term.

PREVENTION AND ADVISORY SERVICES

REQUEST TO CONDUCT TARGETED AWARENESS CAMPAIGN AT ESKOM

- The SIU is currently collaborating with Eskom to conduct a targeted awareness campaign for its employees.
- The need for the targeted awareness campaign arises from the fact that, since 2012, the Special Investigating Unit has conducted multiple investigations into certain affairs of Eskom
- These investigations have identified, inter alia, systemic weaknesses in certain processes applicable to Eskom.
- Pursuant thereto, and as part of its value chain, the SIU has identified a need to render prevention and advisory services to affected state institutions in respect of trends emanating from its investigations.
- This initiative is aimed at assisting affected state institutions to prevent a recurrence of the serious maladministration that prompted an SIU investigation, by creating awareness amongst targeted groups of focus areas identified by the SIU, so as to proactively influence the systemic and behavioural root causes of maladministration, fraud and corruption.

REQUEST TO CONDUCT TARGETED AWARENESS CAMPAIGN AT ESKOM

- The objectives of the targeted awareness campaign:
 - ❖ to build on systemic recommendations previously made by the SIU to Eskom
 - ❖ alert officials and employees to the systemic and other shortcomings revealed by the SIU's investigations and thereafter give impetus to meaningful implementation of the SIU's recommendations.
 - ❖ In addition, the intervention is aimed at creating awareness around how to prevent a recurrence of the impropriety that gave rise to the SIU's investigations in the first place.
 - ❖ To that end, it is envisaged that the SIU will, by means of the campaign, assist Eskom to formulate and put in place the necessary strategies that will place Eskom on an improved corporate governance trajectory.
- Eskom responded positively to the proposal and the implementation plan is currently being developed.

ANTI-CORRUPTION FORUMS IN VULNERABLE SECTORS



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VULNERABLE SECTORS IDENTIFIED



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Health Sector



Energy (e.g., IPP)



Education



Local Government



Mining



Financial Sector



Infrastructure/Construction



Water



SMMEs



Border & Immigration



Transport & Freight



NPO Sector



State Owned Entities



Real Estate



Tobacco & Alcohol





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Thank you

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