



INTERNAL MEMORANDUM

To:	Honourable Minister of Public Works	Ref:	PPA
From:	DJ Rindel	Office:	Projects Durban Regional Office
Tel:	(031) 314 7114	Fax:	(031) 368 7056

Subject:	REPORT ON COMPLETION OF CONTRACT AND WAY FORWARD
Project :	DURBAN : PRESTIGE PROJECT A : SECURITY MEASURES : LOW SECURITY AREA (BONELENA CONSTRUCTION)

1. AIM :

The aim of this submission is to discuss and propose the way forward to complete Prestige Project A.

2. BACKGROUND.

- 2.1 The progress on the above mentioned project is disappointing to date.
- 2.2 The contractor, Messrs Bonelena Construction promised the Minister and Director General in a meeting on 4 February 2012, that the works will be completed by end of February 2012.
- 2.3 The works were inspected on various occasions and at the last inspection dated 13 March 2012, it was noted that the contractor is not yet 100% completed, as indicated by the Architect (Principal Agent)
- 2.4 The contractor was placed on terms (*in mora*) by the Principal Agent and it was indicated that all works had to be completed by 15 March 2012.

2.5 It was noted that the works had progressed as follows:

Staff houses	93%	Minor works outstanding.
Crew pavilion	95%	Snag list items only.
Clinic	90%	Minor works outstanding. Repairs to defects in floor slab.
Roads and helipad	95%	Snag list items only.

2.6 It is clear from the above that the works had not been completed 100% as instructed and the Principal Agent recommended to NDPW that the contract **may** be cancelled.

2.7 The works are however completed to the extent that Practical Completed could be taken in some installations.

3. MOTIVATION.

3.1 The successful completion of the works had been discussed with the Project Team (including the Principle Agent, Project Manager and quantity surveyor) on 17 March 2012.

3.2 The options at the Department's disposal are as follows:

- Option 1 : Cancellation of contract:
 - The **advantage** is that the contractor will be removed from site immediately and the works will be completed by others.
 - The **disadvantage** is that it is expected that the commencement may be delayed by an estimated 14 to 21 working days to complete the revised scope of works for the completion contract as well as SCM processes.
 - The works outstanding is expected to take 3 weeks to complete, plus 1 week to mobilise and procure the required materials, thus the total time to completion is expected to be 7 weeks (just less than 2 months)
 - Further, the severe implications of cancelling the contract is expected to end in court cases between the contractor and the Department. This will result in all the project information being subjected to Public scrutiny and thus become public knowledge. This may escalate to information pertaining to the entire project – including Bonelena construction, Moneymine investment, phase I and II works.
 - **This is an unacceptable risk to this office and could result in political fallout that could possibly influence the Principal political position very negatively. The Director General and Ministry should consider this issue carefully.**

- Option 2 : Completing the works by means of nominated sub-contract or direct contracts.
 - The process will include to deny access to the defaulting contractor, and appoint Messrs Moneymine (currently on site) to complete the worms as either a nominated sub-contract or direct contract.
 - The **advantage** of this process is that the contract will not be cancelled, thus reducing the risk of public litigation. Agreement can be reached with the defaulting contractor to "step aside with grace" and without the need to litigate.
 - The time delay is also expected to be reducing to within 7 days to mobilise the new contractor and complete all SCM processes.
 - The works outstanding is expected to take 3 weeks to complete, plus 1 week to mobilise and procure the required materials, thus the total time to completion is expected to be 5 weeks (just more than 1 month)

- Option 3 : Allowing the defaulting contractor to complete the works.
 - The contract is already 3 months late – completion was scheduled for 17 December 2011, this being unacceptable.
 - The contractor is expected to still continue with the works for at least another 3-4 weeks at the current rate of progress.
 - Continuing with the works will result in completion to be in 1 month (estimated). This however cannot be guaranteed, based on the contractor's previous performance.

- **Please note that all time periods listed above is estimated and is liable to change. The scope of works of the outstanding items is not fully listed at this stage and the project team is currently in the process to accurately identify the same. The time periods are only meant to guide possible scenarios.**

3.3 The Project team did discuss the above scenarios to great detail and concluded as follows:

- Option one (cancellation of contract is recommended by the Principal Agent, but not supported by the Departmental Project Manager, due to possible political ramifications.
- Option two (completing the works without cancelling the contract) is acceptable to Project team (including the Principal Agent) and the preferred option.
- Option three does not inspire much confidence, based on the contractor's previous performance.

3.4 Based on the above, the project team proposes that option 2 (completing the work without cancelling the contract) be utilised to complete the works.

4. RECOMMENDATION

It is recommended that option 2 above – Completing the works by means of nominated sub-contract or direct contracts – be utilised to complete the works.

Signed : Mr BK Khanyile
Regional Manager : Durban
Dated:

Signed: Mr IH Molosi
Director Projects
Dated:

Signed : Mr BK Khanyile
Regional Manager : Durban
Date:

Approved / Not approved
Comments:

Signed: Acting Director General
Dated:
